

**REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1)(b) OF  
THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND  
SECTION 8(1) OF THE PUBLIC PROTECTOR ACT, 1994**



**PUBLIC PROTECTOR  
SOUTH AFRICA**

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**REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF  
MALADMINISTRATION, IMPROPER CONDUCT AND IRREGULAR APPROVAL  
OF DISABILITY GRANT BY MS PORTIA MATHENJWA THE ADMINISTRATION  
CLERK AT THE SOUTH AFRICAN SOCIAL SECURITY AGENCY (SASSA).**

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## EXECUTIVE SUMMARY

- (i) This is the Public Protector report issued in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (Constitution), and published in terms of section 8(1) of the Public Protector Act, 1994 (Public Protector Act).
- (ii) The report communicates findings of the Public Protector and appropriate remedial action taken in terms of section 182(1)(c) of the Constitution, following an investigation into allegations of maladministration, improper conduct and irregular approval of disability grant by Ms Portia Mathenjwa, the administration clerk at the South African Social Security Agency (SASSA).
- (iii) An anonymous complaint was received on 18 January 2019 against South African Social Security Agency.
- (iv) In the main the Complainant alleged the following:
  - (aa) A file was created containing an application for a disability grant for Mr Tshethudi Joe Masinga (Mr Masinga) and the said grant application was approved in May 2009.
  - (bb) The medical form contained in the file was tampered with, in that the details of the original applicant were scratched off and replaced by those of Mr Masinga. The scratched details belong to Ms Virginia Aloysia Nyathi (Ms Nyathi).
  - (cc) The scratched out disability application suggested that Mr Masinga's application for disability grant was approved using Ms Nyathi's medical records.
  - (dd) The signatures and the handwriting on the medical form which was tampered with, belongs to Ms Portia Mathenjwa (Ms Mathenjwa), the

Administrative Clerk at SASSA offices in Mamelodi and her user ID was used to capture the fraudulent application. Ms Mathenjwa is or was having an affair with Mr Masinga and they have 2 or 3 children hence she approved the application.

- (ee) The Complainant further argued that usernames and passwords are confidential and could not be accessed unless the owner discloses them. Therefore it is the Complainant's opinion that Ms Lindiwe Mashifane (Ms Mashifane): Administration Clerk of SASSA irregularly disclosed her username and password which was used in the capturing of the application for disability grant of Mr Masinga.
- (ff) Monies belonging to SASSA were lost in the process and no one was held accountable.
- (v) The investigation was conducted in terms of section 182 (1) of the Constitution of the Republic of South Africa, 1996 (the Constitution) which gives the Public Protector the power to investigate alleged or suspected improper or prejudicial conduct in state affairs, to report on that conduct and to take appropriate remedial action and in terms of section 6(4) of the Public Protector Act, 1994 (Public Protector Act), that regulates the manner in which the power conferred by section 182 of the Constitution may be exercised in respect of government at any level.
- (vi) **Based on the analysis of the complaint, the following issues were identified to inform and focus the investigation:**
  - (a) Whether SASSA improperly approved the disability grant of Mr Masinga without following proper approval processes and whether such process amounts to improper conduct and/or maladministration;
  - (b) Whether SASSA or any other person suffered prejudice as a result of the alleged improper approval and payment of Mr Masinga's disability grant.

- (vii) Having considered the submissions made and evidence uncovered during the investigation against the relevant regulatory framework, the following findings are made against the South African Social Security Agency:
- (a) **Regarding whether SASSA improperly approved the disability grant of Mr Masinga without following proper approval processes and whether such process amounts to improper conduct and/or maladministration**
- (aa) The allegation that SASSA improperly approved the disability grant of Mr Masinga without following proper approval processes and whether such process amounts to improper conduct and/or maladministration is, substantiated.
- (bb) Factual evidence in my possession, as acknowledged and confirmed by Ms Mathenjwa during an interview held on 21 September 2021, indicates that the application for disability grant of Mr Masinga, who is the boyfriend to Ms Mathenjwa screened attested and captured on 14 May 2009 using the tampered medical records of Ms Nyathi.
- (cc) Mr Masinga's application for disability grant was received and captured on SOCPEN system by Ms Mathenjwa using the user ID of Ms Mashifane without her consent and knowledge. Mr Masinga's Medical report for persons with disability form was completed on Part A thereof by Ms Mathenjwa as an Administrative Officer. Ms Mathenjwa failed to question the cancellation of Ms Nyathi's details on the disability form and captured the form as whilst having scratched information.
- (dd) Evidence in the Public Protector's possession indicates that Ms Mashifane violated SOCPEN confidentiality clause undertaking she made by directly or indirectly reveal or disclose or cause to be revealed or disclosed her user ID to Ms Mathenjwa, which resulted in her using it to capture Mr Masinga's application on SOCPEN.

- (ee) The Chief Executive Officer of the Steve Biko Academic Hospital submitted that Mr Masinga did not have a medical file at the Hospital and therefore, he was never a patient at the Hospital on or before May 2009. The Chief Executive Officer confirmed that Ms Nyathi has been a patient of the Hospital since 07 November 2003 and her last visit to the hospital was on 04 March 2020.
- (ff) Mr Masinga's affidavit for disability grant application has the signature of Mr Mpofu whilst on the other documents he used a thumbprint as a signature.
- (gg) Evidence in possession of the Public Protector further revealed that Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung and Ms Masibilanga failed to perform proper due diligence when capturing, attesting and verifying Mr Masinga's application which led to the approval of his disability grant, even though he was not eligible to receive same.
- (hh) The conduct of SASSA officials and in particular that of Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane violated section 195(1) of the Constitution, Clause 1.1, 1.2, 1.3, 1.4, and 1.5 of SASSA Social Grant Application Standard Operating Procedure, Section 9 of the Social Assistance Act, Clause B.1, B.2, and C.4 of the SASSA Code of Conduct and Ethics in processing Mr Masinga's disability grant application.
- (ii) Accordingly, the conduct of SASSA in the circumstances constitutes improper conduct as envisaged in section 182(1)(a) of the Constitution and maladministration as envisaged in section 6(4)(a)(i) of the Public Protector Act.
- (b) Regarding whether SASSA or any other person suffered prejudice as a result of the alleged improper approval of Mr Masinga's disability grant**

- (a) The allegation that the SASSA or any other person suffered prejudice as a result of the alleged improper approval of Mr Masinga's disability grant and payment of monies to Mr Masinga is, substantiated.
- (b) Factual evidence in my possession revealed that SASSA failed to put measures in place to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct and to report same to the relevant treasury.
- (c) As a result SASSA suffered improper financial prejudice or loss by irregularly paying an amount of one hundred and forty two thousand four hundred and sixteen rands and forty five cents (R142 416.45) to Mr Masinga from 14 May 2009 until June 2018 which was never paid back by Mr Masinga nor recovered by SASSA.
- (d) The conduct of SASSA, and in particular SASSA officials and in particular that of Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane violated section 51(1)(a)(i), (ii), (b)(i), (ii), (e)(i), (ii), (iii), (f), (g), (h) and section 57(a), (b), (c) and (d) of the PFMA, section 17(1) and (2) of the Social Assistance Act and Clause 4.1 (sub clauses 4.1.1 and 4.1.2) of the National Treasury Regulations.
- (e) Accordingly, the conduct of SASSA in the circumstances constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(i) of the Public Protector Act.
- (viii) A notice in terms of Section 7(9) of the Public Protector Act, 1994 was issued to Ms Totsie Memela, the CEO of SASSA on 20 December 2021. No further communication nor written submissions or representations were received from the CEO and/or SASSA. A virtual meeting was subsequently held by the Public Protector investigation team on 24 February 2022 with SASSA officials to discuss the Public Protector's remedial action.

- (ix) The responses and representations provided by SASSA and/or its officials have been at the aforesaid meeting were incorporated into the remedial action as outlined below.
  
- (x) The appropriate remedial action that the Public Protector is taking in pursuit of section 182(1)(c) of the Constitution is the following:

**The Accounting Officer of South African Social Security Agency, Ms Totsie Busisiwe Jacqueline Memela, to ensure that:**

- (a) Within **thirty (30) working days** of the issuing of the final report, the CEO of SASSA provide a Manual and SOCPEN refresher training in processing social grants applications for all employees working with the administration of grants commencing, with the SASSA Mamelodi office where the maladministration occurred, in terms of section 195(f) and (h) of the Constitution.
  
- (b) Within **thirty (30) working days** of the issuing of the final report, the CEO of SASSA to report an unauthorised, irregular or fruitless and wasteful expenditure to the National Treasury in terms of section 51(1)(f) of the PFMA.
  
- (c) Within **sixty (60) working days** of the issuing of the final report, the CEO of SASSA to put necessary measures and systems in place to prevent future unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct in terms of Section 51(1)(b)(ii).
  
- (d) Within **ten (10) working days** of the issuing of the final report, CEO of SASSA to follow up on Mamelodi CAS 204/06/2020 relating to the case referred to Directorate for Priority Crime Investigation Unit of the SAPS for further criminal investigation in terms of section 34(1)(b) of PRECCA and to recover the R142 416.45 paid to Mr Masinga in terms of Section 17(1) and (2) of Social Assistance Act.
  
- (e) Within **ninety (90) working days** of the issuing of the final report, CEO of SASSA to finalize the implementation of the biometric solution to be used by



SASSA employees to access SASSA information and technology systems to avoid unauthorised use of credentials of the employees in terms of section 51(1)(a)(i) of PFMA read with section 4(1)(c) of the SA Social Security Agency Act.

- (f) Within **thirty (30) working days** of the issuing of the final report, the CEO of SASSA to initiate the disciplinary process against Ms Mathenjwa, Mr Mabitsele, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane in terms of section 51(1)(e)(i),(ii) and (iii) of PFMA.
- (g) Within **thirty (30) working days** of the issuing of the final report, provide constant progress report to the Public Protector with regard to the above mentioned recommendations.

**REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF MALADMINISTRATION, IMPROPER CONDUCT AND IRREGULAR APPROVAL OF DISABILITY GRANT BY MS PORTIA MATHENJWA THE ADMINISTRATION CLERK AT THE SOUTH AFRICAN SOCIAL SECURITY AGENCY (SASSA).**

**1. INTRODUCTION**

- 1.1 This report is issued in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and published in terms of section 8(1) of the Public Protector Act 23 of 1994 (Public Protector Act).
- 1.2 The report is submitted in terms of section 8(3) of the Public Protector Act to the following people to note the outcome of the investigation and to implement the remedial action:
- 1.2.1 Ms Lindiwe Zulu, Minister Social Development;
- 1.2.2 Ms Busisiwe Memela-Khambule (Ms Memela) Chief Executive Officer, South African Social Security Agency
- 1.2.3 Ms Portia Mathenjwa, SASSA;
- 1.2.4 Ms Dimakatso Masibilanga; (SASSA)
- 1.2.5 Ms Thulisile Motaung, (SASSA);
- 1.2.6 A copy of the report is also provided to Anonymous, (the Complainant) to inform him about the outcome of the investigation.

## 2. THE COMPLAINT

2.1. A complaint was received on 18 January 2019, from an anonymous complainant (Complainant) against South African Social Security Agency

2.2. In the main the Complainant alleged the following:

2.2.1. A file was created containing an application for a disability grant for Mr Tshethludi Joe Masinga (Mr Masinga) and the said grant application was approved in May 2009.

2.2.2. The medical form contained in the file was tampered with, in that the details of the original applicant were scratched off and replaced by those of Mr Masinga. The scratched details belong to Ms Virginia Aloysia Nyathi (Ms Nyathi).

2.2.3. The scratched out disability application suggested that Mr Masinga's application for disability grant was approved using Ms Nyathi's medical records.

2.2.4. The signatures and the handwriting on the medical form which was tampered with, belongs to Ms Portia Mathenjwa (Ms Mathenjwa), the Administrative Clerk at SASSA offices in Mamelodi and her user ID was used to capture the fraudulent application. Ms Mathenjwa is or was having an affair with Mr Masinga and they have 2 or 3 children hence she approved the application.

2.2.5. The Complainant further argued that usernames and passwords are confidential and could not be accessed unless the owner discloses them. Therefore it is the Complainant's opinion that Ms Lindiwe Mashifane (Ms Mashifane): Administration Clerk of SASSA irregularly disclosed her username and password which was used in the capturing of the application for disability grant of Mr Masinga during the approval stage.

2.2.6. Monies belonging to SASSA were lost in the process and no one was held accountable.

3. **Based on the analysis of the complaint and information obtained, the following issues were identified and investigated:**

3.1. Whether SASSA improperly approved the disability grant of Mr Masinga without following proper approval processes and whether such conduct amounts to improper conduct and/or maladministration;

3.2. Whether SASSA or any other person suffered prejudice as a result of the alleged improper approval of Mr Masinga's disability grant.

4. **POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR**

4.1. The Public Protector is an independent constitutional institution established under section 181(1)(a) of the Constitution to strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

4.2. Section 182(1) of the Constitution provides that-

*“The Public Protector has the power as regulated by national legislation:*

*(a) To investigate any conduct in state affairs, or in the Public Administration in any sphere of government , that is alleged or suspected to be improper or to result in any impropriety or prejudice;*

*(b) To report on that conduct; and*

*(c) To take appropriate remedial action”.*

4.3. Section 182(2) of the Constitution directs that the Public Protector has additional powers and functions prescribed by national legislation.

- 4.4. The Public Protector is further mandated by the Public Protector Act to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector is also given the power to resolve disputes through mediation, conciliation, negotiation or any other appropriate alternative dispute resolution mechanism.
- 4.5. In the ***Economic Freedom Fighters v Speaker of the National Assembly and Others: Democratic Alliance v Speaker of the National Assembly and Others*** the Constitutional Court per Mogoeng CJ held that the remedial action taken by the Public Protector has a binding effect.<sup>[1]</sup> The Constitutional Court further held that: “*When remedial action is binding, compliance is not optional, whatever reservations the affected party might have about its fairness, appropriateness or lawfulness. For this reason, the remedial action taken against those under investigation cannot be ignored without any legal consequences.*”<sup>[2]</sup>
- 4.6. Complaints are lodged with the Public Protector to cure incidents of impropriety, prejudice, unlawful enrichment or corruption in government circles (paragraph 65).
- 4.7. An appropriate remedy must mean an effective remedy, for without effective remedies for breach, the values underlying and the rights entrenched in the Constitution cannot properly be upheld or enhanced (paragraph 67).
- 4.8. Taking appropriate remedial action is much more significant than making a mere endeavour to address complaints as the most the Public Protector could do in terms of the Interim Constitution. However sensitive, embarrassing and far-reaching implications of the Public Protector report and findings, the Public Protector is constitutionally empowered to take action that has that effect, if it is the best attempt at curing the root cause of the complaint (paragraph 68).

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<sup>[2]</sup> *Supra* at para [73].

- 4.9. The legal effect of these remedial measures may simply be that those to whom they are directed are to consider them properly, with due regard to their nature, context and language, to determine what course to follow (paragraph 69).
- 4.10. Every complaint requires a practical or effective remedy that is in sync with its own peculiarities and merits. It is the nature of the issue under investigation, the findings made and the particular kind of remedial action taken, based on the demands of the time, that would determine the legal effect it has on the person, body or institution it is addressed to (paragraph 70).
- 4.11. The Public Protector's powers to take appropriate remedial action is wide but certainly not unfettered. What remedial action to take in a particular case, will be informed by the subject-matter of investigation and the type of findings made (paragraph 71).
- 4.12. Implicit in the words "*take action*" is that the Public Protector is herself empowered to decide on and determine the appropriate remedial measure. And "*action*" presupposes, obviously where appropriate, concrete or meaningful steps. Nothing in these words suggests that she necessarily has to leave the exercise of the power to take remedial action to other institutions or that it is power that is by its nature of no consequence, (paragraph 71(a)).
- 4.13. The Public Protector has the power to determine the appropriate remedy and prescribe the manner of its implementation (paragraph 71(d)).
- 4.14. "*Appropriate*" means nothing less than effective, suitable, proper or fitting to redress or undo the prejudice, impropriety, unlawful enrichment or corruption, in a particular case (paragraph 71(e)).
- 4.15. In the matter of the ***President of the Republic of South Africa v Office of the Public Protector and Others, Case no 91139/2016 (13 December 2017)***, the Court held as follows:

- (a) *The Public Protector, in appropriate circumstances, has the power to direct the President to appoint a commission of enquiry and to direct the manner of its implementation. Any contrary interpretation will be unconstitutional as it will render the power to take remedial action meaningless or ineffective (paragraphs 85 and 152).*
- (b) *There is nothing in the Public Protector Act that prohibits the Public Protector from instructing another entity to conduct further investigation, as she is empowered by section 6(4)(c)(ii) of the Public Protector Act (paragraphs 91 and 92).*
- (c) *Taking remedial action is not contingent upon a finding of impropriety or prejudice. Section 182(1) afford the Public Protector with the following three separate powers (paragraphs 100 and 101).*
  - (i) *Conduct an investigation;*
  - (ii) *Report on that conduct; and*
  - (iii) *To take remedial action.*
- (d) *The Public Protector is constitutionally empowered to take binding remedial action on the basis of preliminary findings or prima facie findings (paragraph 104).*
- (e) *The primary role of the Public Protector is that of an investigator and not an adjudicator. Her role is not to supplant the role and function of the court (paragraph 105).*
- (f) *The fact that there is no firm findings on the wrong doing, does not prohibit the Public Protector from taking remedial action. The Public Protector's observations constitute prima facie findings that point to serious misconduct (paragraphs 107 and 108).*

*(g) Prima facie evidence which point to serious misconduct is a sufficient and appropriate basis for the Public Protector to take remedial action (paragraph 112)."*

4.16. SASSA is an organ of state and its conduct amounts to conduct in state affairs, and as a result of this, the matter falls within the ambit of the Public Protector's mandate.

4.17. It is noted that the jurisdiction of the Public Protector was not disputed by any of the parties in this matter.

## 5. **THE INVESTIGATION**

### 5.1. **Methodology**

5.1.1 The investigation was conducted in terms of section 182 of the Constitution and sections 6 and 7 of the Public Protector Act. The Public Protector Act confers the Public Protector the sole discretion to determine how to resolve a dispute of alleged improper conduct or maladministration. Section 6 of the Public Protector Act gives the Public Protector the authority to resolve a matter without conducting an investigation and resolve a matter through alternative dispute resolution (ADR) measures such as conciliation, mediation and negotiation.

5.1.2 The Public Protector Act confers on the Public Protector the sole discretion to determine how to resolve a dispute of alleged maladministration. Section 6 of the Public Protector Act gives the Public Protector the authority to resolve a matter without conducting an investigation and resolve a complaint through appropriate dispute resolution (ADR) measures such as conciliation, mediation and negotiation.



5.1.3 During the investigation process, notices in terms of section 7(9)(a) of the Public Protector Act (section 7(9) notices), dated 20 December 2022 were served to TB Memela Chief Executive Officer, South African Social Security Agency, Ms Mathenjwa and Ms Mashifane to afford them an opportunity to respond to the Public Protector provisional findings.

## 5.2. **Approach to the investigation**

5.2.1 Like every Public Protector investigation, the investigation was approached using an enquiry process that seeks to find out:

5.2.2 What happened?

5.2.3 What should have happened?

5.2.4 Is there a discrepancy between what happened and what should have happened and does that deviation amount to maladministration or other improper conduct?

5.2.5 In the event of maladministration or improper conduct, what would it take to remedy the wrong or to right the wrong occasioned by the said maladministration or improper conduct?

5.2.6 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. Evidence was evaluated and a determination made on what happened based on a balance of probabilities. The Supreme Court of Appeal<sup>1</sup> (SCA) made it clear that it is the Public Protector's duty to actively search for the truth and not to wait for parties to provide all of the evidence as judicial officers do.

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<sup>1</sup> Public Protector versus Mail and Guardian, 2011(4) SA 420 (SCA),

- 5.2.7 In this particular case, the factual enquiry primarily focused on whether or not there was maladministration, improper conduct and irregular approval of disability grant by Ms Portia Mathenjwa, the administration clerk at the South African Social Security Agency (SASSA).
- 5.2.8 The enquiry regarding what should have happened, focuses on the applicable legal prescripts that regulate the standard that should have been met by SASSA to prevent improper conduct and/or maladministration as well as prejudice. In this case, key laws and policies were taken into account to determine if there had been maladministration by SASSA and prejudice to the Complainant, were administrative standards that should have been complied with by SASSA or its officials when dealing with the Complainant's application or disability grant.
- 5.2.9 The enquiry regarding the remedy or remedial action seeks to explore options for redressing the consequences of maladministration. Where a Complainant has suffered prejudice, the idea is to place him or her as close as possible to where he or she would have been had SASSA or organ of state complied with the regulatory framework setting the applicable standards for good administration.
- 5.2.10 In the case of improper conduct as was the case in this matter, remedial action seeks to right or correct identified wrongs while addressing any systemic administrative deficiencies that may be enabling or exacerbating identified maladministration or improper conduct.
- 5.2.11 The substantive scope of the investigation focused on compliance with the law and prescripts regarding the complaint and allegations.

### **5.3. The Key Sources of information**

#### **5.3.1 Documents and Letters exchanged**

- 5.3.1.1 Copy of an anonymous complaint, as per email dated 18 December 2019;

- 5.3.1.2 Copy of the response letter from Ms TBJ Memela-Khambula (Ms Memela), Chief Executive Officer: SASSA, regarding the outcome of an investigation;
- 5.3.1.3 Copy of response letter from Dr M P Mathebula, Chief Executive Officer: Steve Biko Academic Hospital;
- 5.3.1.4 Confirmatory letter of a virtual meeting held of 24 February 2022 between Public Protector investigation team and SASSA, represented by Mr Themba Matlou (Mr Matlou): the Regional Executive Manager: SASSA; Ms Teleni Ntabeni (Ms Ntabeni): General manager: Corporate services; Dr Hlengani Bila (Dr Bila): General Manager: Fraud management and Compliance: SASSA; and Ms Pinky Mngadi (Ms Mngadi): Senior Manager: CEO`s Office.

#### 5.4. **Legislation and other legal prescripts**

- 5.4.1 The Constitution of the Republic of South Africa, Act 108 of 1996;
- 5.4.2 The Public Protector Act, 23 of 1994;
- 5.4.3 SASSA Social Grant Application Standard Operating Procedure of 2009:
- 5.4.4 Social Assistance Act, 13 of 2004;
- 5.4.5 SASSA Code of Conduct and Ethics;
- 5.4.6 SA Social Security Agency Act 9 of 2004
- 5.4.7 The Public Finance Management Act 1 of 1999;

#### 5.5. **Case Law**

- 5.5.1 *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* 2016 (5) BCLR 618 (CC); 2016 (3) SA 580 (CC);

5.5.2 *President of the Republic of South Africa v Office of the Public Protector and Others*, Case no 91139/2016 [2017] ZAGPPHC 747;

5.5.3 *Joseph and Others v City of Johannesburg and others*; 2010 (3) BCLR 212 (CC).

5.5.4 *Ardent Industrial Investment (Pty) Ltd v Ekurhuleni Metropolitan Municipality* (17808/2016) [2017] ZAGPJHC 14; 2017 (3) SA 146 (GJ)

5.6. **Notices issued in terms of section 7(9) of the Public Protector Act, (Notices).**

5.6.1 A notice was issued in terms of section 7(9) of the Public Protector Act to the Chief Executive Officer of SASSA, Ms Totsi Busisiwe Jacqueline Memela-Khambule (Ms Memela) on 27 December 2021, to afford her an opportunity to respond to the provisional findings. However no response was received from Ms Memela.

5.6.2 A copy of the section 7(9) notice was also provided to Ms Portia Mathenjwa (Ms Mathenjwa) and Ms Lindiwe Mashifane (Ms Mashifane) on 03 January 2022 for their responses.

5.6.3 It should be noted that Ms Dimakatso Masibilanga, Mr Obed Mabitsela, Ms Beauty Mahlanya and Ms Thulisile Motaung are no longer in the employ of SASSA and could not be reached in order for the section 7(9) notice to be served on them, as there was no forwarding address from SASSA. Section 7(9) was also not served on Mr Masinga as he was never afforded an opportunity to respond to the allegations. Furthermore the investigation was not against Mr Masinga and no findings are made against Mr Masinga.

6. **THE DETERMINATION OF ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO APPLICABLE LAW AND PRESCRIPTS**

6.1 **Whether SASSA improperly approved the disability grant of Mr Masinga without following proper approval processes and whether such conduct amounts to improper conduct and/or maladministration**

Common cause issues

6.1.1 The application for disability of Mr Masinga was found at SASSA offices in Mamelodi as per the Grant Application form bearing official stamp dated 14 May 2020.

6.1.2 Mr Masinga's application for a disability grant was approved on 28 May 2009 by SASSA.

Issues in dispute

6.1.3 The Complainant argued that an application file was created containing an application for a disability grant for Mr Masinga and the said grant application was approved in May 2009.

6.1.4 The Complainant argued that the medical form contained in the file was tampered with in that, the details of the original applicant, were scratched off and replaced by those of Mr Masinga.

6.1.5 The Complainant stated that the scratched out details on the medical records belonged to Ms Nyathi.

6.1.6 The Complainant submitted that the use of tampered form indicated that Mr Masinga's application for disability grant was approved using Ms Nyathi's medical records.

- 6.1.7 The Complainant also argued that Ms Mathenjwa, an official at SASSA office in Mamelodi committed this act because she is or was having an affair with Mr Masinga and they have 2 or 3 children together.
- 6.1.8 The Complainant also stated that signatures and the handwriting on the medical form, which was tampered with, belong to Ms Mathenjwa and her user ID was used to capture the Grant Application Form for Mr Masinga.
- 6.1.9 The Complainant further argued that usernames and passwords are confidential and could not be accessed unless the owner discloses them. Therefore in the Complainant's opinion, Ms Mashifane: Administration Clerk of SASSA irregularly disclosed his username and password, which was used in the capturing of the application for disability grant of Mr Masinga, by placing them on the wall in the SASSA office.
- 6.1.10 In her response letter dated 30 January 2020 to the Public Protector, Ms Memela, CEO of SASSA, provided a copy of a Grant Application Form of Mr Masinga dated 14 May 2009.
- 6.1.11 Ms Memela stated that, on the said form, the medical referral for Mr Masinga was completed by Dr AG Kok (Dr Kok) of Steve Biko Academic Hospital and the medical assessment was completed by Dr BS Nkomo (Dr Nkomo) in Mamelodi on 13 May 2009.
- 6.1.12 Ms Memela advised that, according to the form, Ms Mathenjwa processed Mr Masinga's application as the attesting official as per the quality assurance checklist, checklist of documents, screening form for disability and care dependency and the grant application form and further signed as the attesting official on 14 May 2009.
- 6.1.13 Ms Memela also stated that the user ID belonging to Ms Mashifane was used to capture the application on social pension database system (SOCPEN).

- 6.1.14 It was indicated by Ms Memela that Ms Nyathi applied for a disability grant on 27 May 2004 and the application was approved. A reference was made on Ms Nyathi's file to an application for a disability grant lodged on 13 May 2009. A review form, which is used to review the disability status of Ms Nyathi, was completed on 13 May 2009 but the medical report was not attached on the review form as a supporting document in the file.
- 6.1.15 Ms Memela further indicated that in perusing Mr Masinga's file for the compilation of this response to the Public Protector, she identified another anomaly. Both the screening form and the consent to release medical information were signed by Mr Masinga using a thumbprint whereas on the affidavit for the disability grant, there is a written signature which appears to read as "Elias Mpofu" (Mr Mpofu). Therefore it could be inferred that the affidavit of Mr "Elias Mpofu" was used on the application for a disability grant of Mr Masinga.
- 6.1.16 The Public Protector is in possession of Mr Masinga's disability grant application form with reference **GAU 0136433** bearing SASSA official stamp dated 14 May 2009.
- 6.1.17 Mr Masinga's disability grant application form has two different verification dates and signatories. The cover page of the disability grant application form was signed on 14 May 2009 by Mr Mabitsela as the verifying official and page 1 was signed on 26 May 2009 by an unknown official without a name recorded on the document.
- 6.1.18 The Declaration by Applicant on Mr Masinga's disability grant application form on Page 12, was signed by Ms Mathenjwa as attesting official and by Mr Mabitsela as verifying official on 14 May 2009.
- 6.1.19 Annexure A (Quality Assurance Checklist) of Mr Masinga's disability grant application form was signed by Ms Mathenjwa as the First Attesting Officer(QA Check-1) on 14 May 2009; Mr Mabitsela as the Second Attesting

Officer(QA Check-2) on 14 May 2009; Ms Mahlanya as Data Capture (QA Check-3) on 18 May 2009; Ms Motaung as System Verification Officer (QA Check-4) on 26 May 2009 and by Ms Masibilanga as the Final Quality Check on 04 June 2009.

- 6.1.20 The Public Protector is in possession of Mr Masinga's affidavit for disability grant application commissioned at Mamelodi East South African Police Services (Mamelodi SAPS) on 14 May 2009, signed by Mr Mpofo but not by Mr Masinga as the deponent.
- 6.1.21 The Public Protector is also in possession of Mr Masinga's screening form for disability and care dependency grants signed by Ms Mathenjwa with a thumbprint on the beneficiary signature, bearing SASSA's official stamp dated 20 April 2009 but written 13 May 2009 on the body thereof.
- 6.1.22 The Public Protector is further in possession of Mr Masinga's consent to obtain medical information form with a thumbprint on the beneficiary signature, a tampered date (in that the month cannot be verified) and bearing SASSA's official stamp dated 20 April 2009.
- 6.1.23 The Public Protector is in possession of Mr Masinga's SOCPEN audit trail indicating that Ms Mashifane's user ID was used to capture the application and that Ms Motaung's user ID was used to approve the application.
- 6.1.24 The Public Protector is in possession of Mr Masinga's SOCPEN audit trail indicating that the application was captured by Ms Mashifane and annexure A (Quality Assurance Checklist) indicates that the application was captured by Ms Mahlanya.
- 6.1.25 The Public Protector is in possession of Mr Masinga's approval of permanent disability grant letter dated 26 May 2009 signed by the SASSA Regional Executive Manager without the name printed.



- 6.1.26 Dr MP Mathebula (Dr Mathebula): the Chief Executive Officer of Steve Biko Academic Hospital (the Hospital) stated in her response letter dated 02 June 2020, to the Public Protector, that Mr Masinga did not have a medical file at the Hospital and therefore, he was never a patient at the Hospital on or before May 2009.
- 6.1.27 Dr Mathebula further submitted that there is no record that Dr Kok did a medical consultation with Mr Masinga and that Mr Masinga was never declared medically unfit by any doctor at the Hospital.
- 6.1.28 It was confirmed, by Dr Mathebula, that Ms Nyathi has been a patient of the Hospital since 07 November 2003 and her last visit to the hospital was on 04 March 2020. However, there are no records indicating that Ms Nyathi had a medical consultation with Dr Kok.
- 6.1.29 The Public Protector is in possession of the Medical report form **GP 19: Grants for persons with disability** with form number **122/05/2009** which was completed by Dr BS N'komo (Dr N'komo) who diagnosed the patient, Mr Masinga, with Glaucoma-Right eye blind and left eye poor vision. Dr N'komo further recommended a permanent disability for the patient.
- 6.1.30 The Medical report for persons with disability form was completed by Ms Mathenjwa as an Administrative Officer on Part A.
- 6.1.31 The cover page of the Medical report for persons with disability form bears SASSA's official date stamp, dated 13 May 2009 whilst the last page bears SASSA's official date stamp, dated 14 May 2009. Therefore the same document had two different dates.
- 6.1.32 Part A of the Medical report for persons with disabilities which is meant to be completed by SASSA Administrative Officer, i.e. Ms Mathenjwa in this case, was initially filled with the personal details of Ms Nyathi with identity number and physical address was cancelled and filled with personal particulars of Mr Masinga with identity number and his physical address.

- 6.1.33 The Public Protector is also in possession of Ms Masinga's Medical history referral form completed by Ms Mathenjwa bearing SASSA's official date stamp, dated 20 April 2009 and Pretoria Academic Hospital (which falls under Steve Biko Hospital) official date stamp dated 08 May 2009, wherein Dr AG Kok diagnosed Mr Masinga with Glaucoma. Therefore this would have meant that Mr Masinga was first referred to Pretoria Academic Hospital for the diagnose of Mr Masinga
- 6.1.34 The Public Protector is in possession of Ms Nyathi's disability grant application lodged on 13 May 2009, including the review form without her Medical Report attached therein.
- 6.1.35 During the interview with Ms Mathenjwa on 21 September 2020, she stated that she is appointed by SASSA as an Administration Clerk at Mamelodi Office.
- 6.1.36 Ms Mathenjwa indicated that on 14 May 2009, she attested (attested was not defined but it is a process during the processing of the application) the application form for disability grant for Mr Masinga.
- 6.1.37 Ms Mathenjwa averred that Mr Masinga is her boyfriend and they have a child together. She conceded that Mr Masinga does not have a disability but she attested the disability application with full knowledge that Mr Masinga did not qualify for the disability grant.
- 6.1.38 Ms Mathenjwa alluded that sometimes they use scratched forms because once the Doctor has completed the form and there are faults on the form, it would be a challenge to fill a new form as the Doctor will not be available to sign and they end up scratching the forms. However this clarification was irrelevant because Mr Masinga was not the patient of the Hospital and it could not have happened that his form could be scratched.
- 6.1.39 Ms Mathenjwa submitted that she did not collude with Ms Mashifane or any other employee of SASSA in the irregular approval of Mr Masinga's

application for disability grant. She affirmed that Ms Mashifane was not at work on the day she used Ms Mashifane's log in details to log into the system and, therefore, used her user ID without her consent.

- 6.1.40 Ms Mathenjwa further stated that she misrepresented the facts to the other employees and she is prepared to refund SASSA all the disability grant monies that were irregularly paid to Mr Masinga.
- 6.1.41 During an interview between Ms Mashifane and the Public Protector Investigation team on 21 September 2020, Ms Mashifane stated that she is employed by SASSA as an Administration Clerk at Mamelodi Office.
- 6.1.42 Ms Mashifane contended that although her user ID was used to capture the application for the disability grant of Mr Masinga on SOCPEN, she however, was not responsible for such capturing on the system.
- 6.1.43 Ms Mashifane further stated that her user ID was accessed because there was a verbal instruction by Management who is now retired but could not provide his or her name that user IDs be pasted on the wall so that employees who had no user IDs (that is, those who were doing manual processing of applications) could use same, when they were instructed to process applications on the computer. However this practice was stopped by Management after a series of fraud was detected and is no longer the practice.
- 6.1.44 It is worth noting that Ms Mashifane was unable to provide the Public Protector Investigation team with the name of the Management who gave the instruction that the user ID's should be pasted on the wall in the offices of SASSA to be used by the employees who have no user ID's. She was further unable to provide clarity on who gave the instruction, when was the instruction given and how the practice was stopped after the alleged fraud was detected.

- 6.1.45 On 15 February 2021, the Public Protector received a further response letter dated 12 February 2021 from Ms Memela (CEO), wherein she submitted that the officials sign a confidentiality clause when requesting enrolment on SOCPEN system which leads to issuing of a user name and password to be used by such an official as allocated.
- 6.1.46 Ms Memela indicated that in determining if this procedure was complied with, she engaged Ms Tsebeletso Makhetha (Ms Makhetha), the line function at Gauteng Regional Office who was responsible for rendering of grants administration.
- 6.1.47 Ms Memela alluded that Ms Makhetha in her response submitted a statement stating that no instruction was given from her office to the District Senior Manager: Northrand District or the Mamelodi Local Office Manager directing that the confidentiality of the usernames and passwords be compromised by sharing them and/or posting them on the wall.
- 6.1.48 Ms Memela averred that Ms Makhetha further stated that Ms Mashifane underwent the procedure on SOCPEN in that she wrote the exam, attained 92% and signed SOCPEN confidentiality clauses on 15 March 2005 and again on 10 December 2008.
- 6.1.49 Ms Memela further averred that Ms Mabora Kgapole (Ms Kgapole), the former District Senior Manager: Northrand District who is currently on retirement was contacted through an email inquiring if an instruction was issued from her office for officials at Mamelodi Local Office to compromise their usernames and passwords. Ms Memela indicated that the former District Senior Manager: Northrand District stated in an email response that no such an instruction was issued by her office.
- 6.1.50 Ms Memela indicated that Mr Abraham Lesitsi Moleti (Mr Moleti), the former Mamelodi Local Office Manager who could only be traced on his cell phone was also asked if he gave the instruction to officials to share their usernames and passwords and his response was that he never issued such

an instruction at the office. In a telephone conversation with the former Mamelodi Local Office Manager on 23 February 2022, he stated that he worked for SASSA for more than ten (10) years and knows the policies of SASSA. During his tenure as Mamelodi Local Office Manager, he never gave an instruction to officials to share their usernames and password as that would have contravened ICT Policy. The former Mamelodi Local Office Manager stated that the only reasonable explanation is that Ms Mathenjwa and Ms Mashifane collaborated in this case to defraud SASSA.

- 6.1.51 Ms Memela further indicated that assurance has been obtained from the line functions that were responsible for grants administration at Gauteng Regional Office that no instruction was issued to officials to compromise their usernames and passwords by pasting them on the wall.
- 6.1.52 Ms Memela stated that Ms Mashifane was taken through the correct SOCPEN enrolment processes which involved training, passing the SOCPEN exam and signing the SOCPEN confidentiality clause where she made an undertaking not to share her username and password.
- 6.1.53 Ms Memela further submitted that there is no evidence before her that there was an instruction directing that officials at Mamelodi Local Office to compromise their SOCPEN credentials by pasting them on the wall.
- 6.1.54 The Public Protector is in possession of the above discussed statement from Line function at Gauteng Regional Office dated 05 February 2021, wherein he stated that no instruction was ever issued by him directing all SASSA Local Office within the Gauteng Region, including Mamelodi Local Office, to share their password in any way or form when administering social grants.
- 6.1.55 The Public Protector is also in possession of the aforementioned email from former District Senior Manager: Northrand District dated 06 February 2021, wherein she indicated that she did not give such an instruction against SOCPEN rules.

- 6.1.56 The Public Protector is further in possession of the evidence indicating that Ms Mashifane attended and passed SOCPEN training and she signed SOCPEN confidentiality clause where she made an undertaking not to directly or indirectly reveal or disclose or cause to be revealed or disclosed any SOCPEN information to anyone.
- 6.1.57 The Public Protector received a further response letter dated 26 August 2021 from Ms Memela, wherein she submitted that SASSA has conducted an internal investigation regarding this matter and the recommendations of the investigation are being implemented.
- 6.1.58 Ms Memela further submitted that the investigation came to three key recommendations which are currently at different stages of implementation as indicated in the table below:

ITEM NO	RECOMMENDATIONS PILLAR	ACTUAL RECOMMENDATIONS	PROGRESS
1.	Disciplinary Action	Disciplinary action against: 1.1.Mathenjwa Portia 1.2.Mabitsela Obed 1.3.Mahlanya Beauty 1.4.Motaung Thulisile (Selina) 1.5.Masibilinga Dimakatso 1.6.Mashifane Lindiwe	The Labour Relations is handling the matter
2.	Criminal referral	Refer the case to South African Police service for further criminal investigation.	Matter escalated to Directorate for Priority Crime Investigation (DPCI)as

			per Mamelodi East CAS <b>204/06/2020</b>
3.	Loss Recovery	Prejudice of R 142 416.45 to be recovered in terms of section 300 of the Criminal Procedure Act.	Case under investigation by DPCI as per the above CAS number.

6.1.59 The Public Protector is in possession of the above mentioned investigation report which was conducted in terms of SASSA Fraud Case Management System (FCMS): **GP/150706/11/29/2019** approved by Ms Z Mvulane, Regional Executive Manager of SASSA on 04 June 2020.

***Responses to Notice issued in terms of section 7(9) of the Public Protector Act***

6.1.60 The Public Protector issued the Section 7(9) notice dated 20 December 2021, to Ms Totsie Memela, the CEO of SASSA. No response was received from Ms Memela but a virtual meeting was subsequently held with SASSA officials on 24 February 2022 to discuss the Public Protector`s remedial action.

6.1.61 SASSA was represented by the following officials:

6.1.61.1 Mr Themba Matlou (Mr Matlou), the Regional Executive Manager: SASSA;

6.1.61.2 Ms Teleni Ntabeni (Ms Ntabeni), General manager: Corporate services;

6.1.61.3 Dr Hlengani Bila (Dr Bila), General Manager: Fraud Management and Compliance: SASSA; and

6.1.61.4 Ms Pinky Mngadi (Ms Mngadi), Senior Manager: CEO`s Office.

6.1.62 Mr Matlou indicated that in principle, SASSA agrees with the Public Protector`s remedial action.

6.1.63 With regards the remedial action that SASSA must conduct a Manual and SOCPEN refresher training in processing social grants applications for all employees working with the administration of grants, Ms Ntabeni indicated as follows:

6.1.63.1 All employees that are employed at SASSA are trained on the SOCPEN on appointment and she agreed that it was necessary for all those employees to receive a refresher training in this regard;

6.1.63.2 The training may not be feasible to be conducted to all SASSA employees at once but it will be done on an ongoing basis.

6.1.64 The refresher training will be prioritised within a month, for SASSA office in Mamelodi, where the maladministration occurred.

Application of relevant law

6.1.65 Section 195(1) of the Constitution, 1996 provides amongst other things that:

*“Public Administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:*

- (a) A high standard of professional ethics must be promoted and Maintained;
- (b) .....
- (c) .....
- (d) .....
- (e) .....



- (f) *Public administration must be accountable;*
- (g) .....
- (h) *Good human resource management and career development practises, to maximise human potential , must be cultivated;*
- (i) ....."

6.1.66 It is clear that public servants and SASSA employees, in particular, are government and public entity employees within the public administration contemplated herein and the provision applies to public servants and employees of public entity. It was expected of the SASSA's employees, in particular Ms Mathenjwa to maintain a high standard of professional ethics and to be accountable when she used Ms Mashifane's user ID without her knowledge to process Mr Masinga disability grant application knowing precisely that he is not eligible to receive same.

6.1.67 The above provision further requires SASSA to ensure that good human resource management and career development practises are cultivated. In this regard, SASSA is required to ensure that all its officials are trained on systems that they are using to ensure effective and efficient service, to avoid gaps in the system wherein, user ID's of official are used by other officials.

6.1.68 Section 9 of the Social Assistance Act, 13 of 2004 states that "*A person is, subject to section 5, eligible for a disability grant, if he or she –*

- (a) .....
- (b) *Is, owing to a physical or mental disability, unfit to obtain by virtue of any service, employment or profession the means needed to enable him or her to provide for his or her maintenance".*

6.1.69 The above provision stipulates the requirements or conditions to be complied with by the applicant in order to be eligible for a disability grant as envisaged herein, and that is for the prospective applicant to physically or

mentally disabled, unfit to obtain by virtue of any service, employment or profession the means needed to enable such applicant to provide for their maintenance. The fact that Mr Masinga did not have medical diagnose of a disability status shows that he did not comply with the above prescribed conditions and was not eligible for disability grant.

6.1.70 In terms of SASSA Social Grant Application Standard Operating Procedure of 2009:

1.1. Screening Process—

1.1.1. ....;

1.1.2. ....;

1.1.3. ....;

1.1.4. ....;

1.1.5. ....;

1.1.6. The Applicant complete relevant annexures and submit the documentation;

1.1.7. The Screening Official review the documents and annexures for completeness and exactness;

1.1.8. ....;

1.1.8.2. The Screening Official refer applicant to the attesting and update employee statistics/QA sheet;

1.2. Attesting Process—

1.2.1. The Applicant present all relevant documents and annexures to the attesting official;

1.2.2. The Attesting Official to check whether applicant have all the required documents;

1.2.3. The Attesting Official to refer the applicant back to screening process if the applicant does not have all the required documents;

1.2.4. ....;

- 1.2.5. ....;
- 1.2.6. ....;
- 1.2.7. The Attesting Official refer applicant for manual verification if the Applicant does have all the required documents;
  
- 1.3. Verification Process—
  - 1.3.1. The Applicant hand application file to the Verification Official;
  - 1.3.2. The Verification Official verify if all required documentation are present in grant application file;
  - 1.3.3. The Verification Official refer the Applicant back to the Attesting process if the required documents are not present in file;
  - 1.3.4. ....;
  - 1.3.5. ....;
  - 1.3.6. ....;
  - 1.3.7. The Verification Official forward application for capturing on SOCPEN if the application is complete and correct;
  
- 1.4. Data Capturing Process—
  - 1.4.1. The Verification Official forward the applicant's file to the Data Capturer;
  - 1.4.2. ....;
  - 1.4.3. The Data Capturer check the application for completeness and correctness,
  - 1.4.4. The Data Capturer return the application back to the verification process if the application is not complete and correct;
  - 1.4.5. The Data Capturer capture the application on SOCPEN if the application is complete and correct;
  - 1.4.6. The Data Capturer send application on SOCPEN for approval/rejection;
  - 1.4.7. The Data Capturer refer the application to the Verification Official;
  
- 1.5. System Validation and Approval/Rejection—

- 1.5.1. The Data Capturing Official forward the applicant's physical and electronic file to the Verification Official;
  - 1.5.2. ....;
  - 1.5.3. The Verification Official check the application for completeness and correctness;
  - 1.5.4. The Verification Official return the application back to the data capturing process if the application is not complete and correct;
  - 1.5.5. The Verification Official process the application for approval/rejection on SOCPEN if the application is correct and accurate;
  - 1.5.6. The Verification Official print two letters and provide one approval letter to applicant and file the second SOCPEN letter in applicant's file and sign employee statistical sheet.
- 6.1.71 The above SASSA Standard Operating Procedures prescribes the process to be followed by the social grant officials in administering the social grant applications. In this instance, it is axiomatic that:
- 6.1.71.1 Ms Mathenjwa did not adhere to the above prescribed process during the screening, attesting, capturing and approving of Mr Masinga's application for disability grant as she used the tampered documents during the screening, attesting, capturing and approving of Mr Masinga's application with full knowledge that they were not authentic and or medical records belonged to another person.
  - 6.1.71.2 Mr Mabitsela did not adhere to the above prescribed process during the attestation and verification of Mr Masinga's application for the disability grant as he was unable to identify possible fraud from tampered application form for the disability grant
  - 6.1.71.3 Ms Mahlanya did not adhere to the above prescribed process during the capturing of Mr Masinga's application for disability grant as she was unable to identify possible fraud from tampered application form for the disability grant

6.1.71.4 Ms Motaung did not adhere to the above prescribed process during the system verification of Mr Masinga's application for disability grant as he was unable to identify possible fraud from tampered application form for disability grant.

6.1.71.5 Ms Masibilanga did not adhere to the above prescribed process during the final quality check of Mr Masinga's application for disability grant as she was unable to identify fraud both manually and on SOSPEN system.

6.1.72 In terms of the SASSA Code of Conduct and Ethics (Code) approved by Minister ZST Skweyiya, Minister of Department of Social Development, on 07 October 2008:

Part B.1(b) - Employees can maintain their position of trust by: Being honest and impartial, ensuring that their personal interests do not adversely influence the way they carry out their duties;

Part B.1(c) –Employees can maintain their position of trust by: Consistently applying Acts, Regulations, policies and guidelines relevant to their work;

Part B.2(g) Employees must act with integrity by: Ensuring compliance with standards, legal and regulatory matters; and

Part B.2 (h) Employees must act with integrity by: Not being influenced by personal interests in making decisions;

Part B.2(i) Employees must act with integrity by: preventing nepotism and patronage;

C.4 An employee:-

C.4.3 executes her/his duties in a professional and ..... manner;

C.4.4 does not engage in any transaction or action that is in conflict with

or infringes on the execution of her/his official duties;

C.4.5 will recuse her/himself from any official action or decision-making process, which may result in improper personal gain or gain for friends/ relatives, and this, should be properly declared by the employee.

6.1.73 SASSA Code of Conduct prescribes that all employees of SASSA should be honest and not be influenced by personal interests in making decisions that are in conflict with or infringe on the execution of their official duties.

6.1.74 In this instance, the process used to administer Mr Masinga's disability grant application was not in line with the provisions of the SASSA Code of Conduct in that Ms Mathenjwa was not honest and allowed her personal interest to influence her decision making that was in conflict with the execution of her duties during the screening, attestation and capturing of the application for disability grant of Mr Masinga.

6.1.75 Furthermore, Ms Mathenjwa acted partially and biased during the screening, attestation and capturing of the application for disability grant of Mr Masinga as he used fraudulent documents to attest and capture the application and she violated her position of trust by not applying the established policies and guidelines of SASSA.

6.1.76 In addition, Ms Mathenjwa did not must act with integrity in that she failed to comply with standards, legal and regulatory matters and was influenced by personal interests in making decisions

6.1.77 Despite conceding during the investigation that Mr Masinga is her boyfriend and that Mr Masinga is not eligible to receive a disability grant as per the documents used to apply for the disability grant, Ms Mathenjwa deliberately received, attested and captured the application manually and on SOCPEN system and Ms Mashifane's user ID was used to capture the application without her consent and knowledge. Mr Mabitsela, Ms Mahlanya, Ms

Motaung and Ms Masibilanga did not adhere to the prescripts during the screening, attesting, verifying, capturing and approving Mr Masinga's application for disability grant as they were unable to identify fraud both manually and on SOSPEN system and their conduct amounted to irregular expenditure.

Conclusion

- 6.1.78 Based on the exposition of pervasive evidence and the legal prescripts traversed above, it can be concluded that SASSA officials violated the Constitution, Social Assistance Act, SASSA Social Grant Application Standard Operating Procedure and SASSA Code of Conduct and Ethics when administering the disability grant application of Mr Masinga.
- 6.1.79 Based on the evidence discussed above, it can also be concluded that Ms Mashifane violated the SOCPEN confidentiality clause she committed to adhere to by directly or indirectly revealing or disclosing or cause to be revealed or disclosed her user ID to Ms Mathenjwa, which resulted in her using it to capture Mr Masinga's application on SOCPEN. Mr Mabitsetla, Ms Mahlanya, Ms Motaung and Ms Masibilanga did not adhere to the prescripts during the screening, attesting, verifying, capturing and approving Mr Masinga's application for disability grant as they were unable to identify fraud both manually and on SOSPEN system.
- 6.1.80 It should be noted that it there is no evidence indicating that the supervisor, Mr Mamelodi Local Office Manager failed to exercise oversight over the processing of the application for the disability grant of Mr Masinga.
- 6.1.81 The Public Protector has noted from the further response letter dated 26 August 2021 received from Ms Memela that SASSA has already conducted an internal investigation regarding this matter and recommendations are being implemented as discussed above.

6.2 **Whether SASSA or any other person suffered prejudice as a result of the alleged improper approval and payment of Mr Masinga's disability grant.**

Common cause issues

6.2.1 The Application for Disability Grant for Mr Masinga was processed by the SASSA on 14 May 2009.

6.2.2 SASSA paid the disability grant to Mr Masinga amounting to **R 142 416.45** from 14 May 2009 until June 2018.

Issues in Dispute

6.2.3 The Complainant argued that the monies belonging to SASSA were lost during the payment of disability grant to Mr Masinga even though he was not disabled and no one was held accountable.

6.2.4 Ms Memela stated, in her response letter to the Public Protector dated 30 January 2020, that SASSA paid the disability grant to Mr Masinga from 14 May 2009 until June 2018 and the total amount paid was one hundred and forty two thousand four hundred and sixteen rands and forty five cents (R142 416.45).

6.2.5 The Public Protector is in possession of the copy of the spreadsheet indicating the disability grant amount paid to Mr Masinga by SASSA from 14 May 2009 until June 2018.

6.2.6 Below is a spreadsheet depicting the calculations on the amount received by Mr Masinga from SASSA:



<b>MONTH</b>	<b>GRANT AMOUNT</b>	<b>TOTAL PAID</b>
Jul-09		2 600.00
August 2009 - March 2010	R1 010 x 8 months	8 080.00
April 2010 - March 2011	R1 080 x 12 months	12 960.00
April 2011 - March 2012	R1 140 x 12 months	13 680.00
April 2012 - March 2013	R1 200 x 12 months	14 400.00
April 2013 - September 2013	R1 260 x 6 months	7 560.00
Aug-13	Additional amount	6.45
October 2013 - March 2014	R1 270 x 6 months	7 620.00
April 2014 - March 2015	R1 350 x 12 months	16 200.00
April 2015 - September 2015	R1 410 x 6 months	8 460.00
October 2015 - March 2016	R1 420 x 6 months	8 520.00
April 2016 - September 2016	R1 500 x 6 months	9 000.00
October 2016 - March 2017	R1 510 x 6 months	9 060.00
April 2017 - March 2018	R1 600 x 12 months	19 200.00
April 2018 - June 2018	R1 690 x 3 months	5 070.00
<b>TOTAL</b>		<b>142 416.45</b>

6.2.7 Ms Memela submitted in her further response letter to the Public Protector dated 26 September 2021 that SASSA has conducted an internal investigation regarding the matter and recommendations of such investigations are being implemented.

6.2.8 Ms Memela further submitted that the matter was referred to the Directorate for Priority Crime Investigation as per Mamelodi East CAS **204/06/2020** to recover the loss and prejudice of R 142 416.45 in terms of section 300 of the Criminal Procedure Act.

***Responses to Notice issued in terms of section 7(9) of the Public Protector Act:***

- 6.2.9 The Public Protector issued the Section 7(9) notice dated 20 December 2021, to Ms Totsie Memela, the CEO of SASSA. No response was received from Ms Memela. However, a virtual meeting was subsequently held with SASSA officials on 24 February 2022 to discuss the Public Protector`s remedial action.
- 6.2.10 At the virtual meeting SASSA was represented by the following officials:
- 6.2.10.1 Mr Themba Matlou (Mr Matlou), Regional Executive Manager: SASSA;
- 6.2.10.2 Ms Teleni Ntabeni (Ms Ntabeni), General Manager: Corporate Services;
- 6.2.10.3 Dr Hlengani Bila (Dr Bila), General Manager Fraud Management and Compliance: SASSA; and
- 6.2.10.4 Ms Pinky Mngadi (Ms Mngadi), Senior Manager: CEO`s Office.
- 6.2.11 Mr Matlou indicated that SASSA agrees with the Public Protector`s remedial action regarding SASSA reporting to National Treasury, the unauthorised, irregular or fruitless and wasteful expenditure and putting necessary measures and systems in place to prevent future occurrence.
- 6.2.12 Mr Matlou advised that the CFO of SASSA reports to Treasury on an annual basis regarding the unauthorised, irregular or fruitless and wasteful expenditure.
- 6.2.13 In his response measure that have been put in place by SASSA to prevent unauthorised, irregular or fruitless and wasteful expenditure to Treasury, Dr Bila advised as follows:
- 6.2.13.1 That SASSA has put value chain internal control measures in place to curb the irregular expenditure in the institution.

- 6.2.13.2 He averred that staff on level 5 receive and assess applications for grants, staff at level 7 will do the verification and approvals and the Team Leader on level 8 will conduct the quality assurance process.
- 6.2.13.3 The Team leader will again in conjunction with the Office Manager, conduct final verification of various levels of applications as a way of detecting and preventing fraud in the Institution.
- 6.2.13.4 SASSA is currently in the process of conducting fraud risk assessment, which is to commence effectively from 01 March 2022 and envisaged to be completed within three (3) months of the commencement date.
- 6.2.14 Mr Matlou indicated that SASSA is already implementing the Public Protector`s remedial action that SASSA should finalize the implementation of the biometric solution. He indicated that implementation of the biometric system has already been commenced and is being deployed in phases. Implementation is currently at phase one.
- 6.2.15 Mr Matlou further indicated that there is a delay in fully implementing the biometric system due to the system still being enhanced, equipment that still needed to be procured and consultations with organised labour. SASSA undertook to submit a progress report with timeframes in this regard.
- 6.2.16 Regarding the process of initiating disciplinary steps against all implicated officials, Ms Ntabeni advised that SASSA, Labour Relations Unit has already conducted their own investigation regarding this matter.
- 6.2.17 Ms Ntabeni indicated that SASSA Labour Relations Unit delayed in terms of commencing with disciplinary steps against implicated officials. However SASSA is also taking disciplinary steps against the Labour Relations employees who have caused the delay. Consequently, all implicated officials are still within the employ of SASSA.

- 6.2.18 Dr Bila indicated that SASSA became aware of the maladministration when officials were implicated in the Public Protector`s investigation as they have conducted their own investigation and reported the matter to SAPS under Mamelodi CAS **204/06/2020**. He confirmed that SASSA is in the process of suspending implicated officials.
- 6.2.19 Regarding the remedial action for SASSA to follow up on Mamelodi CAS **204/06/2020** relating to the case referred to Directorate for Priority Crime Investigation Unit of the SAPS for further criminal investigation and to recover the R142 416.45 paid to Mr Masinga, Mr Matlou agreed that SASSA will comply with the Public Protector`s remedial action.

*Application of relevant law*

- 6.2.20 Section 4 (1)(c ) of the SA Social security Agency Act 9 of 2004 provides for the Agency to *establish a compliance and fraud mechanism to ensure that the integrity of the social security system is maintained.*
- 6.2.21 In line with the above provision, SASSA must review the adequacy and effectiveness of its compliance and fraud mechanism with a view to improve it. Further on, a fraud risk assessment must be conducted annually and mitigation plans be implemented to minimise the risk of fraud.
- 6.2.22 Section 34(1)(b) of Prevention of Corrupt Activities Act (PRECAA) 12 of 2004 provided that: *any person who holds a position of authority and who knows or ought reasonably to have known or suspected that any other person has committed the offence of theft, fraud, extortion, forgery or uttering a forged document involving an amount of R 100 00 or more, must report such knowledge or suspicion or cause such knowledge or suspicion to be reported to any Police official.*
- 5.2.1 The above provision requires a person in authority to report any offence of theft, fraud, extortion, forgery or uttering a forged document involving an amount of hundred thousand (R 100 000.00) or more to the police

once they become aware of such offence. The amount which SASSA paid towards the irregular disability grant to Mr Masinga is amounting to R 142 416.45, which is above the threshold of R 100 000 in terms of this provision, to enable the police to investigate the matter. In this regard, SASSA has duly reported the criminal offence to SAPS and the matter is investigated under CAS 204/06/2020.

6.2.23 Section 51 of the PFMA which regulates the general responsibilities of accounting officers provides as follows—

(1) *“The accounting authority for a public entity —*

*(a) must ensure that that public entity has and maintains—*

*(i) effective, efficient and transparent systems of financial and risk management and internal control;*

*(ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of section 76 and 77;*

*(iv) .....*

*(v)*

*(b) must take effective and appropriate steps to—*

*(i) collect all money due to the department, trading entity or constitutional institution;*

*(ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and*

*(e) must take effective and appropriate disciplinary steps against any employee of the public entity who —*

- (i) contravenes or fails to comply with a provision of this Act;*
- (ii) commits an act which undermines the financial management and internal control system of the public entity; or*
- (iii) makes or permits an irregular expenditure or a fruitless and wasteful expenditure;*
- (f) is responsible for the submission by the public entity of all reports, returns, notices and other information to Parliament or the relevant provincial legislature and to the relevant executive authority or treasury, as may be required by this Act.*
- (g) must promptly inform the National Treasury on any new entity which that public entity intends to establish or in the establishment of which it takes the initiative, and allow the National Treasury a reasonable time to submit its decision prior to formal establishment; and*
- (h) must comply, and ensure compliance by the public entity, with the provisions of this Act and any other legislation applicable to the public entity.*

6.2.24 The above provisions stipulate that the accounting officer must maintain an effective, efficient and transparent systems of financial and risk management and internal control and a system of internal audit under the control and direction of an audit committee. Furthermore, the accounting authority is required by the above provision to take effective and appropriate steps to collect all money due to the department, prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct, immediately report any unauthorised, irregular or fruitless and wasteful expenditure to the relevant treasury on discovery and take effective and appropriate disciplinary steps against any official who contravenes or fails to comply with a provision of this Act.

6.2.25 The above provision also prescribes that Ms Memela must take appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct and must collect all money paid to Mr Masinga in terms of section 51(b)(i).

6.2.26 It further prescribes that Ms Memela must report above payment to the relevant treasury as she already discovered same from the Public Protector in 2019 during the investigation and she must take effective and appropriate disciplinary steps against Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane for contravention or failure to comply with the provisions of this Act.

6.2.27 Section 17(1) and (2) of Social Assistance Act, 13 of 2004 states that—

(1) *“If the Agency pays money to a person in the belief that he or she is entitled thereto in terms of this Act or any law repealed by this Act, but he or she was not entitled thereto, the amount of money so paid is an amount due and payable to the State by such a person or, if he or she is deceased, by his or her estate;*

(2) *The Agency must recover amounts to which a person was entitled, as contemplated in subsection (1), in accordance with the PFMA Act, 1999;*

(3) *.....;*

(4) *.....”*

6.2.28 The above provision requires SASSA to recover the money paid to a person in the belief that he or she is entitled thereto but he or she was not entitled thereto. In this instance, SASSA must recover the amount of R 142 416.45 from Mr Masinga or from his estate if he is deceased as it was paid in the belief that he is entitled thereto but he was not entitled thereto. It should be noted that SASSA has reported a criminal case against Ms Mathenjwa and Mr Masinga and will recover all monies irregularly paid to Mr Masinga.

6.2.29 Section 57 of the PFMA which regulates the Responsibilities of other officials provides as follows - (1) *An official in a public entity—*

*(a) must ensure that the system of financial management and internal control established for that public entity is carried out within the area of responsibility of that official;*

*(b) is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility;*

*(c) must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;*

*(d) must comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 56; and*

6.2.30 The above provision requires that officials of the public entity must ensure that the system of financial management and internal control established for that public entity is carried out within the area of responsibility of that official. Furthermore the official is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility and must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due. In addition the official must comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 56.

6.2.31 Accordingly, Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane must ensure that the system of financial management and internal control established for SASSA is carried out within their area of responsibility when processing the disability grant of Mr Masinga. Furthermore, Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane are responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility and must take effective and appropriate steps to prevent, within their area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under



collection of revenue due. In addition Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane must comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 56

6.2.32 Regulations 4.1 of the National Treasury Regulation, 2005 states that: x

4.1.1 *“If an official is alleged to have committed financial misconduct, the accounting officer of the institution must ensure that an investigation is conducted into the matter and if confirmed, must ensure that a disciplinary hearing is held in accordance with the relevant prescripts and agreements applicable in the public service.*

4.1.2 *The accounting officer must ensure that such an investigation is instituted within 30 days from the date of discovery of the alleged financial misconduct”.*

6.2.33 The above provision stipulate the steps that must be taken by the accounting officer if an official is alleged to have committed financial misconduct.

6.2.34 The National Treasury Regulation prescribes that Ms Memela must ensure that an investigation is conducted into the matter within 30 days from the date of discovery of the irregular approval of the disability grant of Mr Masinga and ensure that a disciplinary hearing is held against Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane. Ps include the relevant sections of the PFMA herein as well.

### Conclusion

6.2.35 Even though Ms Memela submitted in the further response letter to the Public Protector dated 26 September 2021 that SASSA has conducted an internal investigation regarding the matter and that recommendations are

being implemented as discussed above, SASSA is still required to report this irregular expenditure to the relevant treasury in terms of section 51(f) of the PFMA and to put measures in place to prevent future occurrences thereof.

6.2.36 SASSA investigated the conduct of its official during the processing of the application for a disability grant of Mr Masinga and opened a criminal case against Ms Mathenjwa and Mr Masinga at Mamelodi SAPS.

6.2.37 Furthermore SASSA instituted disciplinary hearing against Ms Mathenjwa and Ms Mashifane and Ms Mahlanya. However Ms Motaung and Mr Mabitsela have since left the employ of SASSA.

## **7. FINDINGS**

After careful examination of the evidence obtained during the investigation, and the regulatory framework setting the standard that should have been upheld by SASSA and its officials, the Public Protector makes the following adverse findings against SASSA and its officials:

**6.3 Regarding whether SASSA improperly approved the disability grant of Mr Masinga without following proper approval processes and whether such process amounts to improper conduct and/or maladministration;**

6.3.1 The allegation that SASSA improperly approved the disability grant of Mr Masinga without following proper approval processes and whether such process amounts to improper conduct and/or maladministration is, substantiated.

6.3.2 Factual evidence in the possession of the Public Protector, as acknowledged and confirmed by Ms Mathenjwa during an interview held on 21 September 2021, indicates that the application for disability grant of Mr

Masinga, who is the boyfriend to Ms Mathenjwa screened attested and captured on 14 May 2009 using the tampered medical records of Ms Nyathi.

- 6.3.3 Mr Masinga's application for disability grant was received and captured on SOCPEN system by Ms Mathenjwa using the user ID of Ms Mashifane without her consent and knowledge. Mr Masinga's Medical report for persons with disability form was completed on Part A thereof by Ms Mathenjwa as an Administrative Officer. Ms Mathenjwa failed to question the cancellation of Ms Nyathi's details on the disability form and captured the form as whilst having scratched information.
- 6.3.4 Evidence in the Public Protector's possession indicates that Ms Mashifane violated SOCPEN confidentiality clause undertaking she made by directly or indirectly reveal or disclose or cause to be revealed or disclosed her user ID to Ms Mathenjwa, which resulted in her using it to capture Mr Masinga's application on SOCPEN.
- 6.3.5 Dr Mathebula submitted that Mr Masinga did not have a medical file at the Hospital and therefore, he was never a patient at the Hospital on or before May 2009. Dr Mathebula confirmed that Ms Nyathi has been a patient of the Hospital since 07 November 2003 and her last visit to the hospital was on 04 March 2020.
- 6.3.6 Mr Masinga's affidavit for disability grant application has the signature of Mr Mpofo, whilst on the other documents he used a thumbprint as a signature.
- 6.3.7 Evidence in the Public Protector's possession further revealed that Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung and Ms Masibilanga failed to perform proper due diligence when capturing, attesting and verifying Mr Masinga's application which led to the approval of his disability grant, even though he was not eligible to receive same.
- 6.3.8 The conduct of SASSA officials and in particular that of Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane

violated section 195(1) of the Constitution, Clause 1.1, 1.2, 1.3, 1.4, and 1.5 of SASSA Social Grant Application Standard Operating Procedure, Section 9 of the Social Assistance Act, Clause B.1, B.2, and C.4 of the SASSA Code of Conduct and Ethics in processing Mr Masinga's disability grant application.

6.3.9 Accordingly, the conduct of SASSA in the circumstances constitutes improper conduct as envisaged in section 182(1)(a) of the Constitution and maladministration as envisaged in section 6(4)(a)(i) of the Public Protector Act.

6.4 **Regarding whether SASSA or any other person suffered prejudice as a result of the alleged improper approval of Mr Masinga's disability grant.**

6.4.1 The allegation that the SASSA or any other person suffered prejudice as a result of the alleged improper approval of Mr Masinga's disability grant and payment of monies to Mr Masinga is, substantiated.

6.4.2 Factual evidence in the Public Protector's possession revealed that SASSA should have put measures in place to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct and to report same to the relevant treasury.

6.4.3 As a result SASSA suffered improper financial prejudice or loss by irregularly paying an amount of one hundred and forty two thousand four hundred and sixteen rands and forty five cents (R142 416.45) to Mr Masinga from 14 May 2009 until June 2018 which was never paid back by Mr Masinga nor recovered by SASSA.

6.4.4 The conduct of SASSA, and in particular SASSA officials and in particular that of Ms Mathenjwa, Mr Mabitsele, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane violated section 51(1)(a)(i), (ii), (b)(i), (ii), (e)(i), (ii), (iii), (f), (g), (h) and section 57(a), (b), (c) and (d) of the PFMA,

section 17(1) and (2) of the Social Assistance Act and Clause 4.1 (sub clauses 4.1.1 and 4.1.2) of the National Treasury Regulations.

6.4.5 Accordingly, the conduct of SASSA in the circumstances constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(i) of the Public Protector Act.

## **7 REMEDIAL ACTION**

The appropriate remedial action that the Office of the Public Protector intends to take in pursuit of section 182 (1) (c) is the following:

**The Accounting Officer of South African Social Security Agency, Ms Busisiwe Memela- Khambule, to ensure that:**

7.1 Within **thirty (30) working days** of the issuing of the final report, the CEO of SASSA provide a Manual and SOCPEN refresher training in processing social grants applications for all employees working with the administration of grants commencing, with the SASSA Mamelodi office where the maladministration occurred, in terms of section 195(f) and (h) of the Constitution.

7.2 Within **thirty (30) working days** of the issuing of the final report, the CEO of SASSA to report an unauthorised, irregular or fruitless and wasteful expenditure to the National Treasury in terms of section 51(1)(f) of the PFMA.

7.3 Within **sixty (60) working days** of the issuing of the final report, the CEO of SASSA to put necessary measures and systems in place to prevent future unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct in terms of Section 51(1)(b)(ii).

7.4 Within **ten (10) working days** of the issuing of the final report, CEO of SASSA to follow up on Mamelodi CAS 204/06/2020 relating to the case

referred to Directorate for Priority Crime Investigation Unit of the SAPS for further criminal investigation in terms of section 34(1)(b) of PRECCA and to recover the R142 416.45 paid to Mr Masinga in terms of Section 17(1) and (2) of Social Assistance Act..

7.5 Within **ninety (90) working days** of the issuing of the final report, CEO of SASSA to finalize the implementation of the biometric solution to be used by SASSA employees to access SASSA information and technology systems to avoid unauthorised use of credentials of the employees in terms of section 51(1)(a)(i) of PFMA read with section 4(1)(c ) of the SA Social Security Agency Act.

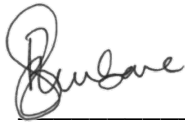
7.6 Within **thirty (30) working days** of the issuing of the final report, the CEO of SASSA to initiate the disciplinary process against Ms Mathenjwa, Mr Mabitsela, Ms Mahlanya, Ms Motaung, Ms Masibilanga and Ms Mashifane in terms of section 51(1)(e)(i),(ii) and (iii) of PFMA.

7.7 Within **thirty (30) working days** of the issuing of the final report, provide constant progress report to the Public Protector with regard to the above mentioned recommendations.

## **8 MONITORING AND IMPLEMENTATION**

8.1 The CEO of the SASSA must, submit an Implementation Plan to the Public Protector within **thirty (30) working days** from the date of receipt of the formal report indicating how the remedial action referred to in paragraph 8 above will be implemented.

8.2 The Public Protector wishes to bring to your attention that in line with the Constitutional Court Judgement in the matter of ***Economic Freedom Fighters v Speaker of the national Assembly and other; Democratic Alliance v Speaker of the national Assembly and others [2016]ZACC 11***, and in order to ensure the effectiveness of the Office of the Public Protector, the remedial actions prescribed in this Report are legally binding on the CEO of SASSA, unless she obtains an Interim Interdict or Court Order directing otherwise.



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**ADV. BUSISIWE MKHWEBANE**  
**PUBLIC PROTECTOR OF THE**  
**REPUBLIC OF SOUTH AFRICA**  
**DATE: 27/02/2022**

*Assisted by: Assisted by: Mr Piet Moloj, Senior Investigator, Gauteng Provincial Office*