PUBLIC PROTECTOR SOUTH AFRICA

Accountability • Integrity • Responsiveness

PUBLIC PROTECTOR SOUTH AFRICA ANNUAL REPORT

1 APRIL 2014 – 31 MARCH 2015

PUBLIC PROTECTOR SOUTH AFRICA
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> The lack of clarity regarding the binding effect of the findings of and rememdial action taken by the Public Protector has a significant effect on both organs of state and ordinary South Africans. The latter looks to the office of the Public Protector for protection against the abuse of public power ... most of the work done by [the Public Protector] involves ordinary people trying to give effect to their constitutional rights. If the impression is created that reporting misconduct in state affairs, public administration or in any sphere of government to the Public Protector can have no material effect, the office of the Public Protector will be fundamentally and irreparably undermined. A decision of the [Supreme Court of Appeal] is therefore crucial in this regard." **Judge Ashton Schippers, Western Cape High Court**

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PART C: GOVERNANCE

LIST OF TABLES

PUBLIC PROTECTOR SOUTH AFRICA
Accountability • Integrity • Responsiveness

LETTER TO THE SPEAKER

The Hon Ms B. Mbete
Speaker of the National Assembly of South Africa
Parliament Building
Parliament Street
PO Box 15
CAPE TOWN

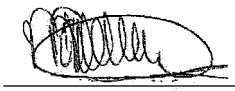
Dear Honourable Speaker

It is an honour to submit the Annual Report of the Public Protector South Africa in terms of section 181 (5) of the Constitution of the Republic of South Africa 1996, which covers the period 1 April 2014 to 31 March 2015.

The report seeks to provide an account of how the office faired in implementing its constitutional mandate and specific commitments of the year under review while capturing our key promises for the year ahead.

I would like to express sincere appreciation from my team and myself to the National Assembly, representatives of organs of state and the people of South Africa for supporting my office and facilitating the fulfilment of its constitutional mandate.

Yours sincerely



ADV. THULISILE (THULI) NOMKHOSI MADONSELA
PUBLIC PROTECTOR OF THE REPUBLIC OF SOUTH AFRICA
31 August 2015.

1. FOREWORD BY THE PUBLIC PROTECTOR

I am pleased to present the Public Protector Annual Report for 2014/15 in the year that the Public Protector Vision 2020 enters its fifth year of implementation. Many will recall that this vision was introduced at the beginning of the 2009/10 financial year on the back of rigorous mandate analysis and thorough stakeholder consultation, which included the public and Parliament. The report also comes at the time when the Public Protector celebrates twenty (20) years of existence. Having risen from the ashes of the erstwhile Office of the Ombudsman, which succeeded an institution called the Advocate-General, the Public Protector was initially a creature of the Interim Constitution of 1993, a product of the multi-party negotiations that paved the way for the constitutional democracy we enjoy today.

The final Constitution of 1996 reaffirmed the institution, revising its powers to give it more clout to investigating 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; to report on that conduct; and to take appropriate remedial action. The new Constitution also placed a requirement on the Public Protector to be accessible to all persons and communities, which we believe gives people the right to complain.When the Public Protector Vision 2020 was introduced five years ago, it sought to build on the foundation laid by my predecessors, Advocates Selby Baqwa and Lawrence Mushwana, whose combined 14 years at the helm of this institution saw the Public Protector evolving from just another aspiration in our Constitution to a respected guardian of proper conduct, incorporating clean administration in the public sector, including executive ethics. All actions taken in the year under review were aimed at righting administrative wrongs and promoting good governance in state affairs while ensuring effectiveness and access. This vision remains anchored in our constitutional mandate.

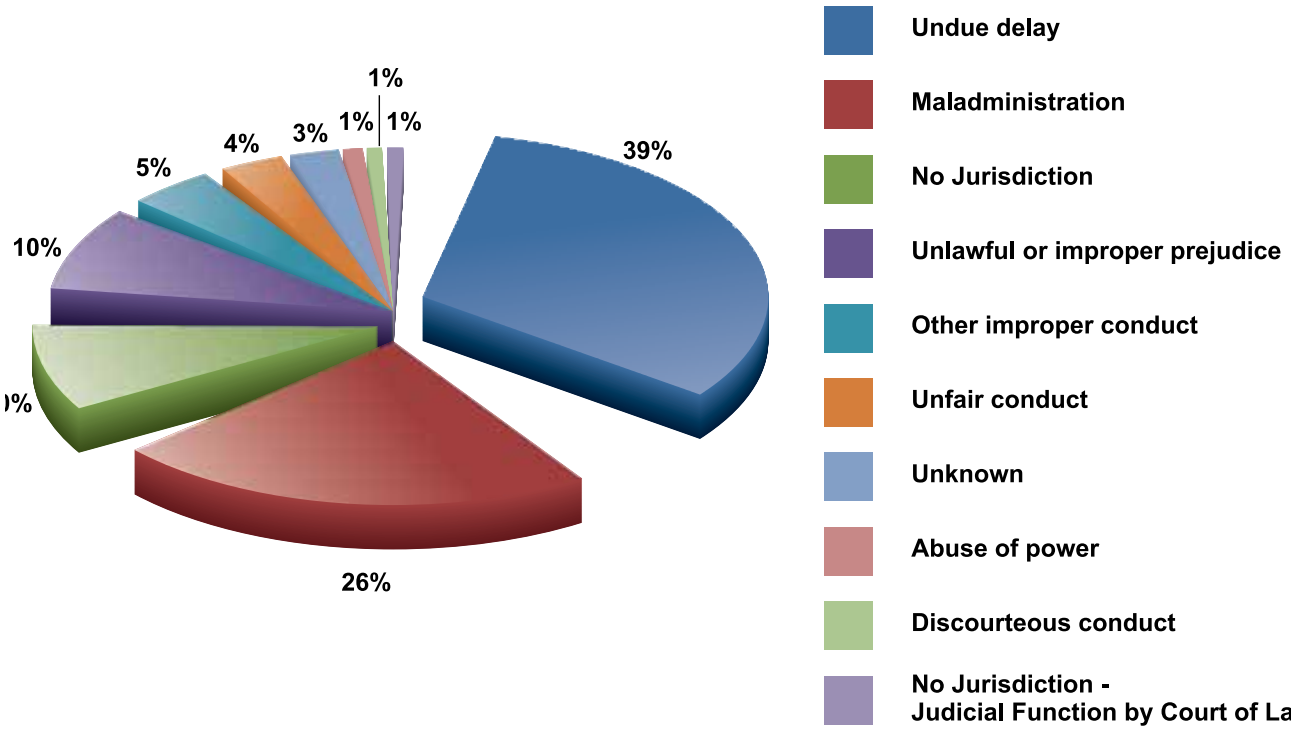
Over the years and, in particular, during the year under review, we made great strides in restoring lifes and dignity of members of the public whose lives had come to a standstill due to maladministration, involving service failure. Indeed, the majority of teh cases were resolved in the year under review brought relieve to those we refer to as *Gogo Dlaminis.* We also continued to highlight lapses in governance issues that resulted in conduct failure. This includes executive ethical lapses, corruption and financial management. In addition, we continued to take the services of this institution to communities in far-flung areas to improve access. However, there is room for improvement. This includes in areas of building mutually beneficial stakeholder relations with key interested parties such as the executive, Parliament and complainants. We also battled with balancing rigour with speed in the context of stretched human resources and complexity of cases. Another equally important area of improvement is the governance of the institution, paying special attention to areas that have been identified by different Auditors-General over the years. As the office celebrates this milestone, we will need the support of all stakeholders, including Government and civil society in order to keep true to our constitutional mandate. Most importantly, the Public Protector counts on the assistance and protection by all organs of state including the executive and Parliament to ensure its independence, impartiality, dignity and effectiveness as envisaged in Section 181(3) of the Constitution.

ADV. THULISILE (THULI) NOMKHOSI MADONSELA
PUBLIC PROTECTOR OF THE REPUBLIC OF SOUTH AFRICA
31 August 2015

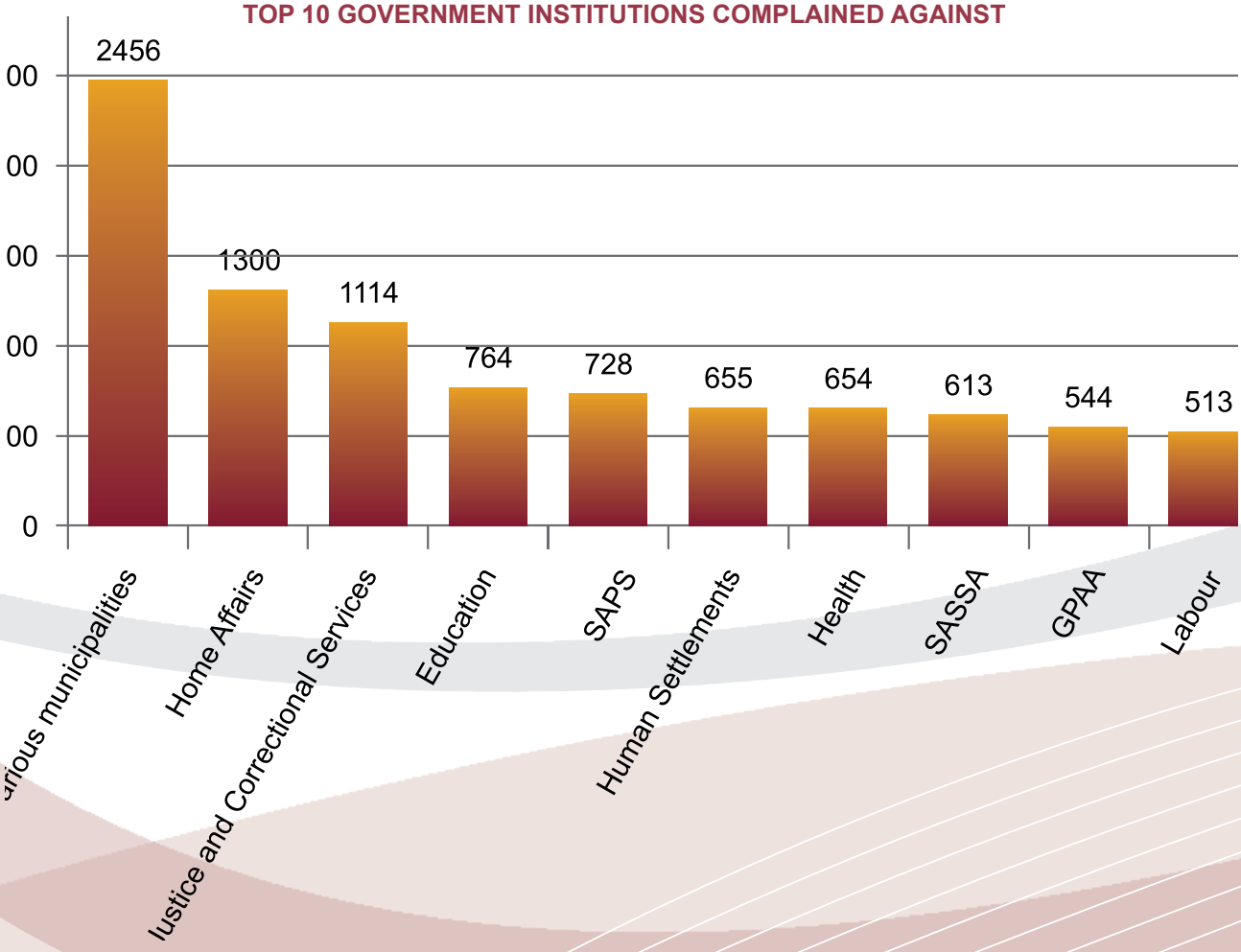
PUBLIC PROTECTOR SOUTH AFRICA
Accountability • Integrity • Responsiveness

YEAR 2014/15 AT A GLANCE

YEAR 2014/15 AT A GLANCE (CONTINUED)



TOP 10 GOVERNMENT INSTITUTIONS COMPLAINED AGAINST



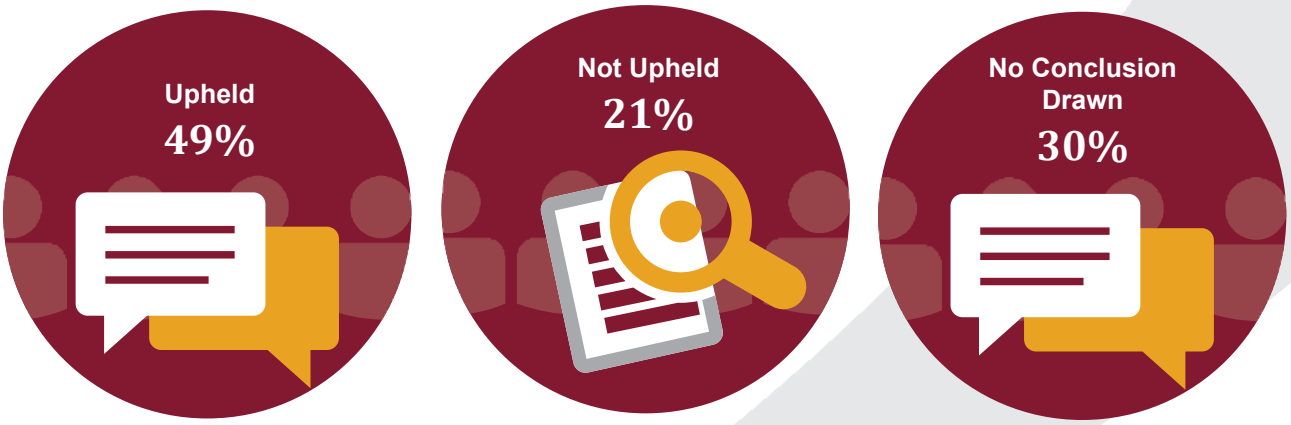
YEAR 2014/15 AT A GLANCE (CONTINUED)

Investigation and Appropriate Dispute Resolution Outcomes:

(1) Common Types of Improper Conduct in Cases Finalised in 2014/15

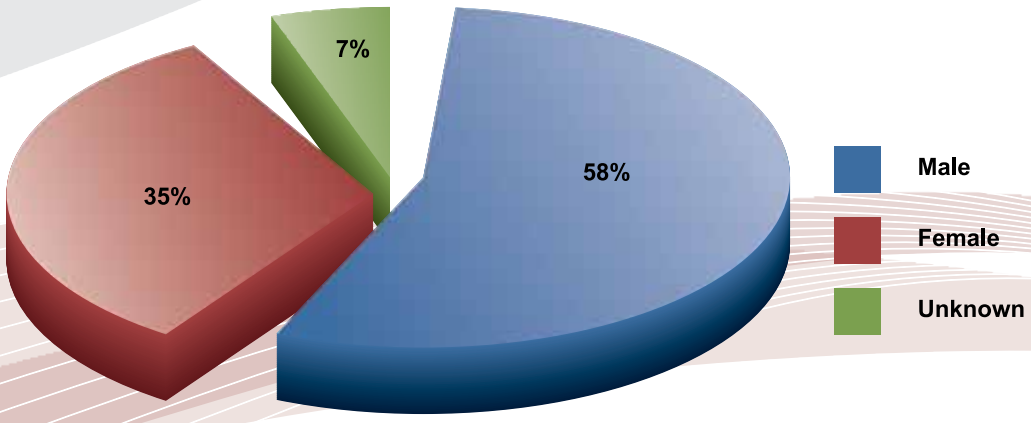
Among the commn types of improper conduct in cases finalised during the prediod under review were matters involving unde delays in the provisions of public services, maladministratiom, unlawful and improper prejudice, unfair conduct, abuse of power and discurteous conduct.

(2) Percentage of Complaints Upheld and Percentage of Complaints not Upheld



(3) Emerging(Improper Conduct) Themes for Noting by Decision-Makers: Key problems include undue delay, maladministration involving non-compliance with regulatory framework, unlawful conduct/improper prejudice, discourteous conduct and systemic service failure; Unethical Conduct, including Lapses in Conflict Management, Improper/Unlawful Enrichment and Abuse of Benefits; Poor Procurement Management and Financial Mismanagement, including Poor Demand Management, Unecessary Procurement, Unauthorised/Excessive Expenditure, Overcharging, Overbilling, False Billing, Scope Creep and Excessive Time/Budget Overruns.

Accessibility Indicator



2. PUBLIC PROTECTOR'S OVERVIEW

On 15 October 2015, the Public Protector will be celebrating the 20 year milestone since opening its doors as an institution established to support and strengthen constitutional democracy under the leadership of the first Public Protector, Advocate Selby Baqwa, on 15 October 1995.

Building on the foundation laid by Advocate Baqwa and the second Public Protector, Advocate Lawrence Mushwana, the Public Protector has continued in the last five years, including the year under review (2014/15) to play a meaningful role in supporting and strengthening constitutional democracy by enabling the public to protect itself against improper conduct in state affairs. This was done through exacting accountability in the exercise of public power and control over state resources against those entrusted with public power no matter who they were.

With limited resources at its disposal – **304** permanent employees and **70** Trainee Investigators, on a budget of **R218Million** – the Public Protector Team finalised **20 231** of the **26 070** cases it handled in the year under review. With the majority of handled and finalised cases being administrative justice and socio-economic rights violations affecting the marginalised, this office managed to provide access to justice and meaningful involvement in public accountability to the most marginalised whom we generally refer to as *Gogo Dlaminis*.

Accessibility and Trust

Good progress was made with regard to progressively expanding the frontiers of accessibility to the Public Protector's services in pursuit of the constitutional injunction in section 182(4), requiring the Public Protector's services to be accessible to all persons and communities. Mindful of section 237 of the Constitution, which requires that constitutional responsibilities be given priority and implemented diligently, we have tried to maintain services to remote and disadvantaged communities, despite rolling back regional offices and some community outreach activities in an effort to address the budget deficit of 2013/14 for which we received no funding.

We are encouraged by the growth of the office's trustworthiness, which has been confirmed by independent institutions measuring public trust in state bodies and informal feedback, including awards received. We, however, continue to improve brand integrity, which includes standardising approaches to the quality of work and speed in all our offices. I must indicate that under-resourcing is an impediment although we are exploring all avenues, including development and crowd funding options.

Prompt Justice, Incorporating Remedial Action

In recognition of the fact that justice delayed is justice denied, the pursuit of prompt justice, including remedial action has remained a pillar of this office's investigations and Appropriate Dispute Resolution (ADR) work in the past year and previous years. The triaging of cases into Early Resolution and Investigation matters, accordingly continued.

We have also been mindful of the fact that justice is impossible if all there is, is a report without the wrong being remedied. In this regard we mostly resolved the complaints through ADR involving us enabling organs of state within jurisdiction and complainants to collectively identify maladministration and other forms of improper conduct and agree on appropriate remedial action. Ours then would be to record and have the parties sign a settlement agreement, incorporating remedial action.

The few matters that result in formal reports, are also followed up by a specialised compliance officer we have employed to ensure the problem is not only identified but also solved. The few problems that have arisen in regard to the remedying of adjudicated wrongs will hopefully be resolved when the Supreme Court of Appeal (SCA) deals with the report dealing with ethical and governance failure at the SABC, in mid-September 2015.

Promoting Good Governance

We continued to promote good governance, principally though systemic investigations and having stakeholder conversations with organs of state, including municipal leadership, accounting officers, Provincial Executive Councils, Ministers, including groups of Ministers, the Cabinet and Parliament. We hope to finalise systemic investigatioins into RDP Housing, Millennium Development Goals focussing on health and poverty, Home Affairs and others in the coming year. We finalised the Rules but deferred implementation pending the SCA decision on contested intuitional powers. We also continued to support and strengthen synergies with fellow Chapter 9 institutions and other integrity bodies in the country. While our efforts at drawing civil society into the good governance dialogue were scaled down, we leveraged the media, particularly the social media to engage civil society, including through a conversation on ***Walking the Talk in Good Governance*** on Twitter and Facebook, as a substitute for the annual Good Governance Conference.

We continued to benchmark against while strengthening Public Protector-like institutions in Africa and across the globe. In this regard, we attended and presented a paper at the Conference and General Assembly of the International Ombudsman Institute (IOI), assisted Tanzania in a failed bid to host the 2016 conference as part of the 50th Anniversary of the Tanzanian(and by Implication African) Ombudsman institution. We continued to manage the affairs of the African Ombudsman and Mediators Association as the Secretariat until November 2014, when we requested to be excused so that we focus on being the custodian of the African Ombudsman Research Centre (AORC). The centre, which is based in Durban, is being wholly funded by the government of South Africa through the African Renaissance Fund. We continue to provide leadership to the centre through chairpersonship of the board and channelling the funds from the Department of International Relations and Co-operation (DIRCO). One of the key highlights in this regard was a joint conference with the African Union (AU) at which the AU Commission Chairperson, Dr Nkosazana Dlamini-Zuma, spoke. We have also continued as AORC and as the Public Protector to provide capacity building to Public Protector-like institutions in the continent. We also continued to provide advocacy on the office and on governance and democracy pillars in South Africa to the diplomatic community, civil society, including business and the international community.

The Pursuit of Organisational Efficiency and Effectiveness

Our organisational efficiency initiatives focused on financial management and corporate services improvements, with priority being given to audit outcomes. The Accounting Officer's Overview provides a summary of key achievements in this regard. We also made good progress in our efforts to re-establish an electronic case management system although our efforts were thwarted by financial constraints. Going forward, we have some promises from the development community that will enable us to fund aspects of this important undertaking.

The Quest for Optimal Performance in A People Centred Culture

The roll out of the Purpose Driven organisation initiative has proceeded and delivered meaningful results. Leadership conversations under the programme continued. A remarkable improvement in staff morale and commitment to just outcomes, is clearly observable, among other things. Our Customer Service Charter was also finalised and training on it executed. We will continue with the Purpose Driven Organisation Leadership Development activities in the coming year.

Improper Conduct Trends worth Noting By Decision-Makers

As may be noted in the section on ***Year 2014/15 At A Glance***, the cases handled in the year under review can be divided into *Service Failure and Conduct Failure.* The service failure cases dominated the caseload with undue delay accounting for nearly 40%. The bulk of the complaints involve maladministration involving finances owed and other socio-economic rights, including educational books, infrastructure and bursaries, health, social security and related poverty alleviating benefits, RDP housing, municipal services, including improper billing and land redistribution irregularities. It is for this reason that I approached Cabinet, requesting the establishment of Public Protector Focal points in organs of state operating like Ombudsman offices, resolving disputes and not merely collecting and

forwarding complaints like call centres. Inspired by our strategic commitment to strengthening internal complaint resolution structures in organs of state within jurisdiction, it is heartening to note that a growing number has accepted our advise and established proper Ombudsman offices. Examples in this regard are the Defence and Military Veterans and the City of Johannesburg.

While complaints regarding conduct failure; mainly corruption, malfeasance , ethical violations and general governance failure; remain smaller in number relative to those involving service failure, what is a source of concern is that the number and complexity are growing exponentially. The challenge is compounded by the fact that no matter how complex each new investigation may be, this office was never given focussed resources as done with each Commission of Inquiry. We have nevertheless achieved great milestones in highlighting and pushing back the frontiers of conduct failure in the year under review. Key areas dealt with and those that were the subject of many superannuated matters in our case backlog deal with alleged corruption, cronyism, nepotism, overcharging, overbilling, scope creep, project time overruns, overcharging, overbilling, false-billing, cost overruns, unnecessary procurement. These incorporated failure to implement Demand Management and non-compliance with regulatory framework and other irregularities in procurement, including abuse of permissible deviations provisions. With regard to ethical lapses, the improprieties mostly relate to unmanaged conflict of interest, abuse of benefits and impunity for certain transgressors. It is heartening though to note that most of the remedial action requiring disciplinary action, clawing back the money and policy review, is being steadfastly implemented. There are also independent measures from internal processes and the work of other integrity bodies, including the Auditor-General and the Special Investigation Unit (SIU) that are being steadfastly implemented.

20 Years of enhancing good governance in pursuit of supporting and strengthening constitutional democracy

On the eve of my seventh and final year as the third Public Protector, I expended on behalf of the Public Protector Team, gratitude to my predecessors Advocates Baqwa and Mushwana for laying, during the first 14 years of this office, a solid foundation for faithfulness to the constitutional mandate thus ensuring this office optimally plays its role in ensuring that human failings leading to excesses in the exercise of state power and control over public resources are identified and resolutely corrected without fear or favour.

We have built on their achievements, which include steadfastly enforced the Executive Ethics Code regardless of the status of each alleged transgressor. It was Advocate Baqwa who found a premier to have violated the Executive Ethics Code by merely pronouncing that it was permissible for politicians to lie and sanctioned executive interference in the operations of State Owned Enterprises. It was Advocate Mushwana who said it was improper for a member of the Executive to accept a priced gift from an entity applying for an operational licence regulated by her organ of state.

With regard to ensuring meaningful remedies for people who chose this office as an avenue for vindicating their rights we've built on the legacy of Advocate Mushwana who moved beyond simply making adverse findings on improper conduct and maladministration, and sought concrete remedies for wronged members of the public. One of his cases in this regard, is the Nandoni Dam report.

Even the legacy of the Advocate-General, the national ancestor of the Public Protector established in 1979 specifically to tackle malfeasance and corruption in the aftermath of the "information scandal" later converted to an Ombudsman office with dual powers of conduct and service failure, influences our present as some of the members of the Public Protector Team have been with the office since that era.

Our Hope for The Future

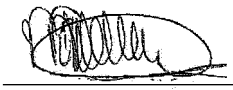
My deepest gratitude to the Public Protector Team for exceptional commitment, including working overtime without pay, the people of South Africa for unwavering support and understanding when our resource constraint sabotage our expeditiousness, and those public functionaries who professionally work with us in identifying and correcting public wrongs.

I'm further grateful to the courts for expeditiously handling uncertainties that have emerged regarding the meaning of the power given by the Constitution by section 181(c) of the Constitution to *"take appropriate remedial action"*. In this regard, I'm equally grateful to public functionaries committed to doing the right thing because it's the right thing to do and not abusing the perceived mandate clarity gap to allow impunity.

I'm also grateful to Parliament, the Executive and all components of the government of South Africa for financial and other forms of support for this constitutional office, including respect for its dignity as prescribed in section 181(3) of the Constitution.

I am certain that the future is bright. As Public Protector Team, our Purpose Driven Organisation Programme pays dividends with regard to improving brand integrity, primarily anchored in uniformity of service based on balancing accessibility with, rigor and promptitude in all our investigations and ADR processes.

We continue to seek to be a catalyst for transforming state service delivery and public accountability in line with the Constitutional vision which incorporates social justice, putting people and constitutional dictates first in an accountable state based supremacy of the Constitution and rule of law. Together we can and will ensure that the Public Protector continues to be effective, efficient and responsive in supporting and strengthening constitutional democracy by ensuring that all state actors are always accountable, act with integrity at all times and are responsive to all legitimate people's needs.



ADV. THULISILE (THULI) NOMKHOSI MADONSELA
PUBLIC PROTECTOR OF THE REPUBLIC OF SOUTH AFRICA
31 August 2015

3. CEO'S OVERVIEW

The 2014/15 financial year was the 6th year of implementing the Public Protector vision 2020. At the beginning of the planning cycle we made a pledge to the South African citizens. We promised that we will resolve all complaints with rigour and speed, we also promised that we will endeavour to be accessible to all persons and communities. In line with these commitments, various initiatives have been undertaken over the past six years to ensure that we remain on course in achieving our vision 2020. Some of those initiatives include, the expansion of the Public Protector provincial and regional footprint to ensure that we are accessible to all persons and communities. A lot of work has also gone into ensuring that we resolve all our complaints with speed and thoroughness.

We reduced our backlog from 13 900 cases in 2012 to just under 5 355 cases by the end of the 2014/15 financial year. The significance of this reduction is that it allows the organisation to effectively maximise the utilisation of its resources and redeploy them towards resolution of new complaints. In the 2014/15 financial year the organisation finalised 20 231 cases out of a total workload of 26 070 cases. That amounts to an output rate of 78%. That is still good performance for an organisation that operates with an organisational structure funded at 58%.

Another achievement was the reduction of the defisant from R25.9 million to R18.3 million. This was achieved through austerity measures and rolled back services. As a result during the year the Public Protector South Africa underwent an extensive cost containment exercise by significantly reducing spending on items such as travel, accommodation, catering, advertising and outreach programmes. As part of the cost reduction mechanisms in October 2014, the Public Protector South Africa also placed an embargo on filling of vacant positions. Only the position of the CEO and CFO were prioritised. As a consequence of these cost containment processes the organisation reported a budget surplus of approximately R5 million towards the end of the 2014/15 financial year. We will continue to work with all critical stakeholders such as the National Treasury, the Department of Justice and Correctional Services and the National Department of Public Works to resolve the issue of the historical deficit.

While we are pleased with the improvement in the financial position compared to 2013/14 financial year; the trade-offs impacted negatively on our ability to achieve some key targets in the strategic plan. For example, the decision to freeze filling of vacant positions impacted severely on our ability to finalise investigations with the required speed. The decision to defer expansion of Public Protector regional footprint and implementation of certain outreach programmes had a negative impact on our goal of being accessible to all persons and communities as enshrined in section 182 of the Constitution. The resource challenges place the Office on the Public Protector in a difficult position because on the one hand, there is a Constitutional and legislative requirement that must be fulfilled on the other hand there is growing Public expectation to expedite finalisation of our investigative processes. However, the resources to implement these complex mandates are not adequate.

The Public Protector understands the financial constraints in which our government operates and will in the new financial year, continue to reprioritise its budget to ensure the organisation operates within its resources. In this regard, the Public Protector 2015 Strategic Plan and 2015/16 Annual Performance plan has been extensively reviewed to ensure that we implement only the projects and programmes that are affordable.

The organisation will also review its investigation and case management processes within the aim of ensuring that we operate within our means. The implication is that there could be delays in finalisation of certain complaints. The Public Protector will continue to engage with all the stakeholders including government to find ways of resolving the resource constraints.

In closing, I want to thank all employees of the Public Protector who continue to work under difficult circumstances in an effect to make a difference in the lives of South Africans. I am also grateful to the Public Protector for the support and guidance as we continue the journey towards the attainment of our Constitutional vision and values.

DR MARIA DU TOIT
CHIEF EXECUTIVE OFFICER
31 August 2015

PART A:
GENERAL INFORMATION


Supporting and Strengthening Constitutional Democracy
20
YEARS
20 Years of

1. GENERAL INFORMATION

Registered Name:	PUBLIC PROTECTOR SOUTH AFRICA
Physical Address:	175 Lunnon Street Hillcrest Office Park 0083
Postal Address:	Private Bag X677 PRETORIA 0001
Telephone Number/s:	012 366 7000
Fax Number:	012 362 3473
Email Address:	kgalalelom@pprotect.org
Website Address:	www.publicprotector.org
External Auditors:	Auditor-General South Africa
Bankers:	Standard Bank

PUBLIC PROTECTOR SOUTH AFRICA
Accountability • Integrity • Responsiveness

LIST OF ABBREVIATIONS/ACRONYMS

AOMA	:	African Ombudsman and Mediators Association
CEO	:	Chief Executive Officer
CFO	:	Chief Financial Officer
Code of Ethics	:	Code of Ethics for members of the Executive
CoJ	:	City of Johannesburg
Constitution	:	Constitution of the Republic of South Africa, 1996
COO	:	Chief Operations Officer
CSS	:	Corporate Support Services
DG	:	Director-General
GRAP	:	Generally Recognised Accounting Practise
HR	:	Human Resources
ICT	:	Information Communications Technology
ISD	:	Institutions Supporting Democracy
KZN	:	KwaZulu-Natal
MEC	:	Member of the Executive Council
MFMA	:	Municipal Finance Mangement Act
MOPPs	:	Mobile Offices of the Public Protector
MP	:	Member of Parliament
MPL	:	Member of the Provincial Legislature
PFMA	:	Public Finance Management Act
SAPS	:	South African Police Service

PUBLIC PROTECTOR SOUTH AFRICA
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2. STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY FOR THE ANNUAL REPORT

To the best of my knowledge and belief, I confirm the following:

All information and amounts disclosed in the Annual Report is consistent with the Annual Financial statements audited by the Auditor General.

The Annual Report is complete, accurate and is free from any omissions.

The Annual Report has been prepared in accordance with the guidelines on the Annual Report as issued by National Treasury.

The Annual Financial Statements (Part E) have been prepared in accordance with the GRAP standards applicable to the Constitutional Institution.

The Accounting Authority is responsible for the preparation of the Annual Financial Statements and for the judgements made in this information.

The Accounting Authority is responsible for establishing, and implementing a system of internal control has been designed to provide reasonable assurance as to the integrity and reliability of the performance information, the human resources information and the Annual Financial Statements.

The external auditors are engaged to express an independent opinion on the Annual Financial Statements.

In our opinion, the Annual Report fairly reflects the operations, the performance information, the human resources information and the financial affairs of the institution for the financial year ended 31 March 2015.

Yours faithfully

Dr Mamá du Toit
Chief Executive Officer
31 July 2015

Adv. Thulisile (Thuli) Nomkhosi Madonsela
Chairperson of the Executive Committee
31 July 2015

3. STRATEGIC OVERVIEW

3.1 Vision

A trusted, effective and accessible Public Protector that rights administrative wrongs and consistently acts with integrity to ensure fair, accountable and responsive decision-making, service and good governance in all state affairs and public administration in every sphere of government.

3.2 Mission

To strengthen constitutional democracy in pursuit of our constitutional mandate by investigating, rectifying and redressing any improper or prejudicial conduct in state affairs and resolving related disputes through mediation, conciliation, negotiation and other measures to ensure fair, responsive and accountable public sector decision-making and service delivery.

3.3 Purpose

A conscience of the State to act with integrity and fairness.

3.4 Values

We are an independent Constitutional institution and all our work is anchored in the supremacy of the Constitution and the rule of law. Our operations are informed by the following values:

a) Independence and impartiality
b) Human dignity and Ubuntu
c) Transparency
d) Equality and fairness
e) Redress

3.5 Public Protector's Service Pledge and Strategic Objectives

The Public Protector undertakes to:

a) Be accessible to and trusted by all persons and communities;
b) Provide prompt justice, including remedial action;
c) Promote good governance in the conduct of all state affairs;
d) Become an efficient and effective organisation; and
e) Achieve an optimal performance and service.

4. CONSTITUTIONAL AND STATUTORY MANDATES

4.1 Constitutional mandate

Section 181 to 182 of the Constitution of the Republic of South Africa, 1996 gives the Public Protector the power to support and strengthen constitutional democracy by investigating any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspect to be improper or to result in any impropriety or prejudice; to report on that conduct; and to take appropriate remedial action. The Public Protector must be accessible to all persons and communities.

4.2 Statutory Mandate Areas

The Public Protector's mandate is to strengthen constitutional democracy through the pursuit of the following key statutory mandate areas:

4.2.1. MALADMINISTRATION INVESTIGATIONS AND DISPUTE RESOLUTION

Investigate and redress maladministration or improper or prejudicial conduct, including abuse of power and abuse of state resources in all state affairs; resolving administrative disputes or rectifying any act or omission in administrative conduct through mediation, conciliation or negotiation; advising on appropriate remedies or employing any other expedient means; reporting as envisaged under the Public Protector Act 23 of 1994 (PPA); and taking appropriate remedial action.

4.2.2. EXECUTIVE ETHICS ENFORCEMENT

Enforce the Executive Members Ethics code as mandated by the Executive Members' Ethics Act 82 of 1998 (EMEA).

4.2.3. CORRUPTION INVESTIGATIONS

Investigate allegations of corruption as mandated by section 64 of the Public Protector Act, read with the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PCCAA).

4.2.4. PROTECTED DISCLOSURES

Receive protected disclosures from whistle blowers as mandated by the Protected Disclosures Act 26 of 2000 (PDA).

4.2.5. REVIEW OF DECISIONS OF THE NATIONAL HOME BUILDERS REGISTRATION COUNCIL (NHBRC)

Review decisions of the National Home Builders Registration Council as mandated by the Housing Protection Measures Act 95 of 1998 (HPMA).

4.2.6. RESOLVE ACCESS TO INFORMATION DISPUTES

Reselove access to information disputes under the Promotion of Access to Information Act (PAIA)

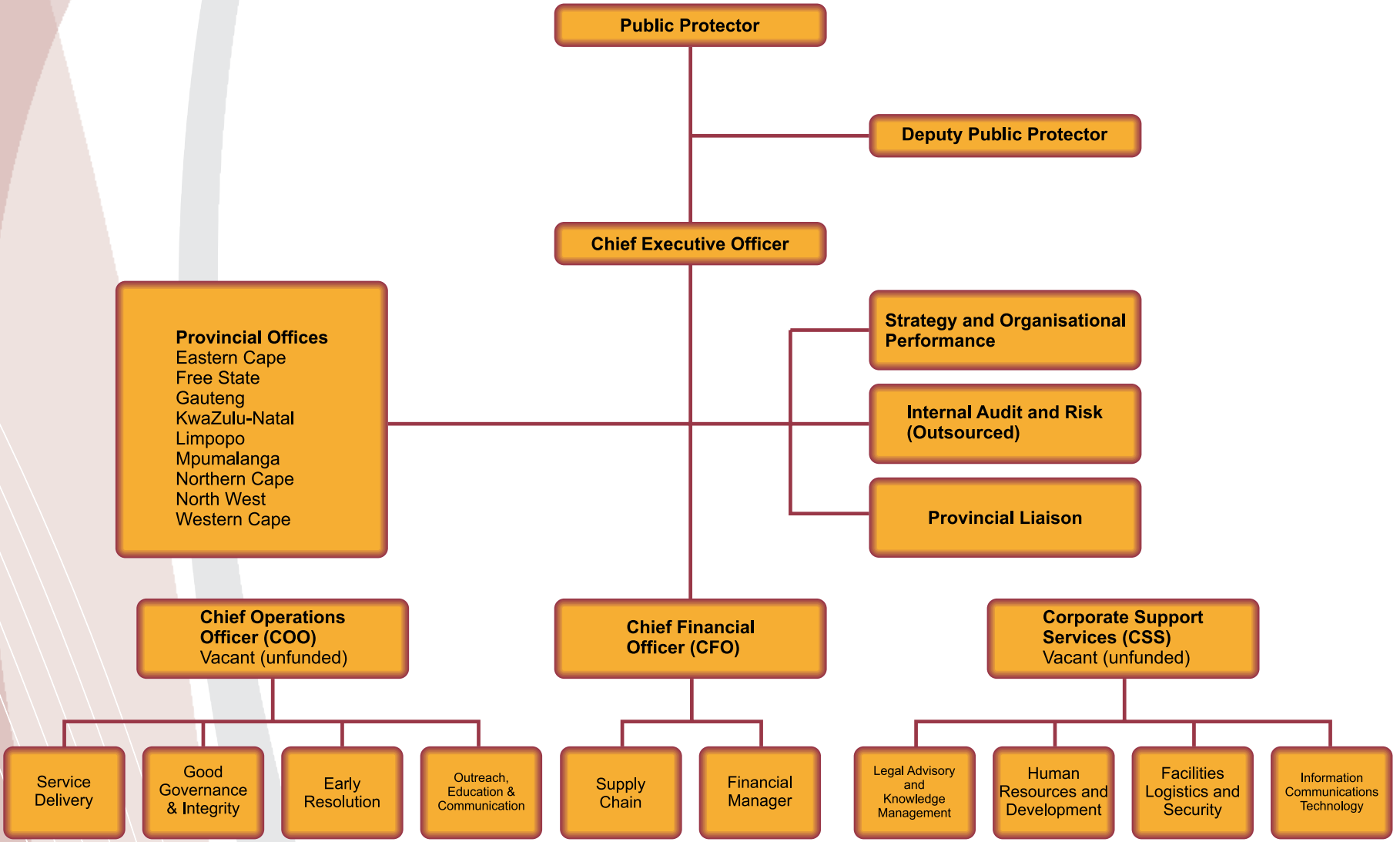
4.2.7. OTHER MANDATES

In addition, the Public Protector discharges other responsibilities as mandated by the following legislation:

1. National Environmental Management Act 108 of 1999 (NEMA)
2. National Archives and Record Service Act 43 of 1996 (NARSA)
3. National Energy Act 40 of 2004 (NEA)
4. Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (Equality Act)
5. Public Finance Management Act 1 of 1999 (PFMA)
6. Lotteries Act 57 of 1997 (LA)
7. Special Investigating Units and Special Tribunals Act 74 of 1996 (SIU Act)
8. Electoral Commission Act 51 of 1996 (ECA)

The work of the Public Protector is also informed by the provisions of the Promotion of Administrative Justice Act 3 of 2000 (PAJA) and other laws that regulate proper conduct in state organs and the public administration.

5. ORGANISATIONAL STRUCTURE



PART B:
PERFORMANCE INFORMATION


Supporting and Strengthening Constitutional Democracy
20
YEARS
20 Years of

PUBLIC PROTECTOR SOUTH AFRICA
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FORMAL REPORTS OF THE PUBLIC PROTECTOR FOR 2013/14 FINANCIAL YEAR

Introduction

Most of the 20 2031 cases finalised by the Public Protector were "bread and butter" cases or socio-economic rights cases with complainants beeing primarily underprivileged people, who we refer to as *Gogo Dlaminis*. These cases were mostly resolved through conciliation, mediation or negotiation which we refer to as Appropriate Dispute Resolution (ADR) methods in persute of additional powers conferred by the Public Protector Act, the Promotion of Access to Information Act and Housing Protection Measures Act.

Conduct failure, executive ethics, corruption and governance failure

• THE COST OF TRAVEL

Report No. 18 of 2014/15

The Public Protector investigated alleged violations of the Code of Ethics for Members of the Executive (Code of Ethics) and the Constitution, involving excessive use of ministerial travel privileges by the Minister and Deputy Minister responsible for the Department of Sport and Recreation, the Hon. Fikile April Mbalula, Member of Parliament (MP), and the Hon. Gerhardus Oosthuizen, MP, respectively.

The investigation followed a complaint lodged by the Hon. Winston Rabotapi, MP, of the Democratic Alliance (DA), who alleged that Minister Mbalula and Deputy Minister Oosthuizen improperly caused the Department of Sport and Recreation to incur expenditure in the sum of approximately R2.6 million in respect of 345 domestic and international flights since 2010.

The Hon. Rabotapi stated that, in a parliamentary reply to a question he had asked, Minister Mbalula had indicated that Deputy Minister Oosthuizen had spent an amount of approximately R1.1 million on 105 flights, which included 29 domestic flights at a cost of R806 293.00, effective from 1 April 2010.

He further alleged that Minister Mbalula had caused his Department to incur an amount of R747 410.00 in respect of 16 international and 224 domestic flights he had undertaken.

Findings and remedial action

The Public Protector found that the allegation that Minister Mbalula and Deputy Minister Oosthuizen improperly caused the Department of Sport and Recreation to incur an amount of approximately R2.6 million in respect of 345 domestic and international flights could not be substantiated.

While Minister Mbalula and Deputy Minister Oosthuizen spent an amount close to the alleged R2.6 million, the Public Protector found no evidence indicating that any of the flights were undertaken improperly and outside the mandate of the Department of Sport and Recreation.

The Public Protector also found that the allegation that Minister Mbalula and Deputy Minister Oosthuizen improperly caused the Department to incur excessive transport cost for ten international and domestic flights could not be substantiated by evidence.

The Public Protector could not find any evidence showing that Minister Mbalula and Deputy Minister Oosthuizen undertook flights not in line with the functions of their Department or essential with regard to the 2010 Soccer World Cup, International Cricket Council (ICC) in India and Ireland; the International Rugby Board (IRB) in New Zealand; Netball Championships in Singapore and the Gymnastrada in Australia.

It was found that Minister Mbalula undertook 12 international trips at a cost of R767 000.20, averaging R63 168.00 per trip, and his 63 general domestic trips cost R361 622.00, with R197 800.00 of this amount resulting from trips to Parliament. Deputy Minister Oosthuizen, on the other hand, was found to have undertaken 16

international trips at the cost of R897 927.00, averaging R56 120.00 per trip, and he undertook 77 domestic trips at the cost of R514 680.00, with R369 676.00 of this amount being for trips to Parliament.
The Public Protector found that the allegation that the conduct of Minister Mbalula and Deputy Minister Oosthuizen constituted a violation of Section 96(2) of the Constitution and the Code of Ethics could not be substantiated.

- **PERMITTED BENEFITS**

Report No.17 of 2014/15

The Public Protector investigated allegations of misappropriation of public funds for her own benefit by the Hon. Pemmy Majodina, Member of the Provincial Legislature (MPL), then Member of the Executive Council (MEC) of the Eastern Cape Department of Social Development and Special Programmes. The alleged misappropriation involved her demanding and being paid more than four times the prescribed Subsistence and Travel (S&T) allowance for her trip to New York in September 2012 and her failure to pay back the overpaid amount.

The complainant was the Hon. Samson Kwelita, MPL, of the Congress of the People (COPE). The complaint followed an article titled “MEC in travel tow again” published by the Daily Dispatch on 22 September 2012 and a second article, “Travel row brought before protector”, published on 24 September 2012. There was also a cartoon strip in the same newspaper of 26 September titled *Pemmy-Antoinette.*

In the main, the complainant alleged that Ms Pemmy Majodina was said to have misappropriated public funds for her own benefit in that she demanded to be paid R15 000.00 in addition to the S&T allowance she had received and that the travel allowance she ultimately received exceeded that which she was entitled to. It was also alleged that the S&T amount for the former MEC was overpaid by R15 000.00, which she failed to pay back, and that the conduct of MEC Majodina was possibly in violation of the Code of Ethics.

Findings and remedial action

The Public Protector found that the allegation that MEC Majodina was improperly given an excessive S&T allowance, including an advance, for the trip to New York, could be substantiated. She found that MEC Majodina received R18 721. 00 for her trip to New York, which exceeded the R10 603.58, inclusive of all meals and incidentals for eight days she was entitled to in terms of paragraph 7 of the Handbook for Members of the Executive and Presiding Officers (Ministerial Handbook), read with the Financial Manual for The Purposes of the Calculation and Application of Allowances and Benefits (Financial Manual) issued by the Department of Public Service and Administration (DPSA) in July 2012.

The Ministerial Handbook entitles all MECs travelling abroad to a daily allowance equal to 110% of that determined by the Financial Manual as the daily rate for DGs. In July 2012, the rate was determined as $US145 or R1 325.45 per day, covering breakfast, lunch, dinner and other incidentals.

The Public Protector found that MEC Majodina initially received R3 721.25, which was based on the Head of Department (HoD) having deducted the cost of breakfast and dinner from the R10 603. 58, since the Department had prepaid those costs to her hotel through the travel agent. On request, MEC Majodina was paid a further R15 000.00, which according to the authorising memo, was meant for five lunches, calculated with the help of a travel agent, at R3 000.00 per lunch.

It was found that the process followed in paying MEC Majodina an additional R15 000. 00 to top up the amount initially given at the commencement of the trip was irregular as it did not comply with the provisions of paragraph 7 of the Ministerial Handbook prescribing that the cost of incidentals in excess of the prescribed daily allowance paid to MECs for international travel be claimed back by them on return from their trips.

The Public Protector found that, while the evidence regarding whether or not MEC Majodina demanded the additional R15 000.00 was inconclusive, the conduct of the MEC in accepting the excessive amount and participating in the irregular process amounted to collusion in the misappropriation of public funds in violation of the Ministerial Handbook, the PFMA and Section 6(4)(a)(iv) of the Public Protector Act.

The Public Protector found that the allegation that MEC Majodina improperly failed to refund public moneys owed in respect of her trip to New York could be substantiated, since she did not refund the excess public funds irregularly paid to her in connection with her trip to New York, despite being aware of the misappropriation of funds in her favour and her consequent undue enrichment at state expense. She found that the HoD purportedly condoned the overpayment, thus granting permission to MEC Majodina not to pay back the money owed. Such condonation was found to be unlawful in so far as it exceeded the lawful authority of the HoD.

The Public Protector further found that the MEC's conduct, particularly the failure to pay back the overpaid allowance amount for the overseas trip to New York and insistence that it was S&T when she should know the provisions of the Code of Ethics and Ministerial Handbook regarding what she is lawfully entitled to, constituted acquiescence in the misappropriation of public funds for her "improper or unlawful enrichment" as envisaged in Section 6(4)(a)(iv) of the Public Protector Act or enriching herself as envisaged in Clause 2.2(c) of the Code of Ethics and disregard for administrative rules that apply to the payment of allowances to MECs as envisaged in Clause 2.2(h) of the Code.

Such action, the Public Protector found, was inconsistent with her position and constituted unethical conduct as envisaged in Paragraph 2, Section 1(i)(d) and (iii)(b) of the general standards of the Code of Ethics and Section 136(2) of the Constitution. The conduct further constituted improper conduct under Section 182 of the Constitution.

As part of appropriate remedial action, the Public Protector directed the Premier to consider taking disciplinary action against MEC Majodina for the violation of the provisions of the Code of Ethics.

The HoD was directed to, within 30 days of receipt of the report, rescind the unlawful condonation of MEC Majodina's debt and then take the appropriate action to recover the irregular expenditure from MEC Majodina. Such action was to include regularising the Department's exercise of discretional power whether or not to deduct the prepaid breakfast and dinner from the S&T amount from what she was lawfully entitled to; investigating the circumstances relevant to the money allegedly owed by MEC Majodina for another trip to New York in February 2012 and taking appropriate action in terms of the PFMA; establishing if any other public functionary in the Department, including one Ms Majikija, received more S&T and related travelling allowances; and rectifying any irregularity found.

The Public Protector directed the DG in the Office of the Premier to ensure that all provincial departments, including the Office of the Premier, had an approved policy framework to regulate official travel abroad on or before 30 April 2015.

In addition to that, the Public Protector resolved to approach National Treasury and the DPSA with a view to commissioning a study into S&T practices, establishing whether or not there was uniformity and eliminating any overpayments that may be taking place as a result of any misinterpretation of the travel allowance regulatory framework.

- **AMBULANCE ETHICS**

Report No. 12 of 2014/15

This report follows an investigation into a complaint lodged by Mr Sizwe Mchunu, a Member of the KwaZulu-Natal (KZN) Provincial Legislature representing the DA (the complainant) on 14 December 2012 and communicates the Public Protector's findings and the appropriate remedial action proposed to correct the situation, as envisaged in Section 82(1)(c) of the Constitution.

The Public Protector investigated an alleged breach of the Code of Ethics by Dr Sibongiseni Dhlomo, KZN MEC for Health, involving improper use of an emergency medical helicopter to attend a private political event that was not a medical emergency and , as such extraneous to the purposes of the medical helicopter. The investigation followed a complaint lodged by Mr Sizwe Mchunu, a member of the KZN Provincial Legislature representing the DA.

The complaint included an allegation that the unavailability of said medical helicopter for a child injured in an accident that occurred while it was flying MEC Dhlomo may have caused the death of that child. In the main,

the complaint was that MEC Dhlomo utilised an emergency medical helicopter of the Department of Health to attend a funeral and that MEC Dhlomo's usage of the emergency medical helicopter on the day in question resulted in the Department being unable to utilise it to attend to an accident, resulting in the death of a minor.

Findings and remedial action

The Public Protector found that MEC Dhlomo did use the emergency medical helicopter to fly to Hlabisa on 03 November 2012, but that he was not exclusively attending a funeral. His main mission was to address the community of Hlabisa at the funeral about an incident that took place at Hlabisa hospital that otherwise would not have been possible to achieve in one day because of vast distance and poor roads.

It was found that the use of the emergency medical helicopter for activities not constituting a medical emergency was improper for various reasons, including feeding perceptions that public emergency services were being used for personal comfort at the expense of the public.

The Public Protector accepted MEC Dhlomo's *bona fide* belief that it was not wrong to use the emergency medical helicopter, since that was part of a long-standing agreement between the Department and the Red Cross Trust. The contract was also captured in an internal Standard Operating Procedure regarding circumstances under which the emergency medical helicopter could be used.

It was found that, although it made financial sense with regard to optimal use of available ambulance hours, the contract was ill-conceived because, among other things, while executing an administrative mission the ambulance would not be readily available for medical emergencies.

The Public Protector concluded that MEC Dhlomo's conduct was not in violation of the Code of Ethics.

On whether or not the utilisation of the emergency medical helicopter by MEC Dhlomo resulted in the failure of the emergency services to provide emergency medical care to a child, resulting in his death, the Public Protector found that the Department did respond expeditiously to the accident using ground vehicles and that there was no evidence to indicate that the emergency medical helicopter that was used by the MEC on the day in question was required for that or any other emergency.

However, the Public Protector found the policy to be inappropriate, since there was real risk of a person dying because of the emergency medical ambulance being unavailable while being used for administrative purposes. The arrangement also fed negative perceptions regarding competing needs of patients and departmental management.

The Public Protector directed the HoD, Dr Zungu, to take immediate action to review the contract between the Department and the Red Cross Trust to make provision for a separate helicopter to cater for non-medical emergencies.

The Minister of Health and MECs acting under the auspices of Ministers and Members of Executive Councils (MinMEC), were directed to consider reviewing 20 arrangements pertaining to helicopter ambulance services to establish if other provinces had similar arrangements and to correct the situation if that were the case.

- **SAVED BY THE NOTICE**

Report No. 8 of 2014/15

The Pubic Protector investigated allegations of irregular appointment and the extension of an employment contract with the CFO of the Senqu Municipality, Mr Christopher Rudolph Venter, and his alleged undue influence in the appointment of his wife by SEBATA (Pty) Ltd, a service provider engaged by the Municipality for financial management support. The investigation followed a complaint by the Sterkspruit Ratepayers Association and Sterkspruit Civic Association representing the community of Sterkspruit. In the main, the complaint was that the appointment of Mr Venter as CFO was irregular because he did not possess the necessary qualifications and skills to fulfil the requirements of the position; that the appointment of his wife was unduly influenced by the CFO; and that she was performing the duties of the CFO.

Findings and remedial action

The Public Protector found that the allegation that Mr Venter did not have the required qualifications to be appointed to the position of CFO when he was appointed in 2002 was substantiated, since he only passed Standard 10 in 1981 and did not possess the appropriate tertiary qualification required by the advertisement for the position of Financial Manager at the time. It was also found that Mr Venter had not yet acquired the appropriate tertiary qualification for the position of CFO when the Municipality renewed his contract of employment in 2007. The Public Protector further found that he had also not acquired the National Qualifications Framework (NQF) level 6 tertiary qualifications prescribed for the position of CFO in the Guideline for Municipal Competency Levels when his contract of employment was renewed in 2012.

On whether or not the Municipality irregularly appointed Mr Venter as CFO in contravention of relevant laws, the Public Protector found that the allegation was substantiated, since the Municipality failed to comply with the requirements of its own advertisement for the position of Financial Manager when it appointed him in 2002. The allegation that he exercised undue influence in the appointment of his wife by SEBATA could not be substantiated.

The Public Protector directed that the Municipal Manager of the Senqu Municipality ensured that a separate performance agreement was concluded with the CFO; the Senqu Municipal Council ensured that the position of CFO was advertised when the current employment contract of Mr Venter terminated; and that the MEC for Local Government and Traditional Affairs in the Eastern Cape investigated the reasons behind the violation of the Municipal Systems Act 32 of 2000 by the Senqu Municipality and responsible officials and took action to ensure that the situation was not repeated.

- **OUT OF THE BLUE**

Report No. 9 of 2014/15

The Public Protector investigated allegations of maladministration against the Municipal Manager of George Municipality, Mr Trevor Botha, relating to the appointment of the Area Coordinator in Touwsranten. The complaint was filed by a representative of the Ward 4 Committee in Touwsranten.

Issues identified for investigation were whether or not the procedure followed in the appointment of the Area Coordinator in Touwsranten was improper and constituted maladministration; whether or not the academic qualifications of the incumbent met the requirements of the post and if not, whether or not the appointment was improper and constituted maladministration. The Public Protector also looked into whether or not there was any political interference by the Executive Mayor's office and if so, whether or not that was improper and constituted maladministration.

Findings and remedial action

The Public Protector found that the appointment of the Area Coordinator in Touwsranten was a breach of the George Municipality Appointment Policy in that the Municipal Manager failed to adhere to several provisions thereof, making the appointment unlawful, amounting to improper conduct and constituting maladministration.

The Public Protector found that the incumbent, whose highest level of education is Grade 10, did not meet the essential requirements for the position, which was a relevant B.Tech Diploma in Municipal Management. No evidence was presented to show that the incumbent met the criteria set out under Section 20(3) of the Employment Equity Act 55 of 1998 and as such, Mr Botha's appointment of the incumbent was unlawful, amounted to improper conduct and constituted maladministration.

The Public Administrator also found that, although there was no evidence of interference from the Mayor's office, the manner of the appointment lent itself to an investigation into the nature of the relationship that existed between the incumbent and all people involved in his appointment.

The Public Protector directed the George Municipal Council not to renew the Area Coordinator in Touwsranten's monthly contract in order not to perpetuate the illegality of the appointment of the current incumbent.

The Council was also called on to ensure that the vacant position of Area Coordinator in Touwsranten was permanently filled by following the appropriate Municipal Appointment Policy and to consider taking disciplinary action against the Municipal Manager for failure to adhere to the prescribed George Municipality Appointment Policy in the appointment of the Area Coordinator in Touwsranten.

ADMINISTRATIVE JUSTICE AND SERVICE FAILURE

• UNSETTLED BUSINESS

Report No. 13 of 2014/15

The Public Protector South Africa investigated allegations that the Commission on Gender Equality (CGE) unfairly excluded its former CEO, Ms Chana Pilane-Majake, when it paid arrear provident fund contributions to other Senior Management Service employees and that the institution failed to pay her cellular telephone benefits for the period she was on precautionary suspension.

Findings and remedial action

Concerning the alleged unfair exclusion from provident fund employer contributions, the Public Protector found that the claim could not be substantiated, since evidence from CGE payroll records showed that only Middle Management Service members received the arrear provident fund payment.

The complaint about the payment of cellular phone and internet allowances could not be substantiated. The Public Protector found that the CGE had to bear the cost of Ms Pilane-Majake's telephone and internet services during that period in terms of its staff principles, policies, rules and regulations, since Ms Pilane-Majake remained an employee of the institution until the termination of her employment and evidence showed that she incurred CGE-related expenses.

The Public Protector directed the CGE to reimburse Ms Pilane-Majake for the use of her private cellular phone and internet services, which reimbursement had to be paid with interest.

• A FAIR CHANCE TO SERVE

Report No. 16 of 2014/15

The Public Protector investigated allegations of improper failure by the South African Police Service (SAPS) to re-enlist a former member, Mr M.C. Maloba, to its service after he responded to an advertisement that sought to recruit former members of the SAPS back into the Service and its failure to give him valid reasons in that regard.

The complainant, a 47-year-old unemployed, married father with three dependants, a 23-year-old girl, a 19-year-old boy and a 16 year-old-girl, who is a former member of the SAPS in Polokwane, allegedly responded to an advertisement issued by the SAPS in January 2010, inviting former members to submit applications if they were interested in returning to the Service. He allegedly went through and passed an assessment process in February 2010, after which he was shortlisted. However, the SAPS failed to re-enlist him to its service.

In the main, the complaint was that the SAPS unduly failed to give him reasons why he was not re-enlisted into its service after he made several attempts to solicit such reasons and that, when the SAPS finally gave him the reason, it was factually incorrect and, therefore, could not be used to justify his exclusion. The reason allegedly given to him was that he had a civil case pending against him and that, in terms of SAPS policy, a former member could not be re-enlisted if he was facing a pending civil case.

Findings and remedial action

The Public Protector found that the SAPS unduly failed to inform the complainant about its decision on the outcome of his application to be re-enlisted and also failed to give him a reasonable opportunity to make representation regarding its decision not to re-enlist him.

It was also found that the complainant was advised that the reason he could not be re-enlisted was that the Minister of Safety and Security (now Minister of Police) had a pending civil case against him relating to a departmental debt of R22 500.00. In addition, the Public Protector found that he was later required to undergo a new assessment.

After perusing Regulation 11 of the SAPS relating to Application for Appointment and the SAPS circular dated 7 January 2010 relating to re-enlistment in the SAPS, the Public Protector could not find any provision excluding a person with a civil case pending against him or her from being appointed. In the circumstances, the reason given to the complainant by the SAPS for its failure to re-enlist him into its service was found to be unfair, unjust and unreasonable.

The Public Protector also found that requiring the complainant to redo the assessment after more than two years was both unfair and unreasonable in the circumstances. It was concluded that the complainant's right to just administrative action enshrined in Section 33 of the Constitution was violated.

The Public Protector found that the complainant was prejudiced by the conduct of the SAPS as envisaged in Section 182(1)(a) of the Constitution because a timely response by the SAPS would have afforded him an opportunity to take action to clear his name against the allegations of a pending civil case against him, which would have resulted in the SAPS re-enlisting him into its service.

As part of appropriate remedial action, the Public Protector directed the National Commissioner of the SAPS to immediately re-enlist the complainant into the SAPS and provide him with a training programme to assist him in achieving the required physical fitness levels. The Provincial Commissioner of the SAPS was directed to write a letter of apology to the complainant for the prejudice against him and his family within 30 days from the date of issuing of her report. In addition, the National Commissioner was directed to compensate the complainant within 60 days from the date of issuing of the report a reasonable portion of what he would have earned had he been re-enlisted in 2010 when he was assessed as fit to serve. Such portion was to be determined by an independent assessor.

- **LAW AND JUSTICE**

Report No. 10 of 2014/15

The Public Protector investigated allegations of administrative injustice by the South Africa Broadcasting Corporation (SABC) and various other organs of state. The other organs of state involved were the SAPS, Legal Aid South Africa (LASA), the Department of Justice and Constitutional Development (DOJCD), the Department of International Relations and Cooperation (DIRCO), and a medical practitioner at Steve Biko Academic Hospital. The investigation followed complaints by a member of the public, Ms Tloledi Makudubela.

The main complaint related to alleged maladministration and prejudice by the SABC, which stemmed from alleged undue refusal by the SABC to play Ms Makudubela's music and the national broadcaster's alleged violation of copyright on Ms Makudubela's music or intellectual property rights.

Ms Makudubela alleged that LASA failed to help vindicate her intellectual property rights against the SABC, while the DOJCD allegedly failed to help her exact accountability against LASA and an independent lawyer that took her money and allegedly called the police who arrested her when she refused to leave without seeing the Minister of Justice with whom she allegedly had pre-scheduled a meeting.

Ms Makudubela also alleged that the SAPS unduly arrested her, kept her in prison for several days and released her without a trial. Other complaints were lodged against various police stations of the SAPS, mainly for alleged failure to investigate matters Ms Makudubela reported, some involving alleged domestic violence and others concerning alleged wrongful arrest and police brutality.

In one of the domestic violence complaints, Ms Makudubela lodged a complaint against the DIRCO for allegedly obfuscating the serving of domestic violence papers against her alleged domestic partner, a Russian diplomat. In the same complaint, and in the complaint involving arrest at the DOJCD, Ms Makudubela accused the SAPS of subjecting her to police brutality. She also lodged a complaint against a doctor at Steve Biko Academic Hospital who had allegedly treated her unprofessionally.

Findings and remedial action

The Public Protector found that the allegation that the SABC improperly refused to air Ms Makudubela's music video for the song, *Goboima Lefaaseng*, could not be substantiated. The allegation that the SABC improperly changed the sound of the music video of the song, *Mpulele Ditsela*, thereby violating Ms Makudubela's copyright, could be substantiated.

Concerning the complaint that the conduct of the LASA in refusing to assist Ms Makudubela in the matter against the SABC was improper or constituted maladministration and caused her to suffer prejudice, the Public Protector was unable to conclude that the LASA deviated from its policies.

Regarding the SAPS's alleged removal of Ms Makudubela from the DOJCD premises by means of arrest and imprisonment, the Public Protector found that, while Ms Makudubela's arrest may have been lawful, it was neither just nor fair and could not be said to have been the most efficient use of limited policing resources. The Public Protector found that the conduct of the SAPS constituted improper conduct, maladministration and bordered on abuse of power.

Regarding the conduct of the DOJCD in allegedly setting up a meeting with Ms Makudubela and failing to hold the meeting on and at the agreed date and time, the Public Protector found that the complaint could not be substantiated because no evidence buttressing the allegation that the Minister of Justice and Constitutional Development agreed to a meeting and later refused or failed to honour her undertaking could be found.
Regarding the complaint that the DIRCO allegedly set up a meeting(s) with Ms Makudubela and not holding the meeting(s) at the set time(s), and whether or not such acts constituted improper conduct, the Public Protector found that the DIRCO did set up and later failed to honour meetings. However, no conclusive finding could be made about whether or not Ms Makudubela was advised before arriving for such meetings of the cancellation thereof.

Regarding the propriety of the SAPS's removal of Ms Makudubela from DIRCO premises by means of arrest and imprisonment, the Public Protector found that the conduct of members of the SAPS did not meet the standard of fairness and reasonability required by Section 195 of the Constitution. Like in the DOJCD case, that was because there was no indication of whether or not Makudubela's conduct, although it might have been unreasonable, crossed the boundary between legality and unlawfulness, which may have warranted her arrest as opposed to alternative options.

On the allegations relating to officials of the Sinoville Police Station's investigation of a criminal case against the children of Ms Makudubela's then fiancé, the Public Protector was unable to conclude that officials of the SAPS and the Independent Complaints Directorate (ICD) did not deal with the investigation properly.

The Public Protector was also unable to determine on the conduct of the SAPS with regard to allegations relating to the mysterious death of Ms Makudubela's brother. Ms Makudubela was advised to consider referring the matter to the Civilian Secretariat for Police for investigation.

Regarding allegations involving the Brooklyn Police Station and a Russian diplomat, the Public Protector found that available evidence showed that there was a discrepancy in the correspondence relating to the case of assault and intimidation by the diplomat.

On allegations relating to the investigation into malicious damage to property by the Brooklyn Police Station, the Public Protector found that the case was reopened and investigated. It was also found that the docket was sent to the Senior Public Prosecutor for a decision because there were no grounds to arrest the suspect, or a witness or damages to prove the allegations.

As part of appropriate remedial action, the Public Protector directed that the SABC apologised in writing to Ms Makudubela for failing to secure her consent before making changes to the music video she submitted to it to be played; the Board of the SABC adopted policies to guide its interface with artists and prevented the exploitation of their intellectual property; and that the Board put written contracts in place to regulate the relationship between the SABC and performing artists to ensure that all terms of engagement were in writing and complied with the Copyright and Protection of Performing Artists Acts.

The Public Protector urged the Ministers of Public Service and Administration and Police to adopt a policy to guide public authorities on decisions relating to unreasonable conduct of members of the public and the limitation and refusal of services to such persons in a manner consistent with the Constitution to prevent arbitrary, inhumane and discriminatory actions. The Public Protector further directed that the DIRCO apologised to Ms Makudubela in writing for unduly failing to offer her responsive assistance, which resulted in her being arrested when she demanded responsive service.

The Station Commander of Brooklyn Police Station was also directed to issue an apology to Ms Makudubela for her imprisonment. In addition, the Ministers of Public Service and Administration and Police were directed to adopt a policy to guide public authorities on decisions relating to unreasonable conduct of members of the public and the limitation and refusal of services to such persons in a manner consistent with the Constitution to prevent arbitrary, inhumane and discriminatory actions. The DIRCO was also directed to apologise to Ms Makudubela in writing for failing to honour the appointment made with her, resulting in her arrest.

The Public Protector finally directed that the National Commissioner of Police and the Director-General (DG) of the DIRCO indicated what policies or directives were in place between the SAPS and the DIRCO when dealing with matters concerning diplomats. The DIRCO and the SAPS were directed to apologise in writing to Ms Makudubela for failing to handle the matter properly.

- **ACCOUNTABILITY**

Report No. 6 of 2014/15

The Public Protector investigated, on own initiative, observations that some of the decisions of the Independent Tribunal for Social Assistance Appeals (ITSAA) relating to outcomes of appeals were not being implemented within a reasonable time by the South African Social Security Agency (SASSA).

Findings and remedial action

The Public Protector found that the failure by SASSA to implement decisions of the ITSSA where the ITSAA considered appeals on new grounds instead of those advanced to SASSA by appellants was improper and in violation of Regulation 20(3) of the regulation issued in terms of the Sosial Assistance Act 13 of 2004 as amended. Although there were valid reasons for not implementing such decisions, the Public Protector found that the failure by SASSA in this regard constituted maladministration.

The Public Protector found that the allegation by SASSA that the ITSAA communicated the outcomes of appeals direct to appellants without giving it an opportunity to comment and respond could not be substantiated.

The Public Protector further found that the delay or failure by SASSA to implement the legitimate findings of the ITSAA within the stipulated period of 14 days in terms of said Regulation 20(3) was improper and violated the rights of appellants to have access to social assistance in terms of Section 27(1)(c) of the Constitution. Such conduct was found to constitute maladministration and prejudice to appellants.

The Public Protector directed SASSA to write a letter of apology to the ITSAA for failure to communicate its reasons for not implementing ITSAA decisions. In addition, SASSA had to subject the decisions of the ITSAA that it was not satisfied with to review.

The ITSAA was directed to write a letter of apology to SASSA for considering appeals on new grounds instead of those advanced to SASSA by appellants within 30 days of the Public Protector's report.

Both institutions were directed to further improve their communication channels for efficiency.

- **REGULATING JUSTICE**

Report No. 4 of 2014/15

The Public Protector investigated allegations of maladministration against the South African Bureau of Standards (SABS) regarding the withdrawal of his manufacturing permit that allowed him to manufacture and sell motor vehicle licence plates. The investigation followed a complaint from Mr J.T. Prabudas.

The initial complaint lodged was that the SABS did not enforce the set standards in respect of acrylic number plates manufactured by means of the "kiss-cut" method. Later, the complainant lodged another complaint alleging that the SABS had unfairly and improperly cancelled the permit allowing him to manufacture and distribute vehicle number plates on 18 September 2000.

Findings and remedial action

The Public Protector found that samples of acrylic motor vehicle number plates submitted by the complainant showed visible defects or deterioration in the form of cracking, blistering or loss of adhesion. The Public Protector indicated that the dispute between the parties about whether or not incidents of accelerated deterioration in acrylic motor vehicle number plates could be directly attributed to the "kiss-cut" method of manufacturing as opposed to poor workmanship, was not resolved by the evidence obtained during initial investigations undertaken by the previous Office of the Public Protector.

Without independent scientific evidence, the Public Protector was unable to pick up where the previous investigation to reach a finding on the complainant's allegations that, at the time, the SABS neglected its duty because acrylic motor vehicle number plates manufactured by means of the "kiss-cut" method could not meet the required SABS standards set in the then SABS 1116-4:1996, was halted. It was found that the SABS failed to inform the complainant of its intention to withdraw the permit; provide adequate reasons for the withdrawal of the permit; provide the complainant with an opportunity to respond to adverse information that affected the decision to withdraw the permit; and to inform the complainant that he had the right to submit written representations to its CEO.

The Public Protector found that, at the time of the withdrawal of the permit, the complainant was self-employed and building a business on an innovation in which he invested a large part of his life to establish himself as an individual in an industry where long-established businesses had been controlling the market in terms of vested processes and practices; the withdrawal of the permit resulted in the complainant not being able to pursue this manufacturing business venture lawfully and ended up without any income; apart from the financial impact, the failure to provide reasons for the withdrawal of the permit resulted in the complainant not being able to exercise his rights, which, in essence, boiled down to victimization; and the maladministration referred to above prejudiced the complainant in that he suffered and continued to suffer severe distress and loss of income.

The Public Protector directed the CEO of the SABS to take steps to enable and assist the complainant in applying for the necessary permission and authorisation to be registered as a manufacturer, distributer or reseller of motor vehicle number plates. This, the Public Protector directed, should include financial assistance to be determined in consultation with the complainant, but that should not be less than R250 000.00, to re-apply for a manufacturing permit and to re-open a business to supply number plates to the motoring public, and R150 000.00 to re-establish a business to manufacture number plate machines and supply number plate accessories in selected areas.

The CEO of the SABS also had to provide the complainant with a remedy, including a reasonable amount as settlement for consolatory compensation, to address the distress and trauma experienced by him and his family as a result of the manner in which the matter was handled.

- **UBUNTU**

Report No. 3 of 2014/15

The Public Protector investigated, on own initiative, allegations that members of the public were being mauled by animals escaping from the Hluhluwe-Imfolozi Game Reserve in Okhukho, Ulundi, KZN.

One of the two main concerns was that the wild-life enclosure was inadequate and that animals such as leopards and hyenas regularly escaped and wandered into nearby villages where they usually attacked and devoured livestock such as goats and cattle and occasionally attacked people, with many being left disabled while a few had died. The other concern was that there was no compensation for injuries suffered as a result of attacks by predators such as leopards and hyenas.

Findings and remedial action

The Public Protector found that the KZN Department of Economic Development, Tourism and Environmental Affairs and Ezemvelo KZN Wildlife failed to install or ensure adequate security measures to ensure that wild animals do not escape from the Game Reserve and thus failed to prevent injury to community members and their livestock.

It also found that the KZN Department of Economic Development, Tourism and Environmental Affairs and Ezemvelo KZN Wildlife unduly failed to compensate victims for damages and/or harm suffered, involving being maimed, killed or deprived of livestock by leopards and other wild animals that escape from the Game Park, for which they deserved fair compensation.

The Public Protector further found that one of the victims, Mr K, and other affected members of the Okhukho community, were prejudiced by the KZN Department of Economic Development, Tourism and Environmental Affairs and Ezemvelo KZN Wildlife in that they failed to ensure a safe environment for them and to protect their livelihoods in the form of livestock. They were further prejudiced by the failure of the two parties to adequately compensate them for lost lives, livestock and other harm suffered as a result of attacks by predatory animals such as leopards. It was further found that there were systemic deficiencies regarding nature conservation laws, policies and conduct in KZN nature conservation practices that needed urgent attention to ensure compliance with the Constitution and international obligations.

As part of appropriate remedial action, notices sent to Economic Development, Tourism and Environmental Affairs MEC, Mike Mabuyakhulu, and the Ezemvelo Board in terms of Section 7(9) of the Public Protector Act, outlined several remedial steps relating to improving the security around the Hluhluwe-Imfolozi Game Reserve to prevent animals from escaping and attacking persons and livestock in close proximity of the Reserve; changing the policy currently impending the compensation of victims of certain wild-life attacks; identifying all victims; assessing their loss; and compensating them adequately. The remedial action was modified in the light of the constructive responses from and action already taken or underway at the instance of MEC Mabuyakhulu. The KZN Department of Economic Development, Tourism and Environmental Affairs and Ezemvelo KZN Wildlife were directed to, within three months of the issuing of the Public Protector's report, identify and provide rehabilitative assistance to victims of wild-life attacks near the Game Reserv; obtain at own cost a compensation expert to quantify Mr K's loss and compensate him accordingly within six months of the report; and identify and compensate the other victims for damages and/or harm suffered as a result of their failure to put up adequate security measures to ensure that wild animals did not escape from the Game Reserve.

The Public Protector further directed the KZN Department of Economic Development, Tourism and Environmental Affairs to ensure that wild animal enclosures were assessed for adequacy; to enforce security within six months of the report; to, within 12 months, develop a policy that would ensure a lasting and win-win solution for the community and nature conservation in line with international instruments on nature conservation and the management of human-wildlife conflict; and, within the same period, to consider establishing a victim fund that would cater for compensation of potential future victims, the revenue of which should come from levies and fines imposed on game park owners.

MEC Mabuyakhulu made it clear he did not raise the *res nullius* defence in dealing with the matter and that he would ask the Board of Ezemvelo KZN Wildlife to review the existing applicable polices urgently to determine whether they were in line with national and international norms and standards. He would also instruct officials of Ezemvelo KZN Wildlife to inspect the fence line of the Game Reserve urgently to determine weaknesses and to advise on possible remedial action. With regard to compensating victims of attacks, MEC Mabuyakhulu indicated that he would ask the Board of Ezemvelo KZN Wildlife to review all existing claims urgently and to ensure that they were finalised promptly.

- **SIX YEARS AND COUNTING**

Report No. 14 of 2014/15

The Public Protector investigated allegations of maladministration by the Gauteng Department of Infrastructure Development relating to the Department's administration of the Suikerbosrand Project involving the upgrading of the water supply to the nature reserve in the area at a cost of R8 657 745.63. The complaint was lodged by Mr Nathaniel Letlape on behalf of Shatsane Systems Solutions (Pty) Ltd, a Leondale-based black, small contractor specialising in civil and building works.

In the main, the complainant alleged the main contractor, Moteko Construction Cost Consultants JV (Moteko), which was contracted to upgrade the water supply to the Suikerbosrand Nature Reserve, was improperly appointed in contravention of a fair, transparent and cost-effective procurement process. However, the complainant subsequently withdrew the allegation on the basis that he did not have any evidence to back such, and that in making the allegation he had relied on the feedback received from the investigator who indicated to him that the Chief Director, Mr Richard Makhumisani, had said in a meeting with him that he knew of no tender process being undertaken in respect of the Project.

The complainant also alleged the Department failed in its duty to oversee the smooth running of the Project, thus causing delays in the completion of the Project. He also alleged that there were mismanagement of state funds and disregard for procurement policies, Treasury Regulations and the PFMA during the execution of the Project. The complainant further complained that he was not paid for services rendered in connection with the Project and that he incurred penalties as a result of delays that were not caused by him.

Findings and remedial action

The Public Protector found that, although subsequently withdrawn by the complainant, the allegation that Moteko was appointed irregularly in violation of the required fair, transparent and cost-effective procurement process could not be substantiated during the preliminary investigation undertaken by her office. The Public Protector's preliminary investigation established that Moteko was initially appointed pursuant to its response to an advertisement dated 03 December 2004 that appeared in the local newspapers, after it had expressed interest in a follow-up advertisement that called for an Expression of Interest by project management resource groups. Moteko and other service providers responded to the advertisement and were shortlisted. That process was followed by an Adjudication Council meeting that decided to award Moteko a contract to oversee several projects in the Gauteng Province based on its credentials relating to engineering projects.

With regard to the Suikerbosrand Project, the Public Protector found that Moteko was appointed by way of an Instruction to Perform Work (IPW) within permissible deviation in terms of Treasury Regulation 16A6.4. It was found that the Department's failure to open the Suikerbosrand Project to a fair, equitable, transparent, competitive and cost-effective procurement process and opting for an IPW with a view to fast track service delivery was not viable and could not be justified. Contrary to what was anticipated by the IPW, the Public Protector found that the Project was plagued by delays and it remained incomplete six years after it commenced on 17 November 2008 with a set completion date of 20 May 2009.

The Public Protector found the allegation that the Department failed to play its oversight role effectively to ensure the smooth running and timely completion of the Project to be substantiated as the Department, through Mr Eksteen, failed to ensure that the service providers appointed to deliver the Project completed it within the period specified or shortly thereafter. In addition, Mr Eksteen failed to rein in Mr Singo, representing Moteko (ED query: can one add representing Moteko for the sake of clarity??) who mostly failed to attend site meetings where his input was required to move the Project forward and who also provided Shatsane with incorrect and inadequate drawings for the installation of a pipe on a bridge, electrical connections and pumps for a pump house.

The allegation that the Department failed to appropriately manage the state funds allocated for the Project were found to be substantiated in that the Department failed to account for the monies allegedly paid to Mr Singo irregularly in connection with the Project, despite being alerted to a possible fraudulent inflation of KSB payment invoices by Mr Singo, using Shatsane's letterheads.

The Public Protector further found that the allegation that the Department unduly failed to pay for work done on the Project by the complainant could be substantiated. That was because it was established that, among other things, when Moteko was unable to pay Shatsane, Shatsane approached the Department directly and the Department paid, thus creating a legitimate expectation that in case of failure by Moteko to pay Shatsane the Department would pay. On 26 November 2010, the Department also attempted to impose penalties in the sum of R4 200 740.98 by way of a letter to Shatsane for delays concerning the Project, which delays were caused by the non-cooperation of Mr Singo during the execution of the Project. The complainant's company was still owed a sum of R9 622 075.08 for the services rendered by his company in connection with the Project. A final account was submitted to the Department on 13 September 2011.

As part of appropriate remedial action, the Public Protector directed the HoD to ensure that the Project was finalised within three months from the date of the report and within budget; that appropriate action was taken against those officials responsible for the delay in the completion of the Project and associated improper conduct; that the complainant was paid all monies due to his company within 90 days from the date of the final report; that the monies owed were verified in consultation with the complainant and that Moteko (ED query: could this perhaps rather be Shatsane??) be paid in trenches, with the first payment made within 30 days from the date of the report.

- **UNSETTLED SETTLEMENT**

Report No. 1 of 2014/15

The Public Protector investigated a dispute between the Gauteng Department of Health (the Department) and CKB Washroom Sales and Services CC (CKB), a small business that supplied hygiene equipment to several health clinics around the province.

CKB was contracted by several individual clinics to supply hygiene equipment such as air freshener dispensers, soap dispensers, paper towel dispensers, hand dryers and sanitary bins, among other things, on a rental basis while providing related support services.

The Department cancelled some of the service agreements, prompting CKB to institute court action, which culminated in an out-of-court settlement. The settlement extended the agreements to the end of July 2010 and the Department extended them to 30 September 2010.

CKB turned to the Public Protector in July 2011, complaining that the Department had failed to pay an amount of R2 960 112.60 that was allegedly owed for services that CKB continued to provide to the Department's clinics beyond 30 September 2010.

The company further alleged that the Department wrote to Standard Bank in March 2011, confirming that it owed R1 448 790.06 to CKB in the context of a bridging finance application made by CKB and granted by the bank and that the Department subsequently repudiated CKB's claim.

Findings and remedial action

The Public Protector found that the Department failed to take resolute action to get CKB to remove its equipment from its clinics and to prevent the continued use of CKB's hygiene equipment, thus causing the clinics to continue to benefit from CKB's property beyond the agreed service period.

It was found that, on a balance of probabilities, some of the complainant's equipment, including sanitary bins, continued to be used by the clinics from 01 October 2010 until date of removal.

The Public Protector found that, having decided that it would not pay CKB the money it had initially determined to be owed to CKB for rental beyond 30 September 2010, the Department failed to verify the equipment rental claim and to adjudicate it timely to ensure that payment or a determination on payment was done within 30 days, as required under Regulation 8.2.3 of Treasury Regulations issued under the PFMA during March 2005. The Public Protector further found that Mrs N Mekgwe, in her capacity as a Chief Director in the Gauteng Department of Health, issued a letter acknowledging that the Department owed CKB the sum of R1 448 790.06 for work done for the Department, stating that the Department was not in a position to make that payment to

CKB; that a payment would be made into the accounts of a clinic in April 2011; and requesting the bank to assist CKB with bridging funding to allow it to run its operations without interruption in the meantime.

It was found that it did not matter in the circumstances whether or not the Department vicariously incurred liability through Mrs N Mekgwe's actions. All that mattered in the circumstances was that a senior manager of the Department made a written undertaking that placed the complainant in a position where he legitimately expected to be paid shortly and, on the strength of the promise, incurred further debt instead of cutting his losses.

The Public Protector directed that the HoD, in consultation with CKB, subjected CKB's invoices submitted in March 2012 (totalling R 2 960 112.60) to an audit process and determined a reasonable amount payable for rental chargeable for the period starting 1 October 2010 until the equipment was removed, taking into consideration the overpayment already made to the complainant in the amount of R295 180.20, and pay the complainant accordingly within 60 days after the issuing of this report.

It was, furthermore, directed that the HoD took urgent action to ensure that finality was attained regarding the procurement of hygiene equipment and related services for affected clinics, giving serious consideration to purchasing things that should ideally not be rented and where rental was opted for, to rent from a manufacturer rather than a middle company. The HoD was also directed to expeditiously finalise disciplinary proceedings underway against Ms Mekgwe in terms of Section 38(1)(h) of the PFMA and to ensure that all management and general staff of the Department, including those at health centres, were trained in correct supply chain and procurement processes and procedures to avoid a recurrence of similar matters in the future.

The MEC was directed to request the Auditor-General to audit all payments made in respect of hygiene equipment and related services in hospitals and clinics; decide whether or not disciplinary action should be taken against the officials responsible for exposing the Department to unauthorised expenditure and other financial risks in violation of the PFMA; and look into a possible systemic deficiency within the Department of Health regarding the payment of monies owed to service providers, particularly small business enterprises, since non-payment contributed to their demise and loss of jobs.

- **A MATTER OF INTERPRETATION**

Report No. 15 of 2014/15

The Public Protector investigated allegations that the infringement notices issued by the Johannesburg Metropolitan Police Department (JMPD) during the period June 2010 to December 2012 were unlawful and unenforceable, since they were dispensed in contravention of Section 30 of the Administrative Adjudication of Road Traffic Offences (AARTO) Act that provides for infringement notices to be served by registered and not ordinary post. The complaints were lodged by Ms A. Slabbert and Mr H.D. Dembovsky, chairperson of the Justice Project South Africa on its behalf, respectively.

Both Mr Dembovsky and Ms Slabbert alleged that the JMPD misinterpreted the provisions of Section 30 of the AARTO Act and further that its application and/or implementation of Section 24 of the Act would result in drivers being disqualified to operate a motor vehicle within a year of introduction. Mr Dembovsky also alleged that expecting that persons who had become aware of the unlawful nature of the infringement notices be allowed to benefit from that knowledge while those who had not been prejudiced by it was, in itself, unconstitutional. He further alleged that a commitment made by the JMPD and the Road Traffic Management Cooperation (RTMC) to refund all affected parties who were issued with unlawful infringement notices was not honoured.
Findings and remedial action

The Public Protector found that the allegation that the JMPD failed to comply with the provisions of the AARTO Act was substantiated in that the infringement notices served by the JMPD to alleged infringers for the period August 2010 to 21 December 2012 did not comply with the requirement as contained in Section 30 of the Act. The acts of the JMPD accordingly constituted improper conduct and maladministration.

However, no remedial action could be made in that regard, since the JMPD had since complied with the provisions of Section 30 of the Act (as from 22 December 2012) by issuing infringement notices by registered post as provided for in the aforementioned Section.

The Public Protector also found that the JMPD issued infringement notices through ordinary post during the period August 2010 to 21 December 2012 following the RTMC's withdrawal of the service. The issuing of such infringement notices by ordinary post constituted a violation or contravention of Section 30 of the AARTO Act, which provides for same to be served through registered post.

The Public Protector further found that, in terms of Section 17 of the AARTO Act, the obligation to serve notices to infringers rests with the issuing authority that, in terms of Section 1 of the Act, is a local authority or municipality, in this case the JMPD. The JMPD's argument that Section 4(4)(a) of the Act makes provision for the RTMC to carry the legislative mandate of serving infringement notices was a misinterpretation of the law and was, therefore, found to have no merit.

The Public Protector also found that, although the AARTO Act makes provision for the demerit of points in case an infringer violates road traffic laws, evidence obtained from the pilot project implemented by the JMPD showed that points were neither allocated nor deducted during the implementation of the pilot phase.

No evidence was found to support the allegation that the JPMD undertook to refund infringers who had paid the infringement notices issued in violation of Section 3 of the AARTO Act during the period August 2010 to 21 December 2012. Notwithstanding the above discussion or finding, the acceptance by the JMPD and/or the Road Traffic Infringement Agency (RTIA) of payments emanating from an unlawful process was improper and, therefore, constituted maladministration by the JMPD and RTIA.

As part of remedial action, the Public Protector directed the Chief of Police of the JMPD to ensure, in consultation with the City Manager, the issuing of a formal apology to be presented to all newspapers in circulation within the City of Johannesburg (CoJ), explaining the reasons for the issuing of infringement notices in contravention of Section 30 of the AARTO Act during the period August 2010 to 21 December 2012.

The CEO of the RTMC and the Registrar of the RTIA were directed to ensure that the RTMC facilitated the insertion of a phrase in the Act that would make it an offence on the part of, and that would carry a penalty against, issuing authorities in cases of violation of the Act and that the RTIA intensified its already existing educational drive to ensure that individuals understood their rights and options, as provided for in Section 4(1)(d) of the Act.

- **BROKEN PROMISES**

Report No. 11 of 2014/15

The Public Protector investigated allegations of maladministration relating to the CoJ's failure to comply with city bylaws and the Constitution in connection with illegal occupation by CoJ residents of two privately-owned buildings, involving alleged failure to terminate services as advised by the complainants and unduly billing the complainants for such services; failing to reverse wrongful billing despite numerous undertakings to do so; and failing to keep promises to help with the eviction process while encouraging the said illegal occupation.

The complainants, Mr Tshepo Kgaudi and his wife, Ms Phindi Kgaudi, are young business persons who jointly purchased two property-owning companies, Plankomat and Loujac, in Jeppestown in the CoJ with the intention of using the buildings for a shoe factory and other commercial purposes.

During 2009, the complainants requested the CoJ to cut off electricity supply to the buildings, since they were being occupied by illegal occupiers. The alleged illegal occupiers were mostly business persons who had been tenants of business persons whose bid to purchase the buildings had fallen through on account of non-payment before the buildings were sold to Mr Kgaudi and his wife. The complainants allegedly approached the CoJ for assistance and certain undertakings were made but never honoured by the CoJ.

The core of the complaint was that the CoJ improperly undertook to help with evictions without a court order and later advised it could no longer do that after having laid down various compliance requirements that the complainants complied with, losing time and money in the process; failed to hold one of its councillors, Councillor Zwane, accountable for encouraging the illegal occupation of and interfering with eviction attempts at the said buildings; wrongfully failed to terminate electricity and water services to the buildings despite being asked and undertaking to do so several times; wrongfully billed the complainants for the illegal consumption

of services leading to a huge liability that undermined attempts to sell the buildings; failed to honour promises to reverse the wrongful billing despite undertaking to do so several times; generally failed to honour its bylaws applicable to law enforcement pertaining to the illegal consumption of municipal water and electricity; and had, for years, failed to honour its constitutional responsibility to provide access to housing, including emergency housing, to its residents, leaving the complainants and their family to shoulder such responsibility.

Findings and remedial action

The Public Protector found that the CoJ failed to disconnect electricity services to the complainants' illegally-occupied properties without good reason and over a long period of time. That was a contravention of the CoJ's Control Policy and Section 95 of the Municipal Systems Act.

It was found that the City billed the complainants for services it supplied in violation of their and their predecessor's request, as well as its own bylaws, while it should not have billed the complainants for such services.
The Public Protector also found that the City promised the complainants and the Presidency that it would disconnect electricity and other services on the property. The City failed to keep its promise not only to the complainants and Presidency, but also to the Public Protector, not once but several times.

It was also found that, by failing to take resolute action against Councillor Zwane, the CoJ encouraged not only illegal occupation, but also encouraged other councillors to do what he did.

The Public Protector also found that the CoJ indeed failed to enforce its own bylaws in accordance with the greater Johannesburg metropolitan electricity bylaws and policies.

The Public Protector further found that the CoJ undertook to do something unlawful by undertaking to assist in the eviction of the unlawful occupiers while it did not have the power or authority to do so, and accordingly could not do it.

The CoJ was found to have known about the need for housing for the illegal occupants occupying the complainants' buildings, but did nothing about it, thus causing the complainants to shoulder the responsibility of the CoJ and other responsible organs of state under Section 26 of the Constitution and, in so doing, violating the complainants' rights under Section 25 of the Constitution.

The Public Protector found that the complainants were financially, emotionally and psychologically severely prejudiced by the COJs maladministration. The complainants' family and employees were also found to have been prejudiced by the CoJ's maladministration.

The Mayor of the CoJ was directed to cause an urgent evaluation of the complainants' buildings; approach the Council with a request to buy the buildings as redress for harm the CoJ caused the complainants; ensure that an internal investigation into the reasons why the CoJ failed to provide Mr Kgaudi with service expected in terms of Section 195 of the Constitution and the Batho Pele principles; ensure that an urgent investigation was conducted in respect of all privately-owned buildings that were being occupied illegally; ensure that the CoJ complied with its responsibility to provide emergency housing; and apologised to the complainants' family for the gross maladministration and consequent trauma.

The Chairperson of the Municipal Council was directed to ensure that appropriate action was taken against Councillor Zwane in terms of the CoJ's Code of Conduct for Councillors; to report to the MEC for local government in the province on the matter; and to assist the Mayor with the remedial action apportioned to him.

- **A COSTLY MISTAKE**

Report No. 2 of 2014/15

The Public Protector investigated the circumstances surrounding the rejection of a claim for the pension benefits of a deceased, former employee of the Sol Plaatje Local Municipality in the Northern Cape.

The investigation followed a complaint by Ms Joyce Maria Holland concerning the pension benefits of her late husband and a former employee of the municipality, Mr Basil Freddy Holland. Ms Holland alleged that his medical practitioner had advised her late husband that he would not be able to work again because of his illness shortly after he fell ill. She alleged that the deceased was advised to claim for disability benefits and he submitted a claim application to the Municipality for processing at the South African Local Authorities (SALA) Pension Fund. She further alleged the Municipality submitted the claim late and the deceased's claim was consequently rejected by the Pension Administrator. Subsequently, the deceased was advised to claim for early retirement benefits, but he rejected the offer.

In response to the investigation, the Municipality had since admitted that it did receive the claim from the deceased for submission to the SALA Pension Fund and that it submitted the required documents late.

Findings and remedial action

The Public Protector found that the Municipality failed to immediately notify the Administrator (SALA Pension Fund) of the deceased's disability when he submitted a medical certificate in that regard to it on 28 August 2008. The Municipality submitted the deceased's disability claim to the Pension Fund on 19 January 2009, more than three months after having been informed of the deceased's disability on 28 August 2008.

The Municipality's failure to submit the deceased's claim within three months resulted in the complainant suffering financial prejudice in that, to date of the complaint, she had not been paid the deceased's benefits because to accept the termination of the deceased's employment service as resignation or early retirement would result in less benefits being paid out.

The Public Protector directed the Municipal Manager to request Dr Baard of the Administrator to quantify the amount that the deceased would have been entitled to as a disability benefit at the expiry of the three months waiting period from the date of his disability until the date of his death on 15 November 2011. The amount calculated by the Administrator should be the amount that the Municipality should be liable to pay to the complainant as a lump sum payment.

The Public Protector also directed the Municipal Manager to write a letter of apology to the complainant and her family for the prejudice caused due to maladministration on the part of the Municipality. The Municipal Manager was also directed to arrange training for the Municipality's officials responsible for processing pension and disability claims to sensitise them about the processes involved in claiming for pension and disability and provide the Public Protector with a report in that regard within 60 days from the date of her report.

- **FISH FARMING PARALYSIS**

Report No. 7 of 2014/15

The Public Protector investigated allegations of improper prejudice suffered by Aquaculture Project Consultants (APC) as a result of alleged improper conduct or maladministration by the Bojanala District Municipality in relation to reneging on an agreement involving the implementation of an aquaculture (fish farming) project and refusing to pay 50% (R850 000.00) towards a feasibility study for the project.

The complainant, Mr Mmeli Hendrick Mdluli, is an emerging entrepreneur and Managing Director of Integrated Fish Farming South Africa (IPFF) trading as APC, who, in 2009, approached the Bojanala Platinum District Municipality and others to support the implementation of a rural development project relating to commercial harvesting and farming of fish within poor communities in South Africa as a poverty-alleviating project. The project, presented under a proposal titled "An Entrepreneurial Approach providing a Sustainable Solution for ending Hunger and Poverty in Impoverished Rural South African Communities", was to be implemented in 2009/10 as a pilot project, focusing on "the breeding of tilapia fish in ponds or controlled environments". In his complaint, the complainant alleged that the Municipality had improperly (unduly) reneged on its undertaking to support and participate as a partner in his pilot project on aquaculture (fish farming) as an anti-poverty mechanism for poor rural communities. He further alleged that this followed APC being selected by the United Nations Development Programme (UNDP) as an implementation partner in pilot poverty-combating projects under programmes referred to as One Municipality One Project (MOP) and One Village One Project (OVOP). The complainant also alleged that the Municipality unfairly "strung him along" for months and wrongfully

withdrew after APC's partial implementation of the project in the form of a pre-feasibility study that the Municipality refused to pay for despite having agreed to pay for it, thereby causing him severe financial and personal prejudice. He further alleged that the Municipality not only improperly reneged on the said agreement, but also did so after communicating to third parties, including the Development Bank, that it was a party to the fish farming project and feasibility study. In addition, the complainant alleged that an official of the Municipality, Mr Mike Mokgatsi, unduly substituted the area of Molatedi for the Jericho area, which had been the target of APC's original proposal and which would not have needed a feasibility study.

Findings and remedial action

The Public Protector found that the allegation that Bojanala Municipality improperly reneged on an agreement to participate in APC's fish farming project and to pay 40% towards a project feasibility study could be substantiated by evidence.

It found that there was no question that the Municipality's officials committed the Municipality verbally and in writing to pay 40% of the feasibility study fees and that it was its idea that the pilot site be moved to Molatedi, which required a feasibility study. However, such commitment was made unlawfully as the persons who did so had no authority to do so and did so without following prescribed supply chain procedures.

The Public Protector also found that the Municipality had not denied that it was its idea that the pilot site for fish farming be Molatedi. While the complainant was adamant that the story about Jericho being not viable because of water contamination was suspect, the correspondence between him and others, including Mr Swanepoel, the author of the Jericho feasibility study, and Prof. Kruger, who is said to have microbes that can address the contamination, showed that the complainant accepted that Jericho water was contaminated.

The Municipality accepted the Public Protector's finding of prejudice in the provisional report and proposed remedial action without reservations in its response to the provisional report and notice issued in terms of Section 7(9) of the Public Protector Act.

While the investigation had not asked the beneficiary community about the impact of the non-implementation of the poverty-busting project, although the complainant alluded to disappointment on the part of the Jericho traditional leader after hopes had been raise, it was not unreasonable to assume that the morale of the community was probably impacted negatively.

As part of appropriate remedial action, the Municipal Manager was directed to furnish the complainant with a written apology about the manner in which he was treated, particularly being subjected to various fruitless procurement processes for months, being made to understand his project proposal had been accepted and having it cancelled after investing time and money in it for months.

The Municipal Manager, acting with the Municipal Council and with the complainant's concurrence, was also directed to ensure that the complainant's company, APC, was paid an amount that was not less than R100 000.00 as consolatory pay and to cover expenses incurred in pursuit of the pre-feasibility study and project scoping; loss of income while pursuing the project; and inconvenience.

The Public Protector also directed the Municipal Manager to assess the aquaculture project and consider reviving it, with a lawfully selected partner, as a poverty-combating and food-securing rural development initiative through consultation with the communities in Bojanala as part of Integrated Development Plan (IDP) consultations and with the input of experts.

The Municipal Manager, with the help of the Speaker and Council, was further directed to investigate the actions of the officials involved to determine if disciplinary or other steps should be taken in respect of possible breaches of the Municipal Finance Management Act (MFMA) and relevant legislation or codes of conduct, and to avoid a repetition in future; to ensure that standard operational protocols were developed and implemented to regulate all agreements to ensure that everything was in writing, unambiguous and correct; to ensure that guidelines were set for itemised quotes and invoices from suppliers; and to ensure that all managers and employees involved in procurement of goods and services were properly trained in supply chain management policies, the MFMA and other legislative prescripts relating to procurement processes.

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SAMPLE OF CASES RESOLVED THROUGH ADR

The following selected cases were settled through Appropriate Dispute Resolution (ADR) mechanisms such as mediation, conciliation and negotiation. This approach sees parties being brought together, with a view to finding an amicable solution to the dispute.

	Complaint	Investigation and findings	Remedial Action
Taxi owner gets life back after road accident setback	The Public Protector received a complaint from Mr M on referral of the Statistician-General, Pali Lehohla. Mr M complained that a Statistics South Africa (StatsSA) vehicle had collided with his minibus taxi, which he relied on for income. The driver of the StatsSA vehicle had allegedly been negligent, driving at high speed. The taxi, which was still on bank finance, was damaged beyond economic repair. The loss of income affected Mr M and his family's livelihood, including his ability to meet his financial obligations in respect of finance for the taxi.	The Public Protector brought the parties together in a mediation meeting. StatsSA conceded liability. They indicated that the driver of the vehicle had since been dismissed.	The parties signed a Settlement Agreement. It included that StatsSA should replace the taxi at an equivalent market-related value, settle Mr M's vehicle finance debt and pay him a consolatory amount. In addition to these, StatsSA was to help rehabilitate Mr M's credit worthiness. Mr M had since been paid a total of R246 461.83. The money was paid in two tranches. An amount of R169 557.15 was to go towards the replacement value of Mr M's taxi, while R56 884.68 was for the settlement of his debt at the bank that financed his vehicle loan. In addition, R20 000.00 was set aside as the consolatory amount for the suffering Mr M and his family had to endure before the finalisation of the case.

	Complaint	Investigation and findings	Remedial Action
Pensioner gets R200 000.00 in compensation for damages to his house	The Public Protector received a complaint from a 61-year-old North West man, Mr N, who complained that a provincial government project to construct a road in the village left him and his family fearing for their lives in a house that was teetering on the brink of collapse. The new road passed in front of Mr N's house. Mr N complained to the Department of Public Works and Roads that the heavy road construction equipment the contractors were using was resulting in the walls of his house being severely cracked. He also complained that, in addition to a disintegrating house, the road's storm water drainage system was constructed in such a way that it faced his yard, flooding the enclosure each time it rained. Mr N's neighbours had been moved at state's expense to make way for the project. His requests to have the Department relocate his family to an alternative area fell on deaf ears.	When the Public Protector's investigation team conducted an in-loco inspection of the house, they witnessed gaping cracks on the house walls. Mr N and the Department were brought together in a mediation meeting. The Department agreed to compensate Mr N for the damages to his house.	Mr N was paid a sum of R200 000.00 in compensation.

	Complaint	Investigation and findings	Remedial Action
Swift resolution of a 17-year traditional leadership dispute	The Ba ga Tsinyane ba Kagung community approached the Public Protector, alleging that the Ba ga Jantjie Tribal Authority had failed to appoint a permanent successor to Kgosana (Headman) Galeshewe Tsinyane who died in 1997. In their complaint, the community alleged that the Ba ga Jantjie Tribal Authority took no positive steps following Kgosana Tsinyane's passing. Shortly after Kgosana Tsinyane's death, an interim headman was appointed to run the administration of the sub-office. The interim headman was subsequently succeeded by a relation of the Tsinyane family from 2006 to 2011.	The Public Protector raised the matter with the provincial Department of Cooperative Governance, Human Settlements and Traditional Affairs. This prompted the Department to seek clarity from the Ba ga Jantjie Tribal Authority.	In late February 2015, the Department informed the Public Protector that the appointment of Kgosana Ms K.M. Tsinyane of Kagung had been approved by the MEC for Cooperative Governance, Human Settlements and Traditional Affairs. The Department also indicated that the Premier had issued a certificate of recognition to Kgosana Tsinyane, whose appointment was effective 01 March 2015. The Ba ga Tsinyane ba Kagung thanked the Public Protector for helping to resolve the 17-year traditional leadership dispute in six months.
Hospital undertakes to perform corrective surgery on boy	The Public Protector received a complaint from Mr N in De Aar, Northern Cape, complaining that the provincial Department of Health had failed to perform corrective surgery on his 10-year-old son's ear despite having undertaken to do so. This came after "negligent" staff at Kimberley Hospital allegedly caused him to lose his earlobe.	The Public Protector raised the matter with the Department. A Settlement Agreement was signed between Mr N and the Department. The agreement entailed the performance of corrective surgery.	The surgery was to be performed in October 2015. The Department undertook to inform the Public Protector once the surgery had been performed.

	Complaint	Investigation and findings	Remedial Action
Mpumalanga woman to finally get a house	The Public Protector received a complaint from Ms P of Mpumalanga who alleged that an RDP house she was approved for had been allocated to somebody else. When she sought answers from the Thaba Chweu Municipality, she was informed that officials had tried in vain to trace her.	The Public Protector conducted an in-loco inspection in the company of officials from the Provincial Human Settlements Department and the municipality. Ms P's allegation that the house initially meant for her had been allocated to somebody else was confirmed. She further admitted that it may have been difficult to trace her as she had moved to another place. The Public Protector sat the parties around the table in a mediation meeting. A Settlement Agreement, in which the Municipality undertook to allocate Ms P a piece of land in Extension 21 in Skhili, Lydenburg, was signed.	Ms P owned a stand on which an RDP house was to be built for her at state expense.
Department writes off wrongful debt and apologises	A former Department Public Works and Road official in the North West approached the Public Protector, alleging that the Department was demanding a salary reversal of R36 014.84 from him. The complainant could not understand how the debt came about, since he went on early retirement six years earlier. His attempts to get an explanation did not bear fruit.	A mediation session was conducted, revealing that the Government Employees Pensions Fund had actually settled the debt shortly after the complainant's retirement.	The Department wrote off the debt and apologised to the complainant.
Woman finally gets certificate	Ms W approached the Public Protector, complaining that the Department of Education in the Eastern Cape had failed to furnish her with a skills certificate after she completed an Information Technology learnership programme with the Department.	The Public Protector contacted the Department and established that the training and production of certificates were the responsibility of the Information Technology Resource Centre in Mthatha.	The certificate was printed and sent to the Sector Education Training Authority, which facilitated its delivery to Ms W.

	Complaint	Investigation and findings	Remedial Action
Department pays up	Mr Z approached the Public Protector, alleging that the KZN Department of Education had failed to pay for his tuition fees for a Project Management Certificate. He had enrolled for the certificate at Varsity College in Pietermaritzburg on the basis of a bursary sponsored by the Department.	The Public Protector approached the Department. The Department acknowledged that it had approved Mr Z's application for the bursary.	The Department paid the College an amount of R7 040.00. Mr Z got his certificate

Table 1: Case load and statistics for the 2014/15 financial year

BRANCH	BROUGHT FORWARD FROM 2013/14	RECEIVED			TOTAL WORKLOAD	INTERNAL TRANSFERS		FINALISED				CARRIED OVER TO 2015/16
		WITHIN JURISDICTION	NO JURISDICTION	TOTAL RECEIVED		RECEIVED	SENT OUT	JURISDICTION	NO JURISDICTION	REFERRAL TO OTHER BODIES	TOTAL FINALISED	
INTAKE ASSMENT			2312	2312	2312				813	1499	2312	0
EARLY RESOLUTION	631	1203	2	1205	2101	265	22	1233	8	15	1256	823
GOOD GOVERNANCE	331	73	0	73	414	10	1	98	0	0	98	315
SERVICE DELIVERY	128	354	0	354	484	2	0	332	0	0	332	152
EASTERN CAPE	1224	864	32	896	2269	149	2	1914	44	82	2040	227
FREE STATE	386	1022	91	1113	1500	1	2	1190	107	6	1303	195
GAUTENG	2096	1997	469	2466	4589	27	71	2552	350	799	3701	817
KWAZULU-NATAL	1361	1808	40	1848	3209	0	11	2083	146	100	2329	869
LIMPOPO	268	1078	52	1130	1510	112	47	1252	41	0	1293	170
MPUMALANGA	612	730	55	785	1401	4	34	1038	70	25	1133	234
NORTHERN CAPE	754	616	39	655	1454	45	6	955	58	41	1054	394
NORTH WEST	438	1158	114	1272	1802	92	29	1256	142	37	1435	338
WESTERN CAPE	1365	1407	102	1509	3025	151	258	1712	97	136	1945	822
TOTAL	**9594**	**12310**	**3308**	**15618**	**26070**	**858**	**483**	**15615**	**1876**	**2740**	**20231**	**5356**

1. SUMMARY OF PERFORMANCE

1.1 Service Delivery Environment

Introduction

The year 2014/15 was the 5th year of implementation of the Public Protector Vision 2020 and, as such, mid-point in the journey towards achieving that Vision. Below is a performance summary of each of the three main key programmes, Administration, Investigations and Outreach.

PROGRAMME 1: ADMINISTRATION

The Programme is driven by two key objectives, namely to ensure an effective and efficient organisation and to ensure optimal performance and a purpose-driven culture. In 2014/15, a key target under this Programme was to achieve an unqualified audit opinion for the 2013/14 financial year. We are pleased to report that this important target was, indeed, achieved. Other achievements worth mentioning are: being able to benchmark with two high-performing institutions in Britain; implementation of the Integrated Financial Management System; and being able to reduce audit findings.

Concerning efforts to improve internal operations, the organisation planned to undertake a comprehensive business process re-engineering exercise, prioritising improvements in case management processes. Although the exercise commenced in June 2014, the re-engineering process remained incomplete at the end of the financial year. It is envisaged that the exercise will be completed in the 2015/16 financial year.

In the area of human resource (HR) management, the organisation planned to undertake a number of projects to enhance service delivery and to respond to emerging challenges. Key among these projects were the remodelling of operations at provincial offices and enhancing the skills base within the organisation. Unfortunately, both targets were missed because of a decision to cut costs. However, the intention is to have both projects implemented before the end of the second quarter of the 2015/16 financial year.

PROGRAMME 2: INVESTIGATIONS

The key objective of this Progr sents a financial risk to the organisation. A number of state organs are taking the Public Protector to court for review of Public Protector findings. This presents a major financial problem for an organisation that is already operating in a constrained financial environment. As a result, the organisation is forced to divert funds from operations to fund litigation costs and that is financially unsustainable.

The organisation will continue to enhance its assessment and referral processes to manage case loads.

PROGRAMME 3: OUTREACH

Under this Programme, the key objective is to ensure that the Public Protector is accessible to all persons and communities. Pursuant to the objective, various initiatives were undertaken in the 2014/15 financial year, among which the establishment of Mobile Offices of the Public Protector (MOPPs), and using radio, television and print media to ensure accessibility. In the previous year, the Public Protector also increased her presence on social media to ensure accessibility. As a result, over 15 million people were reached using various media platforms and outreach programmes.

However, one of the challenges facing the Public Protector South Africa is financial constraints.

That resulted in targets such as information sessions and national stakeholder consultations not being achieved. Another objective affected by the financial constraints is the long-term objective of ensuring physical access in all major metropolitan areas by establishing regional offices across the country.

The expansion programme had to be put on hold temporarily because of the financial constraints. The implication is that there are people, particularly in remote areas, who have been wronged by the state who are still unable to access the services of the Public Protector.

In an effort to address these challenges, the Public Protector South Africa has revised its targets for the next financial years in line with available financial resources. However, the organisation will continue to engage with government to assist in providing funding for the realisation of the above important constitutional mandate.

1.2. Organisational Environment

The organisation continued to operate under severe financial constraints during the 2014/15 financial year. The Public Protector South Africa began the 2014/15 financial year with an operating deficit of R26 million. This impacted negatively on the organisation's ability to implement key projects and programmes planned for the financial year. As a result, the organisation was forced to conduct a comprehensive budget reprioritisation exercise mid-way through the financial year to contain spending while implementing core programmes. Various cost containment mechanisms such as reducing expenditure on travel, meetings, workshops, training and development and freezing the filling of vacant positions were implemented. While this nearly grounded operations to a halt, the Public Protector South Africa was able to realise savings and by the end of the year, the financial position had improved.

In the area of HR, the organisation continued to operate under difficult circumstances. The decision to freeze the filling of vacant positions, coupled with poor funding of the organisational structure, impacted negatively on the implementation of the Public Protector Strategic Plan. Resignations of key personnel in leadership positions also created managerial challenges. However, the positions of CEO and CFO had since been filled. The key challenge that relates to the funding of the organisational structure remains. Approximately 45% of the approved Public Protector South Africa organogram is unfunded. This presents operational challenges, since the demands and expectations from the public have increased over the years. To deal with some of the challenges, the Public Protector South Africa had to use trainees to assist with investigations. However, that was unsustainable because the organisation remained unable to absorb them into the structure permanently. As a result, most of these young professionals left the organisation to seek greener pastures and to ensure job security. Parliament is requested to take note of the HR challenges of the Public Protector South Africa.

1.3. Key Policy Developments and Legislative Changes

No legislative changes took place during the year.

1.4. Strategic-outcomes-orientated Goals

In pursuit of its constitutional and legislative mandate, vision and mission, the Public Protector South Africa's work was informed by five strategic objectives during the 2014/15 financial year. These strategic objectives constituted the pillars to focus organisational energies, decisions and performance management. Informed by the logical framework planning methodology entailed in the Treasury Guidelines, the strategic objectives collectively seeked to generate the desired impact for the realisation of the organisational vision. These were further supported by strategies that were devolved into programmes, with each programme's strategies geared at generating the outputs that would collectively achieve a given strategic objective.

The following key strategic objectives informed the work of the Public Protector South Africa in the 2014/15 financial year:

a) **Strategic Objective 1:** Accessible to and trusted by all persons and communities
b) **Strategic Objective 2:** Prompt justice, including remedial action
c) **Strategic Objective 3:** Promotion of good governance in the conduct of all state affairs
d) **Strategic Objective 4**: An efficient and effective organisation
e) **Strategic Objective 5:** Optimal performance and purpose-driven culture

Below is a summary of how the organisation performed under each of the five strategic objectives.

a) Strategic Objective 1: Accessible to and trusted by all persons and communities

This strategic objective is informed by Section 182 of the Constitution that requires the Public Protector South Africa to be accessible to all persons and communities. Over the last financial year, good progress was made in ensuring that the Public Protector South Africa was accessible to all persons and communities and most targets under this objective were met. In the year under review, the organisation conducted 1 791 mobile clinics. The intention was to ensure that the Public Protector South Africa remained accessible and to reach out to as many people as possible. The organisation also managed to reach just over 15.9 million people through various outreach activities and media platforms such as radio, television, newspapers and social networks.

b) Prompt justice, including remedial action

The Public Protector Strategic Plan is anchored on three key pillars: accessibility, rigour and speed in the finalisation of investigations. The work of the organisation was driven by the need to investigate and finalise investigations with speed while being thorough in all investigations. While the organisation performed well in resolving simple complaints, challenges were experienced in dealing with complex cases. This impacted negatively on the organisation's ability to finalise complex investigations with the required speed. These matters are now receiving priority attention from the Public Protector South Africa.

c) Promotion of good governance in the conduct of state affairs

Promotion of good governance in all state affairs is one of the key strategic priorities of the Public Protector South Africa. The aim is to ensure that the state delivers services in a transparent and accountable manner. The second key objective is to promote ethical conduct in state affairs. The outcomes of Public Protector South Africa investigations under this objective point to a need to improve executive education in respect of ethical codes of conduct.

d) An efficient and effective organisation

The key priority under this objective is to strengthen internal systems and processes to ensure that the organisation is able to respond to its mandate. Key focus areas in 2014/15 included obtaining an unqualified audit opinion, strengthening compliance processes and enhancing business processes. These were achieved. However, the review of business processes is still underway. It is envisaged that the re-engineering process will be completed by the end of the 2015/16 financial year.

e) Optimal performance and purpose-driven culture

The key priority under this objective is to ensure that the Public Protector South Africa has the requisite human resources and skills to execute its mandate and to implement the Public Protector Strategic Plan. Another important priority is to enhance customer service processes and cultivate a culture of service excellence. In respect of customer services, the organisation focussed on implementation and institutionalisation of a customer service charter. Training in the customer service charter was conducted across the organisation and this project will continue into the next financial year. In the area of human resources, the organisation was not able to meet most of its targets related to staff development due to austerity measures. These projects are earmarked for implementation in the 2015/16 financial year.

3. PERFORMANCE INFORMATION

Table 2: Summary of overall performance

TARGETS	2013/14	2014/15
Number of planned targets during the financial year	63	54
Number of targets achieved	37	28
Number of targets not achieved	26	26
Percentage level of performance	59%	52%

3.1 PROGRAMME PERFORMANCE

PROGRAMME 1 ADMINISTRATION

Programme objective: The aim of the programme is to create an efficient and effective organisation and to ensure optimal performance and a purpose-driven culture.

Key performance indicators, planned targets and actual achievements

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Obtain Unqualified audit report.	Unqualified audit report obtained.	Obtain unqualified audit report by 31 March 2015	**Achieved.** Unqualified audit report (2013/14 financial year).	Not Applicable (NA)	Not Applicable (NA)
Date for the establishment of a Compliance Unit/ function.	Not applicable (NA).	Establish a compliance function within the Executive Office by 31 March 2015	**Achieved**. Compliance function established and transferred to the Legal Services Unit.	NA	NA
Establishment of a Legal Services Unit within the corporate support function within the target date	**NA**	A Legal Services Unit established by 31 March 2015.	**Achieved.** Legal Services Unit established.	NA	NA
Implementation of the Integrated Financial Management System (IFMS) by target date	**NA**	Implement all phases of the IFMS by 31 March 2015	**Achieved**. All phases of the IFMS were implemented by 31 March 2015.	NA	NA
Financial governance, compliance and sound control environment	**NA**	Reduction on Internal Audit and Auditor-General's findings	**Achieved**. Auditor-General findings were reduced although there were still repeat findings that are being addressed.	NA	NA

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Date for mapping, engineering and automation of identified business processes.	NA	Re-engineer, map and automate business processes by 31 March 2015	**Not achieved.** Re-engineering and automation of all business processes could not be done.	"AS-IS" analysis was done in 2014/15. However, the development and implementation of new processes were not finalised.	The re-engineering exercise will be finalised in the 2015/16 financial year.
Date for review of case management processes.	NA	Review case management processes by 31 December 2014	**Not achieved.** The review of case management processes was not finalised, but "AS IS" analysis was completed.	Current case management processes were analysed but not reviewed completely.	The review of case management processes will take place in the 2015/16 financial year.
Date for review and implementation of performance management systems.	NA	Review performance management systems by 31 March 2015	**Achieved.** Review of performance management systems was done.	NA	NA
Date for review of recruitment, development and retention processes.	NA	Review recruitment, development and retention processes by 31 March 2015	**Not achieved.** Review of recruitment, development and retention was not completed by the end of the financial year.	Review of recruitment, development and retention was not completed by 31 March 2015.	Review will be completed in the 2015/16 financial year.
Date for approval and implementation of Human Resources Plan that is aligned to organisational strategy.	NA	Human Resources Plan implemented by 31 March 2015.	**Achieved.** Human Resources Plan was implemented.	NA	NA

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Time taken to fill funded vacancies.	NA	All approved and funded vacancies filled within three months after the closing of the advert.	**Not achieved.** Not all posts were filled within three months after closing date of the advert.	Only 92% of funded posts were filled within three months after closing date of the advert.	Some posts were frozen and were not filled within three months because of cost-cutting measures. Those positions have since been advertised.
Number of surveys on employee behaviour conducted per annum.	Achieved. 1 survey conducted	1 survey on employee behaviour conducted by 31 March 2015.	**Not achieved.** Survey on employee behaviour was not conducted.	Survey on employee behaviour was not conducted.	Survey on employee behaviour was not conducted because the organisation was still implementing the recommendations of the 2013/14 survey.
Number of quarterly performance reports submitted to EXCO.	**Achieved**. Four quarterly performance reports submitted to EXCO.	4 quarterly performance reports submitted to EXCO by 31 March 2015.	**Achieved**. Four quarterly performance reports were submitted to EXCO.	NA	NA
Number of benchmarking visits concluded.	NA	2 benchmarking visits with high-performing institutions conducted by 31 March 2015.	**Achieved**. Two benchmarking sessions were held with the Banking Ombudsman and the Ombudsman for Health Services in Britain.	NA	NA
Date for the review of the operating model of provinces.	NA	Review the operating model of provinces by 31 March 2015	**Achieved**. Review of the operating model of provinces was done.	NA	NA

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Establishment of the PPSA Internal Audit Unit by target date	NA	Establish PPSA Internal audit unit by 30 September 2014	**Not achieved**. Internal Audit Unit was not established as planned.	Interviews for Senior Manager: Internal Audit were held but suitable candidates could not be found and the Unit could not be established.	The Public Protector South Africa has since decided to continue outsourcing the internal audit function. However, the post of Senior Manager: Internal Audit will be filled in the new financial year.
Implementation of management and staff development programmes by the target date	NA	Implement management and employee development programmes to align behaviour with higher purpose by 31 March 2015.	**Not achieved.** Management and staff development programmes were not implemented fully.	Not all staff and management underwent training and development during the financial year.	Training and development were put on hold from the 3rd quarter of the financial year as part of cost-containment measures.
Implementation of project management training programmes by the specified target date	NA	Project management training programmes for selected employees/ managers conducted by 31 March 2015	**Not achieved.** Project management training was not concluded.	Project management training was not done as planned.	All training and development was put on hold from the 3rd quarter of the year as part of cost-containment measures.
Date for approval and implementation of three-year ICT strategy.	**Achieved.** ICT Strategy approved.	Implement 3-year ICT strategy by 31 March 2015	**Achieved.** The three-year ICT Strategy was implemented as planned.	NA	NA

PROGRAMME 2: INVESTIGATIONS

Programme objective: The aim of the programme is to ensure prompt resolution of all allegations of improper conduct or prejudice in public administration in all spheres of government and to promote good governance in the conduct of all state affairs.

Key performance indicators, planned targets and actual achievements

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Percentage of early resolution complaints resolved within 3 months	**Exceeded.** 59% (8 061) of all ER complaints resolved within three months.	50% of the early resolution complaints resolved within 3 months by 31 March 2015	**Exceeded**. 51% of ER cases finalised within three months.	1% over the target	The organisation prioritised resolution of simple complaints as quickly as possible and resources were channelled towards that priority.
Percentage of early resolution complaints resolved within 4 months	**Not achieved.** 8% (1 134) of complaints resolved in four months.	30% of all early resolution cases resolved within four months by 31 March 2015.	**Not achieved.** 6% of ER cases resolved within four months.	24% deviation from the planned target.	Capacity constraints and the complexity of cases impacted on the ability of the organisation to finalise cases on time.
Percentage of early resolution complaints solved within 6 months	**Not achieved.** 11% (1 459) of complaints resolved in six months.	20% of early resolution cases resolved within six months by 31 March 2015.	**Not achieved.** 8% of ER cases resolved within six months.	12% below the planned target.	Capacity constraints and complexity of cases impacted on the ability of the organisation to finalise cases on time.
Percentage of all other complaints resolved within 6 months	**Not achieved.** 33% (3 668) of complaints resolved within six months.	50% of all other complaints resolved within six months by 31 March 2015.	**Not achieved.** 28% of all other cases resolved within six months.	22% below the planned target.	Complexity of cases coupled with poor cooperation from state organs resulted in delays in the finalisation of investigations.

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Percentage of all other complaints resolved within 7 to 12 months	**Not achieved.** 35% (3 857) of complaints resolved with seven to twelve months.	50% of all other complaints resolved within seven to twelve months by 31 March 2015.	**Not achieved.** 18% of all other cases resolved within seven to twelve months.	32% below the planned target.	Complexity of cases coupled with poor cooperation from state organs resulted in delays in the finalisation of investigations.
Audit of case backlogs conducted by the target date.	NA	Conduct an audit of all backlog cases by 30 June 2014	**Achieved.** Audit of case backlogs completed.	NA	NA
Number of cases carried over from the previous financial years resolved.	NA	All cases carried over from the previous year resolved within the first six months of the financial year.	**Not achieved.** 4 809 cases carried over from the previous year resolved by 30 September 2014.	4 785 cases carried over from the previous year were not resolved.	While effort was made to resolve old cases on time, some case were more complex and it was difficult to resolve them in six months.
Time taken to finalise reviews received during the financial year	**Not achieved.** Reviews not finalised within two months.	Finalise reviews within 2 months after receipt of the request	**Not achieved.** Out of 125 reviews that were finalised, only 23 were finalised within 2 months.	102 cases were finalised outside the standard time of two months.	There was a backlog of review cases and HR constraints impacted on the Public Protector's ability to finalise reviews on time.
Time taken to register new complaints.	NA	New complaints registered and acknowledged within five days of receipt.	**Not achieved.** 11454 complaints were registered and acknowledged within 5 days.	4 164 complaints were not registered and acknowledged within five days.	HR capacity constraints impacted on the Public Protector's ability to register and acknowledge complaints within five days.
Time taken to assess new complaints	NA	New complaints assessed within five days of registration.	**Not achieved.** 13 015 complaints assessed within five days.	2 603 complaints were not assessed within five days.	Communication with complainants to acquire further information led to delays in assessing complaints within five days.

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Date for implementation and resolution of Alternative Dispute Resolution (ADR) procedures and processes.	**Achieved.** ADR procedures were implemented.	Implement and review approved Alternative Dispute Resolution procedures and processes by 31 March 2015.	**Not achieved**. ADR procedures and processes not reviewed. However, the old ADR procedures and processes were implemented.	ADR procedures and processes were not reviewed.	ADR procedures and processes were dependent on approval of Public Protector rules, which did not happen by the end of the financial year because advice was not yet obtained from state law attorneys.
Number of response protocols signed with state organs	**Exceeded.** More than 19 response protocols signed.	Two response protocols signed with organs of state by 31 March 2015 (service delivery and Early Resolution).	**Not achieved.** Response protocols signed per province and branches as follows: ER: 0 SD: 0 EC: 2 FS: 1 GP: 1 KZN: 1 Lim: 1 MP: 5 NC: 2 NW: 5 WC: 1	**Deviation:** ER: 2 SD: 2 FS: 1 GP: 1 KZN: 1 Lim: 1 MP: 3 NW: 3 WC: 1	Provinces/branches that did not achieve the target were hampered by willingness of state organs to sign response protocols. MP and NW exceeded their targets as they identified more organs of state that were willing to sign response protocols.

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Number of workshops held with state organs		2 workshops held with state organs in each province by 31 March 2015.	**Not achieved.** Workshops held as follows: EC: 2 FS: 2 GP: 1 KZN: 1 Lim: 2 MP: 2 NC: 3 NW: 2 WC: 0	**Deviation:** GP: 1 KZN: 1 NC: 1 WC: 2	Workshops not held in GP, KZN and the WC resulted from the fact that those provinces conducted workshops with information sessions, which were reported elsewhere. NC exceeded the target as it identified a need to conduct one more workshop.
Number of systemic administrative deficiencies or interventions relating to service delivery and/or incidents of maladministration or corruption concluded.	**Not achieved.** Systemic investigations +identified but not resolved.	Investigate and conclude all current systemic administrative investigation or intervention relating to service delivery and/or incidents of maladministration or corruption per investigative branch and per province by 31 March 2015 (Service Delivery	**Not achieved.** Not all systemic investigations concluded. The Public Protector concluded only two systemic investigations	21 systemic investigations remained to be concluded.	Poor cooperation from state organs and complexity of investigations impacted on the Public Protector's ability to conclude the investigations before the end of the financial year. The remaining systemic investigations will be prioritised for conclusion in the new financial year.
Investigate and report on cases reported in terms of the Executive Members Ethics Act	**Achieved.** 100% compliance with Executive Members Ethics Act	Investigate and report on cases reported in terms of the Executive Members Ethics Act	**Achieved.** The Public Protector investigated and reported on cases reported in terms of the Executive Members' Ethics Act.	NA	NA

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Number of engagements held with Cabinet.	NA	Hold at least one Cabinet engagement	**Achieved**. Cabinet meeting held in September 2014.	NA	NA
Date for hosting of good governance.	**Achieved**. Good governance week and conference hosted.	Good Governance week hosted and celebrated in all provinces by 31 October 2014	**Achieved**. Good governance week hosted.	NA	NA
Number of quarterly reports (on implementation of remedial action and impact) submitted to the Public Protector.	**Achieved**: Quarterly reports on implementation of remedial action submitted to the Public Protector.	4 quarterly reports on implementation of remedial action and the impact thereof submitted to the Public Protector by 31 March 2015.	**Not achieved.** Only two quarterly reports submitted to the Public Protector.	Two quarterly reports were not submitted.	Responses from state institutions were not received on time.
Number of international bilateral Memoranda of Understanding (MoUs) concluded.	NA	One bilateral MoU signed by 31 March 2015.	Not achieved. Bilateral meetings with international stakeholders held in November but no MoU was signed.	One MoU was not signed.	Discussions on possible MoUs with international stakeholders are still being concluded.
Number of international benchmarking visits	Exceeded. 4 benchmarking visits undertaken during the 2013/14 financial year.	2 international benchmarking visits undertaken by 31 March 2015.	Exceeded. Four international benchmarking visits concluded (USA, Sweden, London and Tanzania).	Two additional benchmarking visits were undertaken (USA and Sweden).	The Public Protector used invitations to international conferences and seminars to also conduct benchmarking visits in the host countries. It was more cost-efficient to do the benchmarking visits that way.

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Number of African Ombudsman and Mediators Association (AOMA) visits.	NA	2 AOMA visits undertaken by 31 March 2015.	**Exceeded**. Three AOMA visits concluded.	One additional AOMA visit concluded.	The additional visit was for an AOMA General Assembly in November 2014.
Participation in ISD forum by target date (Institutions Supporting Democracy)	NA	Participation in ISD Forum by 31 March 2015.	**Achieved**. Public Protector participated in ISD Forum.	NA	NA
Number of engagements held with oversight bodies (Parliament and/or Provincial Legislatures).	NA	2 engagements held with Parliament and/or Provincial Legislatures by 31 March 2015.	**Achieved**. Two engagements held with Parliament.	NA	NA

Strategy to overcome areas of underperformance

Key performance targets that could not be met during the financial year relate to finalisation of complaints within the stipulated time frames in accordance with the Public Protector Strategic Plan. The key reason for non-achievement of the investigative targets was mainly resource constraints, particularly in respect of investigative capacity. The complexity of cases also meant that it took longer to finalise cases and as a result, investigative turnaround times were missed. To deal with these challenges, the Public Protector South Africa has undertaken a structural re-alignment to optimise the use of human resources. Some investigative branches have been re-aligned and there have been changes in management supervisory roles to enhance operational efficiency. This has been done because there has not been a meaningful enhancement of Public Protector South Africa baseline funding, resulting in inadequate funding of the organisational structure. The organisation will also significantly enhance intake and assessment processes and improve referral processes to other state organs.

Changes to planned targets

No in-year changes were made to planned targets and performance indicators

PROGRAMME 3: OUTREACH

Programme objective: The aim of the programme is to ensure that the Public Protector is accessible to all persons and communities.

Key performance indicators, planned targets and actual achievements

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Number of MOPPs conducted per outreach officer in each province per month.	**Not achieved.** Mpumalanga did not achieve the annual target of 192 clinics EC – 192 FS – 214 GP – 196 KZN – 299 Lim – 314 MP – 178 NC - 193 NW -192 WC -193 **Total: 1 971**	8 MOPPs per outreach officer in each province per month **Total: 1 728**	Exceeded. A total of 1 795 MOPPs held by outreach officers across the country. EC – 221 FS – 205 GP – 175 KZN – 149 Lim – 314 MP – 200 NC - 190 NW - 147 WC – 194 **Total: 1 795**	68 more than the planned targets.	Targets were exceeded because resources were channelled towards the use of mobile clinics as an alternative to the establishment of regional offices.

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Number of information sessions conducted per outreach officer in each province per annum (focusing on organs of state).	**Exceeded.** On average the Office had more than 9 information sessions per outreach officer per month (192 out of an annual target of 160) EC – 31 FS – 18 GAU – 21 KZN – 27 LIMP – 28 MPUM – 17 NC – 16 NW - 17 WC -17	8 information sessions per outreach officer in each province by 31 March 2015.	**Not achieved.** 148 information sessions held. EC – 17 FS – 16 GP – 20 KZN – 14 Lim – 31 MP – 16 NC - 16 NW - 10 WC – 8 **Total: 148**	12 information sessions below the target.	Budget constraints and cost-cutting measures impacted negatively on this target.
Number of people reached through outreach, communication and education activities	**Exceeded**. 37 million people reached during the year.	Reach out 10 million persons through outreach, communication and education activities by 31 March 2015	**Exceeded**. 15.9 million people reached through outreach, communication and education activities	5.9 million more than the planned target.	Priority was placed on utilisation of cheaper media platforms such as television, radio, newspapers and social networks to ensure that the Public Protector South Africa reached as many people as possible.
Number of national stakeholder consultations held by the Public Protector in all provinces	**Achieved.** National stakeholder consultation and engagements were held in all provinces and Head Office	1 national stakeholder consultation held by the Public Protector in each province by 31 March 2015	**Not achieved.** Stakeholder consultation held in WC, GP, NW, KZN, MP, LIMP	Three provinces could not hold stakeholder consultations (EC, NC, FS).	The stakeholder consultations in these provinces were put on hold because of funding

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Number of national stakeholder events	**Achieved**. 5 national events hosted in the 2013/14 financial year.	5 national stakeholder events held by 31 March 2015 (targeting rural areas and specifically people not reached before).	**Achieved.** 5 national stakeholder events held.	NA	NA
Number of MoUs signed.	NA	1 MoU signed.	**Achieved**. 1 MoU signed.	NA	NA
Number of media briefings held per annum.	**Exceeded**. Seven media briefings held during the financial year.	4 media briefings held by 31 March 2015.	**Achieved**. 4 media briefings held.	NA	NA
Number of media statements.	NA	4 media statements issued by 31 March 2015.	**Exceeded**. 61 media statements issued.	57 above the annual target.	Media statements are issued as and when the need arises and, therefore, the target of four media statements was exceeded.
Institutionalisation and implementation of the customer service charter by target date	NA	Institutionalisation and implementation of the customer service charter by 31 March 2015	**Achieved**. Customer service charter institutionalised and training on the charter conducted.	NA	NA
Date for conducting stakeholder surveys and implementation of survey recommendations	**Achieved**. Survey conducted.	Implement recommendations of the 2013/14 stakeholder survey by 31 January 2015	**Not achieved.** Recommendations of the stakeholder survey not implemented.	Recommendations of the 2013/14 stakeholder survey were not implemented.	Not all recommendations were implemented. Some will be implemented on an incremental basis in the 2015/16 financial year.

Performance Indicator	Actual Achievement 2013/2014	Planned Target 2014/15	Actual Achievement 2014/15	Deviation from planned target to Actual Achievement for 2014/15	Comment on deviations
Date for the development and implementation of automated electronic customer survey.	**Not achieved.** Electronic customer survey not developed	Implement Automated electronic customer survey by 31 March 2015	**Not achieved.** Automated electronic customer survey not implemented.	Specifications were developed and testing done. However, the survey was not implemented.	SITA will be engaged to facilitate the finalisation of the new website and to upload the relevant survey questionnaire
Date for implementing the recommendation of Customer Service Charter Survey	NA	Implement recommendations of the 2013/14 Customer Service Charter Survey	**Achieved**. Recommendations of the customer service charter survey implemented.	NA	NA

Strategy to overcome areas of underperformance

A lot has been achieved since 2010 in respect of outreach targets. The Public Protector South Africa is well known and this is evidenced by the increasing number of cases that the Public Protector receives on a yearly basis. In the 2014/15 financial year, some of the outreach targets were missed, mainly because of a decision taken by the Public Protector South Africa to scale down on outreach activities. This was driven by the need to contain costs, particularly on travelling, accommodation and promotional activities. In the new financial year, the Public Protector South Africa will continue to implement programmes to ensure physical accessibility to the Public Protector South Africa. This will be done through MOPPs, which are a temporary solution to the challenge of physical accessibility. The vision of the Public Protector is to have footprint in the form of offices in all regions and metros across the country to ensure accessibility to the Public Protector South Africa to all communities in accordance with Section 182 of the Constitution. While the Public Protector South Africa will scale down on outreach programmes, going forward emphasis will be placed on resolving complaints at the point of contact. This implies a slight revision of the Public Protector South Africa's outreach and stakeholder management programme.

PUBLIC PROTECTOR SOUTH AFRICA
Accountability • Integrity • Responsiveness

Changes to planned targets
There were no in-year changes to the strategic objectives, targets and performance indicators.

Table 3: 2014/15 budget and expenditure

Summary	Budget 2014/15	Expenditure 2014/15	Variance	% Spent
Programme 1	77 658 000	68 095 503	9 562 497	88%
Programme 2	134 003 000	139 491 861	-5 488 861	104%
Programme 3	6 497 000	5 567 878	929 122	86%
Total	**218 158 000**	**213 155 242**	**5 002 759**	**98%**
Economic Classification	**Budget**	**Expenditure**	**Variance**	**% Spent**
Compensation of employees	159 050 000	158 819 932	230 068	100%
Goods and services	49 634 000	46 934 712	2 699 288	95%
Finance Cost	824 000	481 923	342 077	58%
Depreciation	3 500 000	6 918 674	-3 418 674	198%
CAPEX	5 150 000	1 456 459	3 693 541	28%
Total	**218 158 000**	**214 611 701**	**3 546 300**	**98%**
Programme 1	**Budget**	**Expenditure**	**Variance**	**% Spent**
Compensation of employees	36 440 000	29 106 257	7 333 743	80%
Goods and services	31 744 000	31 588 648	155 352	100%
Finance Cost	824 000	481 923	342 077	58%
Depreciation	3 500 000	6 918 674	-3 418 674	198%
CAPEX	5 150 000		5 150 000	0%
Total	**77 658 000**	**68 095 503**	**9 562 497**	**88%**
Programme 2	**Budget**	**Expenditure**	**Variance**	**% Spent**
Compensation of employees	118 686 000	126 312 862	-7 626 862	106%
Goods and services	15 317 000	13 178 999	2 138 001	86%
Total	134 003 000	139 491 861	-5 488 861	104%
Programme 3	**Budget**	**Expenditure**	**Variance**	**% Spent**
Compensation of employees	3 924 000	3 400 813	523 187	87%
Goods and services	2 573 000	2 167 065	405 935	84%
Total	**6 497 000**	**5 567 878**	**929 122**	**86%**

PART C:
GOVERNANCE


Supporting and Strengthening Constitutional Democracy
20
YEARS
20 Years of

1. INTRODUCTION

The Public Protector South Africa has the following Governance Structures:

EXCECUTIVE COMMITTEE

A committee consisting of the Public Protector, Deputy Public Protector and CEO that sits at least once a quarter to assist the Public Protector in organisational performance monitoring, review and decision advice.

Adv. Thuli Madonsela
Public Protector

Adv. Kevin Malunga
Deputy Public Protector

Maria du Toit
Chief Executive Officer

MANAGEMENT COMMITTEE

A committee, chaired by the CEO, referred to as the Management Committee, comprising all heads of Public Protector South Africa core operations and corporate services. The Committee sits quarterly, reports on the performance of each sub-programme and recommends remedial action (if any) to the Executive Committee.

AUDIT COMMITTEE

An independent external audit committee appointed in terms of the provisions of the PFMA.

RISK MANAGEMENT COMMITTEE

A Committee responsible for monitoring the management of risk within the Public Protector South Africa. It is also responsible for ensuring that action plans in accordance with the Risk Register are effectively implemented. The Committee reports directly to the CEO as the Accounting Officer.

THINK TANK COMMITTEE

A peer review mechanism referred to as the Think Tank Committee comprising all leaders of investigation teams that sits quarterly to assist the Public Protector in reviewing cases, mainly reports, before they are finalised. Mini Think Tank Committees within investigation teams have now been established to ensure effectiveness and efficiency.

PUBLIC PROTECTOR GOVERNANCE AND ADVISORY COMMITTEE

The Committee is responsible for advising the Public Protector on governance and strategic matters.

2. PORTFOLIO COMMITTEE

The Public Protector is accountable to the National Assembly through the Portfolio Committee on Justice and Correctional Services. In the previous financial year, the Public Protector met twice with the Portfolio Committee to present the 2013/14 Strategic Plan and Budget and the 2012/13 Annual Report.

3. EXECUTIVE AUTHORITY

The Public Protector is the Executive Authority in terms of the Public Protector Act. In performing her duties effectively and efficiently, the Public Protector is assisted by the Deputy Public Protector, to whom several responsibilities and powers have been delegated in terms of Section 2A(6) and (7) of the Act.

The Public Protector is the Executive Authority in terms of the PFMA. Quarterly performance reports are submitted in all EXCO meetings chaired by the Public Protector.

4. RISK MANAGEMENT

The Public Protector South Africa conducts regular risk assessments and the Risk Management Committee convenes on a quarterly basis to assess progress against the Risk Management Plan and to update the Risk Register. New and emerging risks are identified and action plans are developed and included in the Risk Register for monitoring and implementation. The Risk Management Committee reports directly to the CEO on progress against the Risk Management Plan and mitigation of unacceptable risks. While there has been progress in mitigating certain risks, there are still challenges in implementing some mitigation plans, mainly because of HR constraints. The organisation is in the process of filling the position of a Chief Risk Officer. It is envisaged that this will assist with the overall management of risk and in institutionalising a risk management culture across the Public Protector South Africa.

The Audit Committee oversees the effectiveness of overall risk management processes within the Public Protector South Africa.

5. INTERNAL AUDIT AND AUDIT COMMITTEE

The tabled below discloses relevant information on the audit committee members:

Name	Qualifications	Internal or external	If internal, position in the public entity	Date appointed	Date Resigned	No. of Meetings attended
Ms Pumla Mzizi (Chairperson)	B.Bus.SC Finance; Hons; B.Compt. Hons CTA; B.Com. Hons in Transport Economics CA (SA)	External	N/A	5 May 2014	N/A	4
Mr Robin Theunissen	CA (SA); B.Acc. Diploma in Criminal Justice and Forensic Auditing	External	N/A	5 May 2014	N/A	4
Mr Alpheus Mashego	B.Com.; B.Com. Hons; LLB; LLM; Diploma State Finance and Auditing	External	N/A	5 May 2014	N/A	4

6. COMPLIANCE WITH LAWS AND REGULATIONS

A compliance checklist has been developed as tool to monitor compliance with applicable laws and regulations regularly. The checklist is updated on a quarterly basis. In addition, a compliance function was established in June 2014 to drive and regularly monitor compliance with all laws and regulations.

The Public Protector put the following Committees in place to ensure and monitor compliance with applicable laws and regulations:

- Employment Equity Committee
- Skills Development and Training Committee
- Gender Equality Committee
- Risk Management Committee
- Occupational Health and Safety Committee
- Labour Relations Consultative Forum
- Executive Committee
- Audit Committee
- Management Committee
- Internal Audit

7. FRAUD AND CORRUPTION

Fraud and corruption are reported through the national anti-corruption hotline (0800 701 701), which has been communicated to all staff, including new employees. There were no reported fraud and corruption cases during year under review.

8. MINIMISING CONFLICT OF INTEREST

There is a Code of Conduct for all Public Protector South Africa employees and staff are required to sign the declaration of business interest forms at the beginning of a financial year. There is also a register at the Supply Chain Division (SCM) for declaring interests during all procurement processes. In addition, there is a declaration form (SBD4) prescribed by Treasury that all service providers are compelled to complete and sign with each transaction made. There is a declaration form (SBD8) where bidders declares their own past SCM practices. A form has been prescribed by Treasury (SBD 9) where bidders declare whether or not they have registered or submitted proposals from more than one company.

The following process is followed where a conflict of interest has been identified:

- The organisation will engage either the staff member and or the service provider with the involvement of both SCM and HR.
- The Audi Alterum Partmen rule is applied to afford the staff member and/or the service provider an opportunity to respond. After an investigation into the matter has been launched, the outcome must be presented to the Accounting Officer for necessary sanctions.
- If the matter cannot be finalised through internal processes the State Attorney will be involved or the matter can be settled through a court of law. In the case of a service provider, the matter must be reported to National Treasury for possible blacklisting or listing on the register of defaulters.

9. CODE OF CONDUCT

All Public Protector South Africa employees have signed a Conduct of Conduct that is enforceable. Breaches of conduct attract disciplinary action.

Nature of the Code of Conduct/ethics and the effect on the Public Protector South Africa

The Code of Conduct exists to provide direction to employees with regard to their relationship with the legislature, political and executive office-bearers, other employees and the public and to indicate the spirit in which employees should perform their duties. The Code of Conduct is communicated to all staff and every employee is required to sign it.

Process followed in cases where there is a breach of the Code of Conduct

- The employee is given a notice of intention to proceed with disciplinary action.
- The employee is given an opportunity to respond to the notice.
- If the employee accepts/concedes to have breached the Code of Conduct, appropriate sanctions are instituted.

10. HEALTH, SAFETY AND ENVIRONMENTAL ISSUES

No health and safety concerns were raised during the 2014/15 financial year.

All Public Protector South Africa offices have representatives for health and safety and meetings are held on a quarterly basis. Provinces also report on a monthly basis in compliance with the Occupational Health and Safety (OHS) Strategy and requirements of the Occupational Health and Safety Act 85 of 1993.

The following has been implemented to ensure safety in Public Protector South Africa offices:

- All OHS representatives have been trained in evacuation procedures.
- All first aid representatives have received training.
- All offices have first aid boxes.
- An evacuation policy and procedures have been implemented in all offices.

11. COMPANY/BOARD SECRETARY

Not applicable.

12. SOCIAL RESPONSIBILITY

None.

AUDIT COMMITTEE REPORT

We are pleased to present our Report for the financial year ended 31 March 2015.

Audit Committee members and attendance

The Audit Committee consists of the members listed below and should meet at least four times per annum in accordance with its approved Terms of Reference. During the current year, the Audit Committee held 4 meetings.

Name	Role	Scheduled Meetings		Special Meetings	
		Held	Attended	Held	Attended
Ms P. Mzizi	Chairperson	3	3	1	1
Mr R. Theunissen	External Member	3	3	1	1
Mr A. Mashego	External Member	3	3	1	1

Audit Committee Responsibility

The Audit Committee reports that it has complied with its responsibilities arising from Section 38(1)(a)(ii) of the PFMA and Treasury Regulation 3.1. The Audit Committee also reports that it has adopted appropriate formal Terms of Reference as its Audit Committee Charter, has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

The effectiveness of internal control

In line with the PFMA, internal audit provides the Audit Committee and management with assurance that the internal controls are appropriate and effective. This is usually achieved by means of the identification of corrective actions and suggested enhancements to the internal control processes and risk management. From the various reports of the internal auditors and management and audit reports of the Auditor-General South Africa, it was noted that matters were reported indicating deficiencies in the system of internal controls in areas pertaining to financial reporting, reporting on pre-determined objectives and compliance with laws and regulations. Through our analysis of audit reports and engagement with the Public Protector South Africa, the Audit Committee reports that the system on internal control for the period under review was not adequate and effective.

Based on the quarterly reviews performed, the fraud and risk management system is not adequate and effective. The Audit Committee remains concerned about the uncertainty relating to inadequate funding of the Public Protector South Africa.

Evaluation of Financial Statements

The Audit Committee has:

- reviewed and discussed the external audit outcomes on the audited financial statements to be included in the Annual Report;
- reviewed the Auditor-General South Africa's management report and management's response thereto;
- reviewed changes in accounting policies and practices;
- reviewed the Department's compliance with legal and regulatory provisions; and
- reviewed significant adjustments resulting from the audit.

Evaluation of reporting on pre-determined objectives

The Audit Committee has, to the extent possible:

- reviewed and discussed the external audit outcomes on the reporting on pre-determined objectives to be included in the Annual Report;
- reviewed compliance with National Treasury guidelines in the preparation of the Annual Report; and
- reviewed significant adjustments resulting from the audit.

Internal audit

The Audit Committee is concerned about the fact that there was no internal audit function for nine months during the year under review. The Audit Committee also notes that the deficiencies in risk management mentioned above will impact on the adequate implementation of the risk-based audit approach.

Auditor-General South Africa

The Audit Committee has reviewed the Public Protector South Africa's implementation plan for audit issues raised in the previous year and is not satisfied that the matters have been resolved adequately.

The Audit Committee has met with the Auditor-General South Africa and is not aware of any unresolved issues with respect to the recently completed audit.

The Audit Committee concurs with the conclusions of the Auditor-General South Africa on the Annual Financial Statements.

General

The Audit Committee strongly recommends that the Public Protector South Africa prioritises the adequate and effective implementation and frequent monitoring of the audit action plans for both internal and external audit in order to achieve the required effectiveness in governance, accountability and clean administration.

Signed on behalf of the Audit Committee by:

Ms P Mzizi CA (SA)
Chairperson of the Audit Committee
Date: 31 July 2015

PART D:
HUMAN RESOURCE MANAGEMENT


Supporting and Strengthening Constitutional Democracy
20
YEARS
20 Years of

1. INTRODUCTION

1.1 Overview of HR Matters

The HR function provides an integrated and comprehensive HR service covering employment equity, a workplace skills plan; a training plan; employee wellness programmes; HR planning; organisational development; recruitment and selection processes; and HR administration. The HR Plan of the Public Protector South Africa is aligned with the Corporate Strategy. The Plan provides details on how the HR function supports the goals and strategies of the organisation, ensuring that HR planning and practices are consistent across the organisation. It also outlines how the gaps between future and present capacity will be addressed.

HR PRIORITIES FOR THE YEAR UNDER REVIEW

1. Review and approval of HR policies.
2. Review and finalisation of a Performance Management Development System.
3. Implementation of the HR Development Plan.
4. Rolling-out and implementation of the Strategic Alignment Project covering change management and team-building initiatives.
5. Instilling the values of the organisation in employee behaviour.

WORKFORCE PLANNING FRAMEWORK AND KEY STRATEGIES TO ATTRACT AND RECRUIT A SKILLED AND CAPABLE WORKFORCE

1. Human capital sourcing and retention strategies in place to ensure attraction and retention of staff.
2. Recruitment strategy for people with disability in place to attract and retain people with disability
3. Employment Equity Plan in place to ensure compliance with the Employment Equity Act 55 of 1998.
4. A targeted recruitment and selection drive to attract high calibre, competent and skilled staff in place.
5. Competency assessments conducted for managerial and strategic positions.
6. Recruitment monitored and reported on a monthly and quarterly basis.

EMPLOYEE PERFORMANCE MANAGEMENT FRAMEWORK

1. A Performance Management Development System Policy in place to manage the performance of employees through a results-driven approach, enabling the Public Protector South Africa to fulfil its constitutional mandate by encouraging behaviour aligned with and giving effect to its reason for existence.
2. Enabling the Public Protector South Africa to ensure the execution of its strategy by aligning organisational and individual performance objectives to its vision and mission.
3. Enabling the Public Protector South Africa to promote effective organisational and individual performance by identifying the performance measures that leverage its value creation processes.
4. Enabling the Public Protector South Africa to maximise leader, team and employee contribution towards the achievement of its strategic objectives.

EMPLOYEE WELLNESS PROGRAMMES

1. Employee wellness programmes in place to improve the health and wellbeing of employees through health education and activities that will support positive lifestyle changes, thereby resulting in improved employee productivity and reducing health-care costs.
2. An HIV and AIDS policy, incorporating the disease management programme, in place that ensures prevention of unfair discrimination and prejudice against HIV-positive employees.
3. The disease management programme constitutes a preventative and curative intervention to reduce health-care costs and improve the quality of life of individuals with chronic disease conditions by preventing or minimising the effects of a disease.

POLICY DEVELOPMENT

The Public Protector South Africa initiated review of its HR policies in the financial year 2012/13 and it is envisaged that the process will be completed in June 2015.

HIGHLIGHTS/ACHIEVEMENTS

1. Long Service and Trainee Learner Investigator were reviewed and approved.
2. A policy on voluntary workers was developed and approved to afford both graduates and undergraduates an opportunity of gaining work-related experience.
3. The Workplace Bargaining Forum is functional and contributing to a healthy employer/employee relationship.
4. The critical positions of CEO and CFO were filled with effect from 01 March 2015.
5. An Employment Equity Report was submitted to the Department of Labour.
6. A revised training plan was approved and implemented.
7. A revised organisational structure was approved and is being implemented.
8. 90% of all approved and funded vacancies was filled.
9. The organisational values were reviewed and approved and Intake Assessment and Customer Service held workshops with all staff.

CHALLENGES FACED BY THE PUBLIC PROTECTOR SOUTH AFRICA

1. Absence of an organisational culture common to all in the Public Protector South Africa.
2. High staff turnover leading to instability in respect of the achievement of goals.
3. The need for improvement concerning a customer-focused culture, work ethic and a performance culture.
4. Inability to plan and allocate human resources to align with the core business and the strategic objectives of the Public Protector South Africa as a result of budget constraints.
5. An insufficient HR budget and inability to address the over-arching budgetary constraints in support of HR activities and strategic objectives.
6. Insufficient/inadequate employee engagement.
7. Employment of people with disabilities and women in Senior Management positions because such persons cannot be attracted, let alone retained, for service in the Public Protector South Africa.
8. Inability to implement incentive and career progression schemes because of a lack of funding.

FUTURE HR PLANS /GOALS

The future HR plans/goals are informed by the strategic plan of 2015 to 2017 and are as follows:

1. Continuously improve governance controls and strengthen compliance monitoring.
2. Re-engineer performance management systems to align with organisational values and desired outcomes, and improve on staff accountability.
3. Recruit, develop and retain the best human resources.
4. Strengthen leadership and team building in pursuit of higher purpose.
5. Ensure harmonious employer/employee relations through meaningful engagements with labour unions.
6. Review HR policies and procedures and educate staff to improve compliance with both policies and legislation.

1.2 HR Oversight Statistics

Table 4: Personnel cost by programme/activity/objective

Programme/ activity/objective	Total Expenditure for the entity	Personnel Expenditure	Personnel exp. as a % of total exp.	No. of employees	Average personnel cost per employee
Administration	68 095 282	29 106 257	43%	48	606 380.35
Investigations	139 491 861	126 312 862	91%	231	546 808.93
Outreach and Media Relations	5 567 878	3 400 813	61%	25	136 032.52

Table 5: Personnel costs by salary band

Level	Personnel Expenditure	% of personnel exp. to total personnel cost	No. of employees	Average personnel cost per employee
Top Management	10 234 711	6.4%	3	3 411 570.33
Senior Management	26 280 998	16.55%	22	1 194 590.82
Professional qualified	50 722 009	31.94%	173	29 3190.80
Skilled	71 582 214	45.07%	106	6 75303.91
Semi-skilled	N/A	N/A	N/A	N/A
Unskilled	N/A	N/A	N/A	N/A
TOTAL	**158 819 932**	**100%**	**304**	**5 574 655.86**

The total number of employees excludes trainee leaner investigators, interns and temporary staff.

Table 6: Performance rewards: NOT YET FINALISED

Programme//activity/ objective	Performance rewards	Personnel Expenditure	% of performance rewards to total personnel cost
Top Management	Not yet implemented		
Senior Management	Not yet implemented		
Professional qualified	Not yet implemented		
Skilled	Not yet implemented		
TOTAL			

Table 7: Training costs

Programme//activity/objective	Personnel Expenditure (R'000)	Training Expenditure (R'000)	Training Expenditure as a % of Personnel Cost.	No. of employees trained	Avg training cost per employee
Administration	29 106 257	457 850	1.6%	19	24 097
Investigations	126 312 862	81 000	0.1%	157	516
Outreach and Media Relations	3 400 813	-	00	18	00

The table above reflects training expenditure from 01 April 2014 to 31 March 2015, and includes the training of trainee/learner investigators and interns.

Table 8: Employment and vacancies

Programme/activity/objective	2013/2014 No. of Employees	2014/2015 Approved Posts	2014/2015 No. of Employees	2014/2015 Vacancies	% of vacancies
Administration	34	59	48	11	19%
Investigations	241	243	231	12	5%
Outreach and Media Relations	74	27	25	2	7.6%
Total	**349**	**329**	**304**	**25**	**7.6%**

Programme/activity/objective	2013/2014 No. of Employees	2014/2015 Approved Posts	2014/2015 No. of Employees	2014/2015 Vacancies	% of vacancies
Top Management	3	3	3	0	0
Senior Management	28	29	23	6	20.6%
Professional qualified	175	186	173	13	6.99%
Skilled	108	111	105	6	5.41%
Semi-skilled	0	0	0	0	0
Unskilled	0	0	0	0	0
TOTAL	**314**	**329**	**304**	**25**	**92%**

Table 9: Employment changes

Salary Band	Employment at beginning of period	Appointments	Terminations	Employment at end of the period
Top Management	3	1	1	3
Senior Management	29	1	5	22
Professional qualified	175	7	9	173
Skilled	107	5	6	106
Semi-skilled	0	0	0	0
Unskilled	0	0	0	0
Total	**314**	**14**	**21**	**304**

Table 10: Reasons for staff leaving

Reason	Number	% of total no. of staff leaving
Death	0	0%
Resignation	20	96%
Dismissal	0	0%
Retirement	0	0%
Ill health	0	0%
Expiry of contract	1	4%
Other	0	0%
Total	**21**	**100%**

Explanations: Most staff leave for better prospects elsewhere. This links up with the need for a changed environment that will support normal staff attrition.

Table 11: Labour relations: misconduct and disciplinary action

Nature of disciplinary Action	Number
Verbal Warning	
Written Warning	2
Final Written warning	2
Dismissal	

Table 12: Equity targets and employment equity status

Levels	MALE							
	African		Coloured		Indian		White	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	1	1	0	0	0	0	0	0
Senior Management	11	15	0	1	0	1	2	3
Professional qualified	87	90	5	7	4	5	4	6
Skilled	27	30	1	2	0	2	0	2
Semi-skilled	0	0	0	0	0	0	0	0
Unskilled	0	0	0	0	0	0	0	0
TOTAL	**126**	**136**	**6**	**10**	**4**	**8**	**6**	**11**

Levels	FEMALE							
	African		Coloured		Indian		White	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	2	2	0	0	0	0	0	0
Senior Management	7	13	0	1	0	1	2	2
Professional qualified	53	60	9	9	4	6	7	4
Skilled	61	65	8	9	3	6	6	6
Semi-skilled	0	0	0	0	0	0	0	0
Unskilled	0	0	0	0	0	0	0	0
TOTAL	**123**	**140**	**17**	**19**	**7**	**13**	**15**	**12**

Levels	Disabled Staff			
	Male		Female	
	Current	Target	Current	Target
Top Management	0	0	0	0
Senior Management	0	0	0	1
Professional qualified	2	2	0	0
Skilled	1	2	1	1
Semi-skilled	0	0	0	0
Unskilled	0	0	0	0

PUBLIC PROTECTOR SOUTH AFRICA
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Adv. Stoffel Fourie
Executive Manager
Governance & Integrity

Momelezi Kula
Executive Manager
Outreach & Education

Reginald Ndou
Executive Manager
Service Delivery

Kennedy Kaposa
Chief Financial
Officer

Abongile Madiba
Chief Investigator
Governance & Integrity

Ponatshego Mogaladi
Executive Manager
Early Resolution

Stshepo Mokwena
Acting Senior Manager
Human Resources

Sechele Keebine
Provincial Representative
North West

Lesedi Sekele
Senior Manager
Intake & Assessment

Sello Mothupi
Senior Manager
Provincial Liaison

Kgalalelo Masibi
Spokesperson
Communications

Avril Ackers
Acting Senior Manager
Executive Support

Zoleka Mntumtum
Senior Manager
Facilities Management

Ignatius Makgoka
Acting Senior Manager
Information Technology

Adv. Elasbe De Waal
Chief Investigator
Service Delivery

Winnie Manyathela
Provincial Rep.
Gauteng

Mlungisi Khanya
Acting Provincial Rep.
Northern Cape

Adv. Johann Raubenheimer
Chief Investigator
Early Resolution

Stanley Mhinga
Acting Provincial Rep.
Limpopo

Adv. Mlandeli Nkosi
Provincial Rep.
KwaZulu-Natal

Hamilton Samuel
Provincial Rep.
Free State

Sune Griessel
Provincial Rep.
Western Cape

Adv. Nomsa Mthwakazi
Provincial Rep.
Eastern Cape

Botormia Sithole
Provincial Rep.
Mpumalanga

Adv. Nkebe Kanyane
Chief Investigator
Governance & Integrity

Lucas Zepe
Senior Manager
Strategic Support

PART E:
FINANCIAL INFORMATION


Supporting and Strengthening Constitutional Democracy
20
YEARS
20 Years of

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REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT OF THE PUBLIC PROTECTOR SOUTH AFRICA

Report on the Financial Statements

INTRODUCTION

1. I have audited the financial statements of the Public Protector South Africa set out on pages … to …, which comprise the statement of financial position as at 31 March 2015, the statement of financial performance, statement of changes in net assets, cash flow statement and the statement of comparison of budget information with actual information for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

ACCOUNTING OFFICER'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

AUDITOR-GENERAL'S RESPONSIBILITY

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. Those standards require that I comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

OPINION

6. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Public Protector South Africa as at 31 March 2015 and its financial performance and cash flows for the year then ended, in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No.1 of 1999) (PFMA).

EMPHASIS OF MATTER

7. I draw attention to the matter below. My opinion is not modified in respect of this matter.

FUNDING OF OPERATIONS

8. Note 28 to the financial statements indicates that the Public Protector South Africa has an accumulated deficit of R 18 325 190 for the period ended 31 March 2015 and, as of that date, the constitutional institution's current liabilities exceeded its total assets by R10 407 109. These conditions as set forth in note 28 indicate the existence of a material uncertainty that may cast significant doubt on the constitutional institution's ability to discharge its liabilities in the normal course of business.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

9. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report, non-compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

PREDETERMINED OBJECTIVES

10. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programme presented in the annual performance report of the public entity for the year ended 31 March 2015:

    - **Programme 2:** Investigations on pages 58 to 63

11. I evaluated the reported performance information against the overall criteria of usefulness and reliability.

12. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programmes. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's Framework for managing programme performance information (FMPPI).

13. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

14. I did not identify any material findings on the usefulness and reliability of the reported performance information for the following programme:

    - **Programme 2:** Investigations

ADDITIONAL MATTERS

15. Although I identified no material findings on the usefulness and reliability of the reported performance information for the selected programme, I draw attention to the following matters:

ACHIEVEMENT OF PLANNED TARGETS

16. Refer to the annual performance report on [page(s) 54 to 67 and 53 to 53] for information on the achievement of the planned targets for the year.

ADJUSTMENT OF MATERIAL MISSTATEMENTS

17. I identified material misstatements in the annual performance report submitted for auditing on the reported performance information for programme 2: Investigations. As management subsequently corrected the misstatements, I did not identify any material findings on the usefulness and reliability of the reported performance information.

COMPLIANCE WITH LEGISLATION

18. I performed procedures to obtain evidence that the public entity had complied with applicable legislation regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA, are as follows:

ANNUAL FINANCIAL STATEMENTS AND ANNUAL REPORT

19. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework as required by section 40(1) (b) of the Public Finance Management Act. Material misstatements of current liabilities and disclosure items identified by the auditors in the submitted financial statement were subsequently corrected, resulting in the financial statements receiving an unqualified audit opinion.

20. The 2014 annual report was not submitted to Parliament, within one month after receipt of the audit report, as required by section 40(1)(e) of the Public Finance Management Act.

INTERNAL AUDIT

21. The accounting officer did not ensure that the internal audit function was established for the entire financial year, as required by section 38(1)(a)(i) of the Public Finance Management Act and Treasury Regulations 3.2.2, 3.2.3 and 3.2.4.

EXPENDITURE MANAGEMENT

22. Contractual obligations and money owed by the constitutional institution were not settled within 30 days or an agreed period, as required by section 38(1) (f) of the Public Finance Management Act and Treasury Regulation 8.2.3.

INTERNAL CONTROL

23. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the findings on non-compliance with legislation included in this report.

LEADERSHIP

24. Although an action plan was developed to address external audit findings, adherence to the plan was not adequately monitored by management to prevent non-compliance with legislation.

FINANCIAL AND PERFORMANCE MANAGEMENT

25. Non-compliance with legislation could have been prevented had compliance been properly reviewed and monitored by management.

26. The financial statements and the annual performance report contained material misstatements that were corrected. This was due to lack of supervision and review.

GOVERNANCE

27. The accounting officer did not ensure that there was an adequately resourced and functioning internal audit unit that identifies internal control deficiencies and recommends corrective action effectively.

Pretoria
31 July 2015

AUDITOR-GENERAL
SOUTH AFRICA

Auditor - General

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ANNUAL FINANCIAL STATEMENTS

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Statement of Financial Position as at 31 March 2015

Figures in Rand	Note(s)	2015	2014 **Restated***
Assets			
Current Assets			
Receivables from exchange transactions	3	445 588	205 454
Cash and cash equivalents	4	5 034 514	185 591
		5 480 102	**391 045**
Non Current Assets			
Property, plant and equipment	5	15 134 922	20 132 376
Intangible assets	6	834 253	1 023 079
		15 969 175	21 155 455
Total Assets		**21 449 277**	**21 546 500**
Liabilities			
Current Liabilities			
Finance lease obligation	7	1 410 840	1 376 660
Payables from exchange transactions	8	18 831 078	26 062 943
Provisions	9	11 614 468	11 726 326
		31 856 386	**39 165 929**
Non Current Liabilities			
Finance lease obligation	7	2 059 662	3 297 324
Provisions	9	5 858 419	5 078 719
		7 918 081	**8 376 043**
Total Liabilities		**39 774 467**	**47 541 972**
Net Assets		**(18 325 190)**	**(25 995 472)**
Accumulated deficit		(18 325 190)	(25 995 472)

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Statement of Financial Position as at 31 March 2015

Figures in Rand	Note(s)	2015	2014
Revenue from non exchange transactions			
Government transfers	10	217 584 000	199 253 000
Revenue from exchange transactions			
Finance Income	11	640 442	587 627
Other income	12	546 065	215 081
Total revenue		**218 770 507**	**200 055 708**
Expenditure			
Staff Costs	13	(155 754 684)	(149 638 493)
Depreciation and amortisation	14	(6 539 952)	(5 789 796)
Finance costs	15	(549 027)	(589 424)
Other operating expenses	16	(15 596 749)	(18 050 113)
Loss on disposal of assets	17	(278 967)	(54 738)
Administrative expenses	18	(32 380 845)	(46 199 628)
Total expenditure		**(211 100 224)**	**(220 322 192)**
Operating surplus (deficit)		**7 670 283**	**(20 266 484)**
Surplus (deficit) for the year		**7 670 283**	**(20 266 484)**

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Statement of Changes in Net Assets

Figures in Rand	Accumulated deficit	Total net assets
Opening balance as previously reported	(5 683 174)	(5 683 174)
Adjustments		
Correction of errors (Note 20)	(45 815)	(45 815)
Balance at 01 April 2013 as restated*	**(5 728 989)**	**(5 728 989)**
Changes in net assets		
Deficit for the year	(20 266 483)	(20 266 483)
Total changes	(20 266 483)	(20 266 483)
Opening balance as previously reported	(26 179 491)	(26 179 491)
Adjustments		
Correction of errors (Note 20)	184 016	184 016
Restated* Balance at 01 April 2014 as restated*	**(25 995 475)**	**(25 995 475)**
Changes in net assets		
Surplus for the year	7 670 285	7 670 285
Total changes	7 670 285	7 670 285
Balance at 31 March 2015	**(18 325 190)**	**(18 325 190)**

Note(s)

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Cash Flow Statement

Figures in Rand	Note(s)	2015	2014 Restated*
Cash flows from operating activities			
Receipts			
Grants		217 584 000	199 253 000
Interest income		640 442	587 627
Other receipts		305 930	681 001
		218 530 372	**200 521 628**
Payments			
Employee costs		(157 577 798)	(141 584 195)
Suppliers		(37 121 754)	(45 286 405)
Finance costs		(549 027)	(589 424)
Other operating expense payments		(15 596 747)	(18 050 113)
		(210 845 326)	(205 510 137)
Net cash flows from operating activities	19	**7 685 046**	**(4 988 509)**
Cash flows from investing activities			
Purchase of property, plant and equipment	5	(1 456 459)	(7 234 940)
Proceeds from sale of property, plant and equipment	5	27 200	-
Purchase of other intangible assets	6	-	(1 009 351)
Net cash flows from investing activities		**(1 429 259)**	**(8 244 291)**
Cash flows from financing activities			
Finance lease payments		(1 406 864)	(1 111 948)
Net increase/(decrease) in cash and cash equivalents		**4 848 923**	**(14 344 748)**
Cash and cash equivalents at the beginning of the year		185 591	14 530 339
Cash and cash equivalents at the end of the year	4	**5 034 514**	**185 591**

Statement of Comparison of Budget and Actual Amounts

Budget on Cash Basis

Figures in Rand	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Note
Statement of Financial Performance						
Revenue						
Revenue from exchange transactions						
Other income	118 000	-	118 000	546 065	428 065	
Finance Income	456 000	-	456 000	640 442	184 442	
Total revenue from exchange transactions	**574 000**	**-**	**574 000**	**1 186 507**	**612 507**	
Revenue from non exchange transactions						
Transfer revenue						
Government grants & subsidies	217 584 000	-	217 584 000	217 584 000	-	
Total revenue	**218 158 000**	**-**	**218 158 000**	**218 770 507**	**612 507**	
Expenditure						
Personnel costs	(155 500 000)	(3 550 000)	(159 050 000)	(157 577 798)	1 472 202	32
Finance costs	(824 000)	-	(824 000)	(549 027)	274 973	
Goods and Services	(53 184 000)	3 550 000	(49 634 000)	(54 125 367)	(4 491 367)	32
Total expenditure	**(209 508 000)**	**-**	**(209 508 000)**	**(212 252 192)**	**(2 744 192)**	
Operating surplus	**8 650 000**	**-**	**8 650 000**	**6 518 315**	**(2 131 685)**	
Fixed and intangible assets	(8 650 000)	-	(8 650 000)	(1 456 459)	7 193 541	32

Statement of Comparison of Budget and Actual Amounts

Surplus for the period	-	-	-	**5 061 856**	**5 061 856**
Actual Amount on Comparable Basis as Presented in the Budget and Actual Comparative Statement	-	-	-	**5 061 856**	**5 061 856**

Reconciliation	
Provisions Movement	(667 842)
Depreciation and amortisation	(6 539 951)
Accruals Movement	7 231 863
Fixed and intangible assets	1 456 460
Finance lease repayments	1 406 864
Loss on disposal of assets	(278 967)
Actual Amount in the Statement of Financial Performance	**7 670 283**

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Accounting Policies

1. Presentation of Annual Financial Statements

The following are the principal accounting policies of Public Protector South Africa, which are in all material respects, consistent with those applied in the previous year.

The annual financial statements have been prepared in accordance with the Standards of Generally Recognised Accounting Practice (GRAP), issued by the Accounting Standards Board in accordance with section 91(1) of the Public Finance Management Act (Act 1 of 1999).

These annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention as the basis of measurement, unless specified otherwise. Management has, where appropriate used estimates and assessments in preparing the annual financial statements.

Assets, liabilities, revenues and expenses were not offset, except where offsetting is either required or permitted by a Standard of GRAP.

1.1 PRESENTATION CURRENCY

These annual financial statements are presented in South African Rand, which is the functional currency of the constitutional institution. The figures have been rounded off to the nearest one rand.

1.2 GOING CONCERN ASSUMPTION

These annual financial statements have been prepared based on the expectation that the constitutional institution will continue to operate as a going concern for at least the next 12 months.

1.3 PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment are tangible non current assets (including infrastructure assets) that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes, and are expected to be used during more than one period.

The cost of an item of property, plant and equipment is recognised as an asset when:

- it is probable that future economic benefits or service potential associated with the item will flow to the constitutional institution; and
- the cost of the item can be measured reliably.

Property, plant and equipment is initially measured at cost.

The cost of an item of property, plant and equipment is the purchase price and other costs attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by management. Trade discounts and rebates are deducted in arriving at the cost.

Maintenance and repairs, which neither materially add to the value of assets nor appreciably prolong their useful lives, are expensed during the financial year in which they are incurred.

Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses.

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Property, plant and equipment are depreciated on the straight line basis over their expected useful lives to their estimated residual value, from the date available for use.

The useful lives of items of property, plant and equipment have been assessed as follows:

Item	Estimated useful life
Furniture and fixtures	5 - 16 years
Motor vehicles • Owned vehicles • Leased vehicles	 5 years Over the lease term
Office equipment • Owned office equipment • Leased office equipment	 5 - 8 years Over the lease term
Computer equipment	4 - 8 years

Assets held under finance leases are depreciated over their expected useful lives on the same basis as owned assets or, where shorter, the term of the relevant lease

The residual value, and the useful life and depreciation method of each asset are reviewed at the end of each financial year. If the expectations differ from previous estimates, the change is accounted for as a change in accounting estimate.

Changes in estimates are based on an assessment of continued operational functionality and use of the assets.

Items of property, plant and equipment are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

The gain or loss arising from the derecognition of an item of property, plant and equipment is included in surplus or deficit when the item is derecognised. The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

1.4 INTANGIBLE ASSETS

An asset is identifiable if it either:

- is separable, i.e. is capable of being separated or divided from an entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable assets or liability, regardless of whether the entity intends to do so; or
- arises from binding arrangements (including rights from contracts), regardless of whether those rights are transferable or separable from the constitutional institution or from other rights and obligations.

A binding arrangement describes an arrangement that confers similar rights and obligations on the parties to it as if it were in the form of a contract.

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An intangible asset is recognised when:

- it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the constitutional institution; and
- the cost or fair value of the asset can be measured reliably.

The constitutional institution assesses the probability of expected future economic benefits or service potential using reasonable and supportable assumptions that represent management's best estimate of the set of economic conditions that will exist over the useful life of the asset.

Where an intangible asset is acquired through a non exchange transaction, its initial cost at the date of acquisition is measured at its fair value as at that date.

Expenditure on research (or on the research phase of an internal project) is recognised as an expense when it is incurred.

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses.

An intangible asset is regarded as having an indefinite useful life when, based on all relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows or service potential. Amortisation is not provided for these intangible assets, but they are tested for impairment annually and whenever there is an indication that the asset may be impaired.

For all other intangible assets amortisation is provided on a straight line basis over their useful life.

The amortisation period and the amortisation method for intangible assets are reviewed at each year end, with the effect of any changes in estimate accounted for on a prospective basis.

Amortisation is provided to write down the intangible assets, on a straight line basis, to their residual values as follows:

Item	Useful life
Computer software	2 - 7 years

Intangible assets are derecognised:

- on disposal; or
- when no future economic benefits or service potential are expected from its use or disposal.

The gain or loss is the difference between the net disposal proceeds, if any, and the carrying amount. It is recognised in surplus or deficit when the asset is derecognised.

1.5 RELATED PARTIES

Parties are considered to be related if one party has the ability to (a) control the other party, or (b) exercise significant influence over the other party in making financial and operating decisions, or if the related party entity and another entity are subject to common control. This includes:

(a) Entities that directly, or indirectly through one or more intermediaries, control, or are controlled by the Public Protector South Africa

(b) Individuals owning, directly or indirectly, an interest in the Public Protector South Africa that gives them significant influence, and close members of the family of any such individual;

(c) Key management personnel, and close members of the family of key management personnel; and

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(d) Entities in which a substantial ownership interest is held, directly or indirectly, by any person described in (c) above or over which such a person is able to exercise significant influence.

A related party transaction is a transfer of resources or obligations between related parties, regardless of whether a price is charged. Related party transactions exclude transactions with any other entity that is a related party solely because of its economic dependence on the reporting entity or the government of which it forms part. Where related party transactions occur, these are disclosed. Related party transactions are not disclosed if that transaction occurs within normal supplier and/or client/recipient relationships on terms and conditions no more or less favourable than those which it is reasonable to expect the entity to have adopted if dealing with that individual entity or person in the same circumstances; and terms and conditions within the normal operating parameters established by that reporting entity's legal mandate

1.6 EVENTS AFTER REPORTING DATE

Events after reporting date are those events, both favourable and unfavourable, that occur between the reporting date and the date when the financial statements are authorised for issue. Two types of events can be identified:

- those that provide evidence of conditions that existed at the reporting date (adjusting events after the reporting date); and
- those that are indicative of conditions that arose after the reporting date (non adjusting events after the reporting date).

The constitutional institution will adjust the amount recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred.

The constitutional institution will disclose the nature of the event and an estimate of its financial effect or a statement that such estimate cannot be made in respect of all material non adjusting events, where non disclosure could influence the economic decisions of users taken on the basis of the financial statements.

1.7 FINANCIAL INSTRUMENTS

Initial recognition

Financial assets and financial liabilities are recognised on the balance sheet when the Public Protector South Africa becomes a party to the contractual provisions of the instrument.

All "regular way" purchases and sales of financial liabilities are recognised using trade date accounting.

Measurement

Financial instruments are initially measured at fair value, which includes transaction costs. Subsequent to initial recognition these instruments are measured as set out below.

Derecognition

The Public Protector South Africa derecognises a financial asset (or where applicable part thereof) only when the right to receive cash flows from the asset has expired,

the Public Protector South Africa retains the right to receive cash flows from the asset, but has assumed an obligation to pay them in full without material delay to a third party under a "pass through" arrangement;

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or the Public Protector South Africa has transferred its rights to receive cash flows from the asset and has either (a) has transferred substantially all the risks and rewards of the asset or (b) has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the asset.

A financial liability is derecognised when the obligation under the liability is discharged or cancelled or expires.

Where an existing financial liability is replaced by another from the same customer on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as a derecognition of the original liability, and the difference in the respective carrying amounts is recognised in the surplus or deficit for the year.

Offset of financial assets and liabilities

Financial assets and liabilities are offset and the net amount reported in the Statement of Financial Position only when the Public Protector South Africa has a legally enforceable right to set off recognised amounts and intends either to settle on a net basis or to realise the asset and settle the liability simultaneously.

Financial assets

The Public Protector South Africa's principle financial assets are accounts receivables and cash and cash equivalents.

Receivables from exchange transactions

Accounts receivables are measured at amortised cost using the effective interest rate method reduced by appropriate allowances for impairment

Payables from exchange transactions

Accounts and other payables are stated at their nominal value. Short term payables with no interest rate are measured at the original invoice amount if the effect of discounting on individual transactions is immaterial. All payables are settled within 30 days. Where there is a delay in payment it is usually due to a dispute on the transaction. Under such circumstances the time delay is not regarded as being material. The obligation to pay goods and services that have been acquired in the ordinary course of business from suppliers are classified as current liabilities if payment is due within one year or less. If not they are presented as non current liabilities.

Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and deposits held with banks, all of which are available for use by the Public Protector South Africa unless otherwise stated.

Financial liabilities

The Public Protector South Africa's principle financial liabilities are accounts payable. All financial liabilities are measured at amortised cost, comprising original debt less principle payments and amortisations.

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1.8 PRIOR PERIOD ERRORS

Prior period errors are omissions from, and misstatements in, an entity's financial statements for one or more prior periods arising from failure to use or the misuse of reliable information that was available when the financial statements for that period were issued, and could have been reasonably expected to be taken into account in those financial statements.

All prior period errors are corrected retrospectively to the earliest period practicable. Comparative amounts for prior periods in which the error occurred are restated.

1.9 KEY MANAGEMENT PERSONNEL

The key management of the Public Protector South Africa includes the Public Protector, the Deputy Public Protector, the CEO and Executive Managers.

1.10 LEASES

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

Finance leases/lessee

Leases where substantially all the risks and rewards of ownership of the underlying asset are transferred to the Public Protector South Africa are classified as finance leases. Assets held under finance leases are initially recognised as assets at their fair value at the inception of the lease or, if lower, at the present value of the minimum lease payments. The corresponding liability to the lessor is included in the Statement of Financial Position as a finance lease obligation. Lease payments are apportioned between finance charges and reduction of the lease obligation so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are charged directly to the Statement of Financial Performance. Contingent rentals are recognised as expenses in the periods in which they are incurred.

Operating leases/lessee

All leases that the Public Protector South Africa enters into as a lessee, and where the lessor retains substantially all the risks and rewards of ownership of the underlying asset, are classified as operating leases. Payments made under operating leases are charged against revenue on a straight line basis over the term of the lease.

1.11 IMPAIRMENT OF NON CASH GENERATING ASSETS

At each balance sheet date, the Public Protector South Africa reviews the carrying amount of its tangible and intangible assets to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the recoverable amount of the assets is estimated in order to determine the extent of the impairment loss (if any).

If the recoverable amount of an asset is estimated to be less than its carrying amount, the carrying amount of the asset is reduced to its recoverable amount. Impairment losses are immediately recognised as an expense, unless the relevant asset is carried at a re valued amount under another standard, in which case the impairment loss is treated as a revaluation decrease under the standard.

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Where an impairment loss subsequently reverses, the carrying amount of the asset is increased to the revised estimate of its recoverable amount, but so that the increased carrying amount does not exceed the carrying amount that would have been determined had no impairment loss been recognised for the asset in prior years. A reversal of an impairment loss is recognised as income immediately, unless the relevant asset is carried at a re valued amount under another standard, in which case the reversal of the impairment loss is treated as a revaluation increase under that other standard.

1.12 EMPLOYEE BENEFITS

Employee benefits are all forms of consideration given by an entity in exchange for service rendered by employees.

Short term employee benefits

Short term employee benefits are employee benefits (other than termination benefits) that are due to be settled within twelve months after the end of the period in which the employees render the related service.

The cost of all short term employee benefits is recognised during the period in which the employee renders the related service. Accruals and provisions have been raised for benefits where the employer has a present obligation to pay the benefit as a result of the employees' services rendered to balance sheet date. The accruals and provisions have been calculated at undiscounted amounts based on current salary rates.

Gratuity

In terms of the Public Protector's conditions of service, the Public Protector is entitled to a taxable lump sum gratuity on vacation of office. The gratuity calculation is based on the basic salary and period in office. The provision raised in the Annual Financial Statements is the actual amount that is payable to the Public Protector on vacating the office.

Post employment benefits: Defined contribution plans

Defined contribution plans are post employment benefit plans under which an entity pays fixed contributions into a separate entity (a fund) and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods.

Employees of the Public Protector South Africa participate in a defined contribution plan retirement benefit fund. The defined contribution plans offered to employees are the Government Employees Pension Fund (GEPF) and Sanlam pension fund. Public Protector South Africa's obligation is determined by the amounts to be contributed for each reporting period. When contributions are paid to the pension fund, the Public Protector South Africa has no further payment obligations. Expenses are recognised when employees render a service entitling them to contribution. Payments to the defined contribution plans are charged against income as and when they are incurred.

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1.13 PROVISIONS AND CONTINGENCIES

Provisions

Provisions are recognised when there is a present obligation (legal or constructive) as a result of a past event, it is probable that it will be required to settle the obligation, and a reliable estimate can be made of the amount of the obligation.

- The amount recognised as a provision is the best estimate of the consideration required to settle the present obligation at the balance sheet date, taking into account the risks and uncertainties surrounding the obligation. Where a provision is measured using the cash flows estimated to settle the present obligation, its carrying amount is the present value of those cash flows

When some or all of the economic benefits required to settle a provision are expected to be recovered from a third party, the receivable is recognised as an asset if it is virtually certain that reimbursement will be received and the amount of the receivable can be measured reliably.

Provisions are reviewed at each reporting date and adjusted to reflect the current best estimate. Provisions are reversed if it is no longer probable that an outflow of resources embodying economic benefits or service potential will be required, to settle the obligation.

Contingent liability

Contingent liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or the amount of the obligation cannot be measured with sufficient reliability.

1.14 REVENUE FROM EXCHANGE TRANSACTIONS

An exchange transaction is one in which the entity receives assets or services, or has liabilities extinguished and directly gives approximately equal value in the form of goods and services or use of assets or services to the entity in exchange.

Interest Income

Interest income is accrued on favourable balances with commercial banking institutions. Interest income is accrued on a time basis, by reference to the principal outstanding and at the effective interest rate applicable, which is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount.

1.15 REVENUE FROM NON EXCHANGE TRANSACTIONS

Revenue from non exchange transactions constitutes transfer payments from the Department of Justice and Constitutional Development.

The Public Protector South Africa recognises revenue from transfers in the period in which the transfer becomes binding. This is when the recognition criteria have been met.

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Assets and revenue recognised as a consequence of a transfer are measured at the fair value of the assets recognised as at the date of recognition.

Monetary assets are measured at their nominal value unless the time value of money is material, in which case present value is used, calculated using a discount rate that reflects the risk inherent in holding the asset. Non monetary assets are measured at their fair value, which is determined by reference to observable market values or by independent appraisal by a member of the valuation profession.

Receivables are recognised when a binding transfer arrangement is in place but cash or other assets have not been received. The Public Protector South Africa analyses all stipulations contained in transfer agreements to determine if it incurs a liability when it accepts transferred resources.

Adjustments to the appropriated funds made in terms of the adjustments budget process are recognised in the financial records on the date the adjustments become effective.

1.16 COMMITMENTS

Commitments are legal obligations entered into before the reporting date for future transactions that will normally result in the outflow of cash, to the extent that the amount has not been recognised in the financial statements.

Unrecognised contractual commitments for which disclosure is necessary to achieve a fair presentation are disclosed in a note to the financial statements, if both the following criteria are met:

- Contracts should be non cancellable or only cancellable at significant cost (for example, contracts for computer or building maintenance services); and
- Contracts should relate to something other than the routine, steady, state business of the entity – therefore salary commitments relating to employment contracts or social security benefit commitments are excluded.

1.17 GAIN/LOSSES ON DISPOSAL OF ASSETS

Gains or losses on disposal are included in surplus or deficit for the year and are determined by comparing sales proceeds to the carrying amounts.

1.18 FINANCE COSTS

Borrowing costs are interest and other expenses incurred by an entity in connection with the borrowing of funds.

Qualifying asset is an asset that necessarily takes a substantial period of time to get ready for its intended use of sale.

Borrowing costs are recognised as an expense in the period in which they are incurred.

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1.19 COMPARATIVE FIGURES

In order to conform to changes, comparative figures have been adjusted where necessary. The comparative figures shown in these financial statements are limited to the figures shown in the previous year's audited financial statements and such other comparative figures that the Public Protector South Africa may reasonably have available for reporting.

1.20 FRUITLESS AND WASTEFUL EXPENDITURE

Fruitless and wasteful expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised.

Fruitless and wasteful expenditure is recognised as expenditure in the statement of financial performance according to the nature of the payment and not as a separate line item on the face of the statement. If the expenditure is recoverable it is treated as an asset until it is recovered from the responsible person or written off as irrecoverable in the statement of financial performance.

1.21 IRREGULAR EXPENDITURE

Irregular expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of, or that is not in accordance with, a requirement of any applicable legislation, including the Public Finance Management Act. Irregular expenditure is recognised as expenditure in the statement of financial performance. If the expenditure is not condoned by the relevant authority it is treated as an asset until it is recovered or written off as irrecoverable.

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2. New standards and interpretations

2.1 STANDARDS AND INTERPRETATIONS ISSUED, BUT NOT YET EFFECTIVE

The constitutional institution has not applied the following standards and interpretations, which have been published and are mandatory for the constitutional institution's accounting periods beginning on or after 01 April 2015 or later periods:

Standard:	**Effective date:**
• GRAP 18: Segment Reporting	01 April 2015
• GRAP 20: Related parties	No effective date yet.

2.2 STANDARDS AND INTERPRETATIONS NOT YET EFFECTIVE OR RELEVANT

The following standards and interpretations have been published and are mandatory for the constitutional institution's accounting periods beginning on or after 01 April 2015 or later periods but are not relevant to its operations:

Standard:	**Effective date:**
• GRAP 105: Transfers of functions between entities under common control	01 April 2015
• GRAP 106: Transfers of functions between entities not under common control	01 April 2015
• GRAP 107: Mergers	01 April 2015
• IGRAP 11: Consolidation – Special purpose entities	01 April 2015
• IGRAP 12: Jointly controlled entities – Non monetary contributions by ventures	01 April 2015
• GRAP 6 (as revised 2010): Consolidated and Separate Financial Statements	01 April 2015
• GRAP 7 (as revised 2010): Investments in Associates	01 April 2015
• GRAP 8 (as revised 2010): Interests in Joint Ventures	01 April 2015
• GRAP32: Service Concession Arrangements: Grantor	No effective date yet
• GRAP108: Statutory Receivables	No effective date yet
• IGRAP17: Service Concession Arrangements where a Grantor Controls a Significant Residual Interest in an Asset	No effective date yet
• DIRECTIVE 11: Changes in measurement bases following the initial adoption of Standards of GRAP	01 April 2015

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3. Receivables from exchange transactions

Other receivables	372 880	165 865
Interest receivable	72 708	39 589
	445 588	**205 454**

4. Cash and cash equivalents

Cash and cash equivalents consist of cash on hand and balance with banks. Cash and cash equivalents included in the cash flow statement comprise the following amounts in the statement of financial position.

Cash on hand	11 986	26 548
Bank balances	5 022 528	159 043
	5 034 514	**185 591**

5. Property, plant and equipment

	2015			2014		
	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fixtures	8 418 432	(6 081 013)	2 337 419	8 417 332	(5 278 717)	3 138 615
Motor vehicles	5 873 421	(2 890 861)	2 982 560	5 793 306	(1 800 667)	3 992 639
Office equipment	7 598 402	(3 962 424)	3 635 978	7 451 137	(2 909 846)	4 541 291
Computer equipment	16 064 277	(9 885 312)	6 178 965	16 892 766	(8 432 935)	8 459 831
Total	**37 954 532**	**(22 819 610)**	**15 134 922**	**38 554 541**	**(18 422 165)**	**20 132 376**

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Reconciliation of property, plant and equipment: 31 March 2015

	Opening balance	Additions	Disposals	Depreciation	Total
Furniture and fixtures	3 138 615	2 508	(72)	(803 631)	2 337 420
Motor vehicles	3 992 639	203 380	(88 973)	(1 124 486)	2 982 560
Office equipment	4 541 291	330 190	(61 622)	(1 173 881)	3 635 978
Computer equipment	8 459 831	1 123 761	(155 500)	(3 249 127)	6 178 965
	20 132 376	**1 659 839**	**(306 167)**	**(6 351 125)**	**15 134 923**

Reconciliation of property, plant and equipment: 31 March 2014

	Opening balance	Additions	Disposals	Depreciation	Total
Furniture and fixtures	3 057 242	954 030	(129)	(872 528)	3 138 615
Motor vehicles	2 305 744	2 673 633	(89 087)	(897 651)	3 992 639
Office equipment	2 805 204	2 739 713	(11 258)	(992 368)	4 541 291
Computer equipment	7 907 696	3 584 729	(47 468)	(2 985 126)	8 459 831
	16 075 886	**9 952 105**	**(147 942)**	**(5 747 673)**	**20 132 376**

Assets subject to finance lease (Net carrying amount)

Motor vehicles	2 702 011	3 550 573
Office equipment	698 262	934 070
	3 400 273	**4 484 643**

Change in accounting estimates

During the year ended 31 March 2015; the Public Protector South Africa reviewed the useful life of its assets. As a result the useful lives were adjusted upward by 1 3 years and in certain instances they were adjusted downwards by 1 3 years. Estimates of residual values on applicable assets were also adjusted. The total net effect of change in estimates in the current period is a reduction in depreciation of R212 285 and a resultant increase of the same amount in the carrying value. The effect in future periods will be an aggregate increase in the carrying value and extended depreciable life of the assets.

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6. Intangible assets

	2015			2014		
	Cost / Valuation	Accumulated amortisation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated amortisation and accumulated impairment	Carrying value
Computer software	1 130 342	(296 089)	834 253	1 130 342	(107 263)	1 023 079

Reconciliation of intangible assets: 31 March 2015

	Opening balance	Amortisation	Total
Computer software	1 023 079	(188 826)	834 253

Reconciliation of intangible assets: 31 March 2014

	Opening balance	Additions	Amortisation	Total
Computer software	55 854	1 009 351	(42 126)	1 023 079

Change in accounting estimates

During the year ended 31 March 2015, the Public Protector South Africa reviewed the useful life of its intangible assets. As a result the useful life was adjusted upward by 5 years. The total net effect of change in estimates in the current period is a reduction in depreciation of R227 726 and a resultant increase of the same amount in the carrying value. The effect in future periods will be an increase in the carrying value and extended depreciable life of the assets..

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7. Finance lease obligation

Minimum lease payments due		
- within one year	1 757 206	1 904 796
- in second to fifth year inclusive	2 365 699	3 899 460
	4 122 905	5 804 256
less: future finance charges	(652 403)	(1 130 272)
Present value of minimum lease payments	**3 470 502**	**4 673 984**
Present value of minimum lease payments due		
- within one year	1 410 840	1 376 660
- in second to fifth year inclusive	2 059 662	3 297 324
	3 470 502	**4 673 984**
Non current liabilities	2 059 662	3 297 324
Current liabilities	1 410 840	1 376 660
	3 470 502	**4 673 984**

The Public Protector South Africa is leasing motor vehicles and photocopiers under finance leases.

The average lease term for photocopiers was 3 years and for motor vehicles was 5 years or 150 000 km. The average effective borrowing rate for photocopiers was 8.5% (31 March 2014: 8.5%) and for motor vehicle was 10.5% (31 March 2014:10.5%) The Interest rates are fixed at the contract date. The Public Protector South Africa's obligations under finance leases are secured by the lessor's charge over the leased assets.

8. Payables from exchange transactions

Trade payables	2 653 963	5 878 468
Deferred operating lease	187 450	432 870
Salaries and allowances	151 553	1 197 887
Accrued performance bonus	-	1 715 245
Accrued service bonus	3 898 632	3 628 008
Creditors accruals suppliers	1 532 240	3 181 847
Accrued operating leases	10 407 240	10 028 618
	18 831 078	**26 062 943**

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9. Provisions

Reconciliation of provisions: 31 March 2015

	Opening Balance	Additions	Utilised during the year	Total
Untaken leave	8 163 621	(99 398)	(631 845)	7 432 378
Performance awards	3 255 175	621 812	-	3 876 987
Provision Levies	307 530	189 223	(191 651)	305 102
Gratuity	5 078 719	779 700	-	5 858 419
	16 805 045	**1 491 337**	**(823 496)**	**17 472 886**

Reconciliation of provisions: 31 March 2014

	Opening Balance	Additions	Utilised during the year	Total
Untaken leave	5 055 394	3 552 312	(444 085)	8 163 621
Performance awards	2 983 351	2 100 913	(1 829 089)	3 255 175
Provision Levies	236 827	447 037	(376 334)	307 530
Gratuity	4 187 295	891 424	-	5 078 719
	12 462 867	**6 991 686**	**(2 649 508)**	**16 805 045**

Non current liabilities	5 858 419	5 078 719
Current liabilities	11 614 468	11 726 326
	17 472 887	**16 805 045**

The Public Protector is entitled to a gratuity payable upon vacating office as stated in the Judges' Handbook. The Public Protector's term of office is a fixed term of seven years.

Untaken Leave provision relates to present obligation as a result of leave days accumulated during the current period, which were not utilised by the end of the financial year. In the event of termination of employment, employees' untaken leave days are payable to the extent that they are not forfeited. Untaken leave days are forfeited if they are not taken at the end of the leave cycle.

Employees of the Public Protector South Africa are assessed annually in terms of the performance management and development system. The final assessment process takes place after the financial year. The Public Protector South Africa makes a provision for performance incentives at the end of each financial year.

Public Protector South Africa contributes to compensation fund (levies) payable annually to the Department of Labour. The Department of Labour conducts an assessment annually based on number of employees and total salary costs for Public Protector South Africa and determines the amount payables. The assessment is normally completed and issued after the financial year end.

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10. Government transfers

Transfers from Department of Justice and Constitutional Development	217 584 000	199 253 000

11. Finance income

Interest revenue		
Bank	640 442	587 627

12. Other income

Recoveries of bursaries	14 031	53 513
Recoveries of medical aid contributions	2 400	4 492
Parking and access cards	37 130	38 940
Pension Sanlam	-	93 339
Other income	492 504	24 797
	546 065	**215 081**

13. Staff costs

Basic	107 700 654	99 236 592
Performance awards	621 812	2 100 913
Medical aid company contributions	4 456 539	4 543 411
Cell phone allowance	2 421 130	2 110 110
Medical aid allowance	834 784	880 472
Defined contribution pension expense	12 430 426	10 909 910
Travel allowance	3 026 443	3 719 880
Service Bonuses	7 735 854	7 284 680
Acting allowances	606 481	692 489
Housing benefits and allowances	3 480 606	3 330 481
Gratuity	779 700	891 425
Pension allowances	2 153 639	2 432 646
Non pensionable allowance	9 069 914	7 348 910
Leave discounting	(104 581)	3 552 312
Other staff allowance	541 283	604 262
	155 754 684	**149 638 493**

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14. Depreciation and amortisation

Furniture and fittings	803 631	872 520
Motor Vehicle - Owned	72 543	51 376
Motor Vehicles - Leased	1 051 944	846 275
Office Equipment - Owned	938 112	735 001
Office Equipment - Leased	235 768	257 375
Computer equipment	3 249 127	2 985 123
Computer software	188 826	42 126
	6 539 951	**5 789 796**

15. Finance costs

Obligation under finance leases	549 027	589 424

16. Other operating expenses

Rental - Office buildings	9 048 995	8 773 405
Copy Charges - photocopiers	90 806	111 388
Rental and lease maintenance costs motor vehicles	2 373 568	3 095 153
Other operating costs	1 459 361	1 472 339
Printing and publications	661 289	1 174 204
Staff training and development	558 221	1 358 900
Stationery	1 244 419	1 848 786
Communication costs	160 091	215 938
	15 596 750	**18 050 113**

17. Losses on disposal of assets

Property, plant and equipment	278 967	54 738

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18. Administrative expenses

Audit fees	3 483 951	3 059 414
Bank charges	89 619	106 604
Cleaning services	1 480 187	1 278 440
Outsourced cases investigations	478 156	2 218 664
Consulting and professional fees	4 441 447	3 839 688
Catering	690 702	1 554 032
Information technology	7 351 116	10 412 239
Marketing and promotions	984 664	2 251 883
Fuel, oil & toll fees Leased and owned vehicles	898 275	1 651 822
Travel and subsistence Domestic	3 865 630	10 439 600
Travel and subsistence Foreign	1 121 704	1 517 242
Communication	1 923 691	2 503 179
General and administrative expenses	1 632 206	2 053 535
Municipal Services	3 939 496	3 313 285
	32 380 844	**46 199 627**

19. Cash generated from (used in) operations

Surplus (deficit)	7 670 285	(20 266 483)
Adjustments for:		
Depreciation and amortisation	6 539 952	5 789 796
(Gain)/losses on sale of property, plant and equipment	278 967	54 738
Increase/(decrease) in provisions relating to employee costs	667 842	4 342 178
Changes in working capital:		
Receivables from exchange transactions	(240 135)	465 920
Increase/(decrease) in payables	(7 231 865)	4 625 342
	7 685 046	**(4 988 509)**

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20. Prior period errors

Payments for suppliers on the cash flow statement have been restated for 2014 financial year as it included an increase in accrued personnel costs of R3 712 120, this amount have now being moved to payments for employee costs.

Commitments note has been restated for 2014 financial year by R530 878 to take into account the contracts approved but not yet contracted. This has been discovered in the current year and resulted in an increase in 2014 commitments.

External audit fees expense and trade payables were overstated as a result of a duplicated invoice of R184 302.66

A credit note of R7 531 was not recorded in the 2013/14 financial year; the credit is now being recorded in the relevant period. A further amount of R18 149 was erroneously recorded as a creditor in the 2013/14 financial year.

Credit card transactions for a total of (R10 937) and R10 213 were not accounted for in the correct period. This resulted in a net effect of R724 for the 2013 financial year. A further R464 was charged in 2013/14 financial year for service fee and it was erroneously recorded as a debtor.

A debtor of R5 000 relating to salaries paid to an employee who resigned without notice was not recorded as a debtor for 2013/14 financial year.

During the 2010/11 financial year a vehicle leased under a finance lease agreement was recognised as an asset for a lease period of 48 months at a present value of R753,600.00. At the end of the 48 months it was discovered that the lease was for 60 months as per contract. A correction of error has now been recorded and the present value has been revised to R757, 418.00 with the lease term of 60 Months.
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The correction of the error(s) results in adjustments as follows:

Statement of financial position		
Decrease in Accounts payable 2013/14	209 983	-
Increase in Debtors 2013/14	4 536	-
Decrease in accumulated surplus 2012/13	45 814	-
Increase in prior 2012/13 non current finance lease liabilities Motor Vehicle	(145 093)	-
Decrease in accumulated depreciation for leased motor vehicles 2012/13	94 737	-
Increase in prior 2012/13 cost for leased motor vehicle	3 818	-
Increase in Debtors 2012/13	724	-
Increase in 2013/14 non current finance lease liabilities Motor Vehicle	(68 988)	-
Decrease in accumulated depreciation for leased motor vehicles 2013/14	37 880	-
Decrease in creditors 2013/14	604	-
Total	**184 015**	**-**

Statement of Financial Performance		
Decrease in external audit expenses	(184 303)	-
Decrease in advertising expenses	(18 149)	-
Decrease in stationery and printing expenses	(7 531)	-
Increase in bank charges expense	464	-
Decrease in staff costs expense	(5 604)	-
Decrease in depreciation expense: Leased motor vehicles	(37 880)	-
Increase in finance charge expense for lease Motor vehicles	68 988	-
Total	**(184 015)**	**-**

21. Auditors' remuneration

Fees	3 483 951	3 059 414

22. Operating lease

Operating lease obligation Buildings		
- Lease obligations within one year	4 030 599	2 799 369
- Lease obligations in second to fifth year	2 741 693	544 668
	6 772 292	**3 344 037**

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The Public Protector South Africa occupies office buildings leased under operating leases. Department of Public Works enters into the lease agreement on behalf of the Public Protector South Africa. The lease payments made by Department of Public Works are being recovered from Public Protector South Africa. The lease term ranges between 1 - 5 years. The escalation rate ranges between 5.5% 10%. Five other office buildings are occupied at no cost to Public Protector South Africa, of which four are owned by Department of Public Works and one is leased but paid from Department of Public Works budget.

23. Revenue

Other income	546 065	215 081
Finance Income	640 442	587 627
Transfer from Department of Justice and Constitutional Development	217 584 000	199 253 000
	218 770 507	**200 055 708**

The amount included in revenue arising from exchanges of goods or services are as follows:

Other income	546 065	215 081
Finance Income	640 442	587 627
	1 186 507	**802 708**

The amount included in revenue arising from non exchange transactions is as follows:

Transfer from Department of Justice and Constitutional Development	217 584 000	199 253 000

24. Commitments

Authorised operational expenditure

Approved and contracted		
• Contracted services	3 768 831	4 550 922
• Procurement of goods and services	555 236	417 468
	4 324 067	**4 968 390**
Approved but not yet contracted		
• Approved services not yet contracted	1 008 795	530 878
Total operational commitments		
Approved and contracted	4 324 067	4 968 390
Approved but not yet contracted	1 008 795	530 878
	5 332 862	**5 499 268**

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Public Protector South Africa committed to cleaning, maintenance and security contracts for a period of 24 months.

25. Related parties

The Public Protector South Africa considers African Ombudsman and Mediators Association (AOMA) a related party due to the fact that the Public Protector Adv. T.N Madonsela was an executive Secretary of AOMA until November 2014. Furthermore, during her term as Executive Secretary She was delegated with the authority to sign off on all AOMA transactions. There were no transactions that occurred during the financial year between AOMA and the Public Protector South Africa.

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26. Key management personnel

Executive: 2014/15 financial year

	Basic salary	Pension	Travel allowance	Medical aid allowance	Non pension allowance	Other allowances	Service Bonus	Leave pay	Perfor-mance bonus	Total
Public Protector	1 526 740	-	-	-	550 406	77 700	-	-	-	2 154 846
Deputy Public Protector	846 749	-	-	-	561 916	-	-	-	-	1 408 665
Former Chief Executive Officer	422 600	63 390	176 083	15 932	26 328	-	-	73 149	-	777 482
Chief Executive Officer	78 513	10 207	5 000	-	30 592	-	-	-	-	124 312
Chief Financial Officer	57 341	8 601	12 500	-	-	17 126	-	-	-	95 568
Executive Manager: Good Governance	664 928	98 461	226 843	57 600	4 999	23 160	55 517	-	-	1 131 508
Executive Manager: Service Delivery	626 480	93 972	42 000	51 504	119 320	82 560	51 725	-	-	1 067 561
Executive Manager: Early Resolution	592 891	88 134	70 000	-	10 367	200 956	49 408	-	-	1 011 756
Executive Manager: Communications	608 101	79 053	-	-	275 777	23 160	50 539	-	-	1 036 630
Acting Chief Executive Officer	-	-	-	-	-	82 805	-	-	-	82 805
Acting: Chief Financial Officer	-	-	-	-	-	15 485	-	-	-	15 485
Acting Executive Manager: Outreach and Communications	-	-	-	-	-	7 900	-	-	-	7 900
Former Chief Financial Officer	319 361	47 904	60 000	-	105 003	11 580	-	68 705	-	612 553
	5 743 704	**489 722**	**592 426**	**125 036**	**1 684 708**	**542 432**	**207 189**	**141 854**	**-**	**9 527 071**

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Executive : 2013/14 financial year

	Basic salary	Pension	Travel allowance	Medical aid allowance	Non pension allowance	Other allowances	Service Bonus	Total
Public Protector	1 432 325	-	-	-	550 406	77 700	-	2 060 431
Deputy Public Protector	799 621	-	-	-	533 081	-	-	1 332 702
Chief Executive Officer	799 621	119 943	331 703	31 864	49 571	-	-	1 332 702
Chief Financial Officer	453 209	67 981	90 000	-	131 569	15 440	12 589	770 788
Executive Manager: Good Governance	613 343	92 001	206 697	57 600	1 770	23 160	51 112	1 045 683
Executive Manager: Service Delivery	574 651	86 198	91 973	32 675	58 468	23 160	48 157	915 282
Executive Manager: Early Resolution	560 920	84 138	60 000	-	15 193	189 936	46 743	956 930
Executive Manager: Communications	560 920	72 920	-	-	254 545	23 160	46 743	958 288
Acting: Chief Financial Officer	-	-	-	-	-	45 276	-	45 276
	5 794 610	**523 181**	**780 373**	**122 139**	**1 594 603**	**397 832**	**205 344**	**9 418 082**

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27. Risk management

INTRODUCTION AND OVERVIEW

This note represents information about the exposure to financial risks, the objectives, policies and processes for measuring and managing financial risk, and the management of capital. Further quantitative disclosures are included throughout these financial statements.

27.1 LIQUIDITY RISK

The Public Protector South Africa is exposed to liquidity risk as it is dependent on the transfers and grants received from the Department of Justice. Timely receipts of transfers and grant amounts are necessary for the Public Protector South Africa to be able to make payments as and when required in terms of its financial liabilities.

Included in the payables is the amount of R10 407 240 (31 March 2015) and R10 028 618 (31 March 2014) relating to operating leases, which is due to the Department of Public Works. The amount has been accumulating since 2008 due to the Department of Public Works not invoicing the Public Protector South Africa.

The table below analyses the Public Protector South Africa's financial liabilities into relevant maturity groupings based on the remaining period at the Statement of Financial Position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows

Contractual undiscounted liabilities	Payable in less than 3 months	Payable in 3 12 months	Payable after 1 year	Total
At 31 March 2015				
Payables from exchange transactions	8 423 838	-	-	8 423 838
Operating leases	10 407 240	-	-	10 407 240
Finance lease liabilities	352 710	1 058 130	2 059 662	3 470 502
	19 183 788	**1 058 130**	**2 059 662**	**22 301 580**

Contractual undiscounted liabilities	Payable in less than 3 months	Payable in 3 12 months	Payable after 1 year	Total
At 31 March 2014				
Payables from exchange transactions	16 034 325	-	-	16 034 325
Operating leases	10 028 618	-	-	10 028 618
Finance lease liabilities	344 165	1 032 495	3 297 324	4 673 984
	26 407 108	**1 032 495**	**3 297 324**	**30 736 927**

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27.2 CREDIT RISK

Credit risk represents the potential loss to the Public Protector South Africa as a result of unexpected defaults or unexpected deterioration in the creditworthiness of counterparties. The Public Protector's credit risk is primarily attributable to its receivables. However, this risk is minimal as the Public Protector's receivables (excluding amounts held with banks) are limited to advance to employees and interest receivable. There are no past due and impaired receivables.

The carrying amount included in the Statement of Financial Position represents the Public Protector's maximum exposure to credit risk in relation to this asset. The Public Protector South Africa does not consider there to be any significant concentration of credit risk.

With regard to credit risk arising from the other financial assets, which comprise cash and cash equivalents, the Public Protector's exposure arises from a potential default of the counterparty where credit rating is constantly monitored, with a maximum exposure to the carrying amount of these instruments. Cash and cash equivalents are only placed with banking institutions with an AA credit rating.

27.3 MARKET RISK

The Public Protector South Africa is exposed to market risk as the fair value or future cash flows of its financial instruments may fluctuate due to changes in market prices. The effect of the market risk to Public Protector South Africa is limited to interest rate risk and foreign exchange risk.

27.3.1 INTEREST RATE RISK

The Public Protector South Africa is exposed to cash flow interest rate risk arising from cash on hand at commercial banks, which earns interest at floating rates based on daily bank deposit rates. The Public Protector South Africa is also exposed to fair value interest rate risk arising from fixed interest rates in the finance lease contracts entered into for the acquisition of motor vehicles and photocopiers. The Public Protector South Africa's ability to mitigate this risk is limited by the fact that these finance lease contracts are transversal contracts managed by the National Treasury, and prohibitions contained in the Public Finance Management Act 1 of 1999.

The Public Protector's exposure to market risk (in the form of interest rates risk) arises as a result of the following:

a) possible interest on late payment by the Public Protector South Africa.
b) Interest income linked to rates prescribed by the National Treasury
c) Interest on accounts held at banking institutions.

The Public Protector South Africa is mainly exposed to interest rate fluctuations. The Public Protector South Africa's financial assets and financial liabilities are managed in such a way that the fluctuations in variable rates do not have material impact on the surplus/(deficit) as the Public Protector South Africa settles its outstanding obligation within 30 days and interest on outstanding debts is charged monthly using the applicable interest rates.

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27.3.2 FOREIGN EXCHANGE RISK

The Public Protector South Africa's exposure to foreign exchange risk is limited to payment of Microsoft license fees, however the transaction volume is minimal. The foreign exchange risk relates to the fluctuation of the rand and dollar purchase rate.

27.4 FAIR VALUES

The Public Protector South Africa's financial instruments consist mainly of cash and cash equivalents, trade and other receivables and trade and other payables.

No financial asset was carried at an amount in excess of its fair value. The following methods and assumptions are used to determine the fair value of each class of financial instruments:

(i) **Cash and cash equivalents**
The carrying amount of cash and cash equivalents approximates fair value due to the relatively short term maturity of these financial assets and financial liabilities

(ii) **Receivables from exchange transactions**
The carrying amount of trade receivables approximates fair value due to the relatively short term maturity of this financial asset

(iii) **Payables from exchange transaction**
The carrying amount of trade payables approximates fair value.

27.5 FINANCIAL INSTRUMENTS BY CLASSIFICATION

	Financial Assets	Financial liabilities	Total carrying amount
31 March 2015			
Receivables from exchange transactions	445 588	-	445 588
Cash and cash equivalents	5 034 514	-	5 034 514
Trade and other payables	-	(8 423 838)	(8 423 838)
Operating leases	-	(10 407 240)	(10 407 240)
	5 480 102	**(18 831 078)**	**(13 350 976)**

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	Financial Assets	Financial liabilities	Total carrying amount
31 March 2014			
Receivables from exchange transactions	205 454	-	205 454
Cash and cash equivalents	185 591	-	185 591
Trade and other payables	-	(16 034 325)	(16 034 325)
Operating leases	-	(10 028 618)	(10 028 618)
	391 045	**(26 062 943)**	**(25 671 898)**

28. Funding of operations

The Public Protector South Africa (Public Protector South Africa) has an accumulated loss of R18 325 190 (Restated accumulated loss – 31 March 2014: R25 995 472). A surplus of R 7 670 283 (Restated deficit 31 March 2014: R 20 266 484) was generated during the financial year. Public Protector South Africa will continue with its austerity measures to cut down on expenditure and to spend within budget to avoid any deficit in the 2015/16 financial year and the outer years. Although current liabilities exceeded the current assets by R26 376 284, these financial statements have been prepared on a going concern basis as the institution is a constitutional entity and will continue in operational existence for the foreseeable future. Public Protector South Africa is substantially funded by government. Funds have been allocated by the National Treasury for the next three years starting 01 April 2015. Additional funding has been allocated by National Treasury for the period (s) 2015/16: R15 million; 2016/17: R20 million; and 2017/18: R25 million.

29. Fruitless and wasteful expenditure

Fruitless and wasteful expenditure	-	13 686 306
Case Management System Written off	-	(13 686 306)
Add 2012/2013 expenditure discovered in the current year Motor Vehicle Insurance	5 757	-
Add 2013/2014 expenditure discovered in the current year Motor Vehicle Insurance	16 665	-
Add 2014/2015 expenditure discovered in the current year Motor Vehicle Insurance	6 410	-
	28 832	**-**

Motor vehicle insurance

The Public Protector South Africa entered into an insurance contract for six owned motor vehicles. Two of these vehicles were subsequently sold in November 2012. The full insurance premium continued to be deducted because the policy was not cancelled. The fruitless and wasteful expenditure has been reported to National Treasury and the insurance policy for the two vehicles has since been cancelled. Internal investigations are in progress and the official concerned was suspended.

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Case Management System

Public Protector South Africa consulted with the Office of the State Attorney for a legal opinion and representation in the disciplinary hearing relating to the fruitless and wasteful expenditure. Notice of disciplinary hearing and charge sheet were formulated and submitted to the Public Protector for approval; however the official concerned resigned before the approval to proceed with the disciplinary hearing was granted. Public Protector South Africa will therefore not continue to pursue the matter as it is deemed uneconomical. The State Attorney advised that they no longer have jurisdiction since the official has resigned.

30. Irregular expenditure

Opening balance	4 906 717	7 865 928
Add: Irregular expenditure - current year (tax clearance certificate)	-	34 196
Add: Irregular expenditure - current year (Consulting services)	-	212 800
Add: Irregular expenditure - current year (external investigative panel)	-	4 242 016
Add: Irregular expenditure - 2013/14 expenditure discovered in the current year (Outsourced investigations)	-	417 705
Add: Irregular expenditure - current year (Outsourced investigations)	217 674	-
Less: Amounts condoned	-	(7 811 228)
Less: Amounts not recoverable (not condoned)	-	(54 700)
	5 124 391	**4 906 717**

Tax clearance certificates for the price quotations and competitive bids.

In terms of National treasury Practice Note 8, We are required to be in possession of an original valid tax clearance certificate for all price quotations and competitive bids greater than R30 000 (VAT Inclusive). Public Protector South Africa relied upon photocopies of the tax clearance certificates for these purchases, and this was disclosed in 2012/13 and transactions that occurred in the 2013/14 financial year were also disclosed. An application for condonation was approved by National Treasury for an amount of R7 811 228. The approval excludes the award for catering services on the basis of falsified tax clearance certificate. The service provider concerned has been deregistered from the Public Protector South Africa supplier data base subsequent to the notice from treasury. The amount of R54 700 has been written off as it could not be recovered.

Public Protector South Africa (Public Protector South Africa) acquired services of a financial consultant under the company Crisco Skill Development cc, to assist in the preparation of the annual financial statements after the resignation of the Chief Financial Officer in March 2013. The services were quoted at a rate per hour. The total cost based on hours worked exceeded R30 000 and Crisco Skill Development cc did not have a valid tax clearance certificate at the time of appointment due to outstanding tax obligations.

Public protector South Africa is required to reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations. Public Protector South Africa do not have a written proof indicating that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations. Public Protector South Africa has now being invoiced for the amount of R212 800. A formal investigation will be instituted to investigate this matter.

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External investigative panel

The Public Protector South Africa outsourced some of the outstanding and complex cases for investigation in order to reduce the case backlog. The amount committed per case was a negotiable amount of R70 000.00 (inclusive of all costs), however some of the cases eventually exceeded the capped amount. In terms of the National Treasury practice note no. 8 of 2007/2008, we are required to invite and accept written price quotations for requirements up to an estimated value of R500 000. Paragraph 3.3.3 of the same practice note also states that if it is not possible to obtain at least three written price quotations, the reasons should be recorded and approved by the accounting officer.

Practice note 8, Paragraph 3.4 states that he accounting officer should invite competitive bids for all procurement above R500 000. The reason for deviating from inviting competitive bids should be recorded and approved by the accounting officer. We are also required in terms of this practice note to advertise competitive bids in the Government Tender Bulletin. Public Protector South Africa did not comply with the requirement of practice not 8 as stated above as a result no bid documentation are available.

Outsourced investigations

The Public Protector South Africa appointed Sizwe Ntsaluba Gobodo forensic services to render investigations on outsourced cases without following competitive bidding process, i.e. obtaining at least three quotations as per supply chain prescripts and National Treasury practice note 8 of 2007/8

Analysis of expenditure awaiting condonation per age classification

Current year	217 674	4 906 717
Prior years	4 906 717	-
	5 124 391	**4 906 717**

Details of irregular expenditure condoned

Incident	Condoned by (National Treasury)	Amount
Non-compliance with requirements of TR.16A9.1(d) and practice note No. 8 of 2007/08		7 811 228
		7 811 228

Details of irregular expenditure not recoverable (not condoned)

Incident	
Non-compliance with requirements of TR.16A9.1(d) and practice note No. 8 of 2007/08	54 700

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31. Contingent Liability

On the 31 March 2008, the Public Protector South Africa (Public Protector South Africa) entered into a license and maintenance agreement with Systems Applications Products South Africa (PTY) LTD (SAP South Africa). Under this agreement Public Protector South Africa licensed certain SAP software and acquired software maintenance services.

In terms of the signed agreement SAP premium support services have a minimum initial term of two years from initial activation and thereafter automatic renewals of one calendar year each, unless the licensee terminates the agreement by sending a written notice to SAP South Africa, received at least 30 days prior to the end of the applicable calendar year. Public Protector South Africa terminated the agreement in writing in the 2011 calendar year.

SAP South Africa is claiming the amount due in terms of the agreement for the invoices relating to 2011 and 2012 calendar year .An estimate of the contingent liability is R 2 768 999. According to the State Attorney's assessment this will unlikely result in an outflow of cash.

32. Budget differences

32.1 MATERIAL DIFFERENCES BETWEEN BUDGET AND ACTUAL AMOUNTS

Personnel costs

During the financial year personnel cost was under pressure and the organisation was overspending. This is attributable to annual salaries increases from 1 April 2014 to 31 March 2015, which was higher than national treasury guidelines of 6.6%; the actual salary increase was 7.4%. The increase was implemented even for trainee investigator programme, which was not anticipated as it was only approved during the year. This resulted in the personnel budget being increased by R3 550 million, however this adjustment was more than anticipated costs, hence the surplus of R1 472 202 was realised.

Goods and services

Goods and services expenditure exceed budget by 9%. This is attributable to transfer of R3, 550 000 from goods and services in order to subsidies the compensation budget which was under financial pressures. Travel and accommodation, and Information Technology costs were contained during the financial year, hence a saving was realised and used to fund personnel costs. However the budget for building leases was still not sufficient, hence apart from a transfer of R3,550 000 to personnel costs, goods and services resulted in an overspending.

Capital Expenditure

The funds allocated were mainly earmarked for the implementation of the case management system. The implementation did not materialise.

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32.2 DIFFERENCES BETWEEN BUDGET AND ACTUAL AMOUNTS BASIS OF PREPARATION AND PRESENTATION

The budget and the accounting bases differ. The annual financial statements for the Public Protector South Africa are prepared on the accrual basis using a classification based on the nature of expenses in the statement of financial performance. The annual financial statements differ from the budget, which is approved on the cash basis by economic classification. The approved budget covers the financial period 1 April 2014 to 31 March 2015.

The actual amounts in the statement of comparison of budget and actuals were recast from the accrual basis to the cash basis and classified per economic classification to be on the same basis as the final approved budget.

32.3 CHANGES FROM THE APPROVED BUDGET TO THE FINAL BUDGET

The changes between the approved and final budget are a consequence of reallocations within the approved budget parameters.