



PUBLIC PROTECTOR  
SOUTH AFRICA

Accountability • Integrity • Responsiveness

Presentation  
By

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**The  
Constitution**  
of the Republic of South Africa, 1996



Act 108 of 1996

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# Public Protectors

- Adv. Selby Baqwa 1996 - 2002
- Adv Lawrance Mushwana 2003 - 2009
- Adv Thuli Madonsela 2010 – 2016
- Adv Busisiwe Mkhwebane (current



# Introduction

- During the multi-party negotiations that preceded South Africa's first democratic elections in 1994, it was agreed that South Africa should have an ombudsman based on the Swedish model of a classic ombudsman. It was agreed that SA's ombudsman should be given a more descriptive name, hence the adoption of "Public Protector".
- The Public Protector was subsequently introduced in **South Africa 21 years ago** to complement traditional checks and balances aimed at regulating the exercise of public power.



# Appointment

- The Public Protector, who holds the same rank as a judge of the Supreme Court of Appeal, is appointed for a non-renewable term of 7 years on the basis of a parliamentary selection process, which culminates in a National Assembly vote followed by a Presidential appointment of whoever is recommended by Parliament.
- The Public Protector is independent and subject only to the Constitution and the law. The Public Protector must be impartial and exercise her powers and perform its functions without fear, favour or prejudice.
- The Public Protector is accountable to the National Assembly and must report on activities and performance of functions to the Assembly at least once a year.
- No person or organ of state may interfere with the functioning of the Public Protector. All organs of state are required by the Constitution to assist and protect the Public and other constitutional institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.



# Vision and Mission

## 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.

## 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.



# Constitutional mandate

Section 181- 182 of the **Constitution** mandates the Public Protector to:

Investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;

- Report on that conduct;
- Take appropriate remedial action;
- Be accessible to all persons and communities.

The **Public Protector Act** is the primary legislation to give effect to the constitutional mandate of the Public Protector is to strengthen constitutional democracy by investigating and redressing improper and prejudicial conduct, maladministration and abuse of power 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.



# KEY MANDATE AREAS

- Key mandate areas that can be discerned from the Constitution and 16 additional statutes include the following:
- Maladministration and appropriate resolution of disputes mandate as conferred by the Public Protector Act 23 of 1994. The maladministration jurisdiction transcends the classical public complaints investigation and includes investigating without a complaint and redressing public wrongs ;
- Enforcement of Executive ethics as conferred by the Executive Members' Ethics Act of 1998 and the Executive Ethics Code.
- Anti-corruption as conferred by the Prevention and Combating of Corrupt Activities Act 12 of 2004 read with the Public Protector Act. This mandate is shared with other agencies;
- Whistle-blower protection as conferred by the Protected Disclosures Act 26 of 2000. This mandate is shared with the Auditor General and other agencies to be named by government;
- Regulation of information as conferred by the Promotion of Access to Information Act 2 of 2000; and



# Strategic Objectives

The following are three organizational promises:

- Be trusted by and accessible to all persons and communities;
- Provide Prompt Remedial Action;
- Promote good governance in the conduct of all state affairs





# Accessibility and Trust

- This objective is aimed at fulfilling the constitutional mandate to be accessible to all persons and communities.
- Accessibility means availability and usability of information and services of the Public Protector to the people irrespective of geographical location or language
- By means of -
  - 19 walk in offices across the country
  - A toll free line
  - Outreach, education and communication activities
  - Annual Good Governance Week
  - Mobile Office of the Public Protector (MOPP)
  - Leveraging relations with stakeholders such as NGOs, CDWs, traditional authorities & government



# Prompt Remedial Action

- This objective is aimed at fulfilling the mandate of the Public Protector by maintaining the focus on the complaint through prompt resolution of all complaints and redressing any improper or prejudicial conduct in state affairs
- This is achieved by, inter alia,
- Establishment of Intake, Assessment & Customer Service Component
- Early Resolution unit fully functional and cascaded to provinces
- Over 15 000 complaints were processed and about 40 resulted in reports
- The rest expeditiously resolved through ADR settlements and other less formal measures.
- Combination of prompt resolution with systemic interventions



# Promoting good governance

- This objective is aimed at sustainable transformation of the state to ensure good governance and responsive service delivery through systemic investigations and other interventions that target structural changes in organs of state.
- This is achieved through initiating investigations and providing remedial action to the public following conduct and system failures.
- The Public Protector is also part of the broader integrity framework that combats abuse of power, corrupt and unethical behavior to ensure fair, accountable and responsive decision-making, service and good governance in all state affairs and public administration in every sphere of government



# Intake, Assessment and Customer Services Branch

Functions of this Branch are:

- Case Initiation and registration
- Case assessment
- Referrals to PPSA Offices and other Institutions
- Non Jurisdictional matters
- Transfers to other Branches
- **Case Initiation & Registration**
- Approaches to the Public Protector are in the form of:
  - Walk in complaints - either visitors duty; clinics or information session;
  - Letters posted or faxed;
  - Online complaints submitted through PPSA website;
  - E-mail;
  - Phone calls - dedicated Investigators on duty: 08h00 – 16h30



## Intake, Assessment and Customer Services Branch (cont'd)

- Approaches can be made by:
- Individuals;
- Organisations / Groups
- Anonymous complaints
- Own initiative investigations

### Case Assessment and Allocation

- This task involves:
- Determining whether PPSA has jurisdiction;
- Which institution have authority to investigate the complaint;
- Is the matter not suited to suited transferred to a particular Province office?
- Determining the complexity and nature of the complaint and the appropriate Branch to investigate it.



# Early Resolution Branch

- Functions of Early Resolution Branch are:
- Undertake preliminary Investigations
- Resolve complaints non complicated matters within 30 days
- Ensure speedy resolution through mediation, conciliation and negotiation
- Establish response protocols with organs of state
- Prepare appropriate complaints for full investigations
- In terms of the Strategic Plan, Early Resolution Branch should resolve complaints within the following time frames:
- 50% of complaints within a month;
- 50% (balance) within 2 months



# Service Delivery Branch

- The functions of the Service Delivery Branch are:
- Complex complaints handling and resolution;
- Develop and issue Good Practice Guidelines and practice notes;
- Ensure resolution of complaints through mediation, conciliation and negotiation;
- Investigation of assigned Special Attention Matters;
- Monitoring of Implementation of Public Protector Findings



## Good Governance and Integrity Branch

- Functions of the Good Governance and Integrity Branch are:
- Investigates complaints in terms of the Executive Members Ethics Act;
- Undertake specialised forensic investigations;
- Monitoring of implementation of remedial action taken on good governance and integrity;
- Train investigators to enhance capacity and effectiveness of the PPSA
- Undertake Good Governance complaints in relation to:
- Maladministration and Corruption in the public service;
- Dishonesty or improper dealing with respect to public money





# STAKEHOLDER MANAGEMENT

- Collaboration with Media
- The use of the media is to create awareness of the Public Protector's services – Television, Radio interviews, newspaper articles.
- At least once per quarter, media conference is held with journalists to release Public Protector reports or deliver a message;
- Accessibility and visibility of the Public Protector has been highly increased through the use of the media;
- The Public Protector also relies on the media for reports on allegations of wrongdoing by organs of state or public officials
- Building co-operative relations with organs of state.
- This area of stakeholder management, involves meeting with leaders of various organs of state. This includes Cabinet Ministers of various departments, Premiers of Provincial Departments, Executive and Municipal Mayors and Director General of various Government Departments



# INTERNATIONAL RELATIONS MANAGEMENT

- Public Protector South Africa is a member of the African Ombudsman and Mediators Association (AOMA). Advocate Busisiwe Mkhwebane is the Executive Secretary of AOMA, and has been tasked with, amongst other things, coordinating the establishment of an African Ombudsman Research Centre in South Africa.
- The Public Protector staff attends annual study programme titled “When Citizen Complain” organised by Public Administration International in the United Kingdom.
- Public Protector has concluded a Memorandum of Understanding with the United Kingdom Parliamentary and Health Services Ombudsman and it was implemented during 2010. The MOU are designed to share best practices in areas such as customer service and assessment and knowledge Management.
- Collaborative agreements reached with Jordan and Kenya
- Public Protector hosts various international delegations from offices of the ombudsman around the world to share information about good practices and experiences.



# CONCLUSION.

- Public Protector has made strides in areas of accessibility and awareness about the office and the services offered. Stakeholder consultative Forums and the Good Governance week, has raised the awareness about the Public Protector and its services.
- Although response protocols are signed for improved cooperation with organs of state, Public Protector has published Rules which will enforce cooperation, reduce turnaround times of investigations and ensure implementation of the Remedial Action.





**Adv Gideon Landman – Office of the Public Protector**

**Thank You**

**Dankie**

**Enkosi**

**Ngiyabonga**

**Ke A Leboga**

