



PUBLIC PROTECTOR  
SOUTH AFRICA

Accountability • Integrity • Responsiveness  
Justice • Good Governance



## PUBLIC PROTECTOR ANNUAL REPORT 2016-2017

*Broadening Access: Taking the Services of the Public Protector to the Grassroots*







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SOUTH AFRICA

**Accountability • Integrity • Responsiveness  
Justice • Good Governance**

## **Annual Report 2016-2017**

*1 April 2016 - 31 March 2017*



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## FOREWORD BY THE PUBLIC PROTECTOR

Adv. Busisiwe Mkhwebane

I am pleased to present my office's Annual Report for the 2016/17 financial year to the National Assembly.

This is the first Annual Report I have compiled as South Africa's fourth Public Protector. This represents reporting on the activities and functions of my office as envisaged in section 181(5) of the Constitution, which outlines the establishment and governance principles of state institutions supporting constitutional democracy.

This report comes at the time when my team and I are in the early stages of the launch of my blueprint document, ***Vision 2023: Taking the Services of the Public Protector to the Grassroots.***

Vision 2023 seeks to ensure that we dedicate more of our time and resources to our services being filtered to communities living on the margins of society. It is my belief that they, too, deserve a taste of the fruits of freedom and democracy.

This in no way implies that less attention will be given to cases of maladministration such as abuse of power, abuse of state resources and unlawful enrichment where highly placed state functionaries are implicated. We will investigate such matters with the same vigour, because we believe that such conduct has dire implications for all our people.

Eight strategic pillars provide the foundation for Vision 2023, ensuring that on completion of my seven-year, non-renewable term of office, I leave behind an empowered people who are their own liberators and public protectors in their own right.

Among other things, we intend to achieve this by broadening access to our services, especially to rural and impoverished communities. We will work with other organs of state, including local government and traditional leadership establishments to achieve this. We intend to empower people to enforce their rights and hold their leaders to account in a peaceful manner.

We will engage communities using the public broadcaster and community radio, addressing our citizens in multilingual formats as an optimal method of communication to raise awareness of the services of the Public Protector.

We want the poor to see in us a refuge and avenue to whom they should turn when maladministration rears its ugly head.

Another key aspect of this vision is to encourage organs of state to establish effective complaints resolution avenues such as sector-specific Ombudsman offices. This will allow us to investigate systemic matters that affect communities or groups as opposed to individuals. We believe that this will result in us making a greater impact to society as a whole.

We call upon the National Assembly to support this plan and to ensure that it is adequately funded so that it can be an efficient and effective mechanism for vulnerable communities. Coming back to this report, you will note that the institution continues to make an impact in the lives of ordinary people albeit within limited resources. With a relatively meagre budget of R274.9 million and a modest staff complement of 395 members, the office finalised 10 787 of the 16 397 cases lodged. Of those finalised, 606 fell outside the ambit of the Public Protector while 929 were referred to other competent institutions for resolution. The remaining 5 255 cases were carried over to the 2017/18 financial year. Findings in favour to the complaint(s) were made in 49 percent of the cases finalised, whilst 27 percent were not. We were unable to resolve the rest of the complaints.

As part of our Stakeholder Engagement strategy, the office traversed the length and breadth of South Africa, introducing the Public Protector to communities and accepting new complaints during the engagements. As many

as 803 community outreach clinics were held countrywide. These contributed to the total figure of 9 563 new complaints received during the period under review.

Statistically the gender of the individuals that seek our assistance continues to be skewed in favour of males, who accounted for 64 percent of all the complaints we dealt with. Only 32 percent of the complaints lodged were from females. The rest were not specified.

The overwhelming majority of the cases we finalise do not result in formal investigation reports. This is because a significant number of the matters are resolved through alternative dispute resolution mechanisms, where we bring the parties involved in conflict together, mediate, negotiate or conciliate and emerge with settlement agreements signed by both parties.

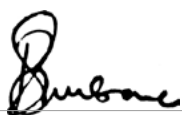
In more serious matters involving conduct failure, we issue investigation reports. Seventeen (17) such reports were issued during the period under review.

Among the issues of concern arising from these reports are the victimisation of whistle-blowers, problems with workmen's compensation, governance matters plaguing local government and the plight of small business, who are frustrated by organs of state either through failure to pay for services rendered or the irregular awarding of tenders at the expense of deserving Small and Medium Micro Enterprises.

Other trends surfacing in the reports are the blurred lines between the political party and state, and alleged manifestations of the phenomenon of "state capture" - a serious matter that should be dealt with swiftly by way of a Judicial Commission of Inquiry in line with the remedial action as encapsulated in the "State of Capture" report. It is concerning as the issue is already proving to be a setback, polarising society and could spell potential disaster for our democracy.

As I step closer to completing a year in office, a year that has been trying at times I would like to thank stakeholders including Parliament, Government, the public, the media and staff for their steadfast support, including the constructive criticism received.

I look forward to your unwavering support over the next six years as we embark on ensuring our Vision 2023 becomes a reality by making a meaningful contribution at the grassroots, thus strengthening constitutional democracy.



**Adv. Busisiwe Mkhwebane**

Public Protector of the Republic of South Africa  
31 August 2017





## CHIEF EXECUTIVE OFFICER'S OVERVIEW

Mr Themba T.C. Dlamini

During the period under review Advocate Thulisile Madonsela's tenure as the Public Protector for the Republic of South Africa (PPSA) ended. The new incumbent Advocate Busisiwe Mkhwebane took over the reigns as of the 15 October 2016. Together with the team, Advocate Mkhwebane developed the ***Vision 2023: Taking the Services of the Public Protector to the Grassroots***, which was then communicated to both staff members and the general public.

On the administrative side, the constraints felt by insufficient finances and capacity cannot be downplayed as they, to a large degree, proved challenging in as far as PPSA achieving its set goals. At the onset of the 2016/17 financial year we envisaged improving in all areas. Our budget of R274 859 669 proved to be inadequate, particularly when one considers that the staff complement of the institution has grown in leaps and bounds, from 329 in 2015/16 to 395 in 2016/17. The institution filled the key and strategic posts of Senior Manager: ICT, Senior Manager: Risk Management, Senior Manager: Legal Services and still envisages to fill the Chief Operations Officer position. Although we have done well by finalising 10 787 complaints in the 2016/17 financial year, we are still confronted with funding challenges.

In the midst of the challenges mentioned in addressing the budgetary constraints one of the measures put in place has been to ensure that the 2016/17 Strategic Plan and Annual Performance Plan (APP) were rigorously interrogated and reviewed to ensure that we plan only for the projects and programmes that are affordable such as the case management system. We have also ensured that the targets set in our APP meet the Specific, Measurable, Achievable, Realistic, and Time-bound (SMART) principle.

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. Whereas the implications of reviewing the investigation and case management processes will lead to delays in finalisation of certain complaints, we will strive to operate within our means.

In conclusion, let me convey my gratitude to the Public Protector and Deputy Public Protector for their sterling and astute leadership. Also, despite the resource challenges, it will be construed as a gross injustice and disservice to the staff members of PPSA if I don't convey my heartfelt commendation to them for continuing to demonstrate immense professionalism in all their respective areas. Their commitment and dedication is second to none. Let us continue to work together by promoting constitutional democracy.



Mr Themba T.C. Dlamini  
Chief Executive Officer  
31 August 2017





## PART A: GENERAL INFORMATION



## PART A: GENERAL INFORMATION

### 1. GENERAL INFORMATION

|                     |  |
|---------------------|--|
| Registered Name:    | Public Protector                                   |
| Physical Address:   | 175 Lunnon Street<br>Hillcrest Office Park<br>0083 |
| Postal Address:     | Private Bag X677<br>Pretoria<br>0001               |
| Telephone Number/S: | +2712 366 7000                                     |
| Fax Number:         | +2712 362 3473                                     |
| Email Address       | cleopatram@pprotect.org                            |
| Website Address:    | www.publicprotector.org                            |
| External Auditors:  | Auditor-General South Africa (AGSA)                |
| Bankers:            | Standard Bank                                      |

## LETTER TO THE SPEAKER

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

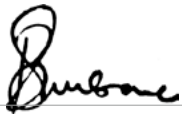
Dear Honourable Speaker

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 2016 to 31 March 2017.

The report seeks to provide an account of how the office fared 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. Busisiwe Mkhwebane**  
Public Protector of the Republic of South Africa  
31 August 2017

## 2. LIST OF ABBREVIATIONS/ACRONYMS

|         |   |
|---------|---|
| AC      | Audit Committee                                       |
| ADR     | Alternative Dispute Resolution                        |
| AG      | Auditor General                                       |
| AGSA    | Auditor General South Africa                          |
| ANC     | African National Congress                             |
| AOMA    | African Ombudsman and Mediators Association           |
| AORC    | African Ombudsman Research Centre                     |
| APP     | Annual Performance Plan                               |
| AU      | African Union   |
| BAcc    | Bachelor of Accountancy                               |
| BBusSc  | Bachelor of Business Science                          |
| BCom    | Bachelor of Commerce                                  |
| BCompt  | Bachelor of Accounting Science                        |
| CA (SA) | Chartered Accountant South Africa                     |
| CEO     | Chief Executive Officer                               |
| CMS     | Case Management System                                |
| COGTA   | Cooperative Governance and Traditional Affairs        |
| COPE    | Congress of the People                                |
| DA      | Democratic Alliance                                   |
| DHA     | Department of Home Affairs                            |
| DIRCO   | Department of International Relations and Cooperation |
| EAAB    | Estate Agency Affairs Board                           |
| EAP     | Employee Assistance Programme                         |
| EMEA    | Executive Members Ethics Act                          |
| EXCO    | Executive Committee                                   |
| FOSAD   | Forum for South African Directors-General             |
| GRAP    | Generally Recognised Accounting Practice              |
| HOD     | Head of Department                                    |
| Hons    | Honours   |
| HPP     | Health Promotion Programmes                           |
| HR      | Human Resources                                       |
| ICT     | Information Communications Technology                 |
| IOI     | International Olympiad in Informatics                 |
| IT      | Information Technology                                |
| LLB     | Legum Baccalaureus (Bachelor of Laws)                 |
| LLM     | Latin Legum Magister (Master of Laws)                 |
| MEC     | Member of Executive Council                           |
| MOPP    | Mobile Office of the Public Protector                 |
| MOU     | Memorandum of Understanding                           |
| MPL     | Member of the Provincial Legislature                  |
| MTEF    | Medium Term Expenditure Framework                     |
| N/A     | Not Applicable  |
| NERSA   | National Energy Regulator of South Africa             |
| NGO     | Non-Government Organisation                           |

|         |  |
|---------|--|
| NHBRC   | National Home Builders Registration Council                |
| OHS     | Occupational Health and Safety                             |
| PAJA    | Promotion of Administrative Justice Act                    |
| PEAS    | Performance Enhancement and Accountability System          |
| PFMA    | Public Finance Management Act                              |
| PMDS    | Performance Management Development System                  |
| PPSA    | Public Protector South Africa                              |
| PSC     | Public Service Commission                                  |
| SALGA   | South African Local Government Association                 |
| SLA     | Service Level Agreement                                    |
| SMART   | Specific, Measurable, Achievable, Realistic and Time-bound |
| SMS     | Senior Management Services                                 |
| SOC     | State Owned Company  |
| SOP     | Standard Operating Procedure                               |
| SCM     | Supply Chain Management                                    |
| SRRT    | Special Rapid Response Team                                |
| UK      | United Kingdom   |
| ADR     | Alternative Dispute Resolution                             |
| AG      | Auditor General  |
| AU      | African Union  |
| BAcc    | Bachelor of Accountancy                                    |
| BBusSc  | Bachelor of Business Science                               |
| BCom    | Bachelor of Commerce                                       |
| BCompt  | Bachelor of Accounting Science                             |
| CA (SA) | Chartered Accountant South Africa                          |
| CEO     | Chief Executive Officer                                    |
| CMS     | Case Management System                                     |
| EMEA    | Executive Members Ethics Act                               |
| Hons    | Honours  |
| HR      | Human Resources  |
| ICT     | Information Communications Technology                      |
| LLB     | Legum Baccalaureus (Bachelor of Laws)                      |
| LLM     | Latin Legum Magister (Master of Laws)                      |
| MOPP    | Mobile Office of the Public Protector                      |
| N/A     | Not Applicable   |
| NHBRC   | National Home Builders Registration Council                |
| PAIA    | Promotion of Administrative Information Act                |
| PAJA    | Promotion of Administrative Justice Act                    |
| PMDS    | Performance Management Development System                  |
| SAPS    | South African Police Services                              |
| SCM     | Supply Chain Management                                    |
| SIU     | Special Investigating Unit                                 |
| USAID   | United State Agency for International Development          |

### 3. THE YEAR - 2016/17 AT A GLANCE



**R274 859 669**

Budget



**395**

Total Funded Staff  
Establishment



**16 397**

Cases Handled in  
2016/17



**4 254**

Cases Carried over from  
2015/16



**10 787**

Cases Finalised



**606**

No Jurisdiction



**FOOTPRINT**

1 National Office  
9 Provincial Offices  
9 Regional Offices



**929**

Cases Referred to other  
Institutions



**9 563**

New Cases



**803**

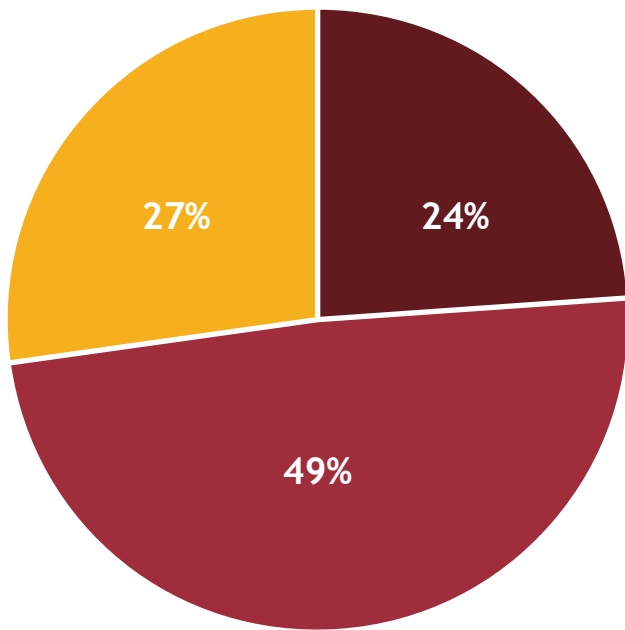
Outreach Clinics



**5 255**

Cases Carried over to  
2017/18

## PERCENTAGE OF COMPLAINTS UPHELD/NOT UPHELD



- Cases Upheld
- Cases Not Upheld
- No Conclusion Drawn

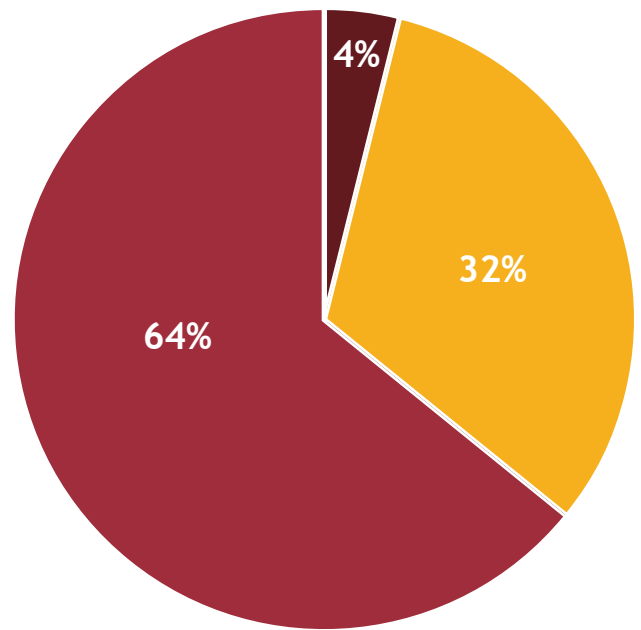
*Cases upheld:* When the office confirms the allegations of the complainant

*Cases not upheld:* When the office does not confirm the allegations by the complainant

*No conclusion drawn:* No jurisdiction matters; matters referred to other institutions; matters withdrawn by complainants; case or the matter resolved by the parties before the office could conclude the investigation

## ACCESSIBILITY INDICATOR

The chart below indicates gender percentage breakdown on complaints received



- Male
- Female
- Not Specified



#### 4. 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 Generally Recognised Accounting Practice (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 that 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.

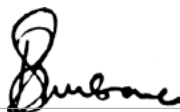
In our opinion, the annual report fairly reflects the operations, the performance information, the human resources information and the financial affairs of the institution for the financial year ended 31 March 2017.

Yours faithfully



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**Mr Themba T.C. Dlamini**  
Chief Executive Officer  
28 July 2017



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**Adv. Busisiwe Mkhwebane**  
Public Protector of the Republic of South Africa  
28 July 2017

## 5. STRATEGIC OVERVIEW

### 5.1 Vision

A trusted independent constitutional institution that rights administrative wrongs and promotes good governance in state affairs.

### 5.2 Mission

We strengthen constitutional democracy by investigating, rectifying and redressing any improper or prejudicial conduct in state affairs.

### 5.3 Organisational Purpose Statement

We protect the public from administrative wrong doings and rooting out improper conduct and promoting good governance in state affairs.

### 5.4 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) Fairness;
- b) Impartiality;
- c) Transparency;
- d) Efficiency and professionalism;
- e) Redress; and
- f) Ubuntu

### 5.5 Public Protector's Service Pledge and Strategic Outcomes Oriented Goals

- a) Prompt service;
- b) Access;
- c) Efficiency;
- d) Impact; and
- e) Influence.

## 6. CONSTITUTIONAL AND STATUTORY MANDATES

### 6.1 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 suspected 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

### 6.2 Statutory Mandate Areas

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

#### 6.2.1. 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 and reporting as envisaged under the Public Protector Act 23 of 1994;

#### 6.2.2. Executive Ethics Enforcement

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

### 6.2.3. *Corruption Investigations*

Investigate allegations of corruption as mandated by section 6(4) of the Public Protector Act, read with the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PCCAA).

### 6.2.4. *Protected Disclosures*

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

### 6.2.5. *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.

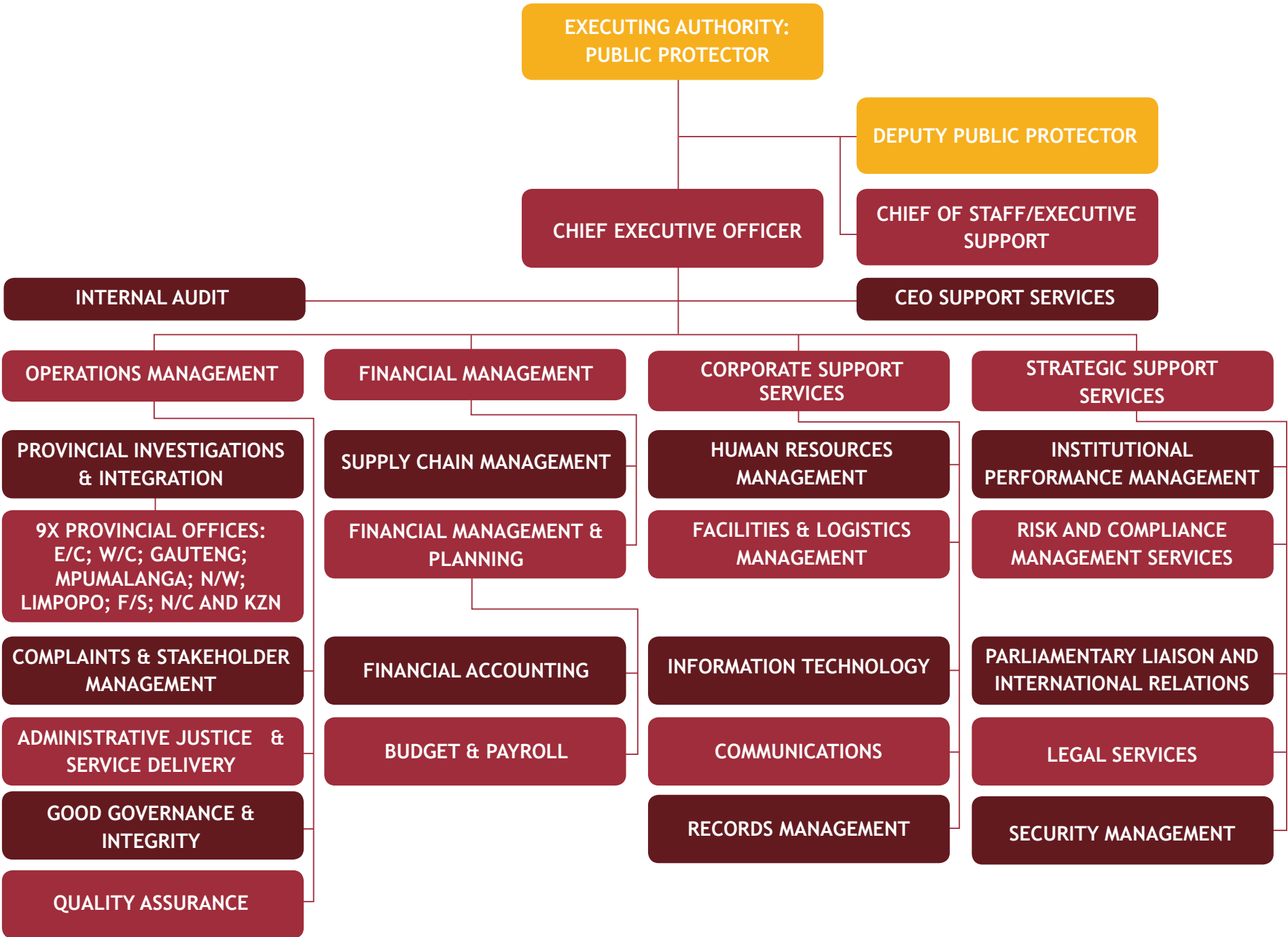
### 6.2.6 *Other Mandates*

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

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

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.

## 7. HIGH LEVEL ORGANISATIONAL STRUCTURE







## PART B:

# PERFORMANCE INFORMATION





## PART B: PERFORMANCE INFORMATION

### 1. AUDITOR'S REPORT: PREDETERMINED OBJECTIVES

The Auditor-General South Africa (AGSA) currently performs the necessary audit procedures on the performance information to provide reasonable assurance in the form of an audit conclusion. The audit conclusion on the performance against predetermined objectives is included in the report to management, with material findings being reported under the Predetermined Objectives heading in the Report on other legal and regulatory requirements section of the auditor's report.

Refer to page 96 to 99 of the Report of the AGSA, published as Part E: Financial Information.

### 2. SITUATIONAL ANALYSIS

The Auditor-General South Africa (AGSA) currently performs the necessary audit procedures on the performance information to provide reasonable assurance in the form of an audit conclusion. The audit conclusion on the performance against predetermined objectives is included in the report to management, with material findings being reported under the Predetermined Objectives heading in the Report on other legal and regulatory requirements section of the auditor's report.

#### 2.1 Service Delivery Environment

The overall performance of the institution for the year under review is 53%. One of the major challenges experienced by the institution is inadequate funding.

#### 2.2. Organisational environment

The arrival of the new Public Protector in October 2016 resulted in key decisions being implemented, thus affecting the achievement of some planned targets. For example, targets aimed at acquiring donor funding and appointing a panel of external investigators had to be stopped to align with the vision of the incoming Public Protector.

Though some key positions have been filled such as the Chief Executive Officer, Senior Manager: Strategic Support, senior investigators and investigators, the approved organisational structure of Public Protector South Africa has never been fully funded, which hampers its ability to rigorously investigate and finalise cases on time and to deliver on its mandate.

Challenges with regard to office space has resulted in the deterioration of working conditions of employees, with some employees being forced to share offices. Some offices do not meet the basic requirements of the Occupational Health and Safety Act. Security in some offices has also become a major risk and several break-ins and muggings have been reported at Provincial and Regional Offices. This matter is of serious concern. Due to financial constraints, the Public Protector South Africa (PPSA) has not been able to relocate the high risk Provincial Offices. A request for additional funding was requested in order to overcome this critical challenge.

#### 2.3. Key policy developments and legislative changes

None

#### 2.4. Strategic Outcome Oriented Goals

In pursuit of its constitutional and legislative mandate, vision and mission, the work of Public Protector South Africa was informed by five (5) strategic outcomes oriented goals during the 2016/17 financial year. These strategic outcomes oriented goals constitute the pillars to focus organisational energies, decisions and performance management.

The following key strategic objectives informed the work of the Public Protector in the 2016/17 financial year:

- a) Strategic Outcomes Oriented Goal 1: Prompt Service;
- b) Strategic Outcomes Oriented Goal 2: Access;
- c) Strategic Outcomes Oriented Goal 3: Efficiency;
- d) Strategic Outcomes Oriented Goal 4: Impact; and
- e) Strategic Outcomes Oriented Goal 5: Influence.



Below is a summary of how the organisation performed under each of the 5 strategic outcomes-oriented goals:

### **Goal 1: Prompt service**

The goal of the institution is to produce quality investigations promptly. In doing so, we reduced the backlog of cases that were two years and older as at 1 April 2016 by 62%. At the same time, cases older than a year as at 1 April 2016 were reduced by 77%. We managed to resolve the majority of our cases in line with approved investigation plans. Investigation plans set out timeframes for each investigation, thus giving both the investigator and complainant an estimated time that it will take for an investigation to be completed. If during investigations, the scope of work is increased due to various factors, the investigation plan is amended and approved.

### **Goal 2: Access**

The institution's goal is to reach as many people as possible through its outreach activities. We reached many communities through our 803 clinics that were conducted during the period under review. Furthermore, the impact of the outreach activities such as media house visits, numerous newspaper articles written about the office and interviews resulted in South Africans being made aware of the existence of the office, the work it does and the type of assistance they can obtain. While millions of people were reached through outreach activities, the objective going forward is to focus more on bringing these services to people living in villages and townships.

### **Goal 3: Efficiency**

To improve efficiency in the office, Standard Operating Procedures, templates and checklists were developed in the various branches and units within the institution with the sole purpose of introducing tools to improve efficiency. Investments have been made in improving productivity through resourcing information technology infrastructure which is currently lacking. Thus far, the network has been upgraded in order to accommodate the Case Management System.

### **Goal 4: Impact**

To make an impact, the institution had planned to capacitate staff members, especially in the area of project management to improve their efficiency, thus reducing the time it takes to finalise quality investigations. The training did not take place due to insufficient funding. The second area of high impact is for the office to achieve a clean audit status, taking into account that it is an institution that focuses on integrity and ethics.

### **Goal 5: Influence**

Through the work done by the African Ombudsman Research Centre (AORC), the institution was in a position to influence the work of other ombudsman offices on the African continent. The work done by AORC, a research institute funded by DIRCO through Public Protector South Africa includes research, assisting African ombudsman institutions with relevant literature and helping to capacitate them.

## FORMAL REPORTS - REPORTS OF THE PUBLIC PROTECTOR FOR 2016/17 FINANCIAL YEAR

|   | Report Name   | Long Name   | Date       | Summary of Complaint and Issues   | Summary of Findings   | Remedial action   |
|---|---|---|------------|---|---|---|
| 1 | "State and Party Colours"<br>Report No 1 of 2016/17 | Report on an investigation into allegations of maladministration regarding Operation Hlasela and Hlasela Fund of the Free State Provincial Government and alleged conflation of Party and State | 5 May 2016 | <p>The report follows an investigation into alleged abuse of state resources to advance the African National Congress (ANC) election campaign during the 2011 municipal elections and the conflation of party and state through the activities of a programme known as Operation Hlasela. It was lodged by Mr R Jankielsohn, Democratic Alliance Member of Provincial Legislature in the Free State on 28 July 2011.</p> <p>Similar complaints were also lodged by Congress of the People (COPE) and members of the public, alleging further improprieties including corruption in the awarding of tenders and other contracts under the Operation Hlasela Programme.</p> | <p>a) Regarding whether the Free State government abused state resources to advance the ANC election campaign during the 2011 municipal elections:</p> <ul style="list-style-type: none"> <li><i>There is no conclusive evidence showing abuse or misuse of state resources to advance the ANC's electoral campaign during the 2011 local government elections.</i></li> <li><i>Evidence reveals that there was a private as well as a public initiative to accelerate service delivery of the Free State government named Operation Hlasela.</i></li> <li><i>The private Hlasela initiative openly endorsed the ANC's electoral campaign and although no state funds were used, state platforms and communication resources were used to advertise Operation Hlasela without distinguishing between the private and public initiatives.</i></li> <li><i>This resulted in the undermining of fair play in the electoral process, inconsistent with Schedule 2 of the Electoral Act, sections 136 and 195 of the Constitution and the spirit of article 17 of the African Charter on Democracy, Elections, and Governance (ACDEG) and article 25 of the International Covenant on Civil and Political Rights (ICCPR)</i></li> </ul> <p>b) Regarding whether the Free State government implemented Operation Hlasela in a manner that amounts to conflation of party and state:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated because the branding and marketing of the two initiatives were indistinguishable, marketed and lauded at government platforms.</i></li> <li><i>The private initiative benefitted from the shared branding and free advertising of the government's Operation Hlasela at state expense. This resulted in the undermining of fair play in the electoral process inconsistent with Schedule 2 of the Electoral Act, sections 136 and 195 of the Constitution and the spirit of article 17 of the African Charter on Democracy, Elections, and Governance (ACDEG) and article 5 of the International Covenant on Civil and Political Rights (ICCPR).</i></li> </ul> | <p>The Premier is to ensure that:</p> <p>a) a provincial policy is developed and circulated in all government institutions within the province, setting out a clear separation between state and party activities at all times and that all provincial state functionaries and employees are made aware of this policy; and</p> <p>b) no government platform or state functionary is required or allowed to use their position, power and public resources under their control to market political party matters.</p> |

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|   |   |   |                   |   | <p>c) Regarding whether any person or political party was prejudiced by the conduct in question:</p> <ul style="list-style-type: none"> <li>• <i>Despite the intention and bona fides of the Premier and the Free State government, other political parties and independent candidates were prejudiced. The arrangement allowed the use of government platforms to promote the ANC Manifesto and provided free advertisement for the ANC, which was not provided to other political parties or independent candidates, thus compromising fair play.</i></li> </ul>   |   |
| 2 | “Who Tampered?”<br>Report No 1 of 2016/17 | A report on an investigation into alleged maladministration by Eskom relating to the alleged wrongful disconnection of electricity supply and improper imposition of tampering and reconnection fees. | 27 September 2016 | <p>The report follows an investigation into allegations of maladministration by the Western Cape Operating Unit of Eskom Holdings State Owned Company (SOC).</p> <p>Mrs S Khumalo complained that Eskom wrongfully disconnected electricity supply to her premises on 29 February 2016, improperly imposed a tampering and reconnection fee of R12 000 against her and generally improperly handled the matter involving a faulty pre-paid meter and the use of unpaid electricity.</p> | <p>a) Regarding whether Eskom wrongfully disconnected the electricity supply to Mrs Khumalo’s premises:</p> <ul style="list-style-type: none"> <li>• <i>Eskom wrongfully disconnected the electricity supply of the complainant in contravention of the Constitution and the PAJA.</i></li> <li>• <i>Eskom’s conduct constitutes maladministration and amounts to improper conduct</i></li> </ul> <p>b) Regarding whether Eskom improperly imposed a tampering and reconnection fee on Mrs Khumalo:</p> <ul style="list-style-type: none"> <li>• <i>Eskom improperly imposed a tampering and reconnection fee without following due process.</i></li> <li>• <i>Eskom failed to exercise such power in line with the principles of administrative justice as envisaged in section 33 of the Constitution read with section 3 of PAJA, as well as the standard of good administration as outlined in section 195 of the Constitution.</i></li> <li>• <i>Eskom’s conduct constitutes maladministration, abuse of power and improper conduct.</i></li> </ul> | <p>The General Manager of Eskom, Western Cape, is to:</p> <p>a) Ensure that the tampering fee on Mrs Khumalo’s account is reversed, as such was imposed without following due process as required in items 4.1.1.3.5.11(d) and 4.5.16(b) of the Revenue Protection;</p> <p>b) Ensure that Mrs Khumalo’s liability with regard to the consumption of electricity without paying for it, from 04 September 2013 to 29 February 2016, is calculated and reasonable terms are agreed to with her for the payment of the debt;</p> |

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|             |           |      |                                 | <p>c) Regarding whether Eskom improperly handled the matter:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as Eskom failed to fix a reported pre-paid meter malfunction for 26 months, thus allowing unauthorised free use of electricity.</i></li> <li><i>26 months of uncollected revenue is tantamount to dereliction of duty on the part of Eskom in violation of section 195 of the Constitution and section 51 of the PFMA in that the conduct of Eskom is inconsistent with its financial stewardship responsibilities.</i></li> <li><i>Eskom's conduct constitutes maladministration and amounts to improper conduct.</i></li> </ul> <p>d) Regarding whether Mrs Khumalo and or other person(s) were improperly prejudiced by Eskom's conduct:</p> <ul style="list-style-type: none"> <li><i>Eskom's failure to timeously attend to the reported malfunctioning of the pre-paid meter perpetuated an uncertainty and eventually prevented the complainant from lawfully buying and using electricity - a situation that persisted for six months.</i></li> <li><i>Eskom's conduct was at odds with SDG7 requiring access to affordable, reliable, sustainable and modern energy for all.</i></li> </ul> | <p>c) Ensure that a mechanism is put in place to alert Eskom to similar incidents where electricity is being supplied without necessary payment being rendered, and to take the necessary remedial action in that regard; and</p> <p>d) Revise the Standard Operating Protocol to ensure that each incident of reported faulty or illicit consumption of electricity is conclusively resolved and that disciplinary action, in future, is taken against technicians who abandon a reported incident of fault meters without certifying that such problem has been solved.</p> <p>The Acting CEO of National Energy Regulator of South Africa (NERSA), is to:</p> <p>a) Appoint an independent person to determine a fair value to be paid by Mrs Khumalo for tampering;</p> <p>b) Redo the investigation process properly, taking into account that the initial process followed by NERSA to adjudicate the matter was flawed.</p> |

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| 3 | "Rocking the Boat" Report No 4 of 2016/17 | A report on an investigation into allegations of abuse of power and victimisation of alleged whistle-blower Ms Fikile Hlatshwayo-Rouget by the KwaZulu-Natal Provincial Treasury resulting in her alleged unfair dismissal | October 2016 | The report follows an investigation into allegations of abuse of power and victimisation of an alleged whistle-blower by the KwaZulu-Natal Provincial Treasury (Treasury). The complainant alleged that she was suspended and later dismissed under pretext charges after making a protected disclosure regarding suspected corruption (excessive procurement, overpayment of consultants and funding of non-core business activities), conflict of interest, maladministration and related procurement irregularities within the Treasury. | <p>a) Regarding whether Treasury improperly handled a protected disclosure duly made by the complainant in terms of the PDA:</p> <ul style="list-style-type: none"> <li>• <i>The complainant duly made a protected disclosure to general managers and to her immediate supervisor in line with the PDA.</i></li> <li>• <i>Treasury's successive Executive Authorities (MECs) and the Accounting Officer unduly refused to acknowledge that the complainant made a protected disclosure about certain improprieties and confined their intervention to a prior disclosure with limited content.</i></li> <li>• <i>When Treasury finally investigated the content of the disclosure it was too late to meaningfully arrest some of the improprieties, including alleged corrupt activities by one of the General Managers (GMs) reporting to her, and abuse of state funds.</i></li> <li>• <i>Treasury's delay diminished, if not extinguished, the chances of recovering state funds.</i></li> <li>• <i>The conduct of the Head of Department (HOD) violated section 38 of the PFMA and section 195(1) of the Constitution.</i></li> <li>• <i>The conduct of the former MEC was in violation of the Executive Ethics Code and accordingly inconsistent with sections 95 and 96(1) of the Constitution.</i></li> <li>• <i>Treasury's handling of the protected disclosure violated section 3 of the PDA, the PCCAA, the POCA and section 195(1) of the Constitution, thus constituting maladministration and improper conduct.</i></li> </ul> | <p>The MEC is to ensure:</p> <p>a) that the Complainant is reinstated to her position within 30 days from the date of issuing of this report;</p> <p>b) that the Complainant is paid all monies that would have been due to her had she not been dismissed, together with interest calculated at the applicable rate as prescribed by the Minister of Justice in terms of section 1(2) of the Prescribed Rate of Interest Act No 55 of 1975 within 30 days from the date of issuing of this report;</p> <p>c) that the Complainant is compensated for financial losses incurred by virtue of incidental expenses related to her dismissal within 60 days from the date of issuing of this report and upon submission of proof thereof;</p> <p>d) that the Complainant is provided with a letter of apology regarding her unfair dismissal;</p> |

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|             |           |      |                                 | <p>b) Regarding whether Treasury improperly suspended and later dismissed the complainant, which amounted to an occupational detriment envisaged in section 3 of the PDA:</p> <ul style="list-style-type: none"> <li><i>The suspension and subsequent dismissal of the Complainant on trivial charges was irrational, unreasonable, and unfair; and intended to remove the Complainant in order to protect persons implicated in her disclosure.</i></li> <li><i>The complainant was subjected to harassment and conduct which violated her contract of employment, Treasury's disciplinary code, grievance procedure, the Public Servants Association of South Africa (PSA), the Labour Relations Act (LRA), Promotion of Administrative Justice Act (PAJA) and sections 31 and 32 of the Constitution, resulting in an 'occupational detriment' in terms of the PDA.</i></li> <li><i>The conduct of the former MEC and HOD constitute maladministration and abuse of power.</i></li> </ul> <p>c) Whether the Complainant was prejudiced as envisaged in section 6(4)(a)(v) of the PPA:</p> <ul style="list-style-type: none"> <li><i>Due to Treasury's improper conduct the complainant suffered immense financial, emotional and social prejudice including unfair loss of remuneration, emotional pain and suffering, unnecessary financial expenses, loss of social capital, loss of income from alternative employment and inconvenience and security concerns.</i></li> </ul> | <p>e) that the Complainant is offered further therapeutic support, if required, for suffering occupational detriment as a whistle-blower;</p> <p>f) that the Complainant and employees reporting under her be provided with support through an appropriate change management leadership intervention that incorporates gender mainstreaming and provides all team members with knowledge, values and skills to manage diversity and embrace whistle-blowing;</p> <p>g) a review and or development, institutionalisation and implementation of departmental SOPs for handling Probation and Whistle-blowers; and</p> <p>h) that all Treasury staff members are trained on compliance with the SCM policies and related SOPs.</p> |

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|             |           |      |                                 |                     | <p>The Premier is to ensure that:</p> <p>a) the MEC implements the remedial action within the stipulated timelines and reports to the Provincial Legislature and the Public Protector on the outcome;</p> <p>b) any challenges regarding implementation are debated in the Provincial Legislature, with input from the Public Protector, before any legal action is considered in line with cooperative governance and to prevent further prejudice to the Complainant.</p> |



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| 4 | "State of Capture" Report no 6 of 2016/2017 | Report on an investigation into alleged improper and unethical conduct by the President and other state functionaries relating to alleged improper relationships and involvement of the Gupta family in the removal and appointment of Ministers and Directors of State-Owned Enterprises resulting in improper and possibly corrupt award of state contracts and benefits to the Gupta family's businesses | 14 October 2016 | <p>The report follows the investigation of the conduct of the President and other state officials relating to improper relationships and the involvement of the Gupta family in cabinet matters and the awarding of state contracts.</p> <p>The investigation emanates from complaints lodged against the President by Father S. Mayebe on behalf of the Dominican Order; Mr. Mmusi Maimane, leader of the Democratic Alliance (DA) and of the official opposition in Parliament in terms of section 4 of the EMEA; and a member of the public, whose name has been withheld.</p> <p>The complaints follow media reports alleging that a) Mr Mcebisi Jonas and Ms Vytjie Mentor were offered cabinet positions by the Gupta family, b) the Gupta family knew beforehand of the appointment of Mr Van Rooyen as Minister of Finance, c) two Gupta-aligned senior advisors were appointed without proper procedure to the National Treasury, d) business dealings between the Gupta family and government departments and SOEs were riddled with irregularities, undue enrichment, corruption and undue influence and e) Cabinet improperly intervened when commercial banks refused to continue offering services to companies owned by the Gupta family.</p> | <p>a) Regarding whether President Zuma improperly and in violation of the Executive Ethics Code, allowed members of the Gupta family and his son to be involved in the process of the removal and appointment of the Minister of Finance in December 2015:</p> <ul style="list-style-type: none"> <li>Minister Nene's replacement as Finance Minister was preceded by engagements between Deputy Minister Jonas, Mr Van Rooyen and the Gupta family immediately prior to his removal.</li> <li>Information about the appointment of Ministers was shared with the Gupta family in violation of the Executive Ethics Code.</li> <li>The Executive's failure to investigate Mr Jonas' allegation that he was offered cabinet positions in exchange for favours to the Gupta family may be in contravention of the PCCAA as well as the Executive Ethics Code.</li> </ul> <p>b) Regarding whether President Zuma improperly and in violation of the Executive Ethics Code, allowed members of the Gupta family and his son to engage or to be involved in the process of removal and appointing of various members of Cabinet:</p> <ul style="list-style-type: none"> <li>No evidence was found that any action was taken to verify Ms Mentor's allegation resulting in non-compliance with section 195 of the Constitution</li> <li>The Executive's failure to investigate may also be in contravention of the PCCAA as well as the Executive Ethics Code.</li> </ul> <p>c) Whether President Zuma improperly and in violation of the Executive Ethics Code allowed members of the Gupta family and his son to be involved in the process of appointing members of Boards of Directors of State-owned Enterprises (SOEs):</p> | <p>The Public Protector's investigation and findings are largely not conclusive due to resource constraints and the extent of the issues it needed to transvers. Consequently:</p> <ul style="list-style-type: none"> <li>The President is to appoint, within 30 days, a commission of inquiry headed by a judge solely selected by the Chief Justice, who shall provide one name to the President.</li> <li>The Judge is to be given the power to appoint his/her own staff and to investigate all the issues using the record of this investigation and the report as a starting point.</li> <li>The President is to ensure that the commission is adequately resourced, in conjunction with the National Treasury.</li> <li>The commission of inquiry is to be given powers of evidence collection that are no less than that of the Public Protector.</li> </ul> |

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|             |           |      |                                 | <ul style="list-style-type: none"> <li><i>A duty to investigate improprieties in terms of section 195 of the Constitution is also imposed on the Executive and was possibly violated in relation to allegations by Mr T Maseko, former CEO of GCIS, about the link between his removal and his failure to accede to pressure from the Gupta family to place government advertisements in the New Age newspaper.</i></li> <li><i>The same applies to persistent allegations regarding an alleged 'cosy' relationship between Mr Molefe and the Gupta family</i></li> <li><i>The allegations of Executive and Party interference in the management of SOE's and appointments thereto by Ms B. Hogan require further attention.</i></li> </ul> <p>d) Whether President Zuma has enabled or turned a blind eye, in violation of the Executive Ethics Code, to alleged corrupt practices by the Gupta family and his son in relation to allegedly linking appointments to quid pro quo conditions:</p> <ul style="list-style-type: none"> <li><i>There seems to be no evidence showing that Mr Jonas' allegations that he was offered money and a ministerial post in exchange for favours were ever investigated by the Executive.</i></li> <li><i>If this observation is correct then the provisions of section 2.3(c) of the Executive Ethics Code may have been infringed as alleged.</i></li> </ul> <p>e) Regarding whether President Zuma and other cabinet members improperly interfered in the relationship between banks and Gupta-owned companies thus giving preferential treatment to such companies on a matter that should have been handled by independent regulatory bodies:</p> <ul style="list-style-type: none"> <li><i>Cabinet appears to have taken an extraordinary and unprecedented step regarding intervention into what appears to be a dispute between a private company co-owned by the President's friends and his son.</i></li> <li><i>This might present a possible conflict of interest as envisaged under section 2.3(c) of the Executive Ethics Code and contravention of section 195 of the Constitution.</i></li> </ul> | <ul style="list-style-type: none"> <li>The commission of inquiry is to complete its task and to present the report with findings and recommendations to the President within 180 days. The President shall submit a copy with an indication of his/her intentions regarding the implementation to Parliament within 14 days of releasing the report.</li> <li>Parliament is to review, within 180 days, the EMEA to provide better guidance regarding integrity, including avoidance and management of conflict of interest. This should clearly define responsibilities of those in authority regarding a proper response to whistleblowing and whistle-blowers. Consideration should also be given to a transversal code of conduct for all employees of the State.</li> <li>The President is to ensure that the Executive Ethics Code is updated in line with the review of the EMEA.</li> </ul> |

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|             |           |      |                                 | <p>f) Whether President Zuma improperly and in violation of the Executive Ethics Code exposed himself to any situation involving the risk of conflict between his official duties and his private interests or used his position or information entrusted to him to enrich himself and businesses owned by the Gupta family and his son to be given preferential treatment in the award of state contracts, business financing and trade licences:</p> <ul style="list-style-type: none"> <li><i>The allegations raised by both Messrs Jonas and Maseko are relevant as is action taken and/or not taken in relation thereto.</i></li> </ul> <p>g) Whether anyone was prejudiced by the conduct of President Zuma:</p> <ul style="list-style-type: none"> <li><i>Deputy Minister Jonas would be regarded as a liar and publicly humiliated unless he is vindicated in his public statement that Mr Ajay Gupta offered the position of Minister of Finance to him with the knowledge of President Zuma who subsequently denied such offer.</i></li> <li><i>Consequently the people of South Africa, who Deputy Minister Jonas took into his confidence in revealing this, would lose faith in open, democratic and accountable government if President Zuma's denials are proven to be false.</i></li> </ul> <p>h) Whether any state functionary in any organ of state or other person acted unlawfully, improperly or corruptly in connection with the appointment or removal of Ministers and Boards of Directors of SOEs:</p> <ul style="list-style-type: none"> <li><i>It appears that the Board at Eskom was improperly appointed and not in line with the spirit of the King III report on Good Corporate Governance.</i></li> <li><i>There are no mechanisms in place to deal with conflicts which may have arisen after the Board was appointed nor was there any action taken by the Minister of Public Enterprises to prevent these apparent conflicts.</i></li> <li><i>The Board of Eskom may have failed in its duty to act in the best interest of the country.</i></li> </ul> | <ul style="list-style-type: none"> <li>The Public Protector brings notice of the NPA and the Directorate for Priority Crime Investigation (DPCI) those matters identified in this report where it appears crimes have been committed.</li> </ul> |

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|             |           |      |                                 | <p>i) Whether any state functionary in any organ of state or other person acted unlawfully, improperly or corruptly in connection with the award of state contracts or tenders to Gupta-linked companies or persons:</p> <ul style="list-style-type: none"> <li>Minister Zwane's conduct with regards to his flight itinerary to Switzerland may be in violation of the PFMA, section 96(2) of the Constitution and section 2 of the EMEA.</li> <li>The purpose of awarding contracts to Tegeta was to fund the company and enabling them to purchase shares in OCH.</li> <li>Eskom's conduct may amount to contravention of sections 38, 51 and 83(1)(a) of the PFMA as well as failure to comply with a duty of care in violation of the same.</li> </ul> <p>j) Whether any state functionary in any organ of state or other person acted unlawfully, improperly or corruptly in connection with the extension of state provided business financing facilities to Gupta-linked companies or persons:</p> <ul style="list-style-type: none"> <li>The prepayment to Tegeta to the amount R659 558 079, as well as the purpose for which it was made may not be in line with the Public Finance Management Act (PFMA).</li> <li>The Eskom Board does not appear to have exercised a duty of care or acted, which may constitute a violation of section 50 of the PFMA.</li> <li>Tegeta's conduct and misrepresentations made to the public with regards to the prepayment and the actual reason for the prepayment could amount to fraud.</li> <li>It appears that the manner in which the rehabilitation funds are currently being handled with the Bank of Baroda are in contravention of section 24P of NEMA as well as section 7 of the financial regulations.</li> <li>Tegeta accordingly may have contravened section 7 of the financial regulations which is an offence under section 18 of the financial regulations.</li> </ul> |                 |

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|   |                                       |  |                 |  | <ul style="list-style-type: none"><li>• <i>Tegeta may have contravened section 9(5) of the financial regulations in respect of the transfer and utilisation of interest on funds held in the Bank of Baroda. Tegeta further contravened section 37(a) of the Income Tax Act by failing to treat rehabilitation funds as prescribed by law.</i></li><li>• <i>The next phase of the investigation will focus on the role of the Bank of Boroda in relation to the purchase of all shares in OCH by Tegeta and the rehabilitation fund.</i></li></ul> <p>k) Whether any state functionary in any organ of state or other person acted unlawfully, improperly or corruptly in connection with exchange of gifts in relation to Gupta-linked companies or persons:</p> <ul style="list-style-type: none"><li>• <i>The issue will be attended to further in the next phase of the investigation.</i></li></ul> <p>l) Whether any person/entity was prejudiced due to the conduct of the SOE:</p> <ul style="list-style-type: none"><li>• <i>Glencore appears to have been severely prejudiced by Eskom’s actions in refusing to sign a new agreement with them for the supply of coal to the Hendrina Power Station. It appears that Eskom acted for the sole purpose of forcing OCM/OCH into business rescue and financial distress.</i></li><li>• <i>Tegeta unduly benefitted from the conduct of Eskom in relation to the sale of OCH in contravention of section 52 of the PFMA.</i></li></ul> |  |
| 5 | “Life Pause” Report No 8 of 2016/2017 | A report on an investigation into allegations of maladministration, improper prejudice and undue delay by the Department of Home Affairs in failing to confirm the citizenship of Mr J Khumalo | 14 October 2016 | <p>The report follows an investigation into allegations of maladministration, improper prejudice and undue delay by the Department of Home Affairs (DHA) in failing to confirm the South African citizenship of Mr J Khumalo.</p> <p>The complainant was born in South Africa and moved to Zimbabwe at a very young age as the son of a Zimbabwean citizen. In 2010, having moved back to South Africa, he approached the DHA requesting verification of his SA birth records, which was refused or delayed.</p> | <p>a) Regarding whether the DHA improperly refused and unduly delayed in issuing the Complainant with a letter confirming that he is a South African citizen:</p> <ul style="list-style-type: none"><li>• <i>The DHA only issued a letter confirming that the complainant is a South African citizen 16 months after receipt of the request.</i></li><li>• <i>The DHA failed to comply with its duty to provide timeous information as envisaged in section 195(1)(g) of the Constitution, resulting in undue delay and improper conduct.</i></li></ul>  | <p>The DHA</p> <p>a) must within fourteen working days from the date of the receipt of this report, tender a written apology to the Complainant for the inconvenience caused to him and his family;</p> <p>The Minister of Home Affairs, Mr Malusi Gigaba:</p> |

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|             |           |      |                                 | <p>b) Regarding whether the DHA improperly terminated the complainant's South African citizenship:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the DHA informed the complainant on 11 October 2011 that he ceased to be a South African citizen on 28 May 1982 when he acquired Zimbabwean citizenship.</i></li> <li><i>The DHA failed to provide the complainant with adequate notice and opportunity to make representations prior to terminating his SA citizenship in violation of section 3(2)(b)(i) and (ii) of PAJA.</i></li> <li><i>The conduct by the DHA amounts to maladministration and improper conduct.</i></li> </ul> <p>c) Regarding whether the DHA unduly delayed in reinstating the Complainant's South African citizenship:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated due to DHA's failure to finalise the Complainant's citizenship status within its own timelines</i></li> <li><i>The actions of the DHA violated section 195(1)(g) of the Constitution and amounted to undue delay, improper conduct and maladministration.</i></li> </ul> <p>d) Regarding whether the Complainant was improperly prejudiced by the conduct of the DHA:</p> <ul style="list-style-type: none"> <li><i>The Complainant was improperly prejudiced by the conduct of the DHA, which adversely affected the studies of the Complainant's children.</i></li> </ul> | <p>a) should provide a systemic remedy by conducting an inquiry into the process that was followed when its officials terminated the complainant's citizenship and establish the reasons why proper verification and checks were not done at that stage.</p> |

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| 6 | "Collateral Damage" Report No 9 of 2016/2017 | A report on an investigation into the alleged maladministration and abuse of power by the Board of the Estate Agency Affairs Board through its termination of the contract of employment of Mrs Nomonde Tantaswa Mapetla, former Chief Executive Officer of the EAAB, without instituting a disciplinary hearing | 14 October 2016 | The report relates to an investigation into the alleged maladministration and abuse of power by the Board of the Estate Agency Affairs Board (the EAAB Board) as a result of the dismissal of its former CEO without proper suspension procedures and without instituting a disciplinary hearing. | <p>a) Regarding the alleged improper constitution of the Board:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the Board that suspended and later dismissed the Complainant did not comprise of 15 members as required by sections 3(1) and (2) of the EAAA.</i></li> <li><i>The decision taken in respect of the Complainant by the Board of 11 members was, however, not invalid as the prescribed quorum was met.</i></li> <li><i>The conduct of Minister Davies in appointing 11 instead of 15 members contrary to sections 3(1) and (2) of the EAAA constituted maladministration and improper conduct.</i></li> </ul> <p>b) Regarding the alleged improper suspension of the Complainant:</p> <ul style="list-style-type: none"> <li><i>The allegation is sustained as the Board resolved to suspend the Complainant without prior notice and after her receiving glowing performance assessments.</i></li> <li><i>The Complainant's suspension was inconsistent with the EAAB's service manual and in contravention of section 188 of the LRA, section 3 of PAJA and sections 7, 10, 23(1), 33(1) and (2) and 195(1) of the Constitution.</i></li> <li><i>The EAAB's conduct constitutes maladministration and improper conduct.</i></li> </ul> <p>c) Regarding the alleged improper dismissal of the Complainant:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the Chairperson failed to follow due process when dismissing the Complainant in contravention of the EAAB Human Resources Manual, the Code of Good Practice: Dismissal, section 3 of PAJA sections 7, 10, 23(1), 33(1) and (2) and 195(1) of the Constitution.</i></li> <li><i>The conduct of the Chairperson and the Board constitutes maladministration, improper conduct and abuse of power.</i></li> </ul> | <p>The Chairman of the EAAB Board to ensure that:</p> <p>a) the EAAB considers the report and renders an apology to the Complainant for the improper termination of her contract of employment; and</p> <p>b) the EAAB publicises the apology in the media, particularly those in which the Complainant's suspension and dismissal by the EAAB Board was reported.</p> <p>The Minister of Human Settlements is to:</p> <p>a) take cognizance of the findings regarding the maladministration by the EAAB Board relating to irregularities mentioned in the report.</p> <p>b) apologise in writing to the Complainant within 30 days for the way she was treated.</p> |



| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action  |
|-------------|-----------|------|---------------------------------|--|--|
|             |           |      |                                 | <p>d) Regarding the termination of the Complainant's contract of employment by the EAAB Board on the alleged instruction of the Minister of Trade and Industry:</p> <ul style="list-style-type: none"> <li><i>The allegation could not be verified and is therefore not substantiated.</i></li> </ul> <p>e) Regarding the alleged victimisation of the complainant for pursuing and uncovering abuse of funds by Estate Agents:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the complainant's performance was beyond reproach having received positive performance appraisals - she was never provided with rational reasons for her hasty suspension and dismissal.</i></li> <li><i>The complainant's dismissal appeared to be related to her investigations and inspections into estate agencies, including one of the Board Members'.</i></li> <li><i>The conduct of the Board was in violation of section 3 of the PDA and amounted to occupational detriment and abuse of power.</i></li> </ul> <p>f) Regarding the alleged prejudice suffered by the Complainant:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the Complainant's legitimate expectation that her contract would be extended, did not materialise.</i></li> <li><i>The Complainant's reputation was tarnished following media coverage of her suspension and dismissal; and reduced her chances of finding alternative employment.</i></li> <li><i>The conduct of the EAAB Board constitutes abuse of power as well as unfair and capricious conduct.</i></li> </ul> | <p>c) ensure that the current EAAB Board considers the report and further reprimands the former members in terms of section 83(4) of the PFMA for the maladministration mentioned in the report by imposing a sanction that might be appropriate under the circumstances, even if it is by suspension of the members concerned from membership of or eligibility for reappointment to the EAAB Board for a reasonably determinable period.</p> <p>d) ensure that the EAAB Board is, at all times and/or within a reasonable time as and when a vacancy arises, constituted of 15 members as required by section 3(1) and (2) of the Estate Agency Affairs Act.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings | Remedial action  |
|-------------|-----------|------|---------------------------------|---------------------|--|
|             |           |      |                                 |                     | <p>The CEO of the EAAB is to:</p> <p>a) together with the Board, add a provision to paragraph 4.1.3.3. of the EAAB Service Manual requiring the EAAB or Board when suspending employees, to give them sufficient notice of the nature and purpose of the intended suspension, a reasonable opportunity to make a representation and a clear and adequate notice of the right to request reasons for the intended suspension in order to comply with the labour laws.</p> <p>b) together with the Board, evaluate the effectiveness of the EAAB's internal control and monitoring systems and introduce strict measures for compliance with the requirements of lawful, reasonable and procedurally fair labour processes to avoid future recurrence of the transgressions referred to in the report.</p> |

|   | Report Name  | Long Name   | Date         | Summary of Complaint and Issues  | Summary of Findings   | Remedial action   |
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| 7 | “(Un)reasonable Accommodation” Report No 10 of 2016/17 | Report on an investigation into a complaint about improper conduct and maladministration by the University of Pretoria in dealing with an application for ill health retirement related matters | October 2016 | <p>This report follows an investigation into a complaint relating to alleged improper conduct and maladministration by the University of Pretoria in dealing with an application for ill health retirement and related matters.</p> <p>The Complainant alleged that the University failed to process an application for ill health retirement by means of a medical examination by improperly suspending medical and pension fund contributions and unreasonably delaying the process and submission of documents required for the payment of her retirement and other benefits.</p> | <p>a) Regarding whether the University unduly delayed to process and submit the Complainant’s application for ill health retirement:</p> <ul style="list-style-type: none"> <li><i>The allegation of undue delay is unsubstantiated.</i></li> <li><i>However the University failed to apply their mind or exercise their discretion at all when dealing with the Complainant’s application for ill health retirement and disregarded the requirement for an investigation into the extent of her incapacity.</i></li> <li><i>This amounted to maladministration and improper conduct.</i></li> </ul> <p>b) Regarding whether the University unfairly terminated the Complainant’s employment when she was unable to resume her duties:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated because the University did not terminate the Complainant’s services but was under the impression that she had resigned in terms of her electronic acceptance of a settlement offer.</i></li> <li><i>Subsequent to a finding by the CCMA that the Complainant had not signed the settlement agreement and therefore did not resign, the Insurer revisited and reversed their earlier decision, thus approving her application for ill health retirement retrospectively.</i></li> </ul> <p>c) Regarding whether the University unfairly refused to approve the Complainant’s applications for paid sick leave</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated</i></li> <li><i>The University authorities disregarded its mandatory leave prescripts and failed to appoint a medical panel to examine the complainant’s incapacity before deciding on applications for paid sick leave in excess of the periods allowed.</i></li> <li><i>The University authorities failed to properly exercise its discretion judiciously or to properly apply their minds to the applications in violation of section 33 of the Constitution.</i></li> <li><i>These actions amount to improper conduct.</i></li> </ul> | <p>The Vice-Principal Human Resources of the University:</p> <p>a) must issue guidelines and instructions on the correct application of paragraph 3.2 of the Leave Regulations in respect of the appointment of a medical panel for the approval and granting of paid and unpaid sick leave; and</p> <p>b) must review and align the policy on ill-health retirement with the provisions of Rule 5.4 read with Rule 10.3 of the current Rules of the Fund to clarify the role and powers of the employer to recommend and approve applications for ill-health retirement.</p> <p>The University must:</p> <p>a) regularise the expenditure relating to the overpayment of the study benefits.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action   |
|-------------|-----------|------|---------------------------------|--|---|
|             |           |      |                                 | <p>d) Whether or not the University authorities improperly discontinued its contributions towards the Complainant's provident fund, group life insurance and medical aid scheme after the refusal of the Complainant's application for ill health retirement on unpaid leave.</p> <ul style="list-style-type: none"> <li><i>The allegations are not substantiated.</i></li> <li><i>The University's contributions towards to the Complainant's medical aid scheme, group life assurance scheme and provident fund were suspended during periods of unpaid leave in accordance with University policies.</i></li> </ul> <p>e) Whether the University acted improperly in 2012 by confirming the Complainant's effective date of ill health retirement as 8 February 2008:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated.</i></li> <li><i>When the Complainant's appeal against the Insurer's original rejection of her application for ill health retirement was successful the date of retirement was determined in line with the legal position that an appeal against an administrative decision restores the status quo as on the date of the ill-fated decision.</i></li> <li><i>By operation of the law her application was approved retrospectively from the date of submission and not the date of approval.</i></li> </ul> <p>f) Whether the University failed to ensure that the complainant received the benefits owed to her in terms of the Rules of the Fund and the Complainant's conditions of service:</p> <ul style="list-style-type: none"> <li><i>The Public Protector focused on the in-service benefits owed to the Complainant by the University as the retirement benefits payable by the pension fund fell within the ambit of the Pension Fund Adjudicator.</i></li> <li><i>There was no irregularity in the payment of the in-service benefits including a) post-retirement medical aid subsidy; b) arrear study benefit; c) re-imbursement of employer contributions; d) outstanding employer contributions; e) accrued leave benefits; and f) medical expenses and legal fees.</i></li> <li><i>No improper conduct, undue delay or maladministration was found.</i></li> </ul> | <p>b) carry responsibility for the fact that the failure to deal with the Complainant's application for ill health retirement in terms of the proper procedure from the outset contributed to the lengthy period of time that the matter dragged on and must reimburse the Complainant to the full amount of the post-retirement medical aid subsidy that she had to contribute out of her own pocket to her medical aid during the period February 2008 to 1 March 2012.</p> |

|   | Report Name  | Long Name   | Date             | Summary of Complaint and Issues  | Summary of Findings  | Remedial action   |
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|   |  |   |                  |  | <p>g) Regarding whether the University caused the complainant to suffer any prejudice:</p> <ul style="list-style-type: none"> <li><i>The University's failure to appoint an independent medical panel unfairly denied the complainant the opportunity to qualify for additional paid discretionary sick leave.</i></li> <li><i>The Complainant was also prejudiced because she was obliged to cover her medical expenses out of her own pocket for an extended period of time.</i></li> <li><i>The Complainant's impression that she was prejudiced because the determination of her retirement date is not substantiated as her retirement benefits had to be calculated on her benefit-bearing remuneration immediately before the effective date of retirement.</i></li> </ul>  |   |
| 8 | Report No 13 of 2016/2017 Allegations of maladministration and irregular awarding of a security tender by the Kagisano-Molopo Local Municipality | A report on an investigation into allegations of improper prejudice suffered by Nduza Cleaning and Security Services as a result of maladministration by the Kagisano-Molopo Local Municipality in awarding a security tender number: KMLM 2012-030 to FBL Enterprise | 22 November 2016 | <p>The report follows an investigation into the alleged improper prejudice suffered by Nduza Cleaning and Security Services as a result of maladministration by the Kagisano-Molopo Local Municipality.</p> <p>The complainant alleged that the municipality irregularly awarded a security tender to a competitor despite the fact that the successful bid did not meet the requirements of the tender and should have been disqualified.</p> | <p>a) Whether the municipality failed to follow procurement processes in appointing FBL and whether, if so, such failure constitutes maladministration:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the municipality awarded the tender to the successful bidder despite the fact that the bidder failed to submit required functionality documents and also scoring fewer points than the Complainant's bid.</i></li> <li><i>The conduct violated the municipality's Supply Chain Management (SCM) policy, the Municipal Finance Management Act (MFMA), the Preferential Procurement Policy Framework Act (PPPPFA) as well as section 217 of the Constitution and therefore constitutes improper conduct and maladministration.</i></li> </ul> <p>b) Whether the company suffered prejudice as a result of the municipality's improper failure to follow proper procurement processes when appointing FBL:</p> <ul style="list-style-type: none"> <li><i>The complainant suffered prejudice and is entitled to be placed in the position he would have been in had the tender been properly awarded to him.</i></li> <li><i>In terms of Supreme Court of Appeal (SCA) jurisprudence the Complainant's loss equated to the profit he would have made if the tender was properly awarded.</i></li> </ul> | <p>The municipality is:</p> <p>a) To issue a written apology to the Complainant for the municipality's failure to follow proper procurement processes and provide the necessary information/documentation after being requested to do so;</p> <p>b) To, within 90 days from the receipt of the report, pay the Complainant an amount of R649 909.40 plus interest at 15.5% p.a. being 14.8% profit as per the minutes of the Bid Re-evaluation Committee would have been realised by the Complainant if the tender was awarded to them but for the maladministration on the part of the municipality;</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action  |
|-------------|-----------|------|---------------------------------|--|--|
|             |           |      |                                 | <p>c) Whether the municipality failed to provide the company with information/documentation relating to the appointment of FBL upon request, and if so whether such failure results in prejudice being suffered by the company:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the municipality failed to provide the complainant with reasons upon request as to why the tender was not awarded to his company despite it scoring higher points than the successful bidder.</i></li> <li><i>The information would have assisted the Complainant in challenging the municipality's decision. The Complainant was further prejudiced because it took the municipality five years to address the matter.</i></li> <li><i>The conduct of the municipality is in violation of sections 32 and 33 of the Constitution, sections 3(1) and (2) of the PAJA and 2(1)(g) of the PPPFA.</i></li> </ul> | <p>c) To ensure that all its officials involved in SCM are properly familiarised with the MFMA, with particular reference to following proper procurement processes in the applicable policies and legislative prescripts in terms of the MFMA;</p> <p>d) to terminate the month-to-month contract with FBL;</p> <p>e) to take appropriate steps to ensure that disciplinary action is taken against all the officials within the BEC and BAC, responsible for exposing the municipality to such acts of maladministration and improper conduct in violation of the MFMA, supply chain and procurement processes and procedures; and</p> <p>f) within 90 days from the receipt of the report, appoint a service provider for the provision of security services in accordance with the MFMA and the municipality's SCM policy.</p> |

|   | Report Name   | Long Name   | Date          | Summary of Complaint and Issues  | Summary of Findings  | Remedial action   |
|---|---|---|---------------|--|--|---|
| 9 | Report No 14 of 2016/2017 Allegations of maladministration by the Commission for Conciliation, Mediation and Arbitration (CCMA) in the matter of Mr Vincent Mooki | A report on an investigation into alleged maladministration and prejudice suffered as a result of alleged failure by the Commission for Conciliation, Mediation and Arbitration (CCMA) to submit all records to the Labour Court during the review application by Royal Bafokeng Administration (RBA) | November 2016 | <p>The report follows an investigation into the alleged maladministration and prejudice suffered by the complainant, Mr. Vincent Mooki, as a result of the alleged failure by the CCMA to submit all case records to the Labour Court during the review application by Royal Bafokeng Administration.</p> <p>The Complainant alleged that the CCMA lost two voice recordings containing verbal evidence led during the hearing of his labour dispute and failed to respond to complaints in this regard.</p> | <p>a) Regarding whether there was undue delay or failure by the CCMA to respond to a complaint sent to the National Director, Nerine Khan, on 2 July 2010 and to the Convening Senior Commissioner, Mr Elias Hlongwane on 2 April 2012:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated. Both the National Director and the Convening Senior Commissioner failed to respond to complaints lodged with them in violation of section 195(1)(a) of the Constitution; and Principles 4 and 7 of the Batho Pele Principles.</i></li> </ul> <p>b) Regarding whether the CCMA unduly failed to submit all records of the Complainant's labour case to the Labour Court following a review application made by his former employer RBA:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the CCMA failed to submit the original records of the Complainant's hearings of 14 October 2010 and 11 February 2011 claiming they were lost.</i></li> <li><i>Such failure was in contravention of the CCMA Practice and Procedural Manual and constitutes improper conduct and maladministration.</i></li> </ul> <p>c) Regarding whether the CCMA unduly failed to execute its duty regarding the safekeeping of records of the hearings and unduly failed to investigate the loss of such records:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated. The CCMA and the Commissioner failed to keep proper records of the hearings of 14 October 2010 and 11 February 2011 in contravention of the CCMA Practice and Procedural Manual, which constitutes improper conduct and maladministration.</i></li> <li><i>The CCMA failed to take effective and appropriate disciplinary action against the Commissioner for failing to comply with internal control procedures. Such failure is in contravention of the PFMA and constitutes improper conduct and maladministration.</i></li> <li><i>Contrary to its duties contained in Treasury Regulation 12.5.2 the CCMA failed to recover the loss suffered as a result of the theft of the recording equipment. This constitutes improper conduct and maladministration.</i></li> </ul> | <p>The CCMA should:</p> <p>a) write a letter of apology to the Complainant within 30 days of receipt of this report, apologising for the inconvenience caused in providing inaccurate information in regard to the loss of the recordings of 14 October 2010 and a failure to respond to correspondence or complaint made to the National Director per letter dated 10 July 2010.</p> <p>b) ensure that when Commissioners conduct hearings at satellite offices or when Commissioners preside over a hearing after normal working hours, they comply with paragraph 25.3.7 of the CCMA Practice and Procedure Manual which requires Commissioners to download recordings on a daily basis at the end of the hearing.</p> <p>c) ensure in future that internal investigations are conducted in cases of loss of assets and not rely on the investigations of the South African Police Service (SAPS) alone.</p> |



|    | Report Name               | Long Name  | Date             | Summary of Complaint and Issues  | Summary of Findings   | Remedial action   |
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|    |                           |  |                  |  | <p>d) Regarding whether Commissioner Khumalo erred in ruling that Mr Tseko Moumakwa had the authority to represent RBA as the employer:</p> <ul style="list-style-type: none"> <li><i>The Public Protector is constrained in terms of the law to make a finding in this regard as the issue is in the exclusive purview of the Labour Court to review the ruling made by the CCMA Commissioner.</i></li> </ul> <p>e) Regarding whether the Complainant suffered prejudice as a result of the failure by the CCMA to submit all records of the Labour case to the Labour Court:</p> <ul style="list-style-type: none"> <li><i>The Complainant was prejudiced because whereas the CCMA had previously ruled in his favour the Labour Court directed that the matter be re-arbitrated and consequently the CCMA dismissed his case. The Complainant suffered trauma as a result of the circumstances in which the recordings were lost and the conduct of the Commissioner.</i></li> </ul>                         | d) recover the value of the lost voice recorder as at 8 March 2011 from Commissioner Molapo.  |
| 10 | Report No 15 of 2016/2017 | Special report on the implementation of remedial action contained in Public Protector report 18 of 2011/2012 on the maladministration during the privatisation of the Venda pension fund | 12 December 2016 | <p>This is a special report issued by the Public Protector in terms of section 8(2)(b)(iii) of the Public Protector Act (PPA) with a view to seek the National Assembly's intervention and response to certain concerns raised by the State institutions and to assist National Treasury in expediting the implementation of remedial action as contained in the Public Protector Report No 18 of 2011/12, issued in 2011.</p> <p>In the 2011 report the Public Protector found that government had mishandled the privatisation of the Vhembe Pension Fund to which the Complainants belonged as employees of the erstwhile Venda government. All employees of this fund were prejudiced as a consequence of this action.</p> | <p>The special report:</p> <p>(a) confirms the original 2011 findings, which essentially held that had government not cried wolf and/or done due diligence on the viability of the privatised fund, particularly to ensure that the fund retained the defined benefit status and, that the Complainants' periods of pensionable service were not compromised, the Complainants would not have lost their pension benefits, leaving them only with social development grants;</p> <p>(b) Provides guidance on how to resolve the paucity of records on the side of the state (GPAA); to verify information provided by the Complainants relating to their posts; Departments where they were employed; their appointment dates; as well as some remuneration detail;</p> <p>(c) Addresses the general concerns raised by the State Institutions, as well as specific concerns relating to the implementation of the Public Protector's remedial action, including the possibility of opening floodgates; and</p> | <p>The special report recommends:</p> <p>(a) a process, based on a closed list of Complainants (and information that had been sourced from the Complainants and official records that the State and the GPAA were obliged to maintain), to establish a reasonably reliable database of beneficiaries of the Public Protector's remedial action, and to assess the potential prejudice and losses of these beneficiaries with the aid of an Actuary;</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action   |
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|             |           |      |                                 | <p>(d) Emphasises the reasons why Government needs to address the un-remedied injustice highlighted in Report 18 of 2011/12, in view of the fact that the Complainants have no alternative remedy and the recent confirmation by the Supreme Court of Appeal of the Public Protector's Constitutional power to provide an effective remedy for State misconduct.</p> | <p>(b) that the State, through National Treasury, commits funds to facilitate the recalculation of pension benefits by the GPAA of those Complainants who became members of the Government Employees Pension Fund (GEPF) after 1996 and/ or ad hoc compensation of those Complainants who retired prior to the amalgamation of the various pension funds, to reimburse their reasonable losses as estimated with the assistance of the Actuary; and</p> <p>(c) that Parliament oversees the implementation of the Public Protector's remedial action in terms of section 182(1) (c), read with sections 43(2) and 55(2), of the Constitution.</p> |

|    | Report Name   | Long Name  | Date            | Summary of Complaint and Issues   | Summary of Findings   | Remedial action   |
|----|---|--|-----------------|---|---|---|
| 11 | Report No 15 of 2016/2017<br>Allegations of abuse of office and violation of EMEA by a Member of the Executive Council of the Limpopo Provincial Government | Investigation into allegations of maladministration and contravention of the Executive Members Ethics Act No 82 of 1998 by a member of the Executive Council of the Department of Transport, Safety and Liaison, Limpopo, the Hon. Ms Mapula Mokaba-Phukwana (MPL) | 7 February 2017 | <p>The report follows an investigation into allegations of abuse of office and violation of the EMEA by a member of the Executive Council of the Limpopo Department of Transport, Safety and Liaison, the Honourable Mapula Mokaba-Phukwana, MPL.</p> <p>It is alleged that MEC Mokaba-Phukwana contravened the Executive Ethics Code by a) irregularly awarding a contract, for forensic investigation services, without following procurement procedures, to a service provider who was actually a debt collector and b) suspending half of the Executive Management team of the Department</p> | <p>a) Regarding whether MEC Mokaba-Phukwana improperly awarded a contract to MPA Investigation Team to conduct forensic investigations without proper legal authority:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the MEC assumed authority over the award of a contract which was exclusively vested with the HOD as the accounting officer in terms of the PFMA.</i></li> <li><i>The conduct violated sections 38(1)(a)(iii) and 38(1)(b) of the PFMA and section 1(c) of the Constitution. This amounts to maladministration and improper conduct.</i></li> </ul> <p>b) Regarding whether MEC Mokaba-Phukwana irregularly awarded a contract to MPA Investigation Team to conduct forensic investigations without following proper procurement processes:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the MEC irregularly appointed the service provider without her Department following legal procurement prescripts.</i></li> <li><i>The conduct is in violation of section 217(1) of the Constitution, section 38(1)(a)(iii) of the PFMA and Regulation 16A3.2 of National Treasury Regulations.</i></li> <li><i>This constitutes maladministration and improper conduct.</i></li> </ul> <p>c) Regarding whether Ms Hanli du Plessis, the Head of the Department, improperly regularised the contract irregularly awarded to MPA Investigation Team to conduct forensic investigation services in the Department:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as Ms Du Plessis re-appointed the service provider on the basis of a verbal instruction/directive and undue pressure by the MEC.</i></li> <li><i>The re-appointment was purportedly and dishonestly done in relation to Regulation 16A6.4 of National Treasury Regulations, in the process circumventing compliance with the provisions of the PFMA in respect of Executive Directives.</i></li> <li><i>As a result the Department incurred an irregular expenditure.</i></li> <li><i>Ms Du Plessis' conduct is in violation of section 195(1)(a) of the Constitution and amounts to maladministration and improper conduct.</i></li> </ul> | <p>The Premier of the Limpopo Provincial Government:</p> <p>a) Must consider taking appropriate disciplinary action against MEC Mokaba-Phukwana with regard to her conduct outlined in the findings;</p> <p>b) Must, in consultation with the National/ Provincial Treasury, determines the exact amount of the irregular expenditure incurred by the Department as a result of MEC Mokaba-Phukwana's conduct and recover such irregular expenditure from her; and</p> <p>c) Must take appropriate steps to ensure that all members of the Executive Council of the Limpopo Provincial Government are made aware of the contents of this report and are sensitised about compliance with the provisions of the EMEA and the Executive Ethics Code, within 30 days from the date of this report.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action   |
|-------------|-----------|------|---------------------------------|--|---|
|             |           |      |                                 | <p>d) Regarding whether Mrs MPJ Antonio, MPA Investigation Team's sole Director, improperly entered into a contract with the Department and engaged in the performance of extra remunerative work outside her employment as a public servant:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as the evidence revealed that it was her husband who entered into a contract with the Department.</i></li> <li><i>As a sole Director of a company, which benefitted from providing services to a government department, whilst employed in the public service, Ms Antonio violated section 30(1) of the PSA and section 8(2)(b) of the Public Service Management Act.</i></li> <li><i>This constitutes improper conduct.</i></li> </ul> <p>e) Regarding whether MEC Mokaba-Phukwana irregularly awarded a contract to an entity whose sole proprietor did not have the necessary qualifications to do the job:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as there were no specifications, in the absence of a competitive bidding process, to verify if the service providers had the necessary qualifications to render the service.</i></li> </ul> <p>f) Regarding whether the conduct of MEC Mokaba-Phukwana was inconsistent with the Executive Ethics Code and EMEA:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated. The MEC appointed a service provider without the necessary legal authority and in contravention of procurement prescripts - and causing her department to incur irregular expenditure in violation of paragraph 2.1 and 2.3(c) of the Executive Ethics Code.</i></li> <li><i>This amounts to improper conduct and maladministration.</i></li> </ul> | <p>The MEC for Transport (current):</p> <p>a) Must consider taking appropriate disciplinary action against Ms Hanli du Plessis with regard to her conduct as outlined in the findings; and</p> <p>b) Must, in consultation with the National/ Provincial Treasury, determine the exact amount of the irregular expenditure incurred by the Department as a result of Ms Hanli du Plessis' conduct and recover such irregular expenditure from her.</p> <p>The Speaker of the Limpopo Provincial Legislature:</p> <p>a) Must take appropriate steps to ensure that this report is tabled in the Limpopo Provincial Legislature within 30 days from the date of this report.</p> <p>The National Commissioner of SAPS:</p> <p>a) Must take appropriate disciplinary action against Mrs Antonio within 60 days from the date of this report.</p> |

|    | Report Name   | Long Name   | Date             | Summary of Complaint and Issues  | Summary of Findings  | Remedial action  |
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|    |   |   |                  |  |  | <p>The Minister of Finance:</p> <p>a) Is to take steps to ensure that the Chief Procurement Officer sensitises all the Members of the Executive Council of Limpopo about compliance with Treasury Regulations and procurement processes in the public service within 30 days from the date of this report.</p>   |
| 12 | Report No 16 of 2016/2017 Allegations of improper prejudice as a result of a failure by Council for Geoscience to pay invoices submitted for services rendered and failure to pay interest thereon for late payment | Report on an investigation into the alleged improper prejudice suffered in relation to the non-payment of Insearch Recruitment Projects and the early termination of the contract awarded in that regard by the Council for Geoscience. | 17 February 2017 | <p>The report follows an investigation into the alleged improper conduct and prejudice suffered in relation to the non-payment of Insearch Recruitment Projects CC of an amount of approximately R1.3 million for services rendered and the early termination of the contract by the Council for Geoscience.</p> | <p>a) Regarding whether Council for Geoscience unduly failed to pay the Complainant's company's invoices for services rendered in terms of the contract entered into between the parties:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated as the invoices that were not paid related to periods during which no services were rendered by the Complainant's company.</i></li> <li><i>The Public Protector is unable to find maladministration or improper conduct.</i></li> </ul> <p>b) Regarding whether Council for Geoscience improperly terminated the contract entered into with the Complainant's company:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated as the contract was linked to a specific budget and terminated once the budget had been exhausted.</i></li> <li><i>The Public Protector is unable to find maladministration or improper conduct.</i></li> </ul> | <p>The Board of Geoscience must:</p> <p>a) ensure that its acting CEO implement the remedial action taken by the Public Protector within the specified timeframes;</p> <p>The acting CEO of Council for Geoscience must:</p> <p>a) ensure that interest owed to the Complainant's business on all invoices paid after 30 days of receipt is paid at the rate of 15.5% per annum within 30 days from the date of this report;</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action   |
|-------------|-----------|------|---------------------------------|--|---|
|             |           |      |                                 | <p>c) Regarding whether Council for Geoscience unduly failed to pay the Complainant's company interest on invoices paid after 30 days of submission:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as 15 of the Complainant's invoices were paid after 30 days of receipt in contravention of the contract, the PFMA, National Treasury Regulations and National Treasury General Conditions of Contract.</i></li> <li><i>The conduct by Council for Geoscience constitutes improper conduct and maladministration and the Complainant therefore is entitled to interest on all invoices which were not paid within 30 days of receipt.</i></li> </ul> <p>d) Regarding whether the Complainant suffered prejudice in the circumstances:</p> <ul style="list-style-type: none"> <li><i>As a small enterprise with limited cash flow, the Complainant's business was deprived, to its operational detriment, of a timeous source of income to which it was entitled.</i></li> <li><i>The Complainant's company was thus prejudiced.</i></li> </ul> | <p>b) consider taking appropriate action in terms of the PFMA against any official who might have been responsible for the late payment of the Complainant's company's invoices resulting in fruitless and wasteful expenditure;</p> <p>c) write a letter of apology to the Complainant for the delay in paying interest owed within 30 days from the date of this report;</p> <p>d) provide the Public Protector with proof of payment of the interest owed to the Complainant's company immediately when payment is made within 30 days from the date of this report;</p> <p>The Public Protector will request an Action Plan from the acting CEO of Council for Geoscience indicating how the remedial action will be implemented, within 30 days of the issuing of this report.</p> |

|    | Report Name   | Long Name  | Date         | Summary of Complaint and Issues  | Summary of Findings  | Remedial action   |
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| 13 | Report No 17 of 2016/17<br>Failure by North West Provincial Department of Rural, Environmental and Agricultural Development to pay for services rendered by MLB Construction on Contract Number NW88500 | Report on an Investigation into allegations of failure by the North West Provincial Department of Rural, Environmental and Agricultural Development to effect payment for work done by MLB Construction on contract number NW88500 for the refurbishment of Taung College of Agriculture | 8 March 2017 | <p>The report follows an investigation into the alleged maladministration and undue delay by the North West Province Department of Rural, Environmental and Agricultural Development.</p> <p>It was alleged that the Department refused to pay a service provider for work done on the refurbishment and renovation of Taung College of Agriculture.</p> | <p>a) Regarding whether the Department improperly failed to pay the Complainant a 10% retention fee on the total contract price originally agreed to at the commencement of the project:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated. In terms of the Principle Building Agreement 10% of the contract price is retained by the Department as a safeguard against defects that may subsequently develop.</i></li> <li><i>The Complainant ceded part of the contract to subcontractors who became entitled to the payment of the retention fee.</i></li> </ul> <p>b) Regarding the Department's alleged failure to effect payment of R797 055.55 to the Complainant for building materials purchased at the commencement of the project:</p> <ul style="list-style-type: none"> <li><i>The allegation is partially substantiated as the Department still owed the Complainant an amount of R612 355.55.</i></li> <li><i>The Department's failure to pay the outstanding amount to the Complainant for the material purchased constitutes improper conduct and maladministration.</i></li> </ul> <p>c) Regarding the Department's improper deduction of an amount of R43 460.00 from the Complainant's final account paid by the Principal Agent to the Complainant's labourers without the Complainant's consent:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the Department made a payment of said amount towards the Complainant's labourers' wages for the month of November 2007 without his consent or authority. This constitutes maladministration and improper conduct.</i></li> </ul> | <p>The MEC for Rural, Environment &amp; Agricultural Development:</p> <p>a) must take appropriate steps to ensure that all members of the Department are made aware of the report and are sensitised about compliance with public procurement laws, policies and prescripts.</p> <p>The Head of Department must:</p> <p>a) as a matter of urgency, effect payment of R612 355.55 to the Complainant, the amount of which is for the Complainant's material on site. This amount is to be paid with interest from the date it became due to the date of payment at the rate of 15.5% per annum in terms of section 1(1) and (2) of the Prescribed Rate of Interest Act No 55 of 1975.</p> <p>b) take appropriate steps against the Principal Agent for their role in paying the Complainant's labourers without his consent.</p> |



| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action   |
|-------------|-----------|------|---------------------------------|--|---|
|             |           |      |                                 | <p>d) Regarding the Department's alleged improper deduction of R274 000.00 from the Complainant's final account and payment thereof to the Complainant's domestic sub-contractors resulting in double payment:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated since the Complainant had already effected payment to the subcontractors and the Department did not have the Complainant's consent or authority to deduct the said amount from his final account and duplicate payment to the subcontractors. This amounts to maladministration and improper conduct.</i></li> </ul> <p>e) Regarding whether the Department overpaid Naledi Builders as the initial cession entered into was for R3 750 000.00 the total amount paid to Naledi Builders was R7 253 951.80 resulting in excess payment of R3 503 951.80</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the Department paid Naledi Builders R3 50 3951.80 in excess of the amount due to them in terms of a Cession Agreement. This amounts to maladministration and improper conduct.</i></li> </ul> <p>f) Regarding whether the Department overpaid Jankowitz Electrical as the initial cession entered into was for R2 884 480.67 the total amount paid to Jankowitz Electrical was R4 703 856.65 resulting in an excess payment of R1 819 375.98:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated as Jankowitz Electrical was only paid an amount of R 2 760 571.64, resulting in a saving of R 123 909.03</i></li> </ul> | <p>c) as a matter of urgency, effect payment of R274 000.00 to the Complainant, the amount of which was irregularly deducted from the Complainant's account. This amount is to be paid with interest from the date it became due to the date of payment at the rate of 15.5% per annum in terms of section 1(1) and (2) of the Prescribed Rate of Interest Act No 55 of 1975.</p> <p>d) take appropriate action against the Principal Agent for its role in the excess payment of R3 503 951.80 made to Naledi Builders and ensure that such amount is recovered from the Principal Agent.</p> <p>e) where evidence of criminality is found, alert SAPS and the Hawks and request to take appropriate action with a view of prosecuting and civil recovery of monies found to have been improperly paid or misappropriated.</p> |

|    | Report Name   | Long Name   | Date          | Summary of Complaint and Issues  | Summary of Findings  | Remedial action  |
|----|---|---|---------------|--|--|--|
|    |   |   |               |  | <p>g) Regarding whether the Principal Agent improperly failed to follow proper procurement procedures when appointing Mpepule Trading 98CC:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as Mpepule Trading was appointed and paid an amount of R800 000 without calling for quotations as required by the Department's procurement procedures.</i></li> <li><i>The Principale Agent failed to conduct due diligence to ensure that the service provider was accredited and registered in terms of the Skills Development Act, failed to ascertain the Company Registration Number and failed to verify its status as a registered tax payer and VAT vendor.</i></li> <li><i>This amounts to improper conduct and maladministration.</i></li> </ul> <p>h) Regarding whether the Department improperly failed to pay the claimed amount of R244 995.55 to the Complainant which was on Payment Certificate Number 1:</p> <ul style="list-style-type: none"> <li><i>There was no evidence to support the allegation.</i></li> </ul> | <p>f) where evidence of non-compliance with the Income Tax Act No. 58 of 1962 is found, report it to the South African Revenue Service (SARS) with a view of prosecution and civil recovery of monies which has been misappropriated.</p>  |
| 14 | Report No 18 of 2016/2017 Allegations of improper conduct by the Africa Institute of SA | Report on an investigation into allegations of irregular appointment of personnel, preferential treatment and failure by the Africa Institute of South Africa to properly resolve a grievance lodged by Mr MG Phogole | 27 March 2017 | The report follows and investigation into the alleged maladministration by the Africa Institute of South Africa (AISA) regarding the manner in which it dealt with a complaint lodged by Mr MG Phogole, alleging prejudice pertaining to the appointment of two Research Assistants, a position for which he had applied for but was not considered for appointment. | <p>a) Regarding whether the positions were not advertised internally and externally having been exclusively identified as such and according to AISA's Recruitment, Selection, Appointment and Transfer Policy:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated. The positions were only advertised on the notice board of AISA and not on the website as was alleged.</i></li> <li><i>External candidates were invited for interviews for positions intended for advertisement to internal candidates.</i></li> <li><i>AISA's conduct contravened its policy and therefore constitutes improper conduct and maladministration</i></li> </ul> <p>b) Regarding whether the appointed candidate lacked the necessary qualifications and skills required for the post:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as the candidate in question held the necessary academic qualifications required in terms of the advertisement.</i></li> </ul>   | <p>The CEO of AISA is to:</p> <p>a) Ensure that the Divisional Head: Research Unit and Human Resource officers who were responsible for conducting the paper screen and shortlisting of candidates in terms of paragraph 5.3.2 of the Policy are subjected to a disciplinary enquiry for violating the Policy.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings   | Remedial action  |
|-------------|-----------|------|---------------------------------|---|--|
|             |           |      |                                 | <p>c) Regarding whether interview questions were obtained by another candidate prior to the interview and were not documented as required by AISA's Recruitment, Selection, Appointment and Transfer Policy:</p> <ul style="list-style-type: none"> <li><i>The allegation is partly substantiated as the candidate in question did not obtain privileged information prior to the interview.</i></li> <li><i>The questions were however not documented as required by AISA's policy. This constitutes improper conduct and maladministration.</i></li> </ul> <p>d) Regarding whether the Selection Committee allocated marks in an impartial manner and if some candidates were earmarked and appointed before the recruitment and selection process could be finalised:</p> <ul style="list-style-type: none"> <li><i>The allegation is partly substantiated. Marks allocated for competency based on candidates' publications were inconsistent and not evenly apportioned.</i></li> <li><i>The assertion that candidates were earmarked prior to the recruitment and selection process is not supported by evidence.</i></li> </ul> <p>e) Regarding whether the payment to the Complainant of a pro rata and not a full salary for the month of December 2009 constitutes corruption:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as the pro rata payment that the Complainant received for the month of December 2009 was consistent with the provisions of his contract of employment.</i></li> </ul> <p>f) Regarding whether AISA and the Department of Science and Technology (DST) took reasonable steps in ensuring that allegations of maladministration and prejudice that were lodged by the Complainant were properly addressed:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as AISA and the Department duly responded to the Complainant's enquiry and grievance and instituted two investigations into his allegations.</i></li> <li><i>AISA commissioned an investigation and communicated the outcome to the Complainant despite the fact that the correct grievance procedure as provided for by the Grievance Policy had not been followed.</i></li> </ul> | <p>b) Ensure that AISA, through its HRD, write to the Complainant and apologise for the error on the pay slip and the failure to explain the pro rata payment thereof.</p> <p>The HR Manager:</p> <p>a) Should consider introducing a declaration of secrecy provision in its Policy to ensure that staff in the HR division comply with the policy provision and not to discuss interview questions before the recruitment and selection process in finalised with candidates.</p> <p>b) To coordinate a process of advertisements and the media used in achieving the purpose of such advertisements.</p> <p>c) To establish a committee responsible for overseeing the process of the interview and allocation of scores.</p> |

|    | Report Name   | Long Name  | Date          | Summary of Complaint and Issues  | Summary of Findings  | Remedial action   |
|----|---|--|---------------|--|--|---|
| 15 | Report No 19 of 2016/2017 Allegations of maladministration corruption, nepotism, fruitless and wasteful expenditure and purging of staff by the former Municipal Manager of the Ngaka Modiri Molema District Municipality | Report on an investigation into allegations of maladministration, corruption, nepotism, fruitless and wasteful expenditure and purging of staff by the former Municipal Manager, Mr Mokgele Mojaki, at Ngaka Modiri Molema District Municipality (the Municipality). | 18 April 2017 | <p>The report follows an investigation into the alleged maladministration, corruption, nepotism, fruitless and wasteful expenditure and purging of staff by the former Municipal Manager, Mr Mokgele Mojaki, at Ngaka Modiri Molema District Municipality.</p> <p>The Complainants are former employees of the municipality who were either suspended, dismissed or engaged in labour disputes against the employer for raising concerns about the appointment of the Municipal Manager (MM) and maladministration and irregular appointment of staff and service providers.</p> | <p>a) Regarding whether the Municipality irregularly appointed Mr Mojaki to the position of the Municipal Manager as he allegedly did not have the necessary qualifications and relevant experience for the said position:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as Mr Mojaki possessed the required qualifications and experience and the recruitment process complied with section 30(5)(c) of the Municipal Structures Act.</i></li> </ul> <p>b) Regarding whether Mr Mojaki's alleged secondment to the Municipality from the Premier's office in July 2011, and his continued earning a double salary from both offices for a period of five months was irregular, and thus constitutes financial mismanagement:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as the appropriate procedure was followed and he did not receive any additional remuneration from the Municipality during his period of secondment.</i></li> <li><i>The Municipality however failed to reimburse the Premier's office for the expenditure incurred towards Mr Mojaki's salary during the period of secondment. The failure of the municipality constitutes maladministration and improper conduct.</i></li> </ul> <p>c) Regarding whether Mr Mojaki irregularly appointed several officials on acting and permanent positions that were allegedly not approved or not provided for in the organisational structure and/or budget:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the appointments did not comply with the Municipality's Recruitment and Selection Policy and prior of the adoption of the organogram and budget.</i></li> <li><i>The Municipality failed to provide proof that due processes were followed before resorting to headhunting for the positions in question.</i></li> <li><i>The conduct of Mr Mojaki was therefore irregular and constitutes maladministration and improper conduct.</i></li> </ul> | <p>The Speaker of Council is to:</p> <p>a) Institute civil proceedings against Mr Mojaki for the recovery of all moneys lost by the Municipality as a result of his ineptitude and abuse of authority in respect of his conduct of non-disclosure of his relationship with Mr Williams as well as the subsequent improper award of the property valuation contract to Bokone Bophirima Properties and the e-Markets contract for branding 35 municipal vehicles.</p> <p>b) Investigate whether the reimbursement which was due to the North West Premier's office by the Municipality for Mr Mojaki's secondment salary did take place, and if not, take appropriate steps against the officials responsible for such financial misconduct.</p> <p>c) Reinstate all the municipal employees as ordered by the Labour Court and issue a formal apology to them for the mistreatment they had suffered under Mr Mojaki's authority.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action  |
|-------------|-----------|------|---------------------------------|--|--|
|             |           |      |                                 | <p>d) Regarding whether Mr Mojaki allegedly failed to follow proper recruitment procedures by failing to advertise, shortlist and interview candidates for the following vacant positions:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated.</i></li> <li><i>The position of Senior Manager: Office of the Municipal Manager was filled through a headhunting process in contravention of the conditions contained or the procedure prescribed in the Municipality's Recruitment and Selection Policy.</i></li> <li><i>The positions of Manager: Performance Management Systems and the Manager: Communications were filled through a headhunting process because, purportedly, no suitable candidate was found in the recruitment process. No evidence could however be submitted to support averments by the Municipality that correct procedures were followed.</i></li> <li><i>The position of Manager: Small, Medium and Micro Enterprises was filled by way of secondment from the Provincial department. However, no evidence could be produced that due process was followed.</i></li> <li><i>The conduct of Mr Mojaki in these appointments was irregular and constitutes maladministration and improper conduct.</i></li> </ul> | <p>d) Take urgent steps to investigate, and if warranted, review employment contracts of the following staff members irregularly appointed by Mr Mojaki: the Senior Manager: Municipal Manager's office; PMS Manager; Manager: Communications; Manager: SMME Development; Manager: Rural Development; Manager: Fleet Management; Manager: Organisational Development; Senior Accountant: Bid Administration; Manager: Security.</p> <p>e) Take urgent steps to recover the 185% rapid escalation in salary increases within a period of 12 months to Mr Mahole, which was authorised by Mr Mojaki.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings   | Remedial action |
|-------------|-----------|------|---------------------------------|---|-----------------|
|             |           |      |                                 | <p>e) Regarding whether Mr Seymour Williams' appointment by Mr Mojaki as the Senior Manager was irregular as they are co-directors in the same company known as Sikelo Consulting Worx (2011/005663/07) creating a potential conflict of interest:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as Mr Williams was appointed through a headhunting process and without Council approval in violation of paragraph 8.2.1 of the Municipality's Personnel Recruitment and Selection Policy.</i></li> <li><i>The allegation that the appointment of Mr Williams created a potential conflict of interest is substantiated as he and the MM were co-Directors in the same company.</i></li> <li><i>Mr Mojaki failed to declare his financial interest or his relationship with Mr Williams in violation of Regulation 36 of the Local Government Regulations on Appointment and Conditions of Employment of Senior Managers issued in terms of Local government: Municipal Systems Act.</i></li> <li><i>The conduct of Mr Mojaki in the appointment of Mr Williams was irregular and constitutes improper conduct and abuse of power.</i></li> <li><i>The conduct of Mr Mojaki in failing to declare his financial interest amounts to financial misconduct as envisaged in section 172(1)(b) of the MFMA, as well as improper conduct and maladministration.</i></li> </ul> <p>f) Regarding whether the alleged appointment by Mr Lekgoa Mahole as the acting Manager: Advisory Support and the appointment of his wife, Mrs Poppy Mahole as Senior Internal Auditor by the Municipality were irregular:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as no evidence could be produced to confirm that proper recruitment processes were followed as required by the Municipality's Personnel Recruitment and Selection Policy read with the Directives and Authorities granted to the MM in terms of the Central District Municipality System (Power No MM(11))</i></li> <li><i>The conduct of Mr Mojaki was irregular and constitutes maladministration and improper conduct.</i></li> </ul> |                 |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings  | Remedial action |
|-------------|-----------|------|---------------------------------|--|-----------------|
|             |           |      |                                 | <p>g) Regarding whether Mrs Mahole's appointment by Mr Mojaki to the position of Audit Executive in March 2012 which resulted in her salary escalating from R250 000 to R685 000 p.a. within a period of one year, was irregular:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated as Ms Mahole's salary scale for the position as Executive Auditor was fixed at R343 536 upon her appointment and not R685 000 as alleged.</i></li> </ul> <p>h) Regarding whether Mr Mahole's appointment by Mr Mojaki as the acting Manager: Advisory Support and his subsequent permanent appointment to the position of a Senior Manager: Corporate Service and whether Mr Mahole's salary escalation from R385 000 to R1 080 000 p.a. within a year was irregular:</p> <ul style="list-style-type: none"> <li><i>The allegation is partly substantiated. While Mr Mahole's appointment complied with the Municipality's Policy the escalation of his salary as alleged was irregular.</i></li> <li><i>The conduct of Mr Mojaki was irregular and constitutes maladministration and abuse of power.</i></li> </ul> <p>i) Regarding whether Mrs Mahole's alleged irregular appointment by Mr Mojaki to the position of an Audit Executive within the Municipality, which would create a potential conflict of interest, since her husband is also employed as the municipality's Senior Manager: Corporate Services as Mrs Mahole's work would also involve auditing his department's performance:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated as the Municipality managed any potential conflict arising from Ms Mahole's audit responsibilities in respect of Mr Mahole's unit.</i></li> </ul> <p>j) Regarding whether Mr Mojaki was involved in the systemic purging of 25 municipal employees between 2012 and 2014 who had raised questions and concerns about the alleged irregularities within the municipality.</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as most of the purged employees were successful in their labour dispute and seven were re-instated with full benefits.</i></li> </ul> |                 |



| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings   | Remedial action |
|-------------|-----------|------|---------------------------------|---|-----------------|
|             |           |      |                                 | <p>k) Regarding whether proper procurement processes were followed in the alleged appointment of e-markets by Mr Mojaki to brand 35 municipal vehicles with logos resulting in an expenditure of an amount of R630 000:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated.</i></li> <li><i>The branding of the vehicles was sourced in compliance with appropriate procurement procedures as required by the System of Delegation, specifically MM 257, and the deviation allowed by paragraph 36 of the Municipality's SCM policy.</i></li> <li><i>Mr Mojaki's conduct constitutes financial misconduct as envisaged in section 172(1)(c) of the MFMA as well as improper conduct and maladministration.</i></li> </ul> <p>l) Regarding whether proper procurement processes were followed by the municipality in the alleged appointment of Softline Pastel Evolution by Mr Mojaki for the installation of a new integrated financial system at a cost of R2 million, in that said tender was allegedly not advertised:</p> <ul style="list-style-type: none"> <li><i>The allegation is not substantiated as deviation from normal procurement procedures was granted in terms of section 32 of the Municipal SCM policy.</i></li> </ul> <p>m) Regarding whether Bokone Bophirima Properties' alleged appointment as the municipality's property valuation service provider by Mr Mojaki which was allegedly influenced by Mr Seymour Williams, as a result of which the latter was rewarded with a Chevrolet SS bakkie was irregular:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the MM failed to follow proper tender processes and failed to table amendments to and/or extension of the contract with the service provider before the Council for approval.</i></li> <li><i>Mr Mojaki therefore acted improperly by renewing an existing property valuation contract in violation of section 217 of the Constitution and section 116(3)(a) of the MFMA.</i></li> <li><i>His conduct was irregular, constitutes financial misconduct as envisaged in section 172(1)(c) of the MFMA, improper conduct and maladministration.</i></li> </ul> |                 |

|    | Report Name   | Long Name  | Date          | Summary of Complaint and Issues   | Summary of Findings   | Remedial action   |
|----|---|--|---------------|---|---|---|
| 16 | Report No 20 of 2016/17<br>Allegations of procurement irregularities, nepotism, victimisation and corruption within Tshwane South College (TSC) | Report on an investigation into allegations of procurement irregularities, maladministration, nepotism, corruption and victimisation of employees within Tshwane South College | 31 March 2017 | <p>The report follows an investigation into the alleged improper conduct involving maladministration, abuse of power, tender irregularities and improper appointment of consultants.</p> <p>The report further communicates findings into allegations of failure by the former MEC Creecy responsible for the Gauteng Department of Education (GDE) to implement the recommendations of the 2008 GSSC Forensic Report into Tshwane South College. The investigation also dealt with alleged harassment of whistle-blowers and prejudice suffered by them.</p> | <p>a) Regarding whether the erstwhile MEC Motshekga and the acting HOD, Mr L Davids, improperly failed to provide a copy of the Gauteng Shared Services Centre (GSSC) Forensic Report, communicate the outcome of the investigation to the Complainants, or furnish them with reasons thereof:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated. While there was no duty on the MEC to provide the Complainants with actual copies of the Report she and the acting HOD were obliged to provide them with a clear and timeous response to their complaints and to take corrective actions.</i></li> <li><i>The conduct of the MEC and acting HOD was in violation of section 33, 195(1)(f) and (g) of the Constitution and section 3(2) of PAJA. This constitutes maladministration and improper conduct.</i></li> </ul> <p>b) Regarding whether former MEC Creecy improperly failed to implement the recommendations of the GSSC Forensic Report when they reinstated the Principal, Mr Chiloane, despite findings of tender irregularities, corruption, maladministration and nepotism made against him:</p> <ul style="list-style-type: none"> <li><i>The allegation is partly substantiated. Although the MEC initially instituted disciplinary action against the Principal and Deputy Principal in line with the recommendations of the Report, she later withdrew the action and reinstated the Principal without consulting or advising the Complainants.</i></li> <li><i>The MEC therefore failed to follow proper procedure as required in section 3(2) of PAJA and in violation of the complainants' right to just administration action as envisaged by section 33 of the Constitution. This amounts to maladministration and improper conduct.</i></li> </ul> | <p>The Minister of Higher Education and Training:</p> <p>a) Must conduct an inquiry to review the dismissals and disciplinary actions taken against the members of the TSC Forum;</p> <p>b) The inquiry should also explore the possibility of compensating members of the TSC Forum that suffered prejudice as a result of the dismissals and disciplinary actions if it is found that they have suffered occupational detriment as a result of the protected disclosure.</p> <p>c) Must consider instituting disciplinary actions against the Principal, Mr Chiloane, in terms of section 16A(2) of the PSA for failing to take necessary disciplinary action against acting Principal, Mr Kraft, Ms Bouwer and Ms Jonker, by not terminating the GMZ Consulting contract timeously and for conflict of interest in that he participated in the disciplinary hearing of employees in which he was the subject matter.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings   | Remedial action   |
|-------------|-----------|------|---------------------------------|---|---|
|             |           |      |                                 | <p>c) Regarding whether Principal Chiloane, upon his reinstatement, abused his power, harassed and victimised TSC employees by improperly subjecting them to disciplinary hearings and subsequent dismissals as a result of reporting his conduct to the erstwhile MEC Motshekga:</p> <ul style="list-style-type: none"> <li><i>The allegations are substantiated. The Complainants were unfairly charged, dismissed or their fixed-term contracts not renewed in violation of section 197 of the LRA.</i></li> <li><i>This amounts to abuse of power and maladministration.</i></li> </ul> <p>d) Regarding whether the TSC Council and the Principal, Mr Chiloane, improperly appointed Kwinana to conduct a forensic investigation:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as Kwinana was appointed without following a competitive bidding process.</i></li> <li><i>The appointment did not qualify for a deviation on the grounds of 'emergency procurement' as defined in National Treasury Practice Note 8 of 2007/08.</i></li> <li><i>The appointment was irregular in terms of National Treasury Regulation 16A6.4, section 9(1) of the Further Education and Training FETC Act and in violation of section 217 of the Constitution.</i></li> <li><i>The conduct of the Principal and the TSC Council constituted maladministration and improper conduct.</i></li> </ul> | <p>d) Must establish mechanisms to effect the protection of employees who make protected disclosures at TSC.</p> <p>e) Must oversee compliance that the TSC Council takes appropriate steps to rectify the current procurement policy of the College and to ensure that it complies with the standards of the PFMA and Treasury Regulations.</p> <p>The TSC Council:</p> <p>a) Must take appropriate steps to rectify the current procurement policy of the College and to ensure that it complies with the standards of the PFMA and Treasury Regulations.</p> <p>b) Must adopt monitoring and support mechanisms in the Finance and SCM processes of the College to ensure that a sufficient oversight role is provided by the Council.</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings   | Remedial action  |
|-------------|-----------|------|---------------------------------|---|--|
|             |           |      |                                 | <p>e) Regarding whether the TSC Council and the erstwhile acting Principal, Mr Kraft, improperly appointed GMZ Consulting to conduct disciplinary hearings:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as GMZ was appointed without following a competitive bidding process.</i></li> <li><i>The appointment did not qualify for a deviation on the grounds of 'emergency procurement' as defined in National Treasury Practice Note 8 of 2007/08.</i></li> <li><i>The appointment was irregular in terms of National Treasury Regulation 16A6.4, section 9(1) of the FETC Act and in violation of section 217 of the Constitution.</i></li> <li><i>The conduct of the Principal and the TSC Council constituted maladministration and improper conduct.</i></li> </ul> <p>f) Regarding whether the Deputy Principal, Ms D Malete, failed to disclose an alleged conflict of interest with GMZ Consulting and if so, whether acting Principal Mr Kraft failed to manage the conflict of interest in appointing GMZ Consulting:</p> <ul style="list-style-type: none"> <li><i>The allegation is unsubstantiated as there was not supporting evidence found and no link was established.</i></li> </ul> <p>g) Regarding whether the Complainants suffered prejudice as envisaged in section 6(4)(a)(v) of the PPA:</p> <ul style="list-style-type: none"> <li><i>The allegation for all but one Complainant is substantiated as the rights and expectations of the Complainants and whistle-blowers were disregarded. This placed them at risk of facing adverse action against them in retaliation of their complaints and disclosures.</i></li> <li><i>Some of the Complainants lost their employment or suffered victimisation and harassment, resulting in severe financial distress affecting them and their family.</i></li> </ul> | c) Must create a division within the TSC complaints management unit which will handle protected disclosures. |

|    | Report Name  | Long Name  | Date          | Summary of Complaint and Issues   | Summary of Findings   | Remedial action   |
|----|--|--|---------------|---|---|---|
| 17 | Report No 21 of 2016/2017 Allegations of undue delay by the Compensation Fund to print awards for Exempted Employers | Report on an investigation into allegations of undue delay and maladministration by the Compensation Fund with regard to the processing and payment of compensation benefits to exempted employers | 31 March 2017 | <p>The report relates to an investigation into allegations of undue delay and maladministration by the Compensation Fund (CF) with regard to the processing and payment of compensation benefits to the employees of Exempted Employers.</p> <p>Complaints were received from SAPS employees who alleged that they qualified for compensation as a result of sustaining an occupational disease, but the CF failed to issue awards to enable payment of the corresponding benefits.</p> | <p>a) Whether there was undue delay by the CF to process and pay compensation benefits to the Complainants:</p> <ul style="list-style-type: none"> <li><i>The allegations were substantiated.</i></li> <li><i>The CF failed to conduct due diligence before the implementation of the system and failed to explore other viable options to address delays brought about by system challenges.</i></li> <li><i>The CF failed to adhere to sections 195 and 237 of the Constitution as well as the Batho Pele principle of redress.</i></li> <li><i>The conduct of the CF constitutes improper conduct, maladministration and undue delay.</i></li> </ul> <p>b) Whether the Complainants were improperly prejudiced by the alleged conduct of the CF:</p> <ul style="list-style-type: none"> <li><i>The allegation is substantiated as the Complainants were denied the opportunity to access money which could have made their financial position tenable.</i></li> <li><i>The conduct of the CF constituted prejudice.</i></li> </ul> | <p>The Compensation Commissioner is to:</p> <p>a) Issue a written letter of apology to each of the complainants, apologising for the delay to process and pay compensation benefits to them, and to further provide full and comprehensive reasons to them regarding the cause of the delay within fourteen (14) days from date of this report.</p> <p>The Director-General is to:</p> <p>a) Take urgent steps to ensure that the CF pays interest, in line with the applicable interest rate, on the lump sum arrears pension, alternatively lump sum payment, that each of the Complainants were entitled to, from the date on which each of the these awards became payable, to date of issuing of the correct awards, within ninety (90) days from the date of this report;</p> <p>b) Take urgent steps, in consultation with the Minister of Labour, to adopt SOPs for the handling of claims by the CF, within three months from date of this report. These SOPs must specifically address the speedy finalisation of claims;</p> |

| Report Name | Long Name | Date | Summary of Complaint and Issues | Summary of Findings | Remedial action  |
|-------------|-----------|------|---------------------------------|---------------------|--|
|             |           |      |                                 |                     | <p>c) Take urgent steps, in consultation with the Minister of Labour and the Parliamentary Portfolio Committee on Labour, to explore the viability of amending Compensation for Occupational Injuries and Diseases Act (COIDA) to make provision for specific timeframes within which claims and objections must be finalised by the CF, and to submit to the Public Protector a report thereon within six months from date of this report;</p> <p>d) Take urgent steps to ensure that the CF conducts an audit to establish how many other claimants were also affected by the delays associated with the implementation of the Umehluko system, and to consider in respect of each of those claims/claimants so affected, its obligation to pay interest to the relevant claimant on any lump award or lump sum arrears pension that the relevant claimant is/was entitled to. The CF is to submit to the Public Protector a report hereon within three months from date of this report.</p> |

## CASELOAD AND STATISTICS FOR THE 2016/17 FINANCIAL YEAR

| Branch                                      | Brought Forward From 2015/16 | Received            |                 |                | Total Workload | Internal Transfers |            | Finalised    |                 |                          |                 | Carried Over To 2017/18 |
|---|------------------------------|---------------------|-----------------|----------------|----------------|--------------------|------------|--------------|-----------------|--------------------------|-----------------|-------------------------|
|   |                              | Within Jurisdiction | No Jurisdiction | Total Received |                | Received           | Sent Out   | Jurisdiction | No Jurisdiction | Referral To Other Bodies | Total Finalised |                         |
| Complaints and Stakeholder Management       |                              | 1 067               | 606             | 1 673          | 1 673          |                    |            | 138          | 606             | 929                      | 1673            | 0                       |
| Administrative Justice and Service Delivery | 653                          | 1 177               | 1               | 1 178          | 1 874          | 43                 | 11         | 1 091        | 154             | 9                        | 1 254           | 609                     |
| Good Governance And Integrity               | 324                          | 82                  | 8               | 90             | 423            | 9                  | 3          | 137          | 0               | 0                        | 137             | 283                     |
| Eastern Cape                                | 152                          | 296                 | 0               | 296            | 508            | 60                 | 3          | 261          | 4               | 0                        | 265             | 240                     |
| Free State                                  | 171                          | 918                 | 45              | 963            | 1 264          | 130                | 43         | 653          | 57              | 109                      | 819             | 402                     |
| Gauteng                                     | 489                          | 1 097               | 45              | 1 142          | 1759           | 128                | 119        | 768          | 14              | 379                      | 1 161           | 479                     |
| KwaZulu-Natal                               | 461                          | 1 096               | 173             | 1 269          | 1 779          | 49                 | 21         | 997          | 148             | 83                       | 1 228           | 530                     |
| Limpopo                                     | 168                          | 748                 | 33              | 781            | 1 040          | 91                 | 17         | 738          | 49              | 9                        | 796             | 227                     |
| Mpumalanga                                  | 289                          | 491                 | 35              | 526            | 922            | 107                | 15         | 420          | 18              | 14                       | 452             | 455                     |
| Northern Cape                               | 313                          | 330                 | 7               | 337            | 682            | 32                 | 14         | 392          | 14              | 1                        | 407             | 261                     |
| North West                                  | 284                          | 1148                | 172             | 1 320          | 1 731          | 127                | 40         | 987          | 178             | 9                        | 1 174           | 517                     |
| Western Cape                                | 950                          | 1 561               | 100             | 1 661          | 2 742          | 131                | 69         | 1 110        | 107             | 204                      | 1 421           | 1 252                   |
| <b>Total</b>                                | <b>4 254</b>                 | <b>10 011</b>       | <b>1 225</b>    | <b>11 236</b>  | <b>16 397</b>  | <b>907</b>         | <b>355</b> | <b>7 692</b> | <b>1 349</b>    | <b>1 746</b>             | <b>10 787</b>   | <b>5 255</b>            |



### 3. PERFORMANCE INFORMATION

#### FORMAL REPORTS - REPORTS OF THE PUBLIC PROTECTOR FOR 2016/17 FINANCIAL YEAR

| Targets   | 2015/16 | 2016/17 |
|---|---------|---------|
| Number of planned targets during the financial year | 21      | 45      |
| Number of targets achieved                          | 13      | 24      |
| Number of targets not achieved                      | 8       | 21      |
| Percentage level of performance                     | 62%     | 53%     |

#### PROGRAMME PERFORMANCE

##### Programme 1: Administration

The purpose of the programme is to create an environment of compliance to applicable laws and regulations supported by improved business processes and systems. The programme also aims to enhance the institution's human resources and skills base. Strategic objectives applicable under programme 1 are: "Operational efficiencies" and "Transform human resources to align internal competencies with business needs", "Transform Information Communications Technology to optimally support business needs", "Financial sustainability", "Strategic review of insourcing of key facilities/infrastructure", "Exemplary conduct", and "All staff capacitated for good quality and good time".

## Key performance indicators, planned targets and actual achievements

| Performance Indicator  | Actual Achievement 2015/2016                       | Planned Target 2016/2017   | Actual Achievement 2016/2017   | Deviation from planned target to Actual Achievement for 2016/2017 | Comment on deviations  |
|--|--|--|--|---|--|
| Review and refine business processes, policies and introduce tools to streamline processes at PPSA | Some internal operational procedures were reviewed | Develop Standard Operating Procedures (SOPs), templates and checklists for procurement, travel, HR, facilities management and registry by 30 April 2016. All SOPs of branches and units to be developed by 30 June 2016. | <b>ACHIEVED</b><br>SOPs, templates and checklists for procurement, travel, HR, facilities management and registry were developed and approved<br>SOP's for branches and units developed and approved | N/A   | N/A  |
| Capacitate the compliance unit to monitor compliance   | N/A  | A functioning Risk Management office by 31 March 2017 and Boardpack software tool by 31 May 2016   | <b>NOT ACHIEVED</b><br>A functioning Risk Management office was established.<br>A Boardpack software tool was not procured, thus not functional  | Boardpack <sup>1</sup> software tool was not functional           | Due to an oversight, the Boardpack was not a proper deliverable to measure performance. A performance monitoring tools/system was what the PPSA required. The SAP system could not accommodate such a requirement because of incompatibility. As a result a new Performance Monitoring Tool/System needs to be procured. Unfortunately, there were no adequate funding for this system. Thus, the non- implementation. |
| Implementation of Integrated security system   | N/A  | Implement Integrated Security System by 31 March 2017  | <b>NOT ACHIEVED</b><br>Benchmarking was conducted with other Chapter 9 institutions.   | Integrated Security System was not implemented                    | Lack of Funding.   |
| Develop a succession and business continuity plan for employees on prolonged leave                 | N/A  | Develop a succession and business continuity plan for employees on prolonged leave by 31 December 2016   | <b>ACHIEVED</b><br>The succession and business continuity plan was developed and approved by the Public Protector  | N/A   | N/A  |
| Assess and re-capacitate the SCM and Human Resource Management (HRM) units against strategic needs | N/A  | SCM and HRM units assessed and redesigned by 01 August 2016  | <b>ACHIEVED</b><br>SCM and HRM units were assessed and redesigned  | N/A   | N/A  |

<sup>1</sup> Due to an oversight, the Boardpack was not a proper deliverable to measure performance. A performance monitoring tools/system was what the PPSA required. The SAP system could not accommodate such a requirement because of incompatibility. As a result a new Performance Monitoring Tool/System need to be procured, unfortunately, there were no adequate funding for this system.

| Performance Indicator  | Actual Achievement 2015/2016                          | Planned Target 2016/2017   | Actual Achievement 2016/2017  | Deviation from planned target to Actual Achievement for 2016/2017      | Comment on deviations  |
|--|---|--|---|--|--|
| Review and re-capacitate planning, monitoring and evaluation support | N/A   | Review report on planning, monitoring and evaluation support completed by 30 June 2016   | <b>ACHIEVED</b><br>Review report on planning, monitoring and evaluation support was completed by 30 June 2016   | N/A  | N/A  |
| Completion of the Skills audit                                       | N/A   | Conduct skills audit by 30 June 2016 and implement systemic HRD programme by 31 March 2017   | <b>ACHIEVED</b><br>A skills audit was conducted. A systemic HRD programme was implemented based on the skills audit conducted.  | N/A  | N/A  |
| Upgrade ICT infrastructure and review HR capacity                    | N/A   | ICT unit assessed and redesigned by 01 August 2016. Implement high speed connectivity, Wi-Fi connectivity, increased storage capacity, remote access to the network and testing environment by 31 March 2017 | <b>NOT ACHIEVED</b><br>ICT unit was reassessed. High speed connectivity installed with the exception of offices that were due to relocate, Wi-Fi implementation was achieved. That is <b>95% achievement</b> .<br><br>Only five (5) <b>percent was not achieved</b> at the end of the financial year. This refers to storage capacity, server and testing environment procured. | Storage capacity, server and testing environment were not implemented. | At the time (May 2016) of the appointment of the Senior Manager ICT, an assessment of the IT environment had to be conducted. The outcome of the assessment resulted into the redesign of the IT architecture, which took two months. Thereafter, a suitable service provider had to be procured and the appointment was only made at the end of March 2017. |
| Develop strategy for external funding for the institution and AORC   | A funding model was developed for PPSA                | Develop a strategy on external funding and project plans developed for sourcing funds for identified projects by 30 June 2016  | <b>NOT ACHIEVED</b><br>The strategy on external funding was not developed   | The strategy on external funding and project plans were not developed  | The strategy for funding was changed.  |
| Feasibility study on insourcing of key facilities/ infrastructure    | N/A   | Conduct a feasibility study on insourcing of key facilities/ infrastructure and submit a preliminary report by 30 June 2016 and final report submitted by 31 October 2016.                                   | <b>ACHIEVED</b><br>A feasibility study on insourcing of key facilities/ infrastructure was conducted and a report was completed and approved.   | N/A  | N/A  |
| Clean audit opinion  | The institution obtained an unqualified audit opinion | Obtain clean audit opinion by 31 March 2017<br>Develop and implement clean governance plan by 01 September 2016  | <b>NOT ACHIEVED</b><br>The institution obtained an unqualified audit opinion.   | The institution did not achieve a clean audit                          | Internal controls need improvement.  |

| Performance Indicator  | Actual Achievement 2015/2016                        | Planned Target 2016/2017  | Actual Achievement 2016/2017   | Deviation from planned target to Actual Achievement for 2016/2017                    | Comment on deviations   |
|--|---|---|--|--|---|
| Completed perception index on Customer Service Charter compliance completed by 31 March 2017               | N/A   | Perceptions index Customer Service Charter compliance completed by 31 March 2017  | <b>ACHIEVED</b><br>Perceptions index Customer Service Charter compliance completed by 31 March 2017                                      | N/A  | N/A   |
| Number of Performance Management Development System (PMDS) milestones compliance reports submitted         | N/A   | 4 quarterly PMDS milestones compliance reports submitted by 31 March 2017   | <b>ACHIEVED</b><br>4 quarterly PMDS milestones compliance reports were submitted to the CEO.   | N/A  | N/A   |
| Reconceptualisation of PMDS to a Performance Enhancement and Accountability System (PEAS)                  | The PMDS was revised and approved on 18 August 2015 | Finalise the reconceptualisation of PMDS to a Performance Enhancement and Accountability System (PEAS) and approval of PEAS by 31 March 2017                  | <b>ACHIEVED</b><br>The PMDS was reconceptualised to a PEAS which was approved by the Public Protector                                    | N/A  | N/A   |
| Annual Public Protector Excellence Awards and team building activities completed                           | N/A   | Annual Public Protector Excellence and team building activities combined with 20 <sup>th</sup> Anniversary of Public Protector completed by 30 September 2016 | <b>NOT ACHIEVED</b><br>20 year anniversary and team building were held on 25 August 2016.<br><br>Excellence Awards ceremony was not held | Excellence Awards not held   | Awards ceremony was called off after the labour union complained about the criteria used.                                   |
| Number of purpose driven team building and change management activities rolled to Public Protector offices | N/A   | 12 purpose driven team building and change management activities rolled out to all Public Protector offices by 31 March 2017                                  | <b>NOT ACHIEVED</b><br>1 purpose driven team building and change management activity was rolled out to management by 31 March 2017       | 11 purpose driven team building and change management activities were not rolled out | The project was not funded. Team building will take place during the first quarter of 2017/18 financial year                |
| Roll out Leadership Training Programme   | N/A   | CEO accelerator programme for SMS conducted by 31 March 2017  | <b>NOT ACHIEVED</b><br>CEO accelerator programme for Senior Management Services (SMS) was not conducted                                  | CEO accelerator programme for SMS was not conducted                                  | Training was not adequately funded. In 2017/18, 50% to accelerator programme to be conducted, the remaining 50% in 2018/19. |

| Performance Indicator   | Actual Achievement 2015/2016 | Planned Target 2016/2017   | Actual Achievement 2016/2017  | Deviation from planned target to Actual Achievement for 2016/2017 | Comment on deviations  |
|---|------------------------------|--|---|---|--|
| Number of awareness activities on institutional values and Customer Service Charter conducted | N/A                          | 10 awareness activities on institutional values and Customer Service Charter conducted by 31 December 2016 | <b>ACHIEVED</b><br>10 awareness activities on institutional values and Customer Service Charter conducted by March 2017 | N/A   | N/A  |
| Train all managers and investigators on project management by target date.                    | N/A                          | Train all managers and investigators on project management by 30 September 2016.                           | <b>NOT ACHIEVED</b><br>No investigators were trained on project management  | No investigators were trained on project management               | Insufficient funding to implement the project.   |
| Design a pilot project for Case Management Officers   | N/A                          | N/A  | <b>NOT ACHIEVED</b><br>A pilot project for Case Management Officers was not designed                                    | A pilot project for Case Management Officers was not designed.    | The change priorities in term funding led to the non-implementation of the Performance Indicator |

### Strategy to overcome areas of under performance

Strategy to overcome non-performance will not be included for the following targets as these will not be implemented going forward:

- Boardpack software tool
- Development of a strategy for external funding for the institution and AORC
- Training all managers and investigators on project management
- Design pilot project for Case Management Officers was fully designed

To deal with underperformance regarding the implementation of an Integrated Security System, the institution allocated sufficient budget and appointed a Senior Manager: Security Management, Manager: Security Management, and an intern to implement the system in the 207/18 financial year.

CEO accelerator programme for SMS employees will be implemented in two phases, where half of SMS employees will be trained in the programme in the 2017/18 financial year, while the remaining SMS employees will be trained in the 2018/19 financial year.

Team building and change management activities will be rolled out to all Public Protector offices in the 2017/18 financial year and an adequate budget was allocated for this purpose.

To deal with excellence awards going forward, a policy was developed and approved by the Public Protector. The policy will be implemented going forward. ICT storage capacity, server and testing environment were procured and the implementation will be finalised in the 2017/18 financial year.

### Changes to planned targets

No in year changes were made to planned targets and performance indicators during the period under review.

## Linking performance with budgets

| Programme/activity/objective | 2015/16       |                    |                          | 2016/17        |                    |                          |
|------------------------------|---------------|--------------------|--------------------------|----------------|--------------------|--------------------------|
|                              | Budget        | Actual Expenditure | (Over)/Under Expenditure | Budget         | Actual Expenditure | (Over)/Under Expenditure |
|                              | R'000         | R'000              | R'000                    | R'000          | R'000              | R'000                    |
| Administration               | 83 228        | 79 782             | 3 446                    | 106 087        | 111 444            | -5 358                   |
| <b>Total</b>                 | <b>83 228</b> | <b>79 782</b>      | <b>3 446</b>             | <b>106 087</b> | <b>111 444</b>     | <b>-5 358</b>            |

### Programme 2: Investigations

The purpose of the programme is to ensure the finalisation of all investigations timeously without compromising on integrity and quality. Furthermore, the programme focuses on ensuring that the remedial action of the Public Protector is implemented.

Strategic objectives relating to the programme are: “Adherence to defined turnaround times in investigations”, “Implementation of remedial action”, “Speedy resolution of every matter”, “Operational efficiencies” and “Promote good governance”.

| Performance Indicator   | Actual Achievement 2015/2016                     | Planned Target 2016/2017   | Actual Achievement 2016/2017  | Deviation from planned target to Actual Achievement for 2016/2017                      | Comment on deviations   |
|---|--|--|---|--|---|
| Review and implementation of Public Protector rules   | N/A  | Align draft Public Protector rules with Constitutional Court decision and implement by 30 September 2016 | <b>NOT ACHIEVED</b><br>Draft Public Protector Rules were aligned with Constitutional Court decision and submitted to state law advisors | Public Protector rules were not implemented  | The transition period between the former and the current Public Protector led to the delay in finalising the rules. The Public Protector rules will be finalised in the next financial year |
| Percentage reduction in cases two years and older through Special Rapid Response Team (SRRT) team | N/A  | 100% of all cases two years and older as at 1 April 2016 resolved by 31 March 2017                       | <b>NOT ACHIEVED</b><br>61% (417/684) of cases two years and older were finalised  | 39% of cases two years and older were not finalised                                    | Complexity of some of the cases <sup>2</sup> that need to be resolved by Alternative Dispute Resolution (ADR), lack of responses by some institutions and Capacity constraints              |
| Percentage reduction in cases older than a year   | Not all cases older than a year were attended to | 50% of reduction in cases older than a year as at 1 April 2016 resolved by 31 March 2017                 | <b>EXCEEDED</b><br>There was a 76% (359/475) reduction in cases older than a year as at 1 April 2016                                    | There was an additional reduction of 26% of cases older than a year as at 1 April 2016 | This is due to investigation teams dedicating time to reduce the backlog.   |

<sup>2</sup> Complex Cases: Refers to procurement related issues that require Subject Matter Experts. The unavailability of records pertaining to pre-1994 Pension Related cases. (TBVC regions).

| Performance Indicator   | Actual Achievement 2015/2016  | Planned Target 2016/2017  | Actual Achievement 2016/2017   | Deviation from planned target to Actual Achievement for 2016/2017  | Comment on deviations   |
|---|---|---|--|--|---|
| Number of quarterly reports reflecting declining turnaround times   | N/A   | Two Quarterly reports showing a 10% decline in investigations turnaround times and report writing by 31 March 2017  | <b>EXCEEDED</b><br>Two Quarterly reports were submitted, indicating a 22% decline in investigations turnaround times   | There was an additional decline of 12% in investigations turnaround times  | This is due to investigation teams dedicating time to reduce the backlog.   |
| Finalisation of all existing systemic investigations/ interventions as at 1 April 2016 by 31 March 2017   | 7 draft systemic investigation reports were completed   | Conduct and finalise all existing systemic investigations/ interventions as at 1 April 2016 by 31 March 2017<br>Submit quarterly reports to departments on systemic deficiencies identified | <b>NOT ACHIEVED</b><br>1 out of 16 existing systemic investigations/ interventions were finalised<br><br>Quarterly reports were not submitted to departments             | 15 existing systemic investigations/ interventions were finalised.<br><br>Quarterly reports were not submitted to departments          | Complexity of systemic investigations and limited capacity led to the non-finalisation of 15 systemic investigations/ interventions. Most of the 15 investigations already have draft reports which will be finalised in 2017/18 financial year. Quarterly reports were not submitted due to the nature of ongoing systemic investigations. |
| Percentage cases resolved according to approved investigation plans   | N/A   | 100% cases resolved according to approved investigation plans as confirmed in monthly spreadsheets  | <b>NOT ACHIEVED</b><br>82% of cases were resolved in accordance with approved investigation plans  | 18% of cases were not resolved in accordance with approved investigation plans   | Some early resolution matters are finalised quickly (before an investigation plan could be developed)   |
| Incremental digitisation of Case Management System  | The development and implementation of the CMS is done in phases and procurement of service providers is now per phase; the ICT infrastructure upgrade phase is now being procured | Implementation of the registration module by 31 July 2016 (SharePoint)  | <b>NOT ACHIEVED</b><br>Network line was upgraded in all PPSA offices (except for those that were due to relocate). However, the registration module was not implemented. | Registration module of the Case Management System was not implemented  | The project was initially funded by GlZ. GlZ then had challenges with global budget cuts which delayed the project. With the decision of the current Public Protector to fund the projects internally, there was not enough time to complete it.  |
| Appointment of panels of external investigators, editors and report writing support, legal advisors/law firms and special advisors by 30 September 2016 | An interim panel was appointed on 7 April 2015 pending finalisation of the tender process to appoint a permanent panel  | Appoint panels of external investigators, editors and report writing support, legal advisors/law firms and special advisors by 30 September 2016  | <b>NOT ACHIEVED</b><br>Panels of external investigators, editors and report writing support, legal advisors/law firms and special advisors were not appointed            | Panels of external investigators, editors and report writing support, legal advisors/law firms and special advisors were not appointed | The non-performance was as a result of non-alignment of the performance indicator to the newly appointed Public Protector's vision. In the 2017/18 Financial year, this target will no longer feature   |



| Performance Indicator  | Actual Achievement 2015/2016  | Planned Target 2016/2017  | Actual Achievement 2016/2017   | Deviation from planned target to Actual Achievement for 2016/2017 | Comment on deviations   |
|--|---|---|--|---|---|
| Percentage of remedial action matters followed up by the compliance office | Four quarterly reports on implementation of remedial action and impact thereof were submitted to the Public Protector | 100% follow-up of remedial action matters by 31 March 2017 reflected in quarterly reports | <b>NOT ACHIEVED</b><br>84% (75/89) of remedial action matters were followed-up | 16% of remedial action matters were not followed-up               | The reason 16% of cases could not be followed-up was capacity constraints because many matters needed to be followed-up a number of times, making it difficult for one manager and two interns to cope. Two interns were only appointed in March 2017, but they could not assist meaningfully as they were still new and needed to be trained |

### Strategy to overcome areas of under performance

The remaining 38% of cases that are two years and older as at 1 April 2016 will be finalised in 2017/18, where the SRRT will work with the remaining provinces to deal with the backlog.

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Draft reports for most of the 15 outstanding systemic investigations/interventions are undergoing quality assurance and are expected to be finalised in the next financial year, considering that there is an increased capacity in the quality assurance unit.

To ensure adherence to approved investigation plans, the institution has revised investigation service standards that are monitored on a monthly basis. The investigation plan template was revised to make it easier to monitor compliance. Furthermore, quarterly file inspection by Senior and Executive Managers will alleviate the challenge. Incremental implementation of the Case Management System is under way, now that all the infrastructure required to handle the system is upgraded and adequate budget allocated in the MTEF.

Panels of external investigators, editors and report writing support, legal advisors and special advisors will not be appointed going forward. Follow-up on remedial action matters will be achieved going forward due to improved human resource capacity.

### Changes to planned targets

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

| Programme/activity/<br>objective | 2015/16        |                       |                             | 2016/17        |                       |                             |
|----------------------------------|----------------|-----------------------|-----------------------------|----------------|-----------------------|-----------------------------|
|                                  | Budget         | Actual<br>Expenditure | (Over)/Under<br>Expenditure | Budget         | Actual<br>Expenditure | (Over)/Under<br>Expenditure |
|                                  | R'000          | R'000                 | R'000                       | R'000          | R'000                 | R'000                       |
| Investigations                   | 159 004        | 146 212               | 12 792                      | 161 848        | 173 263               | -11 415                     |
| <b>Total</b>                     | <b>159 004</b> | <b>146 212</b>        | <b>12 792</b>               | <b>161 848</b> | <b>173 263</b>        | <b>-11 415</b>              |

### Programme 3: Stakeholder Management

The purpose of stakeholder management programme is to ensure that Public Protector South Africa services are accessible to all persons and communities as per the Constitutional mandate. The strategic objectives applicable to programme 3 are: “Ease of access to services to all persons and communities”, “Awareness”, “Promote good governance”, “Development of ombudsmanship in Africa and beyond”, “Ethical leadership” and “Influence government and Parliament to amend the Public Protector Act”.

| Performance Indicator  | Actual Achievement 2015/2016  | Planned Target 2016/2017   | Actual Achievement 2016/2017   | Deviation from planned target to Actual Achievement for 2016/2017  | Comment on deviations   |
|--|---|--|--|--|---|
| Number of clinics conducted and municipalities visited       | EC: 88<br>FS: 48<br>GP: 70<br>KZN: 59<br>LIM: 119<br>MP: 54<br>NC: 52<br>NW: 68<br>WC: 80 | 72 clinics per province by 31 March 2017<br><br>On average twice to each municipality per province per annum | <b>NOT ACHIEVED</b><br>EC: 75<br>FS: 122<br>GP: 85<br>KZN: 75<br>LIM: 127<br>MP: 73<br>NC: 78<br>NW: 75<br>WC: 74<br><br>Some provincial offices did not visit some municipalities at least twice. | EC : +3<br>FS : +50<br>GP : +13<br>KZN : +03<br>LIMP : +55<br>MPU : +1<br>NC : +6<br>NW : +3<br>WC : +2<br><br>Some provincial offices did not visit some municipalities at least twice. | All provinces exceeded their targets on the number of clinics without additional cost by taking advantage of the routes used to implement more clinics.<br><br>The reason for some municipalities to not be visited twice is due to an oversight. |
| Percentage outreach material written in official languages   | N/A   | 100% outreach material written in official languages by 31 December 2016                                     | <b>ACHIEVED</b><br>100% outreach material was written in official languages  | N/A  | N/A   |
| Percentage of public events where sign language is available | N/A   | 50% of public events where sign language is available by 31 March 2017                                       | <b>EXCEEDED</b><br>Sign language was available in 67% of public events held  | 17% variance   | There was a need for sign language interpretation for the events to cater for the deaf community  |

| Performance Indicator  | Actual Achievement 2015/2016 | Planned Target 2016/2017  | Actual Achievement 2016/2017   | Deviation from planned target to Actual Achievement for 2016/2017   | Comment on deviations   |
|--|------------------------------|---|--|---|---|
| Newspaper readership by target date  | N/A                          | Attain 2 million newspaper readership by 31 March 2017  | <b>EXCEEDED</b><br>2 256 033 newspaper readership was attained by 31 March 2017  | The variance is: +256 033   | The Public Protector as an institution received extensive coverage in newspapers both nationally and internationally due to media releases & media statements, media briefings and responses to media enquiries and Interviews  |
| TV viewership by target date   | N/A                          | Attain 10 million TV viewership by 31 March 2017  | <b>EXCEEDED</b><br>10 366 896 TV viewership was attained by 31 March 2017  | The deviation is: +366 896  | The target was exceeded due to great interest from the media at the time of the former Public Protector's term coming to an end, the release of the <b>"State of the Capture"</b> Report, Tabling of the 2015/16 Annual Report. Current Public Protector's first media briefing, stakeholder forum activities and Public Protector's 100 Days-in-Office media briefing  |
| Radio listenership by target date  | N/A                          | Attain 15 million Radio listenership by 31 March 2017   | <b>EXCEEDED</b><br>40 493 000 radio listenership was attained by 31 March 2017   | The deviation is: +25 493 000   | The target was exceeded due to lot of interest from the media at the time of the former Public Protector's term coming to an end, the release of the <b>"State of the Capture"</b> Report, Tabling of the 2015/16 Annual Report. Current Public Protector's first media briefing, stakeholder forum activities and Public Protector's 100 Days-in-Office media briefing |
| Frequency of updates on social media platforms (twitter, Facebook) and website | N/A                          | Quarterly media briefings, media house visits and weekly update of website, social media platforms (twitter, Facebook) and monthly on YouTube | <b>NOT ACHIEVED</b><br>Quarterly media briefings were held 3 out of 4 media house visits took place Facebook and Twitter were not updated weekly, such as the third and fourth week of January because there were no developments YouTube was not updated for 5 months | One media visit carried over from the previous quarters was not done. Facebook and YouTube not updated weekly YouTube was not updated monthly | Operational challenges in the unit led to targets not being achieved. The target will not be reported on going forward.   |

| Performance Indicator   | Actual Achievement 2015/2016 | Planned Target 2016/2017  | Actual Achievement 2016/2017  | Deviation from planned target to Actual Achievement for 2016/2017                                     | Comment on deviations   |
|---|------------------------------|---|---|---|---|
| Promotional material designed in line with annual themes  | N/A                          | Design 20 year anniversary memorabilia promotional material by 30 September 2016  | <b>ACHIEVED</b><br>20 year anniversary memorabilia promotional material was designed, procured and distributed  | N/A   | N/A   |
| Number of Good Governance conversations held  | N/A                          | Good Governance week and conference held in October 2016<br><br>Ten consultations/ conversations with FOSAD, SALGA and COGTA, AG, Treasury and the executive on systemic challenges held by 31 March 2017 | <b>NOT ACHIEVED</b><br>Good Governance week and conference held in October 2016<br>Five consultations/conversations with FOSAD, SALGA and COGTA and AG, on systemic challenges were held by 31 March 2017   | Five consultations/conversations were not held with Treasury and the executive on systemic challenges | The resignation of Executive Manager: Complaints and Stakeholder Management and not filling the position led to this target not being met |
| Number of training/ workshops conducted to standardise investigations approach by 31 March 2017                         | N/A                          | Conduct one training/workshop to standardise investigations approach by 31 March 2017   | <b>ACHIEVED</b><br>Conducted one training/ workshop with SIU to standardise investigations approach by 31 March 2017  | N/A   | N/A   |
| Number of forums/initiatives held to leverage stakeholder relations and to reach out to stakeholders on good governance | N/A                          | Nine provincial stakeholder forums with other oversight bodies and organs of state by 31 March 2017.<br>1 Corporate Social Investment initiative undertaken by 30 September 2016                          | <b>ACHIEVED</b><br>A total of Nine stakeholder engagements took place in Limpopo, Gauteng Mpumalanga, North West, Free State, Kwa-Zulu Natal<br><br>One Corporate Social Investment Initiative undertaken by 30 September 2016 .The institution hosted a Mandela Day CSI initiative at Afrika Tikkun, an NGO that supports childhood development. | N/A   | N/A   |

| Performance Indicator   | Actual Achievement 2015/2016 | Planned Target 2016/2017  | Actual Achievement 2016/2017   | Deviation from planned target to Actual Achievement for 2016/2017         | Comment on deviations   |
|---|------------------------------|---|--|---|---|
| Number of dialogues held with the Executive on the executive ethics code by target date | N/A                          | 1 dialogue held with the Executive on the Executive Ethics Code by 31 March 2017  | <b>NOT ACHIEVED</b><br>One dialogue was not held with the executive on the executive ethics code   | One dialogue was not held with the executive on the executive ethics code | The meeting was scheduled to take place on 29 March 2017 but was cancelled by Cabinet on the day. |
| Proposal for amendment of the Public Protector Act                                      | N/A                          | Submit a proposal for the amendment of the Public Protector Act by 31 July 2016   | <b>ACHIEVED</b><br>A proposal for the amendment of the Public Protector Act was submitted on 25 January 2017   | N/A   | N/A   |
| Number of international benchmarking activities and reports finalised                   | N/A                          | Four international benchmarking visits and reports with recommendations tabled to EXCO by 31 March 2017   | <b>ACHIEVED</b><br>Four outgoing international benchmarking visit were conducted in Namibia, Lesotho, UK and Botswana and the reports were tabled to EXCO  | N/A   | N/A   |
| Number of initiatives that contribute to the Development of ombudsmanship in Africa     | N/A                          | Attendance of all EXCO and other compulsory meetings of AOMA and AORC. Manage AOMA, AORC and by 31 March 2017 Manage AOMA, AORC and IOI activities by 31 March 2017 | <b>ACHIEVED</b><br>The Public Protector attended all EXCO and other compulsory meetings of AOMA and AORC. In managing AOMA, AORC and International Olympiad on Informatics (IOI) activities, the institution prepared and participated in AOMA EXCO meetings, AOMA General Assembly; Participated in IOI Africa meeting and AORC training. | N/A   | N/A   |
| Management of AORC  | N/A                          | Chairing all AORC meetings and ensure it complies with and reports on its strategic plan by 31 March 2017   | <b>ACHIEVED</b><br>Chaired all AORC meetings and ensure it complies with and reports on its strategic plan by 31 March 2017  | N/A   | N/A   |

### *Strategy to overcome areas of under performance*

The target: “Quarterly media briefings, media house visits and weekly update of website, social media platforms (twitter, Facebook) and monthly on YouTube” was not achieved because of capacity challenges following the resignation of the Executive Manager for Complaints and Stakeholder Management and the ending of the contract for one the contract employees within the unit.

A dialogue that was postponed by Cabinet was confirmed for the first quarter of 2017/18 financial year. Mobile office of the Public Protector (MOPP) clinics were not conducted in all municipalities because of oversight and monthly monitoring doing forward will alleviate the challenge. An SOP for all performance indicators was developed for the next financial year to ensure that all requirements and responsibilities were allocated (including dependencies) to make reporting easy. Secondly, monthly monitoring of targets will be introduced.

### *Changes to planned targets*

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

### *Linking performance with budgets*

|                                       | 2015/16      |                    |                          | 2016/17      |                    |                          |
|---------------------------------------|--------------|--------------------|--------------------------|--------------|--------------------|--------------------------|
| Programme/activity/objective          | Budget       | Actual Expenditure | (Over)/Under Expenditure | Budget       | Actual Expenditure | (Over)/Under Expenditure |
|                                       | R'000        | R'000              | R'000                    | R'000        | R'000              | R'000                    |
| Complaints and Stakeholder Management | 3 835        | 3 330              | 505                      | 7 880        | 5 210              | 2 670                    |
| <b>Total</b>                          | <b>3 835</b> | <b>3 330</b>       | <b>505</b>               | <b>7 880</b> | <b>5 210</b>       | <b>2 670</b>             |

## REVENUE COLLECTION

| Sources of revenue  | 2015/16        |                         |                         | 2016/17        |                         |                         |
|---------------------|----------------|-------------------------|-------------------------|----------------|-------------------------|-------------------------|
|                     | Estimate       | Actual Amount Collected | (Over)/Under Collection | Estimate       | Actual Amount Collected | (Over)/Under Collection |
|                     | R'000          | R'000                   | R'000                   | R'000          | R'000                   | R'000                   |
| Government Transfer | 245 397        | 245 397                 | -                       | 262 608        | 264 108                 | -1 500                  |
| Finance income      | 550            | 1 775                   | -1 225                  | 579            | 3 169                   | -2 590                  |
| Other income        | 120            | 181                     | -61                     | 126            | 58                      | -68                     |
| Revenue in kind     |                | 9 851                   | -9 851                  | -              | 7 524                   | -7 524                  |
| <b>Total</b>        | <b>246 067</b> | <b>257 204</b>          | <b>-11 137</b>          | <b>263 313</b> | <b>274 860</b>          | <b>-11 546</b>          |

The revenue sources for the Public Protector South Africa are: government transfers, finance income (interest received from bank balances), parking fees, services in kind and recoveries of staff debt. The main revenue source is government transfers (equitable shares) and the other revenues are minor. Budgeted revenue for the Public Protector South Africa for the 2016/17 financial years is R263 313 000.00. Actual revenue received amount to R274 859 669.00. The increase in revenue received is attributed to a R1.5 million received during the adjustment budget to cater for special investigations, a higher than expected interest income due to favourable bank balances, higher recoveries of other income (parking fees, staff debt) and services in kind revenue amounting to R7 524 000, which is rental income paid by the Department of Public Works on behalf of the Public Protector South Africa.



## CAPITAL INVESTMENT

The main areas where capital expenditure is applied is replacement of old and buying of new furniture, laptops and desktops and motor vehicles. The Public Protector South Africa had a capital budget of R6 524 000.00 mainly for replacement of fixed assets (depreciation of fixed asset). This budget has been applied (used) as follows

- Purchase of laptops and desktops
- Purchase of furniture
- Replacement of two motor vehicles
- Purchase of computer software

The total amount utilised for the above capital expenditure is R2 881 000 for PPE and R181 851 for intangible assets.

Part of the R6.5 million capital budget was supposed to be used for the implementation of the case management system (an online tool to manage and record cases). This project is still in progress and will be completed in 2017/18 financial year.

Asset disposals during the year under review amount to R377 857.00.

The Public Protector South Africa conducted three asset verifications during the year (including a final asset verification at year end) to ensure completeness and accuracy of the fixed asset register. The results of the asset verifications have been used to determine the conditions of the assets, asset that are unserviceable, redundant, broken and scrapings requiring disposal.

The following capital projects have been planned for execution in the 2017/18 financial year:

- Integration of security system (all offices)
- Case management system
- Integrated telephone system
- Video conferencing
- Procurement of furniture for the Public Protector provincial offices

|                         | 2015/16      |                    |                          | 2016/17      |                    |                          |
|-------------------------|--------------|--------------------|--------------------------|--------------|--------------------|--------------------------|
| Infrastructure projects | Budget       | Actual Expenditure | (Over)/Under Expenditure | Budget       | Actual Expenditure | (Over)/Under Expenditure |
|                         | R'000        | R'000              | R'000                    | R'000        | R'000              | R'000                    |
| Capital expenditure     | 5 000        | 886                | 4 114                    | 6 524        | 3 062              | -3 462                   |
| <b>Total</b>            | <b>5 000</b> | <b>886</b>         | <b>4 114</b>             | <b>6 524</b> | <b>3 062</b>       | <b>-3 462</b>            |





## PART C: GOVERNANCE



## PART C: GOVERNANCE

### 1. INTRODUCTION

#### EXECUTIVE AUTHORITY

The Public Protector is the Executive Authority in terms of the Public Protector Act 23 of 1994. 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.

#### EXECUTIVE COMMITTEE

A committee consisting of the Public Protector, Deputy Public Protector and Chief Executive Officer (CEO) which convenes at least once a quarter to assist the Public Protector with organisational performance monitoring, review and decision advice.



Adv. Busisiwe Mkhwebane



Adv. Kevin Malunga



Mr Themba T.C. Dlamini

#### MANAGEMENT COMMITTEE

A committee, chaired by the Chief Executive Officer, referred to as the Management Committee, comprises all Executive and Senior Managers of Public Protector South Africa. The committee convenes quarterly and is established primarily to advise the Chief Executive Officer.

#### AUDIT COMMITTEE

An independent audit committee has been appointed in terms of the provisions of the Public Finance Management Act 1 of 1999.

#### RISK MANAGEMENT COMMITTEE

The Committee is responsible for monitoring the management of Risk within PPSA. It is also responsible for ensuring that the action plans as per the Risk Register are effectively implemented. The Committee reports directly to the CEO as the Accounting Officer.

PPSA has both a Risk Management policy and a Risk Management strategy. Risk assessments were conducted for the last part of the previous financial year and the assessments for this financial year are ongoing. Please see the attached risk registers. The Risk Management Committee was established during the third quarter of the financial year. It has only convened once and the PPSA is in the process of changing the composition of the committee to include an external and independent chairperson. The Audit Committee raises regularly issues that need to be addressed by the Risk Management Committee.

It's will be premature to draw a conclusion because risk management interventions only commenced in September 2016, after the appointment of the Senior Manager. Currently, risk management is still establishing its structures and is operating with limited capacity. Progress will be reported in the next financial year.

#### THINK TANK COMMITTEE

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



## GOVERNANCE ADVISORY BOARD

The Governance Advisory Board comprises three external members who meet at least twice a year and at least once a year with the Public Protector. The Governance Advisory Board gives advice the Public Protector on any strategic and governance matters referred to the committee; governance complaints and compliance to ensure that all decisions taken are in the best interests of the institution. The Board also serves to receive Protected Disclosures against the Public Protector and the Deputy Public Protector.

## 2. PORTFOLIO COMMITTEES

The Public Protector is accountable to the National Assembly through the Portfolio Committee on Justice and Correctional Services. In the 2016/17 financial year, the Public Protector met three times with the Portfolio Committee to present the 2016-2022 Strategic Plan, 2016/17 Annual Performance Plan and Budget on 07 April 2016, the 2015/16 Annual Report on 19 October 2016 and the 2017-2023 Strategic Plan, 2017/18 Annual Performance Plan and Budget on 30 March 2017. Major concerns raised by the Portfolio committee are as follows:

| Matter raised  | How the institution is addressing the matter  |
|--|---|
| Can a clean audit be achieved and how will that be achieved?                         | <p>Yes, a clean audit can be achieved.</p> <p>The phased approach to achieve a clean audit is as follows:</p> <ul style="list-style-type: none"> <li>The target for 2017-2018 and 2018-2019 is to maintain an unqualified audit with the no material misstatements</li> <li>2019-2020 and beyond: achieve and maintain a clean audit.</li> </ul>  |
| The costs related to review applications   | The cost related to review applications varies, and the institution budgeted for litigation in the next financial years. Furthermore, a panel of attorneys will be appointed at a fixed rate to avoid spiralling litigation cost.   |
| The use of consultants and cost implication thereof                                  | The institution utilises consultants to provide services that the institution does not have internally, especially on investigations. For example, if an investigation requires the services of an engineer or doctor to ascertain specific facts. Secondly, payments classified as consultants also refer to payments to Microsoft, State Information Technology Agency (SITA) and legal costs of defending litigation against reviews of the Public Protector's remedial actions.                                 |
| Why is there a growing case backlog?   | <p>The main reasons for uncontrolled case backlogs are:</p> <ul style="list-style-type: none"> <li>The absence of an electronic case management system; and</li> <li>Delays by organs of state in providing information or/and availing themselves for meetings.</li> </ul> <p>A strategy to drastically reduce cases older than a year was implemented and there was a 77% (364/474) reduction in cases older than a year as at 1 April 2016, whereas cases that were two years and older were reduced by 62%.</p> |
| The inadequately funded organisational structure to address operational requirements | <p>The institution requested Parliament for additional funding.</p> <p>The institute also made a submission to National Treasury to cover budget pressures experienced by the institution.</p>  |

### 3. RISK MANAGEMENT

The PPSA conducted a risk assessment, where the Risk Management Committee updated the Risk Register in October 2016. New and emerging risks are identified, action plans developed and included in the Risk Register for monitoring and implementation.

While there has been progress in mitigating certain risks, there are still challenges in implementing some mitigation plans mainly because of human resource constraints. The Institution is in the process of filling the position of a Senior Manager: Risk Management in the next financial year. It is envisaged that this will assist the institution in overall management of risk and to institutionalise a risk management culture across the institution.

The Audit Committee (AC) oversees the effectiveness of overall risk management processes within the institution.

### 4. INTERNAL AUDIT AND AUDIT COMMITTEE

#### 4.1 Internal Audit

The role of the internal audit function is to improve the PPSA's operations. It helps the PPSA to accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of the risk management, control, and governance processes.

The internal audit function reports to all AC meetings and, if necessary, meets with the AC Chairperson prior to, and immediately after, each AC meeting.

The PPSA's internal auditors, Ngubane & Co Chartered Accountants have been continuously submitting written audit reports to the Audit Committee meetings, based on the approved audit plan. These reports were based on the status of the internal audit activities performed, which were, amongst others:

- Significant findings and management action plans;
- Follow up on previously reported audit findings; and
- Fraud and non-compliance with legislation.

Based on the approved internal audit plan, the following audits were performed during the period under review:

- The Internal Audit Charter and the three year Internal Audit Plan were presented to the AC during the period under review. These documents have since been adopted by the Committee;
- Follow up on previously reported audit findings;
- Review of interim financial statements;
- Stakeholder management;
- Human Capital Management;
- Investigations and Reporting;
- Facilities Management;
- Information Technology General Controls; and
- Review of Risk Management documents.

#### 4.2 Audit Committee

The AC is constituted in terms of Section 77 of the PFMA, read with Chapter 9 of the Treasury Regulations. The AC consists of four independent members. The AC has satisfied itself of the expertise, resources and experience of the PPSA finance, SCM, procurement and internal audit function. The AC has a charter that outlines its terms of reference.

The audit committee responsibilities as per the charter are as follows:

- Consider the effectiveness of internal controls;
- Oversee the risk management process and performance;
- Review the reliability, adequacy and effectiveness, of financial and non-financial information provided by management through quarterly reports;
- Considers the accounting and auditing concerns, as identified by the auditors (both internal and external) as well as reviewing the adequacy of managements' corrective action in response to both significant internal and external audit findings;
- Assist the CEO regarding compliance with legal and regulatory provisions;
- Regularly report to the Accounting Officer about committee activities, issues, and related recommendations;
- Review and confirm the independence and objectivity of the external auditors; and
- Monitor the effectiveness of the internal audit function.

## 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) | BBusSC Finance; Hons; BCompt Hons CTA; BCom Honours in Transport Economics CA(SA)    | External             | N/A  | 5 May 2014     | N/A           | 5                        |
| Mr Robin Theunissen          | CA (SA); BAcc, Registered Auditor, Diploma in Criminal Justice and Forensic Auditing | External             | N/A  | 5 May 2014     | N/A           | 5                        |
| Mr Alpheus Mashego           | BCom; Bcom Hons; LLB; LLM; Diploma State Finance and Auditing;                       | External             | N/A  | 5 May 2014     | N/A           | 4                        |
| Mr Nkosana Sifumba           | BCom, MBL, CISA, CGEIT   | External             | N/A  | 20 April 2016  | N/A           | 5                        |

## 5. COMPLIANCE WITH LAWS AND REGULATIONS

A compliance checklist has been developed as a tool to monitor regularly compliance with applicable laws and regulations. The checklist is updated on a quarterly basis.

In addition, a compliance function was established in June 2014 to drive and monitor regularly 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
- Risk Management Committee
- Occupational Health and Safety Committee
- Labour Relations Consultative Bargaining Forum
- Executive Committee
- Audit committee
- Management Committee
- Internal Audit

## 6. Fraud and Corruption

Fraud and corruption is reported through the national anti-corruption hotline (0800 701 701), which has been communicated to all staff members, including new employees. We have conducted four anti-fraud and corruption awareness workshops (Head Office, KZN, Eastern Cape and Gauteng).

Employees are always discouraged to receive gifts but when this is beyond their control, they are encouraged to disclose such information on the official Gift Register. The PPSA Code of Conduct is disseminated and signed by new recruits as part of their orientation programme.

We are busy outlining the process and mechanism to handle fraud cases in our newly revised whistle blowing policy. We are also engaging the Public Service Commission (PSC) to formalise our working relationship and possibly sign a Memorandum of Understanding (MOU) or a Service Level Agreement (SLA). There were no reported fraud and corruption cases during the year under review.



## 7. MINIMISING CONFLICT OF INTEREST

In minimising the conflict of interest in Supply Chain Management, all supply chain practitioners are compelled to attend training every year on updates in supply chain legislation and National Treasury Practice and Instructions Notes. In addition, supply chain managers and senior managers undergo vetting (security clearance) before appointment to their positions. All the members of the bid committees sign a conflict of interest document to indicate whether there is an actual or potential conflict of interest and the chairperson of the committees makes a determination on the declaration of conflict of interest of the members including supply chain practitioners.

## 8. CODE OF CONDUCT

The Public Protector South Africa has a Code of Conduct that regulates the conduct of employees in the institution. It explains the expected behaviour from its employees. The Code stipulates elements such as honesty, integrity, impartiality, excellence, responsiveness and accountability.

The Code of Conduct is explained to employees during the induction process and employees are required to acknowledge their awareness of the Code as an indication that it has been explained to them and they understand it. Any serious breach of the Code of Conduct will have a negative effect on the institution especially given that this is an institution that focuses on integrity and ethics. Therefore, the Public Protector South Africa should be exemplary and any breach to the Code of Conduct should be dealt with appropriately. The Disciplinary Procedure and Code of the institution is used to deal with employees who breach the Code of Conduct.

## 9. HEALTH SAFETY AND ENVIRONMENTAL ISSUES

The following has been implemented to ensure safety in our offices.

- All OHS representatives have been trained in evacuation procedures.
- Training was done for the first aid representatives.
- All offices, with the exception of the newly established Musina office have first aid kits.

## 10. SOCIAL RESPONSIBILITY

The institution hosted a Mandela Day CSI initiative at Afrika Tikkun, an NGO that supports childhood development.

## REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2017.

### *Audit Committee Members and Attendance*

The Audit Committee consists of the members listed hereunder and should meet at least four times per annum as per its approved terms of reference. During the current year five meetings were held by the Audit Committee.

| Name            | Role            | Scheduled Meetings |          | Special Meetings |          |
|-----------------|-----------------|--------------------|----------|------------------|----------|
|                 |                 | Held               | Attended | Held             | Attended |
| Ms. P. Mzizi    | Chairperson     | 3                  | 3        | 2                | 2        |
| Mr R Theunissen | External Member | 3                  | 3        | 2                | 2        |
| Mr A Mashego    | External Member | 3                  | 2        | 2                | 2        |
| Mr N Sifumba    | External Member | 3                  | 3        | 2                | 2        |

### *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 achieved by evaluating internal controls to determine their effectiveness and efficiency, and by developing recommendations for enhancement or improvement. The accounting officer retains responsibility for implementing such recommendations as per Treasury Regulation 3.1.12.

From the various reports from the internal auditors and Auditor General South Africa it was noted that matters were reported indicating material deficiencies in the system of internal controls in areas pertaining to financial reporting, reporting on pre-determined objectives and compliance with laws and regulations.

A matter of concern for the Audit Committee that has been raised with the Public Protector South Africa (PPSA) continuously is that the PPSA is currently not implementing all Internal Audit action plans agreed upon. Based on our interaction with the PPSA we conclude that the PPSA does not have an adequate and effective action plan management system to address internal audit findings and the Audit Committee and Internal Audit have recommended specific improvements in this regard.

Based on the quarterly reviews performed, the PPSA fraud and risk management system is not adequate and effective.

The Audit Committee remains concerned with the uncertainty relating to inadequate funding of the Public Protector SA.

### *Evaluation of Financial Statements*

The Audit Committee has reviewed the draft annual financial statements prepared by the PPSA and has advised the Accounting Officer to ensure that all the review notes and comments of the Provincial Accountant General, Internal Audit and Audit Committee are fully addressed prior to submission of the annual financial statements to the Auditor General South Africa.

### *Evaluation of reporting on predetermined objectives*

The Audit Committee has not reviewed the draft annual report prepared by the PPSA and has advised the accounting officer to ensure that the annual report is compliant with the relevant prescripts prior to submission of the annual report to the Auditor General South Africa. The Audit Committee has discussed the external audit outcomes on the reporting on predetermined objectives to be included in the annual report with the Auditor General South Africa and the Accounting Officer.

### *Compliance with laws and regulations*

The Public Protector South Africa in the year under review partly complied with applicable laws and regulations. However, the Audit Committee has remained concerned that PPSA has not fully complied with all applicable laws and regulations. If the PPSA does not implement an adequate and effective compliance framework and system, non-compliance will continue to occur.

### *Internal audit*

The Audit Committee is satisfied that the Internal Audit function operated effectively during the year under review. The Audit Committee also notes that the deficiencies in the risk management system mentioned above may impact on the implementation of the risk based audit approach.

### *Auditor General South Africa*

We have reviewed the PPSA's implementation plan for audit issues raised in the previous year and we are not satisfied that all the matters have been adequately resolved. Based on our interaction with the PPSA we conclude that the PPSA does not have an adequate and effective action plan management system to address external audit findings and the Audit Committee and Internal Audit have recommended specific improvements in this regard.

The Audit Committee is not aware of any unresolved issues with respect to the current audit.

The Audit Committee concurs and accepts the conclusions of the Auditor General South Africa on the Annual Financial Statements and is of the opinion that the audited annual financial statements be accepted and read together with the report of the Auditor General South Africa.

### *General*

The Audit Committee strongly recommends that the Public Protector SA must prioritise 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:



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**Ms P Mzizi CA(SA)**

Chairperson of the Audit Committee

31 July 2017



## PART D: HUMAN RESOURCE MANAGEMENT



## PART D: HUMAN RESOURCE MANAGEMENT

### 1. INTRODUCTION

The HR Unit at the Public Protector South Africa provides Human Resources services, from operational to strategic level, to the whole institution. The priorities for the year under review were addressing understaffing in the institution. The institution received an amount of R21 million from the National Treasury. It was used to fund and fill prioritised posts in the institution. Although it was not enough it has addressed the issues of capacity to a certain extent. Performance Management was also prioritised by the institution. Performance Assessments were not done on time for the financial years 2015/16 and 2016/17 because of disagreements between Labour and the Employer. These have now been resolved and performance assessments are currently being conducted though not in the usual way. Special templates were developed based on job descriptions to conduct Performance Assessments. A new Performance Management and Development Policy was developed and approved and it is envisaged that performance evaluations will run smoothly going forward.

The institution has developed an HR Plan to ensure that critical vacancies are always filled within a reasonable time frame. A Succession Planning Policy was developed to ensure there will always be employees who are ready to fill vacant posts within the institution. It has become clear that one of the challenges facing the institution is its uncompetitive conditions of service and remuneration structure. This has made it difficult to attract and retain skilled personnel especially at senior levels. The institution has taken a decision to develop competitive conditions of service and a remuneration structure. The process has already started. This will go a long way to attract and retain staff in the institution.

A new approach to employee wellness has been developed. In addition to Employee Assistance Programme (EAP) the institution will also focus on Health Promotion Programmes (HPP) which are more proactive than reactionary. Budget has been set aside for that.

The Human Resources Management Unit has reviewed about 23 of its policies during the year under review to ensure that HR policies are aligned with current thinking in the HR field and legislation.

There are quite a number of challenges faced by the institution. One of the biggest challenges is underfunding, making it impossible to sufficiently resource the organisational structure. Currently the institution's organisational structure is about 50% funded. This is not sustainable considering the mandate of the institution in particular its constitutional requirement to be accessible to the public and communities. Staff issues are also a big challenge to the institution. The Occupation Specific Dispensation has not been fully implemented. The outcomes of the 2014 Job evaluation have also not been implemented. This has resulted in demotivation among staff members. As mentioned above attracting and retaining staff especially at senior levels is a challenge because of uncompetitive conditions of service including the remuneration structure.

The future plans and goals of Human Resources Unit are to ensure that the institution becomes an employer of choice. This will be achieved by, among other factors, developing and implementing competitive conditions of service including the remuneration structure. The ability of the institution to provide growth and development opportunities for its employees has been prioritised. To achieve this, HR has developed a Succession Planning Policy to ensure that there is always a pool internally from which the institution can appoint suitable candidates.

It is also the intention of the institution to institutionalise performance management hence the development of a new Performance Enhancement and Accountability System which is approved.

## 2. HUMAN RESOURCE OVERSIGHT STATISTICS

### PERSONNEL COST BY PROGRAMME/ ACTIVITY/ OBJECTIVE

| Programme/<br>activity/<br>objective        | Total Expenditure<br>for the entity<br>(R'000) | Personnel<br>Expenditure<br>(R'000) | Personnel exp.<br>as a % of total<br>exp. (R'000) | No. of<br>employees | Average personnel<br>cost per employee<br>(R'000) |
|---|--|-------------------------------------|---|---------------------|---|
| Administration                              | 111 444  | 42 102                              | 38%   | 67                  | 628   |
| Investigations                              | 173 263  | 156 855                             | 91%   | 252                 | 622   |
| Complaints and<br>Stakeholder<br>Management | 5 210  | 3 158                               | 61%   | 24                  | 132   |

### PERSONNEL COST BY SALARY BAND

| Level                     | Personnel<br>Expenditure (R'000) | % of personnel exp. to total<br>personnel cost (R'000) | No. of<br>employees | Average personnel cost<br>per employee (R'000) |
|---------------------------|----------------------------------|--|---------------------|--|
| Top Management            | 12 234                           | 6%   | 3                   | 4 078  |
| Senior<br>Management      | 33 577                           | 17%  | 25                  | 1 343  |
| Professional<br>qualified | 60 543                           | 30%  | 183                 | 331  |
| Skilled                   | 93 926                           | 46%  | 105                 | 895  |
| Semi-skilled              | 1 835                            | 1%   | 27                  | 68   |
| Unskilled                 |                                  | 0%   | 0                   | -  |
| <b>TOTAL</b>              | <b>202 115</b>                   | <b>100%</b>  | <b>343</b>          | <b>589</b>                                     |

### PERFORMANCE REWARDS

| Programme//activity/objective | Performance<br>rewards | Personnel<br>Expenditure (R'000) | % of performance rewards to<br>total personnel cost (R'000) |
|-------------------------------|------------------------|----------------------------------|---|
| Top Management                | 0                      | 12 234                           | 0%  |
| Senior Management             | 0                      | 33 577                           | 0%  |
| Professional qualified        | 0                      | 60 543                           | 0%  |
| Skilled                       | 0                      | 93 926                           | 0%  |
| Semi-skilled                  | 0                      | 1 835                            | 0%  |
| Unskilled                     | 0                      |                                  | 0%  |
| <b>TOTAL</b>                  | <b>0</b>               | <b>202 115</b>                   | <b>0%</b>   |

### TRAINING COSTS

| Programme//<br>activity/<br>objective | Personnel<br>Expenditure<br>(R'000) | Training<br>Expenditure<br>(R'000) | Training Expenditure<br>as a % of Personnel<br>Cost. | No. of<br>employees<br>trained | Avg training<br>cost per<br>employee |
|---------------------------------------|-------------------------------------|------------------------------------|--|--------------------------------|--------------------------------------|
| Administration                        | 42 102                              |                                    |  | <b>33</b>                      |                                      |
| Investigations                        | 156 855                             |                                    |  | <b>173</b>                     |                                      |
| Stakeholder<br>Management             | 3 158                               |                                    |  | <b>6</b>                       |                                      |



## EMPLOYMENT AND VACANCIES

| Programme/activity/objective | 2015/2016<br>No. of<br>Employees | 2016/2017<br>Approved<br>Posts | 2016/2017<br>No. of<br>Employees | 2016/2017<br>Vacancies | % of<br>vacancies |
|------------------------------|----------------------------------|--------------------------------|----------------------------------|------------------------|-------------------|
| Administration               | 46                               | 83                             | 67                               | 16                     | 19%               |
| Investigations               | 223                              | 290                            | 252                              | 38                     | 13%               |
| Outreach & Media Relations   | 25                               | 29                             | 24                               | 5                      | 1,70%             |
| <b>Total</b>                 | <b>294</b>                       | <b>402</b>                     | <b>343</b>                       | <b>59</b>              | <b>14%</b>        |

| Programme/activity/objective | 2015/2016 | 2016/2017<br>Approved<br>Posts | 2016/2017 | 2016/2017<br>Vacancies | % of<br>vacancies |
|------------------------------|-----------|--------------------------------|-----------|------------------------|-------------------|
| Top Management               | 3         | 3                              | 3         | 0                      | 0%                |
| Senior Management            | 20        | 34                             | 25        | 9                      | 26%               |
| Professional qualified       | 181       | 210                            | 183       | 27                     | 12%               |
| Skilled                      | 90        | 126                            | 105       | 21                     | 17%               |
| Semi-skilled                 | 0         | 29                             | 27        | 2                      | 7%                |
| Unskilled                    | 0         | 0                              | 0         | 0                      | 0                 |

Quite a number of senior management posts were filled during the year under review, for example, Senior Manager posts in ICT, Risk Management, Human Resources, Strategic Support, Outreach and Education, Legal Services, and posts at executive level, the Chief Executive Officer and the Executive Manager: Complaints and Stakeholder Management. It should be mentioned that it is not easy to attract staff and retain staff at this level hence the development of a succession planning policy and competitive conditions of service including the remuneration structure.

## EMPLOYMENT CHANGES

Provide information on changes in employment over the financial year. Turnover rates provide an indication of trends in employment profile of the Public Protector South Africa.

| Salary Band            | Employment at<br>beginning of period | Appointments | Terminations | Employment at<br>end of the period |
|------------------------|--------------------------------------|--------------|--------------|------------------------------------|
| Top Management         | 3                                    | 3            | 3            | 3                                  |
| Senior Management      | 20                                   | 10           | 5            | 25                                 |
| Professional qualified | 181                                  | 28           | 26           | 183                                |
| Skilled                | 90                                   | 22           | 7            | 105                                |
| Semi-skilled           | 0                                    | 30           | 3            | 27                                 |
| Unskilled              | 0                                    | 0            | 0            | 0                                  |
| <b>Total</b>           | <b>294</b>                           | <b>93</b>    | <b>44</b>    | <b>343</b>                         |



## REASONS FOR STAFF LEAVING

| Reason             | Number    | % of total no. of staff leaving |
|--------------------|-----------|---------------------------------|
| Death              | 1         | 3%                              |
| Resignation        | 24        | 85%                             |
| Dismissal          | 0         | 0                               |
| Retirement         | 1         | 3%                              |
| Ill health         | 0         | 0                               |
| Expiry of contract | 3         | 9%                              |
| Other              | 0         | 0                               |
| <b>Total</b>       | <b>28</b> | <b>100%</b>                     |

As reflected above 85% of staff leaving the institution is due to resignation. In almost all cases staff resigned because they get better opportunities elsewhere. This can be attributed to uncompetitive conditions of service and the remuneration structure and the lack of growth and development opportunities because of the size of the institution. The development of the new conditions of service and the succession planning policy will go a long way to address this short coming. All vacant posts are filled as soon as possible.

## LABOUR RELATIONS: MISCONDUCT AND DISCIPLINARY ACTION

| Nature of disciplinary Action | Number |
|-------------------------------|--------|
| Verbal Warning                | 1      |
| Written Warning               | 4      |
| Final Written warning         | 1      |
| Dismissal                     | 0      |
| Suspension without pay        | 1      |

## EQUITY TARGET AND EMPLOYMENT EQUITY STATUS

Females are under-represented at senior and executive levels and are therefore targeted at these levels. This matter was thoroughly discussed in the Employment Equity Committee meeting when it was proposed that both advertising and short listing should be aimed at targeted groups. One of the weaknesses of the institution has been the lack of succession planning where targeted groups can be identified and developed to fill vacant posts. The succession planning policy has been developed and approved. It will go a long way to address under representation of designated groups at all occupational levels. The institution has managed to appoint 3 female employees at this level.

| Levels                 | Male       |            |          |           |          |           |          |          |
|------------------------|------------|------------|----------|-----------|----------|-----------|----------|----------|
| Reason                 | African    |            | Coloured |           | Indian   |           | White    |          |
| Reason                 | Current    | Target     | Current  | Target    | Current  | Target    | Current  | Target   |
| Top Management         | 2          | 2          | 0        | 0         | 0        | 0         | 0        | 0        |
| Senior Management      | 14         | 15         | 0        | 1         | 0        | 1         | 2        | 2        |
| Professional qualified | 91         | 100        | 7        | 8         | 4        | 7         | 4        | 5        |
| Skilled                | 24         | 34         | 1        | 3         | 0        | 2         | 0        | 2        |
| Semi-skilled           | 12         | 12         | 0        | 1         | 0        | 1         | 0        | 0        |
| Unskilled              | 0          | 0          | 0        | 0         | 0        | 0         | 0        | 0        |
| <b>Total</b>           | <b>143</b> | <b>163</b> | <b>8</b> | <b>13</b> | <b>4</b> | <b>11</b> | <b>6</b> | <b>9</b> |

## EQUITY TARGET AND EMPLOYMENT EQUITY STATUS - Continued

| Levels                 | Female     |                        |            |                        |            |                        |            |                        |
|------------------------|------------|------------------------|------------|------------------------|------------|------------------------|------------|------------------------|
| Reason                 | African    |                        |            |                        | African    |                        |            |                        |
| Reason                 | Current    |                        | Current    |                        | Current    |                        | Current    |                        |
| Top Management         | 1          | Top Management         | 1          | Top Management         | 1          | Top Management         | 1          | Top Management         |
| Senior Management      | 7          | Senior Management      | 7          | Senior Management      | 7          | Senior Management      | 7          | Senior Management      |
| Professional qualified | 59         | Professional qualified | 59         | Professional qualified | 59         | Professional qualified | 59         | Professional qualified |
| Skilled                | 64         | Skilled                | 64         | Skilled                | 64         | Skilled                | 64         | Skilled                |
| Semi-skilled           | 14         | Semi-skilled           | 14         | Semi-skilled           | 14         | Semi-skilled           | 14         | Semi-skilled           |
| Unskilled              | 0          | Unskilled              | 0          | Unskilled              | 0          | Unskilled              | 0          | Unskilled              |
| <b>Total</b>           | <b>145</b> | <b>Total</b>           | <b>145</b> | <b>Total</b>           | <b>145</b> | <b>Total</b>           | <b>145</b> | <b>Total</b>           |

| Levels                 | Disabled Staff |                        |          |                        |
|------------------------|----------------|------------------------|----------|------------------------|
| Reason                 | Male           |                        |          |                        |
| Reason                 | Current        |                        | Current  |                        |
| Top Management         |                | Top Management         |          | Top Management         |
| Senior Management      |                | Senior Management      |          | Senior Management      |
| Professional qualified | 2              | Professional qualified | 2        | Professional qualified |
| Skilled                |                | Skilled                |          | Skilled                |
| Semi-skilled           |                | Semi-skilled           |          | Semi-skilled           |
| Unskilled              |                | Unskilled              |          | Unskilled              |
| <b>Total</b>           | <b>2</b>       | <b>Total</b>           | <b>2</b> | <b>Total</b>           |



**Adv. Stoffel Fourie**  
Executive Manager: Good Governance and Integrity



**Nthoriseng Motsisi**  
Executive Manager: Complaints and Stakeholder Management



**Reginald Ndou**  
Executive Manager: Provincial Investigations and Integration



**Kennedy Kaposa**  
Chief Financial Officer



**Ponatshego Mogaladi**  
Executive Manager: Administrative Justice and Service Delivery



**Linda Molelekoa**  
Acting Chief of Staff



**Kgalalelo Masibi**  
Senior Manager: Complaints and Stakeholder Management



**Rodney Mataboge**  
Acting Chief Investigator: Good Governance and Integrity



**Abongile Madiba**  
Chief Investigator: Good Governance and Integrity



**Adv. Johann Raubenheimer**  
Chief Investigator: Administrative Justice and Service Delivery



**Adv. Elsabe de Waal**  
Chief Investigator: Administrative Justice and Service Delivery



**Sello Mthuphi**  
Senior Manager: Provincial Investigations and Integration



**Zoleka Mntumtum**  
Senior Manager: Facilities Management



**Lesedi Sekele**  
Senior Manager: Complaints and stakeholder Management



**Gumbi Tyelela**  
Senior Manager: Human Resource Management and Development



**Humbisa Caleni**  
Senior Manager: Information and Communication Technology



**Oupa Segalwe**  
Senior Manager: Communications



**Hamilton Samuel**  
Provincial Representative: Free State



**Sechele Keebine**  
Provincial Representative: North West



**Adv. Mlandeli Nkosi**  
Provincial Representative: KwaZulu-Natal



**Adv. Mthwakazi Thomas**  
Provincial Representative: Eastern Cape



**Suné Griessel**  
Provincial Representative: Western Cape



**Mlungisi Khanya**  
Provincial Representative: Northern Cape



**Botromia Sithole**  
Provincial Representative: Mpumalanga



**Winnie Manyathela**  
Provincial Representative: Gauteng



**Adv. Mashaba Matimolane**  
Provincial Representative:  
Limpopo



**Machebane Mothiba**  
Senior Manager:  
Strategic Support



**Futana Tebele**  
Senior Manager:  
Executive Support



**Baldwin Neshunzhi**  
Senior Manager:  
Security Management



**Cleopatra Mosana**  
Spokesperson



**Magapane Makaba**  
Senior Manager:  
Risk Management



**Ntsumbedzeni Nemasisi**  
Senior Manager:  
Legal Services





## PART E:

# FINANCIAL INFORMATION



## PART E: FINANCIAL INFORMATION

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

#### REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS

##### *Opinion*

1. I have audited the financial statements of the Public Protector South Africa set out on pages 101 to 136, which comprise the statement of financial position as at 31 March 2017, and the statement of financial performance, statement of changes in net assets and cash flows statement and statement of comparison of budget information with actual information for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. 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 2017, 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).

##### *Basis for Opinion*

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of my report.
4. I am independent of the constitutional institution in accordance with the International Ethics Standards Board for Accountants' Code of ethics for professional accountants (IESBA code) together with the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

##### *Material Uncertainty Related to Going Concern*

6. I draw attention to Note 26 in the financial statements, which indicates that the constitutional institution incurred an accumulated deficit of R24 334 660 during the year ended 31 March 2017 and, as of that date the constitutional institution's current liabilities exceeded its total assets by R20 742 194. These events or conditions, along with other matters as set forth in Note 26, indicate that a material uncertainty exists that may cast significant doubt on the constitutional institution's ability to continue as a going concern. My opinion is not modified in respect of this matter.

##### *Emphasis of Matters*

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

##### *Irregular Expenditure*

8. As disclosed in note 28 to the financial statements, irregular expenditure to the amount of R4 242 012 that was incurred in the previous years was still under investigation by PPSA and irregular expenditure to the amount of R6 389 131 that was incurred in the previous years was not investigated.

##### *Restatement of Corresponding Figures*

9. As disclosed in note 32 to the financial statements, the corresponding figures for 31 March 2016 have been restated as a result of an error in the financial statements of the constitutional institution at, and for the year ended, 31 March 2017.

##### *Responsibilities of Accounting officer for the Financial Statements*

10. The accounting officer is responsible for the preparation and fair presentation of the 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 officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
11. In preparing the financial statements, the accounting officer is responsible for assessing the Public Protector South Africa's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern

and using the going concern basis of accounting unless there is an intention either to liquidate the constitutional institution or to cease operations, or there is no realistic alternative but to do so.

### *Auditor-General's Responsibilities for the Audit of the Financial Statements*

12. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
13. A further description of my responsibilities for the audit of the financial statements is included in the annexure to the auditor's report.

## **REPORT ON THE AUDIT OF THE ANNUAL PERFORMANCE REPORT**

### *Introduction and Scope*

14. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof I have a responsibility to report material findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report. I performed procedures to identify findings but not to gather evidence to express assurance.
15. My procedures address the reported performance information, which must be based on the approved performance planning documents of the constitutional institution. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures also did not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.
16. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected programmes presented in the annual performance report of the constitutional institution for the year ended 31 March 2017:

| Programmes                          | Pages in the annual performance report |
|-------------------------------------|--|
| Programme 2- Investigations         | 68 to 71                               |
| Programme 3- Stakeholder management | 71 to 75                               |

17. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
18. The material findings in respect of the usefulness and reliability of the selected programmes are as follows:

### **Programme 2 - Investigations**

#### *Percentage cases resolved according to approved investigations plan*

19. The constitutional institution did not have an adequate performance management system to maintain records to enable reliable reporting on achievement of targets. Sufficient appropriate audit evidence could not be provided in some instances while in other cases the evidence provided did not agree to the recorded achievements. This resulted in a misstatement of the target achievement reported as the evidence provided indicated that it was 59% and not 82%. I was also unable to confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any further adjustments were required to the reported achievements.



### Programme 3 - Stakeholder Management

#### *Newspaper readership by target date*

20. I was unable to obtain sufficient appropriate audit evidence for the reported achievement of attaining 2 million newspaper readership by 31 March 2017. This was due to management not having adequate mechanisms in place for reliable and complete evidence on newspaper readership. Consequently, I was unable to determine whether any adjustments were required to the reported achievement of 2 256 033 newspaper readership.

#### *TV viewership by target date*

21. I was unable to obtain sufficient appropriate audit evidence for the reported achievement of attaining 10 million TV viewership by 31 March 2017. This was due to management not having adequate mechanisms in place for reliable and complete evidence on TV viewership. Consequently, I was unable to determine whether any adjustments were required to the reported achievement of 10 366 896 TV viewership.

#### *Radio listenership by target date*

22. I was unable to obtain sufficient appropriate audit evidence for the reported achievement of attaining 15 million radio listenership by 31 March 2017. This was due to management not having adequate mechanisms in place for reliable and complete evidence on radio listenership. Consequently, I was unable to determine whether any adjustments were required to the reported achievement of 40 493 000 radio listenership.

#### *Other matters*

23. I draw attention to the matters below.

#### *Achievement of planned targets*

24. Refer to the annual performance report on page(s) 63 to 75 for information on the achievement of planned targets for the year and explanations provided for the under/overachievement of a number of targets. This information should be considered in the context of the material findings expressed on the usefulness and reliability of the reported performance information in paragraph(s) 19 to 22 of this report.

#### *Adjustment of material misstatements*

25. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were on the reported performance information of Investigations and Stakeholder management. As management subsequently corrected only some of the misstatements, I reported material findings on the usefulness and reliability of the reported performance information. Those that were not corrected are included in the material findings paragraphs 19 - 22 of this report.

### REPORT ON AUDIT OF COMPLIANCE WITH LEGISLATION

#### *Introduction and Scope*

26. In accordance with the PAA and the general notice issued in terms thereof I have a responsibility to report material findings on the compliance of the constitutional institution with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

27. The material findings in respect of the compliance criteria for the applicable subject matters are as follows:

#### *Expenditure Management*

28. Effective steps were not taken to prevent irregular expenditure amounting to R22 892 099 as disclosed in note 28 to the annual financial statements, as required by section 38(1)(c)(ii) of the PFMA and treasury regulation 9.1.1. The majority of the irregular expenditure was caused by payments being made above the contract value.
29. Contractual obligations and money owed by the constitutional institution were not settled within 30 days, as required by section 38(1)(f) of the PFMA and treasury regulation 8.2.3.

#### *Procurement and contract management*

30. Some of the goods and services with a transaction value below R500 000 were procured without obtaining the required price quotations, as required by Treasury Regulation 16A6.1.
31. Some of the contracts were extended or modified without the approval of a properly delegated official as required by Treasury Regulation 8.1 and 8.2.

### *Annual Financial Statements, Performance and Annual Report*

32. 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 PFMA. Material misstatements of liabilities, expenditure and disclosure items identified by the auditors in the submitted financial statement were corrected, resulting in the financial statements receiving an unqualified audit opinion.

### **OTHER INFORMATION**

33. The Public Protector South Africa accounting officer is responsible for the other information. The other information comprises the information included in the annual report which includes the audit committee's report. The other information does not include the financial statements, the auditor's report thereon and those selected programmes presented in the annual performance report that have been specifically reported on in the auditor's report.
34. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.
35. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected programmes presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work I have performed on the other information obtained prior to the date of this auditor's report, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

### **INTERNAL CONTROL DEFICIENCIES**

36. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance thereon. The matters reported below are limited to the significant internal control deficiencies that resulted in opinion, the findings on the performance report and the findings on compliance with legislation included in this report.

#### *Leadership*

37. 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*

38. Non-compliance with legislation could have been prevented had compliance been properly reviewed and monitored by management.
39. The financial statements and the annual performance report contained material misstatements that were corrected. This was due to lack of supervision and review during the process of compiling the financial statements and annual performance report.

*Auditor-General*

**Pretoria**

31 July 2017



## ANNEXURE - AUDITOR-GENERAL'S RESPONSIBILITY FOR THE AUDIT

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements, and the procedures performed on reported performance information for selected programmes and on the constitutional institution's compliance with respect to the selected subject matters.

### *Financial statements*

2. In addition to my responsibility for the audit of the financial statements as described in the auditor's report, I also:
  - identify and assess the risks of material misstatement of the financial statements whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
  - obtain an understanding of internal control relevant to the audit 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 constitutional institution's internal control.
  - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting officer.
  - conclude on the appropriateness of the accounting officer's use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Public Protector South Africa ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify the opinion on the financial statements. My conclusions are based on the information available to me at the date of the auditor's report. However, future events or conditions may cause a constitutional institution to cease to continue as a going concern.
  - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

### *Communication with those charged with governance*

3. I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
4. I also confirm to the accounting officer that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and here applicable, related safeguards.

## ANNUAL FINANCIAL STATEMENTS



PUBLIC PROTECTOR  
SOUTH AFRICA

Accountability • Integrity • Responsiveness  
Justice • Good Governance

PUBLIC PROTECTOR SOUTH AFRICA

FORMERLY OFFICE OF THE PUBLIC PROTECTOR

## Annual Financial Statements

*for the year ended 31 March 2017*

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## Statement of Financial Position as at 31 March 2017

| Figures in Rand                        | Note(s) | 2017                | 2016<br>Restated*  |
|--|---------|---------------------|--------------------|
| <b>Assets</b>                          |         |                     |                    |
| <b>Current Assets</b>                  |         |                     |                    |
| Receivables from exchange transactions | 3       | 322 493             | 452 472            |
| Cash and cash equivalents              | 4       | 32 162 842          | 38 505 898         |
|  |         | <b>32 485 335</b>   | <b>38 958 370</b>  |
| <b>Non-Current Assets</b>              |         |                     |                    |
| Property, plant and equipment          | 5       | 7 246 122           | 9 536 289          |
| Intangible assets                      | 6       | 661 650             | 624 949            |
|  |         | <b>7 907 772</b>    | <b>10 161 238</b>  |
| <b>Total Assets</b>                    |         | <b>40 393 107</b>   | <b>49 119 608</b>  |
| <b>Liabilities</b>                     |         |                     |                    |
| <b>Current Liabilities</b>             |         |                     |                    |
| Finance lease obligation               | 7       | 1 001 762           | 1 010 777          |
| Payables from exchange transactions    | 8       | 33 031 359          | 26 553 216         |
| Provisions                             | 9       | 27 102 180          | 26 224 108         |
|  |         | <b>61 135 301</b>   | <b>53 788 101</b>  |
| <b>Non-Current Liabilities</b>         |         |                     |                    |
| Finance lease obligation               | 7       | 961 452             | 1 058 701          |
| Provisions                             | 9       | 2 631 006           | -                  |
|  |         | <b>3 592 458</b>    | <b>1 058 701</b>   |
| <b>Total Liabilities</b>               |         | <b>64 727 759</b>   | <b>54 846 802</b>  |
| <b>Net Assets</b>                      |         | <b>(24 334 652)</b> | <b>(5 727 194)</b> |
| Accumulated (deficit) surplus          |         | (24 334 660)        | (5 727 194)        |

\* See Note 32

## Statement of Financial Performance

| Figures in Rand                                 | Note(s) | 2017                 | 2016<br>Restated*    |
|---|---------|----------------------|----------------------|
| <b>Revenue from non-exchange transactions</b>   |         |                      |                      |
| Government transfers                            | 10      | 264 108 000          | 245 397 000          |
| Revenue: service in-kind                        | 10      | 7 524 392            | 9 851 272            |
| <b>Revenue from exchange transactions</b>       |         |                      |                      |
| Other income                                    | 12      | 58 476               | 180 762              |
| Finance Income                                  | 11      | 3 168 801            | 1 774 706            |
| <b>Total revenue from exchange transactions</b> |         | <b>3 227 277</b>     | <b>1 955 468</b>     |
| <b>Total revenue</b>                            |         | <b>274 859 669</b>   | <b>257 203 740</b>   |
| <b>Expenditure</b>                              |         |                      |                      |
| Staff Costs                                     | 13      | (202 513 336)        | (176 455 409)        |
| Depreciation and amortisation                   | 14      | (5 257 382)          | (6 292 231)          |
| Finance costs                                   | 15      | (268 264)            | (348 409)            |
| Loss on disposal of assets and liabilities      | 17      | (58 453)             | (306 171)            |
| Administrative expenses                         | 16&18   | (85 369 700)         | (61 203 526)         |
| <b>Total expenditure</b>                        |         | <b>(293 467 135)</b> | <b>(244 605 746)</b> |
| <b>(Deficit) surplus for the year</b>           |         | <b>(18 607 466)</b>  | <b>12 597 994</b>    |

\* See Note 32



## Statement of Changes in Net Assets

| Figures in Rand  | Accumulated surplus | Total net assets    |
|--|---------------------|---------------------|
| <b>Balance at 01 April 2015</b>                        | <b>(18 325 188)</b> | <b>(18 325 188)</b> |
| Changes in net assets                                  |                     |                     |
| Surplus (deficit) for the year (as restated*)          | 12 597 994          | 12 597 994          |
| Total changes  | 12 597 994          | 12 597 994          |
| Opening balance as previously reported                 | (515 442)           | (515 442)           |
| Adjustments  |                     |                     |
| Prior year adjustments                                 | (5 211 752)         | (5 211 752)         |
| <b>Restated* Balance at 01 April 2016 as restated*</b> | <b>(5 727 194)</b>  | <b>(5 727 194)</b>  |
| Changes in net assets                                  |                     |                     |
| Surplus (deficit) for the year                         | (18 607 466)        | (18 607 466)        |
| Total changes  | (18 607 466)        | (18 607 466)        |
| <b>Balance at 31 March 2017</b>                        | <b>(24 334 660)</b> | <b>(24 334 660)</b> |

\* See Note 32

## Cash Flow Statement

| Figures in Rand   | Note(s) | 2017               | 2016<br>Restated* |
|---|---------|--------------------|-------------------|
| <b>Cash flows from operating activities</b>                 |         |                    |                   |
| <b>Receipts</b>   |         |                    |                   |
| Grants  |         | 264 108 000        | 245 397 000       |
| Interest income   |         | 3 168 801          | 1 774 706         |
| Other receipts  |         | 37 796             | 173 879           |
|   |         | 267 314 597        | 247 345 585       |
| <b>Payments</b>   |         |                    |                   |
| Employee costs  |         | (197 311 162)      | (166 862 018)     |
| Suppliers   |         | (49 027 155)       | (26 817 222)      |
| Finance costs   |         | (268 264)          | (348 409)         |
| Other operating expense payments                            |         | (23 882 445)       | (17 655 062)      |
|   |         | (270 489 026)      | (211 682 711)     |
| <b>Net cash flows from operating activities</b>             | 19      | <b>(3 174 429)</b> | <b>35 662 874</b> |
| <b>Cash flows from investing activities</b>                 |         |                    |                   |
| Purchase of property, plant and equipment                   | 5       | (2 880 518)        | (738 871)         |
| Proceeds from sale of property, plant and equipment         | 5       | -                  | 95 188            |
| Purchase of other intangible assets                         | 6       | (181 851)          | (6 671)           |
| <b>Net cash flows from investing activities</b>             |         | <b>(3 062 369)</b> | <b>(650 354)</b>  |
| <b>Cash flows from financing activities</b>                 |         |                    |                   |
| Finance lease payments                                      |         | (106 259)          | (1 541 135)       |
| <b>Net increase/(decrease) in cash and cash equivalents</b> |         | <b>(6 343 057)</b> | <b>33 471 385</b> |
| Cash and cash equivalents at the beginning of the year      |         | 38 505 898         | 5 034 514         |
| <b>Cash and cash equivalents at the end of the year</b>     | 4       | <b>32 162 841</b>  | <b>38 505 899</b> |

\* See Note 32

## Statement of Comparison of Budget and Actual Amounts

Budget on Accrual Basis

|  | Approved<br>budget | Adjustments | Final Budget | Actual amounts<br>on comparable<br>basis | Difference<br>between final<br>budget and<br>actual | Reference |
|--|--------------------|-------------|--------------|--|---|-----------|
|--|--------------------|-------------|--------------|--|---|-----------|

Figures in Rand

### Statement of Financial Performance

#### Revenue

##### Revenue from exchange transactions

|   |                |          |                |                  |                  |    |
|---|----------------|----------|----------------|------------------|------------------|----|
| Other income                                    | 126 000        | -        | 126 000        | 58 476           | (67 524)         | 30 |
| Finance Income                                  | 579 000        | -        | 579 000        | 3 168 801        | 2 589 801        | 30 |
| <b>Total revenue from exchange transactions</b> | <b>705 000</b> | <b>-</b> | <b>705 000</b> | <b>3 227 277</b> | <b>2 522 277</b> |    |

##### Revenue from non-exchange transactions

##### Transfer revenue

|   |                    |                  |                    |                    |                   |    |
|---|--------------------|------------------|--------------------|--------------------|-------------------|----|
| Government grants & subsidies                       | 262 608 000        | 1 500 000        | 264 108 000        | 264 108 000        | -                 |    |
| Revenue: service in-kind                            | -                  | -                | -                  | 7 524 392          | 7 524 392         | 30 |
| <b>Total revenue from non-exchange transactions</b> | <b>262 608 000</b> | <b>1 500 000</b> | <b>264 108 000</b> | <b>271 632 392</b> | <b>7 524 392</b>  |    |
| <b>Total revenue</b>                                | <b>263 313 000</b> | <b>1 500 000</b> | <b>264 813 000</b> | <b>274 859 669</b> | <b>10 046 669</b> |    |

#### Expenditure

|                                    |                      |                    |                      |                      |                     |    |
|------------------------------------|----------------------|--------------------|----------------------|----------------------|---------------------|----|
| Personnel costs                    | (191 095 000)        | -                  | (191 095 000)        | (197 311 162)        | (6 216 162)         | 30 |
| Finance costs                      | (927 000)            | -                  | (927 000)            | (268 264)            | 658 736             | 30 |
| Goods and Services                 | (64 767 000)         | (1 500 000)        | (66 267 000)         | (80 690 911)         | (14 423 911)        | 30 |
| <b>Total expenditure</b>           | <b>(256 789 000)</b> | <b>(1 500 000)</b> | <b>(258 289 000)</b> | <b>(278 270 337)</b> | <b>(19 981 337)</b> |    |
| <b>Operating (deficit) surplus</b> | <b>6 524 000</b>     | <b>-</b>           | <b>6 524 000</b>     | <b>(3 410 668)</b>   | <b>(9 934 668)</b>  |    |
| Fixed and intangible assets        | (6 524 000)          | -                  | (6 524 000)          | (3 062 369)          | 3 461 631           | 30 |

|   |          |          |          |                    |                    |  |
|---|----------|----------|----------|--------------------|--------------------|--|
| <b>Surplus (deficit) for the period</b> | <b>-</b> | <b>-</b> | <b>-</b> | <b>(6 473 037)</b> | <b>(6 473 037)</b> |  |
|---|----------|----------|----------|--------------------|--------------------|--|

**Actual Amount on Comparable Basis as Presented in the Budget and Actual Comparative Statement**

#### Reconciliation

##### Reconciliation

|                               |             |  |  |  |  |    |
|-------------------------------|-------------|--|--|--|--|----|
| Finance Lease Payments        | 106 259     |  |  |  |  |    |
| Provisions Movement           | (3 509 083) |  |  |  |  | 9  |
| Depreciation and amortisation | (5 257 383) |  |  |  |  | 14 |

##### Payables Movement

|                             |             |  |  |  |  |   |
|-----------------------------|-------------|--|--|--|--|---|
| Payables Movement           | (6 478 140) |  |  |  |  | 8 |
| Fixed and intangible assets | 3 062 369   |  |  |  |  |   |
| Loss on disposal of assets  | (58 452)    |  |  |  |  |   |

|  |                     |  |  |  |  |  |
|--|---------------------|--|--|--|--|--|
| <b>Actual Amount in the Statement of Financial Performance</b> | <b>(18 607 467)</b> |  |  |  |  |  |
|--|---------------------|--|--|--|--|--|

## Accounting Policies

### 1. Presentation of 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 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 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 financial statements are presented in South African Rand, which is the functional currency of the entity. The figures have been rounded off to the nearest rand.

#### 1.2 Going concern assumption

These financial statements have been prepared based on the expectation that the entity 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 entity; 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.

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

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

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

| Item                      | Average useful life |                     |
|---------------------------|---------------------|---------------------|
| Furniture and fixtures    | Straight line       | 5 -16 years         |
| Motor vehicles            | Straight line       |                     |
| • Owned vehicles          |                     | 5 years             |
| • Leased vehicles         |                     | Over the lease term |
| Office equipment          | Straight line       | 5 - 8 years         |
| • Owned office equipment  |                     | Over the lease term |
| • Leased office equipment |                     |                     |
| Computer equipment        | Straight line       | 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.

## Accounting Policies

### 1.3 Property, plant and equipment (continued)

The residual, and useful life and depreciation method of each asset are reviewed at the end of each reporting date. 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 entity 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.

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 entity; 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.

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                     | Depreciation method | Average useful life |
|--------------------------|---------------------|---------------------|
| Computer software, other | Straight line       | 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 value 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 PPSA

## Accounting Policies

### 1.5 Related parties (continued)

- (b) Individuals owning, directly or indirectly, an interest in the PPSA 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
- (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

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or a residual interest of another.

A financial asset is:

- (a) cash;
- (b) a residual interest of another entity; or
- (c) a contractual right to:
  - (i) receive cash or another financial asset from another entity; or
  - (ii) exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity.

A financial liability is any liability that is a contractual obligation to:

- (a) deliver cash or another financial asset to another entity; or
- (b) exchange financial assets or financial liabilities under conditions that are potentially unfavourable to the entity.

Financial assets and financial liabilities are recognised on the Statement of Financial Position 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.

#### Classification

Financial instruments include cash and bank balances, receivables and trade payables. These financial instruments are generally carried at their estimated fair value, which is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable and willing parties in an arm's length transaction.

#### Initial measurement

## Accounting Policies

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### 1.7 Financial instruments (continued)

Financial instruments are initially measured at fair value, which includes transaction costs when the entity is a party to contractual arrangement.

#### Gains and losses

Gains and losses arising from a change in the fair value of financial instruments are included in net surplus or deficit in the period in which they arise.

#### Impairment and uncollectibility of financial assets

At the end of the reporting period, the entity assesses all financial assets, other than those carried at fair value, to determine whether there is objective evidence that a financial asset or group of financial assets has been impaired. For amounts due to the entity, significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy and default of payments are all considered indicators of impairment. Impairment losses are recognised as a reduction to the surplus. Impairment losses are reversed when an increase in the financial asset's recoverable amount can be related objectively to an event occurring after the impairment was recognised, subject to restriction that the carrying amount of the financial asset at the date that the impairment is reversed shall not exceed what the carrying amount would have been had the impairment not been recognised. Reversals of impairment losses are recognised in the surplus.

#### 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 have expired, he 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; or he 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.



## Accounting Policies

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### 1.7 Financial instruments (continued)

#### Subsequent measurement

##### Receivables from exchange transactions

Receivables from exchange transactions are stated at the nominal value as reduced by appropriate allowances for estimated irrecoverable amounts. The carrying amount of these receivables approximate fair value due to the short period to maturity of these instruments.

##### 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 are measured at fair value. The carrying amount approximates fair value due to the short period to maturity. 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.

### 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.

## Accounting Policies

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### 1.11 Impairment of non-cash-generating assets

Cash-generating assets are those assets held by the constitutional institution with the primary objective of generating a commercial return. When an asset is deployed in a manner consistent with that adopted by a profit-oriented entity, it generates a commercial return.

Non-cash-generating assets are assets other than cash-generating assets held for service delivery purposes.

Impairment is a loss in the future economic benefits or service potential of an asset, over and above the systematic recognition of the loss through depreciation and amortisation.

A non-cash-generating asset will be impaired when its carrying amount exceeds its recoverable service amount. The recoverable service amount is the higher of the non-cash-generating asset's fair value less cost to sell and its value in use.

Value in use is the present value of the asset's remaining service potential. This is determined by using the depreciated replacement cost.

At each reporting 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.

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 in surplus of deficit 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.

## Accounting Policies

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### 1.12 Employee benefits (continued)

#### 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.

### 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 Liabilities

A 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.

## Accounting Policies

### 1.15 Revenue from non-exchange transactions (continued)

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.

Services in-kind relates to office buildings occupied by the Public Protector South Africa but the rental is paid by the Department of Public Works and not recoverable from the constitutional institution.

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.

### 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.

## Accounting Policies

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### 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.

### 1.22 Significant judgements and estimates

In preparing the financial statements, management makes estimates and assumptions that affect the amounts presented in the financial statements and related disclosures. Use of available information and the application of judgment is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgments include: bonus provision, leave provision, useful lives and depreciation methods and asset impairment.

#### Leave and bonus provisions

The liability for accumulated leave and bonus is recognised and measured at the estimated future cash flows to be made in respect of all employees at the reporting date.

#### Useful lives and depreciation methods and asset impairment

Depreciation and amortisation recognised on property and equipment and intangible assets are determined with reference to the useful lives and residual values of the underlying items. The useful lives and residual values of assets are based on management's estimation of the asset's condition, expected condition at the end of the period of use, its current use and expected future use and the entity's expectations about the availability of finance to replace the asset at the end of its useful life. In evaluating the condition and use of the asset that informs the useful life and residual value, management considers the impact of technology and minimum service requirements of the assets.

### 1.23 Surplus or deficit

Income, expenditure, gains and losses are recognized in surplus or deficit except for the exceptional cases where recognition directly in net assets is specifically allowed or required by a Standard of GRAP.

### 1.24 Budget information

The constitutional entity prepares its annual budget on a cash basis in accordance with the Public Financial Management Act and the National Treasury's Medium Term Expenditure Framework guidelines issued annually while the Statement of Financial Performance is prepared on an accrual basis. A reconciliation between the Statement of Financial Performance and the Budget has been included in the financial statements.

## Notes to the Financial Statements

| Figures in Rand | 2017 | 2016 |
|-----------------|------|------|
|-----------------|------|------|

### 2. New standards and interpretations

#### 2.1 Standards and Interpretations early adopted

The entity has chosen to early adopt the following standards and interpretations:

| Standard/ Interpretation:  | Effective date:<br>Years beginning on or after   |
|--|--|
| <ul style="list-style-type: none"> <li>GRAP 20: Related parties</li> <li>GRAP 17 (as amended 2016): Property, Plant and Equipment</li> </ul> | <ul style="list-style-type: none"> <li>01 April 2017</li> <li>01 April 2017</li> </ul> |

#### 2.2 Standards and interpretations issued, but not yet effective

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 April 2017 or later periods:

| Standard/ Interpretation:  | Effective date:<br>Years beginning on or after   | Expected impact:   |
|--|--|--|
| <ul style="list-style-type: none"> <li>GRAP 26 (as amended 2016): Impairment of cash-generating assets</li> <li>GRAP 21 (as amended 2016): Impairment of non-cash-generating assets</li> </ul> | <ul style="list-style-type: none"> <li>01 April 2018</li> <li>01 April 2018</li> </ul> | <ul style="list-style-type: none"> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> </ul> |

#### 2.3 Standards and interpretations not yet effective or relevant

The following standards and interpretations have been published and are mandatory for the entity's accounting periods beginning on or after 01 April 2017 or later periods but are not relevant to its operations:

| Standard/ Interpretation:  | Effective date:<br>Years beginning on or after  | Expected impact:   |
|--|---|--|
| <ul style="list-style-type: none"> <li>GRAP 34: Separate Financial Statements</li> <li>GRAP 35: Consolidated Financial Statements</li> <li>GRAP 36: Investments in Associates and Joint Ventures</li> <li>GRAP 37: Joint Arrangements</li> <li>GRAP 38: Disclosure of Interests in Other Entities</li> <li>GRAP 110: Living and Non-living Resources</li> <li>GRAP 109: Accounting by Principals and Agents</li> <li>GRAP 108: Statutory Receivables</li> <li>GRAP 32: Service Concession Arrangements: Grantor</li> <li>IGRAP 17: Service Concession Arrangements where a Grantor Controls a Significant Residual Interest in an Asset</li> <li>GRAP 16 (as amended 2016): Investment Property</li> </ul> | <ul style="list-style-type: none"> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> <li>Not yet effective</li> </ul> | <ul style="list-style-type: none"> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> <li>Unlikely there will be a material impact</li> </ul> |

## Notes to the Financial Statements

| Figures in Rand                                  | 2017           | 2016           |
|--|----------------|----------------|
| <b>3. Receivables from exchange transactions</b> |                |                |
| Other receivables                                | 91 464         | 225 696        |
| Interest receivable                              | 231 029        | 226 776        |
|  | <b>322 493</b> | <b>452 472</b> |

During the financial year (2016/17), The Public Protector South Africa recognised an impairment on trade receivables of R150 660. The amount included in other receivables reflect net amounts after the impairments as follows:

### Statement of Financial Position

|                               |               |          |
|-------------------------------|---------------|----------|
| Opening Balance               | 225 696       | -        |
| Add: Current year receivables | 16 428        | -        |
| Less: Impairments loss        | (150 660)     | -        |
|                               | <b>91 464</b> | <b>-</b> |

### 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  | 12 889            | 12 504            |
| Bank balances | 32 149 953        | 38 493 394        |
|               | <b>32 162 842</b> | <b>38 505 898</b> |

### 5. Property, plant and equipment

|                        | 2017                |   |                  | 2016                |   |                  |
|------------------------|---------------------|---|------------------|---------------------|---|------------------|
|                        | Cost /<br>Valuation | Accumulated<br>depreciation<br>and<br>accumulated<br>impairment | Carrying value   | Cost /<br>Valuation | Accumulated<br>depreciation<br>and<br>accumulated<br>impairment | Carrying value   |
| Furniture and fixtures | 8 669 401           | (7 401 097)   | 1 268 304        | 8 619 473           | (6 818 383)   | 1 801 090        |
| Motor vehicles         | 5 416 021           | (3 560 195)   | 1 855 826        | 4 967 158           | (3 018 056)   | 1 949 102        |
| Office equipment       | 6 309 506           | (4 215 270)   | 2 094 236        | 7 102 937           | (4 404 418)   | 2 698 519        |
| Computer equipment     | 13 930 619          | (11 902 863)  | 2 027 756        | 12 610 137          | (9 522 559)   | 3 087 578        |
| <b>Total</b>           | <b>34 325 547</b>   | <b>(27 079 425)</b>   | <b>7 246 122</b> | <b>33 299 705</b>   | <b>(23 763 416)</b>   | <b>9 536 289</b> |

### Reconciliation of property, plant and equipment - 31 March 2017

|                        | Opening<br>balance | Additions        | Disposals       | Depreciation       | Total            |
|------------------------|--------------------|------------------|-----------------|--------------------|------------------|
| Furniture and fixtures | 1 801 090          | 87 106           | (5 510)         | (614 382)          | 1 268 304        |
| Motor vehicles         | 1 949 102          | 908 289          | (27 632)        | (973 933)          | 1 855 826        |
| Office equipment       | 2 698 519          | 457 507          | (10 483)        | (1 051 307)        | 2 094 236        |
| Computer equipment     | 3 087 578          | 1 427 614        | (14 827)        | (2 472 609)        | 2 027 756        |
|                        | <b>9 536 289</b>   | <b>2 880 516</b> | <b>(58 452)</b> | <b>(5 112 231)</b> | <b>7 246 122</b> |



## Notes to the Financial Statements

| Figures in Rand | 2017 | 2016 |
|-----------------|------|------|
|-----------------|------|------|

### 5. Property, plant and equipment (continued)

#### Reconciliation of property, plant and equipment - 31 March 2016

|                        | Opening balance   | Additions      | Additions through transfer of functions / mergers | Disposals        | Depreciation       | Total            |
|------------------------|-------------------|----------------|---|------------------|--------------------|------------------|
| Furniture and fixtures | 2 337 419         | 281 210        | -   | (5 478)          | (812 061)          | 1 801 090        |
| Motor vehicles         | 2 982 560         | -              | 67 226  | (153 656)        | (947 028)          | 1 949 102        |
| Office equipment       | 3 635 978         | 312 923        | 72 885  | (70 919)         | (1 252 348)        | 2 698 519        |
| Computer equipment     | 6 178 965         | 144 738        | -   | (147 804)        | (3 088 321)        | 3 087 578        |
|                        | <b>15 134 922</b> | <b>738 871</b> | <b>140 111</b>                                    | <b>(377 857)</b> | <b>(6 099 758)</b> | <b>9 536 289</b> |

#### Assets subject to finance lease (Net carrying amount)

| Figures in Rand  | 2017             | 2016             |
|------------------|------------------|------------------|
| Motor vehicles   | 1 752 098        | 1 812 879        |
| Office equipment | 484 006          | 512 349          |
|                  | <b>2 236 104</b> | <b>2 325 228</b> |

During the year ended 31 March 2017, the Public Protector South Africa reviewed the useful life of its assets. As a result, the useful lives were adjusted upwards by 1-3 years. The total net effect of change in estimates in the current period is a reduction in depreciation of R228 936 and a resultant increase of the same amount in the carrying value. The effect in the future periods will be an aggregate increase in the carrying value and extended depreciable life of the assets.

## Notes to the Financial Statements

| Figures in Rand | 2017 | 2016 |
|-----------------|------|------|
|-----------------|------|------|

### 6. Intangible assets

|                   | 2017                |   |                | 2016                |   |                |
|-------------------|---------------------|---|----------------|---------------------|---|----------------|
|                   | Cost /<br>Valuation | Accumulated<br>amortisation<br>and<br>accumulated<br>impairment | Carrying value | Cost /<br>Valuation | Accumulated<br>amortisation<br>and<br>accumulated<br>impairment | Carrying value |
| Computer software | 1 141 982           | (480 332)   | 661 650        | 960 131             | (335 182)   | 624 949        |

#### Reconciliation of intangible assets - 31 March 2017

|                   | Opening<br>balance | Additions | Amortisation | Total   |
|-------------------|--------------------|-----------|--------------|---------|
| Computer software | 624 949            | 181 851   | (145 150)    | 661 650 |

#### Reconciliation of intangible assets - 31 March 2016

|                   | Opening<br>balance | Additions | Amortisation | Impairment<br>loss | Total   |
|-------------------|--------------------|-----------|--------------|--------------------|---------|
| Computer software | 834 253            | 6 671     | (192 473)    | (23 502)           | 624 949 |

### 7. Finance lease obligation

| Figures in Rand | 2017 | 2016 |
|-----------------|------|------|
|-----------------|------|------|

#### Minimum lease payments due

|  |                  |                  |
|--|------------------|------------------|
| - within one year                              | 1 188 352        | 1 221 554        |
| - in second to fifth year inclusive            | 1 132 436        | 1 247 813        |
|  | 2 320 788        | 2 469 367        |
| less: future finance charges                   | (357 573)        | (399 888)        |
| <b>Present value of minimum lease payments</b> | <b>1 963 215</b> | <b>2 069 479</b> |

#### Present value of minimum lease payments due

|                                     |                  |                  |
|-------------------------------------|------------------|------------------|
| - within one year                   | 1 001 762        | 1 010 778        |
| - in second to fifth year inclusive | 961 452          | 1 058 701        |
|                                     | <b>1 963 214</b> | <b>2 069 479</b> |

|                         |                  |                  |
|-------------------------|------------------|------------------|
| Non-current liabilities | 961 452          | 1 058 701        |
| Current liabilities     | 1 001 762        | 1 010 777        |
|                         | <b>1 963 214</b> | <b>2 069 478</b> |

The constitutional institution leases motor vehicles and photocopiers under finance leases.

The average lease term for photocopiers was 1 year and for motor vehicles was 5 years or 150 000 km. The average effective borrowing rate for photocopiers was 8.5% (31 March 2016: 8.5%) and for motor vehicle was 12.5% (31 March 2016: 12.5%) The Interest rates are fixed at the contract date. The constitutional institution's obligations under finance leases are secured by the lessors charge over the leased assets.

## Notes to the Financial Statements

| Figures in Rand                               | 2017              | 2016              |
|---|-------------------|-------------------|
| <b>8. Payables from exchange transactions</b> |                   |                   |
| Trade payables                                | 6 974 391         | 6 716 275         |
| Deferred operating lease                      | 850 395           | 338 848           |
| Salaries and allowances                       | 1 441 906         | 489 439           |
| Accrued service bonus                         | 5 143 554         | 4 161 874         |
| Creditors accruals-suppliers                  | 4 598 579         | 2 733 098         |
| Accrued operating leases                      | 14 022 534        | 11 872 632        |
| COIDA levies accrual                          | -                 | 241 050           |
|   | <b>33 031 359</b> | <b>26 553 216</b> |

Included in salaries and allowances is an accrual of R86 001, relating to Unemployment Insurance Fund (UIF) contributions for March 2016.

## 9. Provisions

### Reconciliation of provisions - 31 March 2017

|                    | Opening Balance   | Additions         | Utilised during the year | Total             |
|--------------------|-------------------|-------------------|--------------------------|-------------------|
| Accumulated leave  | 12 800 278        | 3 603 597         | (2 502 822)              | 13 901 053        |
| Performance awards | 6 241 484         | 9 585 647         | (2 897 322)              | 12 929 809        |
| Provision - Levies | -                 | 271 318           | -                        | 271 318           |
| Gratuity           | 7 182 346         | 3 052 121         | (7 603 461)              | 2 631 006         |
|                    | <b>26 224 108</b> | <b>16 512 683</b> | <b>(13 003 605)</b>      | <b>29 733 186</b> |

### Reconciliation of provisions - 31 March 2016

|                    | Opening Balance   | Additions         | Utilised during the year | Reclassified to accruals | Total             |
|--------------------|-------------------|-------------------|--------------------------|--------------------------|-------------------|
| Accumulated leave  | 7 432 378         | 7 001 178         | (1 633 278)              | -                        | 12 800 278        |
| Performance awards | 3 876 987         | 6 241 484         | (3 876 987)              | -                        | 6 241 484         |
| Provision - Levies | 305 102           | -                 | -                        | (305 102)                | -                 |
| Gratuity           | 5 858 419         | 1 323 927         | -                        | -                        | 7 182 346         |
|                    | <b>17 472 886</b> | <b>14 566 589</b> | <b>(5 510 265)</b>       | <b>(305 102)</b>         | <b>26 224 108</b> |

|                         |                   |                   |
|-------------------------|-------------------|-------------------|
| Non-current liabilities | 2 631 006         | -                 |
| Current liabilities     | 27 102 180        | 26 224 108        |
|                         | <b>29 733 186</b> | <b>26 224 108</b> |

The Public Protector is entitled to a taxable lump sum gratuity on vacation of office as stated in the Judges' Handbook. The Public Protector's term of office is a fixed term of seven years. The term of office for the previous public protector (Adv. TN Madonsela) ended on 15 October 2016.

Accumulated 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 June of each financial 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 PPSA makes a provision for performance incentives at the end of each financial year.

Public Protector South Africa contributes to compensation fund (COIDA 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 PPSA and determines the amount payables.

## Notes to the Financial Statements

| Figures in Rand  | 2017               | 2016               |
|--|--------------------|--------------------|
| <b>10. Revenue from non-exchange transactions</b>                  |                    |                    |
| <b>Government transfers</b>  |                    |                    |
| Transfer from Department of Justice and Constitutional Development | 264 108 000        | 245 397 000        |
| <b>Other non-exchange revenue</b>                                  |                    |                    |
| Revenue: service in-kind   | 7 524 392          | 9 851 272          |
|  | <b>271 632 392</b> | <b>255 248 272</b> |
| <b>11. Finance income</b>  |                    |                    |
| <b>Interest revenue</b>  |                    |                    |
| Bank   | 3 168 801          | 1 774 706          |
| <b>12. Other income</b>  |                    |                    |
| Pension-Sanlam   | 1 200              | 14 921             |
| Recoveries of bursaries  | 14 986             | 19 060             |
| Parking and access cards   | 37 290             | 36 580             |
| Other income   | 5 000              | 110 201            |
|  | <b>58 476</b>      | <b>180 762</b>     |
| <b>13. Staff costs</b>   |                    |                    |
| Acting allowances  | 1 070 604          | 724 620            |
| Basic  | 131 550 967        | 114 218 171        |
| Cellphone allowance  | 2 677 471          | 2 345 978          |
| Defined contribution pension expense                               | 15 160 569         | 13 204 198         |
| Gratuity   | 3 067 921          | 1 323 927          |
| Housing benefits and allowances                                    | 5 204 354          | 4 812 736          |
| Leave discounting  | 2 075 024          | 6 197 072          |
| Medical aid - company contributions                                | 5 427 255          | 5 282 038          |
| Medical aid allowance  | 891 129            | 821 271            |
| Non pensionable allowance  | 11 631 823         | 10 390 051         |
| Other staff allowance  | 1 455 989          | 683 530            |
| Pension allowances   | 2 340 832          | 2 946 900          |
| Performance awards   | 6 688 325          | 2 364 497          |
| Service Bonuses  | 9 711 249          | 8 450 804          |
| Travel allowance   | 2 436 241          | 2 603 615          |
| UIF  | 1 123 583          | 86 001             |
|  | <b>202 513 336</b> | <b>176 455 409</b> |
| <b>14. Depreciation and amortisation</b>                           |                    |                    |
| Motor Vehicles - Leased  | 941 437            | 893 264            |
| Office Equipment - Leased  | 137 122            | 258 798            |
| Motor Vehicle - Owned  | 32 495             | 53 764             |
| Furniture and fittings   | 614 383            | 812 060            |
| Office Equipment - Owned   | 914 186            | 993 550            |
| Computer equipment   | 2 472 609          | 3 088 321          |
| Computer software  | 145 150            | 192 474            |
|  | <b>5 257 382</b>   | <b>6 292 231</b>   |
| <b>15. Finance costs</b>   |                    |                    |
| Obligation under finance leases                                    | 268 264            | 348 409            |

## Notes to the Financial Statements

| Figures in Rand                                     | 2017               | 2016              |
|---|--------------------|-------------------|
| <b>16. Other operating expenses</b>                 |                    |                   |
| Communication costs                                 | 158 340            | 136 668           |
| Copy Charges - photocopiers                         | 150 960            | 107 302           |
| Other operating costs                               | 1 821 169          | 1 504 941         |
| Printing and publications                           | 826 593            | 869 828           |
| Rental - Office buildings                           | 13 772 372         | 9 071 533         |
| Rental expense: service in-kind                     | 7 524 392          | 7 721 935         |
| Rental and lease maintenance costs-motor vehicles   | 4 059 765          | 2 638 414         |
| Staff training and development                      | 1 346 639          | 1 070 683         |
| Stationery  | 1 746 608          | 2 255 696         |
| Other- Service in-kind                              | -                  | 2 129 337         |
| Trade Receivables- Impairment Loss                  | 150 660            | -                 |
|   | <b>31 557 498</b>  | <b>27 506 337</b> |
| <b>17. Losses on disposal of assets</b>             |                    |                   |
| Loss on disposal of assets and liabilities          | 58 453             | 306 171           |
| <b>18. Administrative expenses</b>                  |                    |                   |
| Audit fees  | 3 564 640          | 3 654 784         |
| Bank charges  | 97 602             | 90 767            |
| Catering  | 1 354 513          | 424 299           |
| Cleaning services                                   | 2 186 890          | 1 819 521         |
| Communication                                       | 1 999 723          | 1 765 245         |
| Consulting and professional fees                    | 5 258 971          | 1 514 314         |
| Fuel, oil & toll fees-Leased and owned vehicles     | 870 682            | 376 932           |
| General and administrative expenses                 | 3 741 717          | 2 556 586         |
| Information technology                              | 11 357 461         | 7 426 519         |
| Marketing and promotions                            | 1 370 414          | 767 648           |
| Municipal Services                                  | 4 706 747          | 3 124 127         |
| Subscriptions and membership fees                   | 47 172             | 195 846           |
| Travel and subsistence-Domestic                     | 7 335 537          | 2 981 242         |
| Travel and subsistence-Foreign                      | 2 158 592          | 895 928           |
| Legal Fees  | 6 446 036          | 5 626 607         |
| Internal Audit Fees                                 | 1 315 504          | 476 824           |
|   | <b>53 812 201</b>  | <b>33 697 189</b> |
| <b>19. Cash (used in) generated from operations</b> |                    |                   |
| (Deficit) surplus                                   | (18 607 466)       | 12 597 994        |
| <b>Adjustments for:</b>                             |                    |                   |
| Depreciation and amortisation                       | 5 257 382          | 6 292 231         |
| Losses on sale of property, plant and equipment     | 58 453             | 306 171           |
| Increase in provisions                              | 3 509 083          | 8 751 221         |
| <b>Changes in working capital:</b>                  |                    |                   |
| Receivables from exchange transactions              | 129 979            | (6 884)           |
| Increase/(decrease) in payables                     | 6 478 140          | 7 722 141         |
|   | <b>(3 174 429)</b> | <b>35 662 874</b> |
| <b>20. Auditors' remuneration</b>                   |                    |                   |
| External  | 3 564 640          | 3 654 784         |
| Internal  | 1 352 592          | 476 824           |
|   | <b>4 917 232</b>   | <b>4 131 608</b>  |

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### 21. Operating lease

#### Operating lease obligation-Buildings

|                                     |                   |                   |
|-------------------------------------|-------------------|-------------------|
| - within one year                   | 12 686 033        | 5 857 349         |
| - in second to fifth year inclusive | 21 192 082        | 10 676 310        |
|                                     | <b>33 878 115</b> | <b>16 533 659</b> |

The Public Protector South Africa occupies office buildings leased under operating leases. The 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%. Four other office buildings are occupied at no cost to PPSA, of which three are owned by the Department of Public Works and one is leased but paid from Department of Public Works budget. The cost of rental for the three office buildings could not be recognized in the financial statements, as the rate per square metre for the office space could not be obtained from the Department of Public Works.

### 22. Revenue

|  |                    |                    |
|--|--------------------|--------------------|
| Other income   | 58 476             | 180 762            |
| Finance Income   | 3 168 801          | 1 774 706          |
| Transfer from the Department of Justice and Constitutional Development | 264 108 000        | 245 397 000        |
| Revenue: service in-kind   | 7 524 392          | 9 851 272          |
|  | <b>274 859 669</b> | <b>257 203 740</b> |

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

|                |                  |                  |
|----------------|------------------|------------------|
| Other income   | 58 476           | 180 762          |
| Finance Income | 3 168 801        | 1 774 706        |
|                | <b>3 227 277</b> | <b>1 955 468</b> |

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

##### Transfer revenue

|  |                    |                    |
|--|--------------------|--------------------|
| Transfer from the Department of Justice and Constitutional Development | 264 108 000        | 245 397 000        |
| Revenue: service in-kind   | 7 524 392          | 9 851 272          |
|  | <b>271 632 392</b> | <b>255 248 272</b> |

## Notes to the Financial Statements

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|---|------------------|-------------------|
| <b>23. Commitments</b>                    |                  |                   |
| <b>Authorised operational expenditure</b> |                  |                   |
| <b>Approved and contracted</b>            |                  |                   |
| • Contracted services                     | 4 330 667        | 11 977 616        |
| • Procurement of goods                    | 647 189          | 189 522           |
|   | <b>4 977 856</b> | <b>12 167 138</b> |
| <b>Approved but not yet contracted</b>    |                  |                   |
| • Approved services not yet contracted    | 358 074          | -                 |
| <b>Total operational commitments</b>      |                  |                   |
| Approved and contracted                   | 4 977 856        | 12 167 138        |
| Approved but not yet contracted           | 358 074          | -                 |
|   | <b>5 335 930</b> | <b>12 167 138</b> |

Public Protector South Africa is committed to contract for cleaning services, procurement of Wifi solutions, supply and maintenance, garden services, distribution of newspapers, internal audit, financial assistance, employee wellness and lease parking for various lengths of time into the future.



## Notes to the Financial Statements

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### 24. Key management personnel

#### Executive

31 March 2017

|   | Basic salary | Pension | Travel allowance | Medical aid allowance | Non pensionable allowance | Other allowances | Service bonus | Gratuity  | Leave pay | Total     |
|---|--------------|---------|------------------|-----------------------|---------------------------|------------------|---------------|-----------|-----------|-----------|
| Public Protector- BJ Mkhwebane  | 744 776      | -       | -                | -                     | 276 538                   | 35 613           | -             | 2 631 006 | -         | 3 687 933 |
| Former Public Protector- Adv TN Madonsela                                       | 910 705      | -       | -                | -                     | 349 961                   | 41 793           | -             | 421 115   | -         | 1 723 574 |
| Deputy Public Protector- Adv KS Malunga   | 919 552      | -       | -                | -                     | 611 084                   | -                | -             | -         | -         | 1 530 636 |
| Chief Executive Officer- TTC Dlamini  | 95 175       | 14 276  | -                | -                     | 41 243                    | 2 500            | -             | -         | -         | 153 194   |
| Former Chief Executive Officer- LB Zondo  | 307 157      | -       | -                | -                     | 204 771                   | -                | -             | -         | 23 466    | 535 394   |
| Chief Financial Officer- K Kaposha  | 748 615      | 112 292 | 150 000          | -                     | 5 469                     | 254 475          | -             | -         | 45 775    | 1 316 626 |
| Executive Manager: Good Governance and Integrity- Adv CH Fourie                 | 737 554      | 110 633 | 253 603          | 59 335                | 5 389                     | 314 219          | 61 090        | -         | -         | 1 541 823 |
| Executive Manager: Administrative Justice and Service Delivery- PR Mogaladi     | 664 552      | 98 273  | 72 000           | -                     | 35 264                    | 485 888          | 55 044        | -         | -         | 1 411 021 |
| Former Executive Manager: Complaints and Stakeholder Management- MM Kula        | 109 013      | 14 172  | -                | -                     | 60 774                    | 3 860            | 27 253        | -         | 76 186    | 291 258   |
| Acting Executive Manager: Complaints and Stakeholder Management                 | -            | -       | -                | -                     | -                         | 6 132            | -             | -         | -         | 6 132     |
| Executive Manager: Provincial Investigations and Integration- Adv LR Ndou       | 694 908      | 104 236 | -                | 51 504                | 82 293                    | 648 766          | 57 558        | -         | 42 491    | 1 681 756 |
| Acting Executive Manager: Provincial Investigations and Integration- SD Mothupi | -            | -       | -                | -                     | -                         | 50 336           | -             | -         | -         | 50 336    |

## Notes to the Financial Statements

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### 24. Key management personnel (continued)

|  |                  |                |                |                |                  |                  |                |                  |                |                   |
|--|------------------|----------------|----------------|----------------|------------------|------------------|----------------|------------------|----------------|-------------------|
| Acting Executive Manager:<br>Complaints and Stakeholder<br>Management- LR Sekele | -                | -              | -              | -              | -                | 32 736           | -              | -                | -              | 32 736            |
| Former Chief Executive Officer- M Du Toit  | 82 831           | 10 768         | 5 000          | -              | 36 050           | 566 206          | 34 513         | -                | 119 259        | 854 627           |
|  | <b>6 014 838</b> | <b>464 650</b> | <b>480 603</b> | <b>110 839</b> | <b>1 708 836</b> | <b>2 442 524</b> | <b>235 458</b> | <b>3 052 121</b> | <b>307 177</b> | <b>14 817 046</b> |

During the 2016/17 financial year, the former Public Protector, Adv. T. Madonsela was paid a gratuity lump sum of R7 603 461, as disclosed in note 9 of the annual financial statements. This amount includes the 2016/17 entitlement of R421 115 disclosed in the key management personnel note, above.

# Notes to the Financial Statements

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## 24. Key management personnel (continued)

31 March 2016

|  | Basic salary     | Pension        | Travel allowance | Medical aid allowance | Non pensionable allowance | Other allowances | Service bonus  | Gratuity         | Leave pay | Total             |
|--|------------------|----------------|------------------|-----------------------|---------------------------|------------------|----------------|------------------|-----------|-------------------|
| Public Protector   | 1 575 558        | -              | -                | -                     | 605 447                   | 77 700           | -              | 1 323 927        | -         | 3 582 632         |
| Deputy Public Protector  | 891 686          | -              | -                | -                     | 594 456                   | -                | -              | -                | -         | 1 486 142         |
| Chief Executive Officer  | 993 971          | 129 216        | 60 000           | -                     | 433 854                   | -                | 62 123         | -                | -         | 1 679 164         |
| Chief Financial Officer  | 725 931          | 108 890        | 150 000          | -                     | 6 518                     | 243 637          | -              | -                | -         | 1 234 976         |
| Executive Manager: Good Governance and Integrity               | 725 078          | 108 762        | 236 295          | 61 368                | -                         | 23 160           | 59 600         | -                | -         | 1 214 263         |
| Executive Manager: Outreach and Stakeholder Management         | 663 110          | 86 204         | -                | -                     | 301 362                   | 23 160           | 54 507         | -                | -         | 1 128 343         |
| Executive Manager: Administrative Justice and Service Delivery | 653 312          | 97 997         | 72 000           | -                     | 19 804                    | 203 160          | 53 701         | -                | -         | 1 099 974         |
| Executive Manager: Provincial Investigations and Integration   | 683 150          | 102 473        | 14 000           | 51 504                | 99 503                    | 154 960          | 56 154         | -                | -         | 1 161 744         |
|  | <b>6 911 796</b> | <b>633 542</b> | <b>532 295</b>   | <b>112 872</b>        | <b>2 060 944</b>          | <b>725 777</b>   | <b>286 085</b> | <b>1 323 927</b> | <b>-</b>  | <b>12 587 238</b> |

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### 25. Risk management

#### 25.1. 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 R14 022 534 (31 March 2017) and R11 872 632 (31 March 2016) 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      |
|--------------------------------------|-------------------------------|------------------------|----------------------|------------|
| <b>At 31 March 2017</b>              |                               |                        |                      |            |
| Payables from exchange transactions  | 19 008 825                    | -                      | -                    | 19 008 825 |
| Operating leases                     | 14 022 534                    | -                      | -                    | 14 022 534 |
| Finance lease liabilities            | 260 784                       | 740 978                | 961 452              | 1 963 214  |
|                                      | 33 292 143                    | 740 978                | 961 452              | 34 994 573 |

| Contractual undiscounted liabilities | Payable in less than 3 months | Payable in 3-12 months | Payable after 1 year | Total      |
|--------------------------------------|-------------------------------|------------------------|----------------------|------------|
| <b>At 31 March 2016</b>              |                               |                        |                      |            |
| Payables from exchange transactions  | 14 680 584                    | -                      | -                    | 14 680 584 |
| Operating leases                     | 11 872 632                    | -                      | -                    | 11 872 632 |
| Finance lease liabilities            | 226 773                       | 784 005                | 1 058 701            | 2 069 479  |
|                                      | 26 779 989                    | 784 005                | 1 058 701            | 28 622 695 |

#### 25.2. 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 is 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.

## Notes to the Financial Statements

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### 25. Risk management (continued)

#### 25.3. 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.

##### 25.3.1. 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.

##### 25.3.2. Foreign exchange risk

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

#### 25.4. 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.

## Notes to the Financial Statements

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|-----------------|------|------|

### 25. Risk management (continued)

#### 25.5. Financial instruments by classification

##### 31 March 2017

|  | Financial assets  | Financial liabilities | Total carrying amount |
|--|-------------------|-----------------------|-----------------------|
| Receivables from exchange transactions | 322 493           | -                     | 322 493               |
| Cash and cash equivalents              | 32 162 842        | -                     | 32 162 842            |
| Trade and other payables               | -                 | (19 008 825)          | (19 008 825)          |
| Operating leases                       | -                 | (14 022 534)          | (14 022 534)          |
|  | <b>32 485 335</b> | <b>(33 031 359)</b>   | <b>(546 024)</b>      |

##### 31 March 2016

|  | Financial assets  | Financial liabilities | Total carrying amount |
|--|-------------------|-----------------------|-----------------------|
| Receivables from exchange transactions | 452 472           | -                     | 452 472               |
| Cash and cash equivalents              | 38 505 898        | -                     | 38 505 898            |
| Trade and other payables               | -                 | (14 680 584)          | (14 680 584)          |
| Operating leases                       | -                 | (11 872 632)          | (11 872 632)          |
|  | <b>38 958 370</b> | <b>(26 553 216)</b>   | <b>12 405 154</b>     |

### 26. Funding of operations

The Public Protector South Africa (PPSA) has an accumulated deficit of R24 334 660 (accumulated deficit – 31 March 2016: R5 727 194). There was a deficit of R18 607 466 (surplus - 31 March 2016: R12 597 994) during the financial year. PPSA will continue with its austerity measures to minimise expenditure and to spend within budget to avoid any deficit in the 2017/18 financial year and the future years. Current liabilities exceeded current assets by R28 649 966. The 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. PPSA is substantially funded by government. Funds have been allocated by the National Treasury for the next two years. Additional funding has been allocated by National Treasury for the period 2017/18: R21 million and 2018/19: R22 million.

### 27. Fruitless and wasteful expenditure

| Figures in Rand  | 2017             | 2016          |
|--|------------------|---------------|
| Fruitless and wasteful expenditure: opening balance  | 30 964           | 28 832        |
| Vernitos - Settlement of legal costs plus interest 2015/16                                     | 59 429           | -             |
| Fruitless and wasteful expenditure relating to interest on 2015/16 Telkom invoice late payment | -                | 2 132         |
| CCMA Cases   | 1 269 428        | -             |
| Encha Properties - Interest charged to PPSA account for late payment                           | 5 735            | -             |
| Property Management (DPW) - rental overpayment   | 7 511            | -             |
|  | <b>1 373 067</b> | <b>30 964</b> |

#### (i) Vernitos Consulting

Vernitos instituted a legal action against the Public Protector South Africa for the delay in the resolution of the matter relating to outsourced investigations. Summons was subsequently issued for the outstanding amount, interest and legal costs on the 22nd of August 2016.

#### (ii) CCMA Cases

Settlement awards were paid to M Du Toit and J Hicks as a result of CCMA arbitration. B Dhlamini received a payout for the remainder of his contractual value.

#### (iii) Encha Properties

## Notes to the Financial Statements

| Figures in Rand   | 2017              | 2016              |
|---|-------------------|-------------------|
| <b>27. Fruitless and wasteful expenditure (continued)</b>   |                   |                   |
| The Public Protector South Africa was charged interest by Encha Properties for late payments from February 2016 to August 2016, and for October 2016 and February 2017. |                   |                   |
| <b>(iv) Property Management (DPW)</b>   |                   |                   |
| The Public Protector South Africa was erroneously billed an amount of R7,511 over and above the actual rental for Bloemfontein Office.                                  |                   |                   |
| <b>28. Irregular expenditure</b>  |                   |                   |
| Opening balance   | 10 631 143        | 5 124 391         |
| <b>Prior year irregular expenditure identified in the current year</b>  |                   |                   |
| Outsourced Investigations: Appointment without three quotes.  | -                 | 197 374           |
| Outsourced Investigations: Appointment without following SCM process  | -                 | 1 183 451         |
| Legal editors: Appointment without following SCM process  | -                 | 130 830           |
| Transcription Services: Appointment without following SCM process   | -                 | 8 100             |
| Outsourced Investigations: Appointment without following SCM process  | 50 331            | -                 |
| Litigations: Payments made above the contract value of R500 000   | 1 389 484         | -                 |
| <b>Current year irregular expenditure</b>   |                   | -                 |
| Consultations: Transcribers   | 63 240            | -                 |
| Litigation: Payments made above the contract value of R500 000  | 6 251 529         | 1 359 389         |
| Outsourced Investigations: Appointment without following SCM process  | -                 | 907 094           |
| Southern Sun Hotels: Gala Dinner  | 75 046            | -                 |
| Imvula Quality Protection: Security guarding services   | 119 676           | -                 |
| Access Advertising: Gauteng Directory Listing, Advert and 19 Branches   | 205 337           | -                 |
| Off-Site Storage Facilities - Payments made above contract value  | 106 759           | -                 |
| Certified Fraud Examiner Training - Appointment without following SCM process   | 240 000           | -                 |
| Travel Agency Services: Payments made above contract value, and appointment not being the lowest quote  | 3 753 464         | 1 720 514         |
| Advertising and Distribution Company - Payments made above contract value   | 6 090             | -                 |
|   | <b>22 892 099</b> | <b>10 631 143</b> |



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### 28. Irregular expenditure (continued)

#### Payments of service providers above the contract value

-

(i) During the year, the Public Protector South Africa (PPSA) appointed firms of attorneys regarding certain litigations and investigations and made payments above R500 000 for each appointment. 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. Practice note 8, paragraph 3.4 states that the 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.

(ii) Public Protector South Africa (PPSA) did not comply with the requirement of practice note 8 as stated above for the appointment of the investigation panel and payments were made for litigations in excess of the contracted amount of R500 000.

(iii) The Public Protector South Africa also appointed Duma Travel for travel services. The contract with Duma Travel for R8 000 000 began on 01 January 2016 and is set to expire on 31 December 2018. However, PPSA made payments to Duma Travel exceeding the contract value. Prior approval before exceeding the contract value was not obtained from National Treasury, resulting in non-compliance with Section 38 of the PFMA and therefore incurring irregular expenditure of R3 753 463.

(iv) Docufile was also appointed by the Public Protector South Africa, for off-site storage facilities. The contract with Docufile was later extended, and the irregular expenditure resulted from an amount over and above the extension and or variation amount.

(v) The Public Protector South Africa also appointed Imvula Quality Protection for security services. PPSA acquired additional security guards, through a variation order. The amount at which the additional security guards were acquired exceeded the allowed variation in terms of the National Treasury Instruction 3 of 2016/17, hence the irregular expenditure of R119 676.

(vi) The Public Protector South Africa appointed F & J Distributors for the supply of Newspapers for a 1 year period. The amount paid to F & J Distributors exceeded the contract amount, resulting in irregular expenditure.

#### Appointment without following SCM processes

-

(i) The Public Protector South Africa did not obtain three quotes prior to appointing and paying for the gala dinner at the Southern Sun Hotel. The reasons for the deviation were not valid.

(ii) The Public Protector South Africa appointed and paid investigators and report writers without following SCM processes.

(iii) The Public Protector South Africa appointed and paid Access Advertising, an advertising agency, for a directory listing without following SCM processes.

(iv) The Public Protector South Africa paid Vernitos Consulting an amount relating to work done on outsourced investigations. No procurement processes were followed.

(v) Public Protector South Africa awarded Risk & Investigators Training Academy a contract of R240 000 to assist investigators in qualifying for a Certified Fraud Examiners designation.

(vi) The Public Protector South Africa appointed Transcribers for transcriptions/minutes writing services for the PPSA without requesting three (3) quotations. This resulted in irregular expenditure of R63 240.

#### Analysis of expenditure awaiting condonation per age classification

|              |                   |                   |
|--------------|-------------------|-------------------|
| Current year | 12 260 956        | 5 506 752         |
| Prior years  | 10 631 143        | 5 124 391         |
|              | <b>22 892 099</b> | <b>10 631 143</b> |

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### 29. Contingent Liability

(i) On the 31 March 2008, the Public Protector South Africa (PPSA) entered into a license and maintenance agreement with Systems Applications Products South Africa (PTY) LTD (SAP South Africa). Under this agreement PPSA 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. PPSA 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 2 038 308.60. According to the State Attorney's assessment this is unlikely to result in an outflow of cash.

(ii) Twenty one cases investigated by PPSA are currently being challenged and under high court reviews. The legal costs relating to the defence of these cases cannot be quantified at year end as invoices have not been received and the total costs will be determined by the length of the defence.

(iii) During the current financial year (2016/17) the Public Protector South Africa had cash surplus funds of R32 162 842. Upon the completion of the 2016/17 audit, management will lodge an application for the retention of the surplus funds with National Treasury. A contingent liability, therefore, exists in relation to the retention of the surplus funds for the 2016/17 financial year.

### 30. Budget differences

#### 30.1. Material differences between budget and actual amounts

##### Finance income

The positive variance in finance income mainly relates to the interest received from funds retained from the 2015/16 financial year and higher bank account balances during the reporting period. The constitutional institution has an opening balance of R38 505 898 and the closing balance as at 31 March 2017 amount to R32 162 842.

##### Personnel costs

As at 31 March 2017 the constitutional institution paid R197 311 162 for personnel cost from an annual budget of R191 095 000 resulting in a negative variance of R6 216 162. The reason for this variance is that the Entity had to settle CCMA disputes (inter alia the OSD implementation for legally qualified staff and other matters), the conversion of trainee investigators into assistant investigators and the implementation of UIF as instructed by the South African Revenue Service.

##### Finance costs

The actual finance cost paid were below the budgeted amounts. This is due to some leases relating to photocopiers and motor vehicles expiring and not yet renewed.

##### Goods and services

The overspending on goods and services mainly relate to increased expenditure on telephone and fax, payments for legal fees to private firms, internal audit services, fuel for leased and owned vehicles, parking rental and payment for leases on office buildings.

##### Capital expenditure

The positive variance of R3,5 million on capital expenditure is mainly due to unspent funds on the implementation of the case management system as the project is still in progress. The additional assets of R3 062 369 acquired during the 2016/17 financial year include office furniture and fittings (R87 107), office equipment (R457 507), motor vehicles (R908 289), computer equipment (R1 427 614) and computer software (R181 851).

## Notes to the Financial Statements

| Figures in Rand | 2017 | 2016 |
|-----------------|------|------|
|-----------------|------|------|

### 30. Budget differences (continued)

#### 30.2. 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 2016 to 31 March 2017.

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.

### 31. Related parties

The Department of Justice is the controlling body of the Constitutional Institution.

Other entities within the Justice portfolio which constitute related parties to the Constitutional Institution include:

Guardian's Fund

Legal Aid Board

President Fund

Special Investigating Unit

The Human Right Commission

Third Party Funds

Criminal Asset Recovery Account

Office of the Chief Justice

Department of Correctional Services

## Notes to the Financial Statements

| Figures in Rand | 2017 | 2016 |
|-----------------|------|------|
|-----------------|------|------|

### 32. Prior period errors

During the previous financial year (FY 15/16), the Public Protector South Africa entered into a partnership with GIZ Governance Support Programme (GIZ-GSP). GIZ-GSP supported the Public Protector through technical assistance for the development of specifications for a case management system to the value of R2 129 337.

Due to the above, Revenue: Service in-kind, in relation to this partnership entered into with GIZ-GSP (Governance Support Programme) was understated by R2 129 337 during the 2015/2016 financial year. As a result Administrative Expenditure was also understated by the same amount; being R2 129 337.

As a result of the above, the net impact on the 2015/2016 Net Surplus was Nil. The effect of the prior year error on the 2015/2016 results is shown below.

The correction of the error(s) results in adjustments as follows:

|                                      |   |             |
|--------------------------------------|---|-------------|
| Increase in Revenue: Service in kind | - | 2 129 337   |
| Increase in Administrative Expenses  | - | (2 129 337) |
|                                      | - | -           |

The National Treasury Instruction No.6 of 2017/18 requires accounting officers of constitutional institutions to declare and surrender all surpluses realised in their respective institutions for re-depositing into the National Revenue Fund. The National Treasury may upon declaration by the accounting officer of a constitutional institution, grant approval for the accounting officer of a constitutional institution to retain part or the entire surplus. During the previous financial year (FY 15/16), the Public Protector South Africa accumulated surplus funds of R38 505 898, and had subsequently applied to National Treasury for a request to retain the surplus funds. At the time, there was uncertainty on whether the surplus funds would be retained, hence the contingent liability. The effect of the prior year error on the 2015/16 financial year results is shown below:

|                           |   |            |
|---------------------------|---|------------|
| Cash and cash equivalents | - | 38 505 898 |
|---------------------------|---|------------|

During the previous financial year (2015/16), the Public Protector South Africa (PPSA) did not include the provisions for capped leave when the accumulated leave provision was calculated. As a result the accumulated leave provision was understated by R5 125 751. The effect of the prior year error on the 2015/16 financial year results is shown below:

|                   |   |             |
|-------------------|---|-------------|
| Leave discounting | - | 5 125 751   |
| Accumulated leave | - | (5 125 751) |
|                   | - | -           |

During the previous financial year (2015/16), an accrual of R86 001, relating to Unemployment Insurance Fund (UIF) contributions for March 2016, was omitted. The effect of the prior year error on the 2015/16 results is shown below:

|                             |   |          |
|-----------------------------|---|----------|
| Unemployment Insurance Fund | - | 86 001   |
| Salaries and allowances     | - | (86 001) |
|                             | - | -        |

### 33. Disposal of: a significant asset(s) /or a group of assets and liabilities /or a component of the entity

Management has taken a decision to dispose of a significant asset /or a group of assets and liabilities /or a component of the entity.





PUBLIC PROTECTOR  
SOUTH AFRICA

Accountability • Integrity • Responsiveness  
Justice • Good Governance



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