

**THE EFFECTIVENESS OF THE PUBLIC PROTECTOR'S OFFICE IN ENHANCING
ETHICAL CONDUCT: THE CASE OF VHEMBE DISTRICT MUNICIPAL AREA**

BY

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DECLARATION

I Nngwedzeni Ernie Raphasha hereby declare that the dissertation for the Master of Administration degree at the University of Venda, hereby submitted by me, has not been submitted previously for a degree at this or any other university, that it is my own work in design and in execution, and that all materials contained herein have been duly acknowledged.

Raphasha NE (Mr)

Signature: _____

Date: _____

DEDICATION

I am dedicating this dissertation to:

My lovely and respected parents: Mr Reuben and Mrs Salphinah Raphasha who had been longing to see this achievement.

My wife (Diana) and my blessed children whose aspirations were to see this dissertation come to fruition.

ACKNOWLEDGEMENTS

- Praises be unto the Almighty God for his grace and unmerited favour that gave me strength, knowledge and wisdom to voyage and to bring this study into completion.

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- Mr. N. V Demana (Professional Language Editor), I thank him for his commitment and good work for editing the language of this study to an acceptable Master’s Degree dissertation standard. Thanking these professionals cannot be enough, but what I can say is that, they should extend their helping hand to see others reach their goals.
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- I am also indebted to the National Research Foundation (NRF) for funding this study, and without such a valuable funding; it could not have been possible for me to complete this study since it needed both financial and material resources.

ABSTRACT

The main thrust of this study was to examine the effectiveness of the Public Protector's office in enhancing ethical conduct: The Case of Vhembe District Municipal Area. After the attainment of democracy in 1994, South Africa established the Public Protector's office and other institutions to enhance ethical conduct within the public service. Despite the establishment of the Public Protector's office, ethical challenges remained a big problem to achieve good governance and efficient service delivery to the masses of Vhembe. This study followed a mixed research methods and employed a descriptive case study design with explanatory features characterised by the sequential explanatory model strategy in which the collection and analysis of quantitative data was done, followed by the next phase of collecting and analysing qualitative data. Participants in this study were Public Protector's officials, Mayors, Municipal Managers, Civic Organizations and the representatives of the private (tendering) companies found in Vhembe. The empirical data were collected through questionnaire and semi-structured interview schedule and analysed using SPSS and thematic (content) analysis. Data collection and analysis followed the objectives of the study as a framework. The major finding of the study is that the Public Protector's office is not effective enough to enhance ethical conduct due to its inability and lack of constitutional powers to enforce adherence and compliance with its recommendations after conducting investigations. As a result, this renders the Public Protector's office ineffective and unable to enhance ethical conduct effectively. The study therefore, recommends that the Public Protector's office needs to be provided with sufficient resources as well as more constitutional powers to enable it to enforce implementation and compliance with its recommendations.

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LIST OF ABBREVIATIONS AND ACRONYMS

BACs	:	Bid Adjudication Committees
BECs	:	Bid Execution Committees
ConCourt	:	Constitutional Court of the Republic of South Africa
Constitution, 1996	:	The Constitution of the Republic of South Africa
EMEA	:	Executive Members' Ethics Act, 1998
PCA	:	Proceeds of Crime Act, 1996
PFMA	:	Public Finance Management
PP	:	Public Protector
PP's office	:	Public Protector's office
PSA	:	Public Service Act, 1994
PSC	:	Public Service Commission
Precca	:	Prevention and Combating of Corruption Activities Act, 2004
SA	:	South Africa (n)
UNODC	:	United Nations of on Drugs and Crime

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CHAPTER 1

INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 INTRODUCTION

This study focuses on the effectiveness of the Public Protector's (PP's) office in enhancing ethical conduct in Vhembe District Municipal Area. This chapter presents the background of the study, problem statement, aim and objectives of the study, critical research questions, and significance of the study; delimitation and limitations of the study, definition of operational concepts and sequence of the study.

The dawn of the democratic government in South Africa (in 1994) led people of all races to anticipate a better life envisaged in Section 27 (1) of the Constitution of the Republic of South Africa, 1996 (hereafter Constitution, 1996). Section 27 of the Constitution, 1996 states that everyone has the right to have access to (a) health care services, including reproductive health care (b) sufficient food and water and (c) social security. The Public Service Commission (PSC) (2002:9) directs that local government officials should only execute their functions in accordance with the Code of Conduct for Public Service (hereafter code) and ethical principles, which include moral values, legal rules and fundamental human rights. Schedule 2 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) prescribes that councillors are elected to represent local communities on municipal councils. Schedule 2 also directs that the elected councillors should perform and function in good faith, diligent, honest and in a transparent manner. It further instructs that the previously mentioned councillors should act in such a way that the spirit, purports and objects of democratic values and principles are promoted and act in the best interest of the municipality in such a way that the credibility and integrity of the municipality are not compromised. On the contrary, the local government officials overlook their mandate and code and involve themselves in unethical conduct such as corruption, maladministration and other improprieties for self-enrichment (Mafunisa, 1999:15). As a result, the masses of Vhembe District Municipal Area are still faced with multiple socio-economic challenges relating to poverty, unemployment, misappropriation of state resources and lack of sufficient delivery of goods and services (Fulmer, 2009:30; Statistics South Africa (StatsSA), 2017:9). Ethical challenges facing Vhembe District Municipal Area are attributed to the ineffectiveness of the PP's office to enhance ethical conduct, which therefore, creates a fertile ground for unethical activities and other improprieties (Garcia-Sanchez, Rodriguez-Dominguez & Gallego-Alvarez, 2011:191). Section 181 established the PP's office and it is empowered by Section 182 (1) of the Constitution, 1996 as regulated by national legislation. The PP's office was established (a) to investigate any suspected or alleged administrative flaws in state affairs or in the public administration in any sphere of

government that is improper or to result in any impropriety, (b) to report on that conduct and (c) to take appropriate remedial action. The next section presents the background of the study.

1.2 BACKGROUND OF THE STUDY

All over the world, the citizens entrust democratic governments with the responsibility of exercising powers to protect them from human rights violations, unfair treatment and to enhance ethical conduct for good governance in public administration across all spheres of government (Konrad-Adenauer-Stiftung, 2011:3). According to the Public Service Commission Report on the Implementation of Fraud Prevention Plans in the Public Service (PSC, 2007:2), the constitutional rights of the masses of Vhembe District Municipal Area contained in Chapter 2 (Bill of Rights) of the Constitution, 1996 are being threatened by the public servants' unethical conduct. The report further argued that through corruption and other unethical conduct practices, resources meant for infrastructure development and the delivery of basic services end up in the pockets of corrupt public officials (ibid). United Nations Office on Drugs and Crime (UNODC), 2004:iv) concurs with the Public Service Commission's (PSC) sentiment by stating that corruption and other unethical conduct are by far and wide, a serious problem to deal with and rob law-abiding citizens of their freedom, democracy, peace and stability and the right to development

Countries are rated every year using various criteria and assessments by internationally recognised organisations. The rankings change when a country's rating drops by 0,3 or more and the change is confirmed by more than 50% of the data sources used to evaluate the country (Transparency International, 2010:2). Based on the rankings of Transparency International's Corruption Perceptions Index (CPI) which analyses people's perceptions about the fight against unethical conduct relating to corruption and maladministration, SA has dropped 31 places from the ranking of 38 in 2001 to 69 in 2012 and then up to 64 in 2016 (Transparency International, 2016:6). Similarly, Global Corruption Barometer (GCB) of Transparency International (2013:13) shows that 62 percent of the respondents believed that the level of corruption in the country has increased substantially while 24 percent were of the view that corruption has decreased and on the other hand, 14 percent argued that corruption remained the same. This view was also shared by Van Vuuren (2014:6) who indicated that corruption has increased ten-fold, from R228 million in 2007 to over R2.2 billion in 2014 in the national government and from over R4 billion in 2007 to R16.7 billion in 2010 in local government. In 2011, the Special Investigating Unit (SIU) reported to parliament that between R25 billion and R30 billion is lost to government procurement budget each year due to corruption (Takumamoyo, 2013:10).

Sebake and Sebola (2014:746) argue that any form of unethical conduct taking place in local government undermines socio-economic development of local communities by diverting resources away from development programmes aiming to improve people's lives. As a measure to address ethical challenges, the SA government emulated other countries by establishing the PP's office (in the form of an Ombudsman) to protect its citizens from unfair treatment and to play an oversight role by keeping the government at checks and balances (Madue, Tsolo & Ramoabi, 2014:880). In terms of Section 182 (1) of the Constitution, 1996, the PP's office is empowered to play an oversight role by investigating all forms of unethical conduct to make a report on the matter and to take appropriate remedial action. Therefore, conducting this study is for a worthy cause as it may help in investigating the effectiveness of the PP's office and determining why ethical challenges persist in Vhembe District Municipal Area despite the establishment of such an office. The study may also determine whether extensive public administration reforms, empowering the PP's office and other control institutions could contribute to the curbing of such ethical challenges. The next section presents the problem statement of the study.

1.3 PROBLEM STATEMENT

The purpose of the study was to investigate the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area. The PP's office is a statutory body set up by the provision of Section 181 of the Constitution, 1996 to investigate alleged or suspected administrative wrongdoings, make a report on the matter and to take appropriate remedial action. According to the PSC (2007:9), Vhembe District Municipal Area is one of the five districts which constitute Limpopo Province and facing the growing levels of ethical challenges that include maladministration, misappropriation of state resources and corruption. Habtemichael (2009:5) remarked that the leakage of billions of Rand from government coffers to greedy individuals is alarming. Habtemichael further argued that the allegations of corruption are increasingly implicating top local government and political party officials; and the resources are diverted from the purposes they are meant for in the process of supply chain activities. Government accounts in Vhembe District Municipal Area are charged by over and under invoicing; ghost beneficiaries; phantom billing and irregular awarding of tenders (South African Municipal Workers Union Limpopo, 2016:3) invade some payrolls.

The point of argument that is being presented in this study is that despite the establishment of the PP's office and the legislative and regulatory frameworks and the Code of Conduct for Public Servants, the ethical conduct of public in Vhembe District Municipal Area is not improving. This is evident in the high prevalence of unethical conduct cases which include maladministration and corruption and other improper practices committed by government

officials (Mafunisa 2001:324). Thus, the high levels of unethical conduct warrant a research to understand the ethical principles required of the public officials; and to find out how best the PP's office intervention can help in enhancing ethical conduct in the public service. The research problem then focuses on investigating the effectiveness of the PP's office in enhancing ethical conduct and the resulting challenges affecting the effectiveness of the office when fulfilling its mandate.

1.4 AIM OF THE STUDY

The aim of the study was to investigate the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area in order to contribute possible strategies that may help in improving the functioning of the office when performing its mandate.

1.5 OBJECTIVES OF THE STUDY

In order to achieve the aim of the study, the following general and specific objectives served as guidelines:

1.5.1 General objective of the study

The general objective of the study involve investigating the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area.

1.5.2 Secondary objectives of the study

The following are the secondary objectives of the study:

- Analysing and defining ethics and a code of conduct as variables influencing accountability of public officials in Vhembe District Municipal Area.
- Describing the constitutional role of the PP's office in enhancing ethical conduct of public officials at the Vhembe District Municipal Area
- Determining the challenges affecting the effectiveness of the PP's office when performing its constitutional obligations
- Assessing the cooperation between state organs and the PP's office regarding enhancing ethical conduct in Vhembe District Municipal Area
- Making recommendations and suggesting possible strategies that may help improve the PP's office to effectively address the contemporary trends of unethical conduct in Vhembe District Municipal Area.

1.6 RESEARCH QUESTIONS

This study was guided by the following primary and secondary research questions:

1.6.1 Primary research question

The broader research question, which this study sought to provide answer to was: How effective is the PP's office in enhancing ethical conduct in Vhembe District Municipal Area?

1.6.2 Secondary research questions

The following secondary questions were posed in order to answer the primary research question:

- What is the nature of the interaction of ethics and a code of conduct as variables influencing accountability of public officials in Vhembe District Municipal Area?
- What is the constitutional role of the Public Protector's office in enhancing ethical conduct of local government officials in Vhembe District Municipal Area?
- What are the challenges affecting the effectiveness of the PP's office when performing its constitutional mandate?
- How can the cooperation between state organs and the PP's office enhance ethical conduct in Vhembe District Municipal Area?
- What recommendations and contributing strategies can be made about the improvement to help the PP's office to address the contemporary trends of unethical conduct in Vhembe District Municipal Area?

1.7 SIGNIFICANCE OF THE STUDY

The main reason for concern with regard to unethical conduct is that it diminishes public confidence and trust in respect of the impartiality and integrity of local government officials. In this respect, the presence of unethical conduct can be as damaging as actual unethical conduct it itself. With regard to unethical conduct, President J.F. Kennedy remarked that "although a technical conflict of interest may not exist; it is desirable to avoid the appearance of such a conflict from a public confidence point of view" (Disoloane, 2012:6). In view of this statement, the study may have the following significance in Vhembe District Municipal Area:

Firstly, the success of this study may help in enhancing ethical conduct and good governance for effective service delivery, which the public desperately need and deserve. This is significant for the development of positive work ethic that is essential for the effective and efficient work performance by government officials. The absence of ethical conduct in most cases, leads

citizens to mistrust government, especially, if little or no information on government activities and policies are available.

Secondly, the findings of the study might contribute to new strategies that may help in improving the functioning of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area. In terms of Section 182 (1) of the Constitution, 1996, the PP's office has the power to investigate any conduct in public administration in any sphere of government that is alleged to be improper or to result in any impropriety or prejudice; to report on that conduct; and to take appropriate remedial action. This should be done in order to promote and to enhance ethical conduct and therefore, there is a need for new strategies to help the PP's office to address ethical challenges taking place in all levels of government.

Thirdly, the study will have academic significance as it could be of interest to scholars and researchers whose areas are in line with the PP's office, its constitutional obligations and powers with regard to enhancing ethical conduct across all spheres of government. It may also serve to point to further research areas and theories on public administration. The Sectors of Higher Education and Training could also benefit with a view to usefully developing theories and suggesting policies and provide information, which might prevent unethical conduct.

Fourthly, the study may also have the potential of revitalizing public officials commitment to the services of the people and thereby, save society's financial, material and human resources and align them into their optimal use for the benefit of all members of the public.

Lastly, the study may also provide some precautionary lessons for other district municipalities as well as benefiting South African local government and the African continent in strengthening ethical leadership and good governance.

The next section presents the delimitation of the study.

1.8 DELIMITATIONS OF THE STUDY

This study will be delimited according to the following:

Geographical delimitation

This study is delimited to the personnel of the PP's office, municipal officials, ward councillors, civic organizations and the private (tendering) companies found in Vhembe District Municipal Area during data collection process.

Time

This study focuses on incidents of unethical conduct such as corruption, maladministration, non-compliance with pieces of legislation, policies, rules and regulation within the public service from 1994 to 2018.

1.9 LIMITATIONS OF THE STUDY

The following factors have been identified as limitations to the study:

Sensitivity of the research topic

Sensitivity of the research topic may have negative effect on the study as it may scare the subjects from participating. In order to obtain reliable and valid data, the participants were briefed about what it meant to take part in the study and they were assured that taking part in the study would not expose them to any danger or victimization as their identities would be kept anonymous.

Time factor

Time is a very valuable resource for the successful conduct of any study. In this regard, time constraints might affect the quality of face-to-face interviews during data collection process. Despite the limited time to complete the study, the researcher will work tirelessly in order to deliver accurate, valid and reliable results by securing appointments with the respondents prior to the day of interviews to avoid inconveniences.

1.10 DEFINITION OF OPERATIONAL TERMS

In the social sciences, concepts should be handled with care because they are used intermittently such that their true meaning is always susceptible to distortions. In most cases, this often results in conceptual or terminological ambiguities and obscurities vitiate development of knowledge. The lucidity of terminologies or concepts is therefore, sacrosanct. The lucidity should be maintained at all times to ensure efficacy in the dissemination of scientific knowledge. As a result, key terms or concepts used in this dissertation are made clearer and easier to understand. Detailed explanation of these terms and concepts are provided in Chapter 2 of this study.

The following key concepts were demystified to understand in order to avoid susceptibility, misinterpretation and distortions:

Accounting irregularities

One of the ethical challenges facing the local government administration is accounting irregularities. According to Kwok (2005:21), accounting irregularities are misstatements in

financial statements and can arise from either error or fraud. Elayan, Li and Meyer (2002:6) define accounting irregularities as “an intentional misstatements or omissions of amounts or disclosure in financial statements. These include fraudulent financial reporting undertaken to render financial statements misleading, and misappropriation of assets, manipulation, falsification, or alteration of accounting records from which; financial statements are prepared; misrepresentation of events, transactions, or other significant information required for accurate audit”.

This study considers accounting irregularities as representing an aggressive and intentional form of earnings management set up by the local government officials to rip off the state coffers for personal gains. These occur largely in financial statements that involve flexibility and judgment in the application of generally accepted accounting principles.

Unethical behaviour

Mafunisa (2000:53) defines unethical behaviour as “deliberate or negligent conduct comprising a divergent from or breach of the directives designed to inform an expected pattern of behaviour in a given situation”. Jones (1991 in Kaptein, 2008:980) defines unethical behaviour as “*the violation of acceptable moral norms to the larger community be it society or business community*”.

Even though unethical behaviour indicates a decline in moral values, in this study, unethical behaviour refers to a negative work ethic that relates to work performance and it includes theft and misuse of public property and accepting outside work during one’s tenure in public entity without approval.

Ethics

Authors and researchers hold different views regarding what ethics entail. The definitions below provide insight into the complex nature of what makes up ethics. According to Mafunisa (2001:335), ethics refer to a “set of rules or standards governing the moral conduct of employees in an institution and deals with values relating to human conduct with respect to rightness or wrongness of particular actions and to the goodness or badness of the motives and ends of such actions”. Similarly, Gildenhuis (2004:13) defines ethics as “principles or standards of human conduct which is sometimes referred to as morals and it essentially deals with what is right and wrong, good and bad and acceptable and unacceptable”.

For this study, ethics refer to the determination of what is right and proper, fair and just in the decisions and actions that affect people and it is therefore, important for one to accept the accountability and responsibility for one’s actions and have a concept of right and wrong and a moral code.

Governance

Governance is a very controversial and contested concept across disciplines. King (2003:15) defines governance as “the manner of directing and controlling the actions and affairs of entity and it involves fairness, accountability, responsibility and transparency based on a foundation of intellectual honesty”. On a similar note, the United Nations Economic and Social Commission for Asia and the Pacific (2009:1) considers governance as the process of decision-making and the process by which decisions are implemented or not implemented.

This study considers governance to mean the manner and the process in which decisions are taken in order to direct and control the affairs and actions of the entity and this involves whether the decisions could be implemented or not implement but for the benefit of all.

Public Protector

According to Diaw (2008:2), Public Protector (PP) refers to an independent official appointed to receive, investigate and address complaints about unfairness in the administration of public services and works on behalf of the public. Pienaar (2000:3) defines the Public Protector as “an office provided for by the constitution or by action of the legislature or parliament and headed by an independent high-level public official; accountable to the legislature or parliament. The PP receives complaints from aggrieved persons against government agencies, officials and employees who acts on his own motion and has the power to investigate, to recommend corrective action and to issue reports”.

In this study, the PP is both an individual and an institution (referred to PP’s office) as indicated earlier) whereby the individual is the head of the organisation, while the institution is comprised of the structures, rules, procedures and, most importantly, other personnel in the organisation.

1.11 SEQUENCE OF THE STUDY

The following chapters are presented in their systematic and logical arrangements:

Chapter 1: Introduction and background of the study – this chapter is devoted to presenting the background of the study, problem statement, aim and objectives of the study, critical research questions, delimitation of the study, limitations of the study, definition of operational concepts, ethical considerations and the sequence of the study.

Chapter 2: Literature review – Chapter 2 presents the review of different works by various authors, spanning the period from the 1994 to the present. The discussion deals with literature review on historical overview of the PP’s office, legislative and regulatory and conceptual frameworks, the role of the PP’s office, cooperation between state organs and the PP’s office

and the challenges facing the PP's office in enhancing ethical conduct in Vhembe District Municipal Area.

Chapter 3: Research methodology - Research design and approach, research methodologies, geographical area of the study, population of the study, sampling, sampling methods and sample size; data collection and data analysis techniques and ethical considerations are discussed in this chapter.

Chapter 4: Data presentation, analysis and interpretation – Chapter 4 presents presentation, analysis and interpretation of data collected during the study process. The data collected through questionnaire are presented, analysed and interpreted using Statistical Package for Social Sciences (SPSS) and are presented in tables, frequencies and percentages. Data collected through face-to-face in-depth interview are presented and analysed using thematic (content) analysis and such data are presented in a descriptive-narrative form.

Chapter 5: Findings, conclusions and recommendations – Chapter 5 closes the by presenting major findings, conclusions and recommendations as a measure to help strengthen the capabilities of the PP to enhance ethical conduct in Vhembe. Challenges and limitations of the study are also be presented in this chapter. It is also in this chapter where identified gaps in enhancing ethical conduct and suggestion for future research are presented.

1.12 SUMMARY

Chapter 1 of the study gives a broad introductory perspective of the dissertation. It outlines the background, the problem statement and the objectives of the study; the critical research questions, delimitation and limitations of the study, definitions of operational concepts, ethical considerations and the sequence of the study research methodology. The rationale for the next chapter is to do a literature review and understand ethical theories that can be used by the PP to enhance ethical conduct and to solve ethical dilemmas facing government officials in Vhembe. In the next chapter, the literature related to the PP's office and its effectiveness with regard to enhancing ethical conduct is extensively reviewed.

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

This chapter reviewed literature in order to develop an understanding of the PP's office and its constitutional mandate, the concept of ethics and different concepts of ethics. These concepts are discussed in order to reach an understanding of the field in which this study is set. The chapter further investigates several ethical theories by pointing out different philosophical views and how they can be understood in the context of enhancing ethical conduct when public officials make decisions and what the SA code entails. The chapter also extensively engaged literature on cooperation between state organs and the PP's office, the challenges that affect its functions and the causes thereof.

Schloss and Smith (1999:39) argued that extensive review of literature related to the research problem is the best practice as it plays a significant role by providing a broad understanding on the topic under investigation. By so doing, the study might contribute new knowledge in the field of study. The main purpose of this chapter is to analyse the already existing data related to the topic under investigation. This was done with particular support of official documents which include the Constitution, 1996 and other relevant laws and statutes, Public Protector's Reports, catalogue of dissertations and theses of SA's Universities (UCTD), SIU Reports, articles from scientific journals, reference works, newspaper articles and published as well as unpublished research reports; documentation of cases, relevant published textbooks and other literature.

Key words, titles and phrases were used to conduct the search for articles and books. The following words and phrases were used: the PP's office, code of conduct, code of ethics and corruption. In order to obtain relevant information related to the topic under study, search engines (websites) such as Sabinet, Educational Research Information Center (ERIC), Google Scholar and ResearchGate were visited. After reviewing the literature, the data were interpreted and discussions with public officials from Vhembe District Municipal Area were clarified. The following section presents the conceptual framework on ethics and code of conduct.

2.2 CONCEPT FRAMING FOR ETHICS AND A CODE OF CONDUCT IN LOCAL GOVERNMENT

In the field of social sciences, concepts are used at irregular intervals (not steady) such that their true meaning is always susceptible to distortions (Disoloane, 2012:18). This often results in conceptual ambiguities and obscurities impair or vitiate development of knowledge. As stated earlier, the conceptual lucidity therefore, is very sacrosanct. Similarly, Madue, Tsolo and Ramoabi (2014:877) argued that a good research practice dictates that the concepts that are used in the study should be framed, clarified, demystified and explained in order to give meaning to the context in which they will be used.

As Parrish (2007:1) argued, it is an enduring experience that in all of the spheres of human life, the hardest sphere to play one's role with true moral integrity and dignity is the sphere of public action. There are wide range of reasons that make it very difficult for human beings to act morally. Giving as an example, one may not know what action is morally best and even when one does know, one may lack the will and authoritative power to do what one is supposed to do. On the other hand, there are some sets of situations where there seems to be no right thing to do, where anything one might do seem to be wrong and that constitutes ethical dilemmas. With regard to ethical conflicts, for one to do the right thing, one has to do the wrong thing; in which, in order to be or do good one must also be or do evil (Parrish 2007:2). In public service, ethics is a very crucial aspect for the success of democratic institutions such as the PP's office. In terms of Section 96 (1) of the Constitution, 1996, public officials must act in accordance with a code of ethics prescribed by national legislation. Section 195 of the Constitution, 1996 states that public administration must be conducted in line with the democratic principles and values which include among others: providing services impartially, equitably, fairly and without bias and to respond to the needs of the people expeditiously.

The main thrust for conducting this study is that, there is no study that has yet been conducted in this area. In this chapter, an understanding of 'ethics' as a concept in local government is developed and the different concepts of ethics which include: morality, ethical conduct and values and norms and accountability are further deveoped.

2.3 HISTORICAL BACKGROUND ON MORAL LEADERSHIP

Throughout history, ethics has been at the centre of intellectual thought and has played a significant role in the advancement of knowledge management theory. Carrol and Buchholtz (2008:242) regard ethics as a discipline, a set of moral principles that deals with what is good and bad and with moral duty and obligation. Many advocates of ethics argue that there is a need for high ethical standards and moral conduct in every public service.

Regarding ethics and moral conduct, Freedman (2002:30) argued that the first assignment of a true public official, elected politician or a statesman, is to face the truth and to use words honestly, calling things the way they should be and by their right names. Such a public official or politician must try to practice a compassionate love for humanity (Swearer, 1998:71).

Weiss (2007:240) argued that Socrates was of a firm view that one should do nothing at all unless it is just. In terms of the Socratic paradox, all virtue is one, and such a virtue is knowledge. According to Goldberg's (1989:16) assessment of Plato, human beings are social in nature and the justice or the right way to live can be adjudged in terms of how they relate with others. Taylor (1997, in Disoloane, 2012:28) remarked that Plato's vision of a just government is one in which the members of each class do what they know best for the benefit of all. Similarly, Aristotle also put focus on justice. According to Smith (2004:3), the justice Aristotle envisaged is comprised of distributive and rectificatory justice. With regard to distributive justice, principles for fairness in the distribution of goods among citizens should be established. Rectificatory justice is more concerned on equalising or setting right harms for injuries committed against humanity. According to Maguad and Krone (2009:221), moral leadership should be based on the prescription of the law, which is the dictate of the reason that directs or prohibits. The law in this regard should serve as a guiding rod towards ethical conduct of leadership.

Tsanoff (1968 in Disoloane, 2012:29) claims that a person is ethical only when all life is sacred to him or her, as to that of plants and animals as that of his fellow people. More especially, when he or she devotes him/herself to help all life that is in need of a particular help. It is the responsibility of a great leader to first serve others and attend to their needs ahead of him/herself because that is the reason for his or her existence (that is, to serve those who elected him/her) (Greenleaf, 1996:299).

True leadership emerges from those who are motivated by a desire to help others. Whether servant leadership is being practiced can be summed up by observing those who are being served. When true leadership is being practiced, those served are likely to become wiser, healthier, and freer and to become servants themselves (Disoloane, 2012:27). Disoloane further argues that ethical principle for which leadership is responsible is that servant leaders should inflict no harm to the served. Mafunisa (2000:10) added that inflicting no harm is the basic rule of professional ethics and of ethics of public responsibility and it is the responsibility of the managers to scrutinise their behaviour to ensure that they do not knowingly do harm.

2.4 CONTEXTUAL AND CONCEPTUAL MEANING OF ETHICS

According to Olanipekun (2006:186), ethics is a practical, normative and philosophical science that studies and evaluates the rights and wrongs of voluntary actions of human beings. Gebler, (2010:1) defines ethics as a branch of philosophy which deals with values that relate to human conduct, especially with respect to the rightness or wrongness of specific actions and to the goodness or badness of the motives for and ends of such actions which include actions which are acceptable to a particular society or group. According to Hosmer (1987 in Disoloane, 2012:32), public administration ethics refers to the determination of what is right and just in the decisions and actions that affect members of the public. As a result, the concern with ethics in the public service is based on what is regarded as the right and just behaviour of public officials who are expected to act in an ethical manner in performing their official obligations.

Ethical claims prescribe rather than describe and are more concerned about how people ought to behave and suggest how social and individual behaviour can be enhanced. Mafunisa (2000:80) claims that ethics plays a vital role in encouraging public officials to do what is prescribed for them at work in an outstanding way.

Ethics as a concept is comprised of the actual values and rules of conduct according to which people live. Preston (2007:6) claims that the study of ethics includes the study of morality which refers to the moral tradition of a particular society or given religion. This study focuses on normative ethics which provide theories to guide the conduct of the public officials and to help in deciding what should be done and how people ought to live. Normative ethics as a moral philosophy raises questions about why there is a concern about morality and what ought to be done (Preston, 2007:17).

In conclusion, ethics has something to do with complying with a set of ethical principles that may only be achieved through external forms of sanction. Based on the above discussion, it can further be concluded that the most important task which public officials face is not only to comply with ethical code of conduct and legislation, but also transforming the compliant work force into a committed leadership aiming to provide effective and efficient service delivery to the public. In the sections that follow, terminologies and concepts related to ethics will be elucidated.

2.5 CONCEPTUALISING TERMS RELATED TO ETHICS

Ethics covers wide range of concepts and terminologies that serve as guidance to achieve ethical conduct across all disciplines. Some of the concepts include among others: code of conduct, ethical conduct, morality, ethical dilemma and accountability. These concepts or

terminologies are expounded below to reach an understanding of the field of public administration and management in which this study is set.

2.5.1 Code of Conduct

The public service needs public servants who are committed, loyal and competent to their duties and responsibilities and who would use public funds both effectively and efficiently for the benefit of all (Dlalisa & Mafunisa, 2009:692). As a result, there exists a need to provide direction to public servants regarding their relationship with the executive, legislature and political office-bearers and other employees and the public. The direction should indicate the spirit in which employees should perform their official duties to avoid conflicts of interest and what is expected of them in terms of their personal conduct in public and private life (Disoloane, 2012:92). The dawn of democracy in SA saw the code being put in place to give guidance on how public officials should conduct themselves when performing their official duties (PSC, 2002:9).

Petersen and Krings (2009:501) define a code of conduct (code) as a written document that defines the ethical standards of an institution/organisation that include among others: rules of how to interact and relate with co-workers and clients, rules of compliance with the law, policies and workplace security and leadership principles. A code is rule-based in nature and it describes the types of expected behaviour unambiguously as well as establishing the mechanisms for monitoring compliance while effecting punitive measures for non-compliance (Naggiah, 2012:38). The code was designed to promote ethos of dedication to service, recall to the conscious mind a commitment to high standards of professionalism as well as contributing to more efficient and effective service delivery and to eliminate corruption in the public service (Gilman, 2005:16).

In spite of the fact that the code was drafted and written to be as comprehensive as possible, it is not an exhaustive set of rules, which regulates ethical standards, and as a result, it cannot cover all the areas of concern. The major critique of codes is that they are generally designed to address only minimal forms of ethical behaviour. That was the reason why Gilman (2005:19) criticized the code for almost exclusively emphasizing what one should not do whereas there is little emphasis on what public officials should do.

In terms of Section 7 (3) (b) of the Executive Members Ethics Act, 1998 (Act No. 82 of 1998) (EMEA), heads of department have a responsibility to ensure that their employees conduct themselves ethically and conform to the basic values and principles which govern public administration for the efficient management and administration of their departments and the maintenance of discipline. The section further prescribes that the heads of department should

ensure that their staff is acquainted with the measures and that they accept, comply and abide by them.

This study considers a code as a very crucial document which provides for a policy selection of the basic ethics present and seeks to use them to influence an institution's definition of its actions and what kind of institution-oriented behaviour is acceptable.

2.5.2 Corruption

Although the battle against apartheid has been won, there is still a battle that needs to be won and that is, the battle against corruption. According to Mosselini (2013:ii), corruption has over the years been impeding the efforts of the state and delaying the upliftment and development which the public desperately needs and therefore, it has become a necessity to combat this cancerous activity taking place in the public service. Occurrence of unethical conduct activities call for measures to address such activities and the development of code of ethics and the establishment and setting up of professional bodies which create and monitor compliance with the code of ethics. The Association of Certified Fraud Examiners, Forensic Investigation Professionals and Audit bodies have been working side by side with the governments to combat corruption because they have powers to enforce penalties to members who transgress or violate what the ethics code dictates (Anger, 2004:15).

Corruption takes on multiple forms and functions in different contexts such as cultural, social, psychological, political and economic dimensions. It is the most argued concept that escapes a single act type of approach (Andvig, Fjeldstad, Amundsen, Sissener & SØreide, 2000:9). Corruption has a variety of definitions whose suitability depend on the specific issue being studied and addressed and such leads to disagreement about how it is viewed in different societies at different times in the same society (Hutchinson, 2005:3).

Sebake and Sebola (2014:746) define corruption in the public service as a form of acting or working dishonestly in the execution of one's official and professional duties in order to embezzle the taxpayers' funds unlawfully to drive the agenda of enriching the privileged minority given authority and responsibility to provide services to the public. Similarly, Fox (2010:137) views corruption as a lack of personal honesty, susceptibility to bribery and the use of a public position of trust for personal enrichment and dishonest gain by destroying someone's honesty or loyalty or undermining moral integrity.

Variety of definitions show the complexity of defining what exactly corruption is and entails (Carr, 2007:17). Rose-Ackerman (1999:2) indicates that despite the delicate differences in culture and basic values, there is one human motivator central in the definition of corruption

that is self-interest. Self-interest is both universal and very central to explaining the divergent experiences of different countries in the world.

In this study, corruption covers a wide range of unethical conduct activities which include: bribery, fraud, embezzlement; extortion, collusion, the violation of professional duties of public office and the public interest and self-gratification by means of kickbacks, nepotism, cronyism, and a decision by public official to take advantage of the opportunities that arise when the individual operates in an official capacity.

2.5.3 Morality

Morality in its various forms is a concept that has a dominant influence on the evaluation and conduct of day-to-day life across all disciplines. Disoloane (2012:35) claims that the pervasiveness of the moral domain can be detected in all areas and aspects of life. The word morality can be traced back from the Latin word '*mores*' and like the Greek work '*ethos*' which refers to customary behaviour (De Beer, 1998:292). Based on the description of morality by De Beer, it can be concluded that morality refers to human behaviour and what happens in practical life. Therefore, morals may be described as good or bad, right or wrong of human behaviour and have to do with the conduct of a particular individual in a given society. From Hilliard and Ferreira's (2001:93) point of view, morals are habits and behaviours, the correctness or wrongness of actions. For this study, morals are crucial aspects through which the conduct and behaviour of public officials are monitored and adjudged.

2.5.4 Ethical conduct

Public officials need to comprehend the ethical nature of their profession in terms of the promotion of the public good including the manner in which they fulfil their roles (Robson, 1999:157 in Disoloane, 2012:36). Disoloane (2012:36) concurs with Robinson's view by concluding that the morality and ethics of the local government largely depend on the morality and ethics of public officials who put the interest of the public ahead of their own interest; and also those who are loyal and true to their work and fulfil their duties as the public expect. Mbatha (2005:45) and Holtzhausen (2007:116) are of the view that ethical conduct covers the following aspects of acceptable behaviour of the public officials which are as follows: First, all dealings must be in the public interest. Second, the actions of the municipal functionary and councillor may not benefit or injure any individual. Third, there must be strict adherence to all legal prescriptions and regulations. Fourth, discretionary powers should not be abused. Fifth, no financial resources should be wasted. Sixth, effective work performance must be maintained at all times. Seventh, there must be no violation of the rights and privileges of individuals and lastly, all dealings must be transparent and open.

2.5.5 Accountability

Politicians and public officials heading public entities have the responsibilities of providing effective, transparent, accountable and coherent government (Disoloane, 2012:38). Disoloane further argued that political office-bearers and managers leading government institutions should be held accountable for their behaviour being in the employ of the public. By its nature, accountability takes variety forms of interpretation and meanings. Although very elusive, accountability remains a crucial concept which its meaning and characteristics differ depending on the context it is being used. According to Dwivedi and Jabbra (1988 in Disoloane, 2012:39), accountability has traditionally been taken to mean answerability for one's conduct or action which argues that the conduct of government officials should be justified, their reasons explained and their deeds and misdeeds accounted for before the court of public opinion. This demands that public officials should take responsibility for all that is being done in the name of the public and should be accountable. Therefore, the public officials should be held morally and legally accountable for all their actions. Behn (2001:6) remarked that the accountability environment is a complex fortification of forces, which includes legal, political, socio-cultural and economic and comprises accountability for finances, fairness, use or abuse of power, and performance.

For accountability to be achieved and sustained, responsibility needs to be part of the discussion. Vyas-Doorgapersad and Ababio (2006:391) define responsibility as the way in which an individual undertakes his or her task, the value a person attributes to the task and the manner in which this person attaches value to other people with whom he/she meets in order to fulfil a given task. Disoloane (2012:39) argued that in some government officials, the aspect of adding value and respect is lacking in their day-to-day functioning and in the execution of their tasks. Based on the context of the presentation above, it can be concluded that the aspect of accountability forms an integral part of any system of democratic government for all public officials. The next section will investigate ethics by exploring the variety of ethical theories.

2.6 ETHICAL THEORIES AND PRINCIPLES IN LOCAL GOVERNMENT

In Chapter 1 (section 1.3) of this study, the problem statement outlined the problem that Vhembe District Municipal Area is faced with ethical challenges that include corruption, maladministration, misappropriation of resources and other improprieties even though there is a code to comply with. The rationale of this section is to review literature and to understand ethical theories that may be employed to address and solve ethical dilemmas and to enhance ethical conduct in Vhembe District Municipal Area. According to Welman, Kruger and Mitchell (2005:12), a theory represents a mental view of a phenomenon or a system and form the basis

for a chain of reasoning. In this regard, the public servants are expected to conduct themselves and the institutions they lead in accordance with specific moral values and expectations. Ethical theories and principles are very vital as they serve as the foundations of ethical analysis because they are the viewpoints from which guidance might be drawn towards a decision (Disoloane, 2012:39). Theories hold and put emphasis on different points which include predicting the outcome and following one's duties in order to reach an ethically correct decision (Rainbow, 2002:1). This study will draw from the two schools of thought discussed below:

2.6.1 Theory of deontology (Rule-based approach)

Deontological approach to decision-making holds a firm view that people should at all times obey the rule and adhere to their obligations and duties to others when analysing an ethical dilemma (Rainbow, 2002:2). As McGill (2010:2) affirmed, deontological approach is duty-based and it focuses on one's ethical decisions of duty to others against self-serving. Pant (2003:20) shared the same view that public servants have to serve the people because that is their only responsibility for which they can, they ought to exist, and every ounce of their energy, their intellect and their capacity has to be surrendered to the devoted service of the public. Deontology enjoins to do the right thing simply because it is intrinsically the right thing and rejects all extrinsic justification (Preston, 2007:40).

The theory of deontology has its own positives as well as flaws. Given as an example, it is right and the obligation of the public officials to arrive at meetings on time which is intrinsically and morally correct. However, it is equally wrong to be late hoping to drive, speeding up and to violate the rules of the road. In cases like these, the theory of deontology as based on the context of each situation, fails to provide any clear guidance when one enters into a complex situation in which there are conflicting obligations. Some of its flaws are: there is no rationale or logical basis for deciding an individual's duties; this theory is very restrictive because it bases actions founded on moral imperatives and therefore, choices for decision-making are more restrictive because of the duty owed to others (Disoloane, 2012:42).

From the discussion above, one can conclude that deontological approach may be instrumental in enhancing ethical conduct because it prohibits personal decision-making while encouraging compliance and adherence to the rule of law and regulations of the public sector against personal judgment when confronted with a situation of conflicting interest.

2.6.2 Theory of consequentialism (Consequence-based approach)

The consequentialist approach discussed in this part poses a challenge to deontological approach. Contrary to deontology, the consequentialist ethics bases decision-making on the best outcome for the largest part of the population and at the same time resulting in bringing the less harm to the greater majority (McGill, 2010:1). Consequentialism holds the view that people ought to do what has the best consequences and less concerned if that involves unethical practices such as killing an innocent person or stealing from the public coffers (Disoloane, 2012:40). In consequentialist approach, nothing is prohibited and all that matters is the best consequences of what is being done. According to Eggleston (2012:452), consequentialism is often defined by five characteristics: consequentialism, welfarism, individualism, aggregation and maximization.

There are two types of consequentialism discussed below:

The first one is rule utilitarianism. In rule utilitarianism, action is right only when it conforms with the rule that leads to the greatest good for the majority (Disoloane, 2012:40). Rule utilitarianism is more concerned with fairness and has its own advantages in that it values the rules and includes benefit to others at the same time (ibid). For example, doctors are expected to refrain from causing harm to their patients by law, while on the other hand, they have an obligation to help their patients. As mentioned above, rule utilitarianism takes into account the rule and adherence to law and is more concerned with fairness when judging the acts performed by an agent.

On the contrary, act utilitarianism holds the view that a person's act becomes morally right only when it brings at least much happiness as compared to any other act which the person could have done at the very same time (Eggleston & Miller, 2014:125). Act utilitarianism is an ethical theory according to which the rightness or wrongness of acts depends entirely on facts about the maximization of overall well-being (Eggleston, 2012:452).

Both rule and act utilitarianism have numerous weaknesses. Inherent in both are the weaknesses with regard to the predicting the future. Although people may use their life experiences in trying to predict outcomes, often, it is not certain that human beings can correctly make predictions. As a result, this uncertainty about prediction can lead to unexpected results which ultimately may make the utilitarian look unethical as time goes by because his choice could not benefit the people.

From the ethical theories of deontology and consequentialism discussed above, the following conclusions can be made:

First, if local government officials choose a system of ethics in order to declare themselves free from guilt of moral responsibility, then they are therefore facing condemnation on almost every count. Second, it is difficult to throw around charges about which system the local government officials should follow. From the above presentation, it can be concluded that there is no ethical system which appeals to all people, or even to the same person in different situations. Thus, consequentialists and deontologists can each be honest when believing that their ethical theory may embody goodness and tolerance as each of them emphasise different aspects and approach of decision-making. Nevertheless, for this study, deontological approach was adopted as a basis for reasoning than the consequentialist theory that is only focusing on the outcome of the action taken. Deontology was preferred because it puts adherence and compliance with the rules, legislation and other regulatory framework at the forefront. Deontology opened the opportunity to investigate the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area as the office operates from the legislative, regulatory or policy points of view which allows it to intervene if there is suspected or alleged unethical conduct. The next section of the study presents the ethical conduct in local government administration.

2.7 ETHICAL CONDUCT IN LOCAL GOVERNMENT

Public servants should be selfless, impartial, adhere to the People First (Batho Pele) Principles, and serve the people because that is the only purpose for which they ought to exist (Pant, 2003:30). As a result, the SA's public sector is expected to function within various statutory frameworks or guidelines. The statutory framework thereof, is the basis for communicating the minimum compulsory standards and principles of behaviour for every public officials and politicians (Disoloane, 2012:47). As a mechanism to guide and monitor the conduct of the public officials, the SA government created statutory bodies, codes of conduct and of ethics, which should serve as guiding rods and points of reference (PSC, 2002:9). The statutory guidelines are discussed below to explain their values and roles in enhancing ethical conduct.

2.7.1 Statutory guidelines

SA established the statutory bodies and codes of conduct by the provision of the Public Service Act, 1994 (Act No. 103 of 1994) (PSA) in order to attain the envisaged ethical conduct within the public service. Statutory rules entail that every action of public institutions must be within the parameters of enabling regulations and act as binding documents (Disoloane, 2012:48). According to Vyas-Doorgapersad and Ababio (2006:393), guidelines include fundamental rights that bind all public institutions listed in Chapter 2 of the Constitution, 1996;

administrative justice and rules that govern conduct of the public officials should apply to ethical governance in a democratic state aiming to provide effective and efficient service delivery.

Legal rules provide that every action of public entities must be within the parameters of enabling regulations and serve as binding documents. According to Disoloane (2012:48), laws and regulations should clearly state the fundamental values of the local government and should provide the framework for guidance, exploration, disciplinary action and prosecution. According to Kuye, Thornhill, Fourie, Brynard, Crous, Mafunisa, Roux, Dijk and Van Rooyen (2002:199), codes are very crucial for the promotion of public trust and confidence in the ethical performance of public officials and creation of awareness of ethical foundations. Kuye et al. (2002:199) further argued that codes play a pivotal role in promoting public trust while also serving and aspiring public service and provision of guidelines with regard to the relationship among fellow public officials, members of the public and the political office-bearers. The challenge that could affect the true success of the codes might be the absence of the mechanisms to enforce these principles because codes themselves do not guarantee ethical behaviour. Whenever these statutes and regulations are violated and the complaint is lodged, the PP's office should investigate the alleged unethical conduct in the public service.

2.7.2 The codes of conduct and ethics in local government

In terms of Section 197 of the Constitution, 1996 the public service is governed by the codes which contain basic values and principles. These include high standards of professional ethics, objective and fair services, accountability, transparency and access to accurate information. Brammer and Millington (2005:44) claim that as a sign to show its commitment to promote and enhance ethical conduct, the government of SA designed the codes and work ethics within the public service. The primary purpose for designing the codes was to enhance ethical and exemplary leadership by providing a hands-on-deck effect to the public service where employees are expected to comply with the codes (PSC, 2002:10; PSC Report on the Code, 2006:5). Wood and Rimmer (2003:181) shared the same view by stating that the main purpose for the existence of the codes is to encourage some form of work ethics and to influence public servants to behave in an ethical manner. Many institutions use the codes as management discipline because they focus on social responsibility that is needed in a mission-driven community (Disoloane. 2012:44).

Codes of conduct and ethics are sometimes used interchangeably. It is therefore, imperative to distinguish between the two. For code of conduct, see 2.5.1 in this chapter. According to Stapenhurst and Pelizzo (2004:6), the difference between the codes of conduct and codes of ethics is that the content of codes of conduct are very general and the objective thereof is to set out the overall principles of acceptable conduct and are aspirational in nature. On the other

hand, the content of codes of ethics is specific and they identify and outline those ethical principles and values that are regarded as the foundation of an institution and are usually prescriptive. (Disoloane, 2012:45) argued that the codes of ethics unlike the codes of conduct are in most cases the products of professional associations, serve as a quality assurance statement to society, and prescribe a set of standards for members of the profession that issues the code to conduct themselves in an appropriate manner. The following are generally accepted characteristics of a successful code of ethics:

First, code of ethics provides behavioural guidance; second, it is applicable to a variety of occupations within the same profession; and third, it has an effective mechanism to ensure compliance. When the codes are being adopted, it implies that public officials would be honest in delivering services to the public and local communities because honesty is one of the required core values regarding ethical conduct. In most cases, both codes of conduct and codes of ethics do not achieve their goals as expected. Disoloane (2012:45) argued that the reason for failure is that the departments have a contrary agenda to that of serving the public. It is therefore, the absence of enthusiastic enforcement and the absence of effective mechanisms which are the major causes of failure thereof.

2.7.3 The importance of a code of conduct in local government

The code is very critical for the enhancement of ethical conduct in the public sector. Schwartz and Cragg (2000 in Nitsch, Baetz & Hughes, 2005: 327) found that the implementation and enforcement of a code is a key factor in determining whether a code is effective enough to enhance ethical conduct. The government of SA established the Code of Conduct for the Public Service, 1998 by the provision of the PSA to guide public servants on how to conduct themselves when confronted with ethical dilemmas. This code deals and addresses the following ethical challenges:

2.7.3.1 Probability of influencing ethical behaviour

The code as a guiding rod has the potential of increasing the probability that public officials may behave in an ethical way because it focuses on the nature of their actions and sanctions for violations (Disoloane, 2012:55). From Disoloane's argument, it can therefore; be concluded that the code may minimise the sacrifice involved in an ethical act. For example, in a case where the relative of a public official applies for a job in the same institution, without a code, it would be a moral choice for the public officials. With a code in place, the public official may be reminded that he/she is violating the code, refrain from acting unethically in fear of losing a job, and do the right thing.

2.7.3.2 Promoting right actions

Gilman (2005:60) claims that the code contributes immensely towards enhancing ethical conduct because it focuses public officials' actions on that which may result in doing the right things for the right reasons. Disoloane (2012:56) shared the same view by stating that spending time and repeating actions that are legally and morally right become a habit and ultimately become integral part of them and ingrained within the system, more especially in procurement processes. Local government processes are large and therefore difficult to manage and monitor. Nevertheless, if it is plain that the overriding principle of fair-mindedness in carrying out one's public duties, it is equally very difficult to justify giving the tender contract to a relative's company on efficiency basis.

2.7.3.3 Addressing conflicts of interest

According to Murove (2005:16), every government should consider only doing what is best for the people it governs and those under its authority, in both private and political government. The code is very important because it prohibits public officials from being driven by selfish interest. The code also guides public officials in knowing what to do when confronted by conflicts of interest. National Audit Office (2015:6) defines a conflict of interest as a set of circumstances that creates a risk that an individual's ability to apply a sound judgment or act in one's role is or could be impaired or influenced by a secondary interest.

Annexure A, C.5.4 of the Code of Conduct for the Public Service, 1998 prohibits public officials from using the inside information or disclosing such information to any person (internally or externally) for personal gain. The code also helps in addressing self-dealings. Stipulation C.4.5 of the Code of Conduct for the Public Service, 1998 prohibits the public employee from engaging in any transaction or action that is in conflict with or infringes on the execution of her or his official responsibilities. The main reason for concern about conflicts of interest is that the resources allocated to improve the people's living conditions are unlawfully embezzled to enrich corrupt officials and their accomplices (Disoloane, 2012:55). One of the cases in point is that in which Mr. Godfrey Mphahlele (a senior Public Works official) allegedly awarded tenders to the tune of R10 million to Leshiretje, a company owned by his wife, Ester Mogano (News24, 2013). Mafunisa (2003:7) advised that public officials should comply with the code and disqualify themselves from situations in which self-interests are involved.

2.7.3.4 Managing gift-giving and gratuities

People hold different views with regard to gift giving and gratuities. Others view gift giving as immoral and unethical while to others, there is nothing wrong with it. As a way to address this kind of dilemma of gift-giving, Amundsen and de Andrade (2009:34) advised that the government needs to establish clear rules and regulations which would serve as guidelines regarding what public officials are entitled to accept in the course of their employment and how the gifts should be recorded and managed to avoid manipulation. According to stipulation C.5.3 of the Code of Conduct for the Public Service, 1998, an employee who or whose family member receives an unsolicited gift prohibited in terms of the code should report to his/her superior and the gift should be returned. Also, in terms of Section 34 of Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004) (Precca), gift-giving to public officials create a feeling of obligation on the side of the receiver and as a result, it is a criminal offence in SA for public officials to corruptly receive a gift. Amundsen and de Andrade (2009:35) recommended that public officials should not accept any gift or benefit that can compromise them to act with prejudice in favour of the giver.

2.7.3.5 Serving as a professional statement

A code functions as a professional statement that expresses the public service's determinations and commitments to a specific set of moral standards which have both cognitive and emotive value (Wilson, 1993 in Gilman 2005:9). A code gives people joining a profession, a clear definition or set of values to which they should subscribe. Disoloane (2012:56) argued that since not all public officials are comfortable serving as political office-bearers, the code can address and clarify the expectations thereof, without which it could be impossible to hold them accountable as there would be nothing to use as a point of reference.

2.7.3.6 Reporting corruption

Corruption has been existing since the recorded history of humankind. Corruption is a plague that has detrimental effects on socio-economic and political development of societies (Johnson, 2004:9). Corruption undermines the ability and strategies of governments to serve their people by corroding the rule of law and causes mistrust in leaders, acts as a brake on socio-economic development and denies people of rights, prosperity, services and employment they need and deserve (UNODC, 2015:4; Lewis, 2006:6). As a result, stipulation C.4.10 of the Code of Conduct for the Public Service, 1998 compels every public official on duty to report to appropriate authorities, unethical conduct related to fraud, corruption, maladministration and other improper conduct that constitutes an offence. Confronting the ethical challenges facing public service cannot be achieved unless there are other mechanisms that are put in place to enforce compliance with the code and other regulatory

frameworks. The following section discusses the establishment, mandate, independence and the powers of the PP's office in the Republic of South Africa.

2.8 THE PUBLIC PROTECTOR'S OFFICE

Ethical conduct by government officials is very crucial for any democratic government to provide service delivery effectively and efficiently to its citizens. As a result, SA established the PP's office to keep the government at checks and to promote ethical conduct by the government officials. In this section of the study, the establishment, the mandate, independence and the powers of the PP's office are discussed.

2.8.1 Establishment of the Public Protector's office

The transition period that showered in the SA's democratic government in 1994 came with many immediate ethical challenges that include corruption, mismanagement and misappropriation of state resources. According to Snidert and Kidanett (2013:692), Mandela himself expressed disappointment by the high levels of unethical conduct. In order to address such ethical challenges, the new government created the PP's office to function as an Ombudsman but with a far-reaching mandate and powers. The PP's office history could be traced to the White Paper on Reconstruction and Development which was released in 1994 (Naidoo, 2013:525). The White Paper indicated that legislation was put in place in order to introduce the PP's office to provide an alternative mechanism for the public to take part in the fight against unethical conduct in all government entities.

In 1994, the Public Protector Act, 1994 (Act No. 23 of 1994) was enacted and it is the one which provided for the establishment of the PP's office. The PP's office is an independent institution, established in terms of Section 181 (2) of the Constitution, 1996 to strengthen constitutional democracy. In terms of Section 183 of the Constitution, 1996, the PP is both an individual and an institution (office) whereby the individual is the head of the organisation, while the institution is comprised of the structures, rules, procedures and, most importantly, other personnel. Section 183 of the Constitution, 1996 also states that the PP as an individual exists only for a non-renewable seven-year term. On the other hand, the bureaucratic institution continues to exist as long as the legislation that established it remains valid.

2.8.2 Independence of the Public Protector's office

According to Adetiba (2016:54), the PP's office is fashioned in a manner to have a great deal of independence from other organs of state. The aim thereof was to create a socio-political atmosphere suitable for the institution to perform its constitutional mandate without inference. In terms of Section 181 (3) of the Constitution, 1996 the PP's office is set to be more independent, impartial and accessible to all citizens. The Section further compels other organs

of state to protect such independence and to ensure that the office continues to function effectively. Brynard (1999:10) remarked that although it is commendable for the PP's office to be as independent and impartial as possible, the manner through which the PP is appointed is likely to create an impression of an office that is susceptible to bias.

Besides other criticisms, the PP's office has made a significant contribution to the promotion of ethical conduct and public accountability by investigating all unethical conduct and other financial irregularities taking place in the public sector (Thornhill, 2011:88). By establishing the PP's office, the SA government created and provided people with the opportunity to find redress for poor service delivery, accountability and transparency in various government agencies (ibid).

2.8.3 The mandate and powers of the Public Protector's office

Chapter 9 of the Constitution, 1996 provides for the establishment for State Institutions Supporting Constitutional Democracy. In terms of Section 182 (1) of the Constitution, 1996 PP's office is required to investigate any conduct in state affairs or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in impropriety or prejudice to report on that conduct; and to take appropriate remedial action. Similarly, Section 6 (4) of the Public Protector Act, 1994 states that the PP's office is empowered to investigate any conduct in state affairs that is alleged to be improper or to result in impropriety or prejudice, to report on that account and to take appropriate remedial action, supports this view. Thornhill (2011:82) shares the same sentiment by stating that the PP's office has the mandate of investigating any conduct in state affairs or in the public administration in any sphere of government that is alleged or suspected to be improper; to report on that conduct and to take appropriate remedial action. As a measure to clarify and broaden the scope of the PP's office, the Public Protector Act, 1994 (Act No. 23 of 1994) has been amended twice in 1998 and in 2003 (Public Protector, 2010:7).

The PP's office mandate is far-reaching considering that it has the responsibility to address and redress different aspects of unethical conduct taking place in the public sector. Adetiba (2016:54) argued that the mandate of the PP's office covers all forms of unethical conduct that include corruption, mismanagement and financial irregularities and fraud committed by the public officials as well as unfair treatment of the members of the public by state officials. Similarly, Pienaar (2000:60) states that the PP's office shall have jurisdiction over improper or dishonest acts, or omission or corruption, with respect to the public money.

The argument and debate around the scope and the mandate of the PP's office is ongoing, more especially around corruption. Pillay (2004:586) is of the view that fighting corruption does not fall within the jurisdiction and the function of the PP's office, but within the scope of the

other agencies with similar mandates such as the Special Investigation Unit (SIU) and the SA Police Service's Anti-Corruption Unit. This debate is because across the world, the police have always had the mandate of investigating and prosecuting all forms of criminal acts while the SIU for the very same mandate, which is solely to investigate corruption.

Other commentators and researchers such as Webb (2005), Tooley, Mahoi (2007), Von Holdt (2013), Masiloane, and Dintwe, (2014) hold a different view from Pillay. They are of a firm view that although addressing corruption is not explicitly mentioned as one of the PP's office functions, it is safe to state that acts of corruption fall under the scope of official misconduct which is also the jurisdiction of the PP's office. The scope and jurisdiction thereof do not extend to court decisions and sentences; private individuals; private companies; and professionals not employed by government (Public Protector, 2014:87). This does not excuse private individuals who have dealings with the public entities from being investigated.

The money-laundering and corruption case studies involving Malema's Ratanang Family Trust Fund, Gwangwa's On Point Engineering and President Zuma's Nkandla security upgrades featured in this study are the cases in point. These cases served as a methodological instrument used to reveal how challenging it is for the PP's office to deal with cases involving high-ranking politicians and public officials. The next section present the PP's office and the codes of conduct and codes of ethics.

2.9 PUBLIC PROTECTOR'S OFFICE AND THE CODES OF CONDUCT AND ETHICS

The public service is confronted with a number of ethical challenges which include poor implementation of ethical and anti-corruption measures, non-compliance with legislation and weak enforcement mechanisms (Thornhill, 2011:79). Although the PP's office was set up to address ethical challenges, the challenges persist because of lack of serious punitive actions taken against the perpetrators. In terms of Section 195 (1) of the Constitution, 1996 ethical conduct is a requirement for a proper functioning public service and therefore, prescribes that public administration should be governed by democratic values and principles as well as high standards of professional ethics which must be promoted and maintained. In terms of Section 7 (3) (b) of the Public Service Act, 1994 (Act No. 103 of 1994) by virtue of their responsibility, Heads of Department should ensure that all the mechanisms are put in place to encourage their staff to behave in accordance with the code and comply with all the requirements contained in thereof.

Some codes fail to work because more often, they provoke and raise unrealistic and unachievable expectations to the public and therefore, to ensure that codes work, training in ethics is essential (Gilman, 2005:63). Training could help a great deal in encouraging public officials to act ethically when performing their duties (PSC, 2002:9). Mafunisa (1999:15)

indicates that maladministration, non-compliance with the codes, and policies are primarily caused by the high levels of deteriorating ethical behaviours.

2.9.1 Public Protector's office as a public defender

The codes of conduct and codes of ethics have been put in place to enhance ethical conduct and to serve as guidelines towards caring and equal sharing of the state resources among all citizens. In terms of Section 182 (1) (c) of the Constitution, 1996, the PP's office has the responsibility and powers to investigate any conduct in state affairs, to report on that conduct and to take appropriate remedial action. This is to ensure that there is compliance with all the codes as well as legislative and regulatory frameworks in order to prevent the detriment of non-compliance on delivering effective services. According to Thornhill (2016:144), ethical conduct by public officials and politicians is one of the anchoring foundations of a democratic state where society is entitled to be treated with dignity and respect. Musuva (2009:xv) argued that the PP's office was instituted to defend and to protect the people against violations of their human rights, error, negligence, unfair decisions and maladministration; and to act as a check against the abuse of state power. As a public defender, the PP's office should play the oversight role by keeping the government and its public administration at checks to ensure that ethical conduct and efficiency are achieved and sustained. The next section presents cases of unethical conduct that the PP's office investigated.

2.10 UNETHICAL CASES INVESTIGATED BY THE PUBLIC PROTECTOR'S OFFICE

As mentioned in the preceding section, the PP's office is required by Section 182 (1) of the Constitution, 1996 to investigate any conduct in state affairs, or in the public administration in any sphere of government (section 2.8.3). Since the establishment of the Chapter 9 Institutions, the PP's office remained the most important institution in protecting the SA's citizens from the abuse and unfair treatment by public officials and helping in redressing the unethical conduct involving public resources (Thornhill, 2011:88). In 2013/2014, the PP's office dealt with over 20,000 cases of maladministration, corruption and collusion and Ratanang Family Trust Fund, On-Point Engineering (Public Protector, 2013:40 and 95) and the Nkandla security upgrades project are some of the cases in point (Public Protector, 2014:108).

2.10.1 Case 1: Public Protector's office investigation into Ratanang and On-Point Engineering's unethical conduct

The PP's office received complaints alleging that Ratanang Family Trust Fund (Ratanang) was being used for illegal purposes. Mthwalo approached the Commissioner of the South African Revenue Service (SARS) through e-mail. In his e-mail he copied (Cc) the PP's office

stating that based on City Press article (by Basson & Rampedi), he felt compelled as an SA citizen to raise concerns regarding matters relating to the Ratanang of Mr. J. Malema (Malema) in which bribes were being paid into the account by business people for favours (Public Protector, 2013:21). Mthwalo further stated that his concern was that Malema might have been using Ratanang to avoid tax; and the income received by Ratanang might have been gotten through unethical and illegal means. Mthwalo also advised that bribes from companies that benefitted from tenders in Vhembe District Municipal Area should be investigated.

Other complaints followed on the 25th of July 2011 when Mr. I. Kekana (hereafter Kekana) (the then Congress of the People Head of Communications), lodged a complaint with the PP's office stating that weekend newspapers reported extensively on Ratanang and requested the PP's office to investigate Ratanang and Malema's incomes. Ms D. K. Barnard (Democratic Alliance's Member of Parliament) (DA) also registered her concern regarding Ratanang on 26 July 2011. Barnard requested the PP's office to open an investigation into Ratanang on whether allegations made in the media were true and whether payments were made into Ratanang in return for Malema's assistance in securing government contracts and tenders for various businesses (City Press, 2011:3). The seriousness of the allegations raised by the complainants called for the attention of the PP's office and other statutory bodies.

Table 2.1 Key players in the PP's and Ratanang – On-Point Engineering investigations

S/N	Name	Position	Sector/Organization
1	Adv. T Madonsela	Public Protector	Public Protector's Office
2	Mr. J Malema	For Youth League Leader	ANCYL
3	Mr. L Gwangwa	Chief Executive Officer	On-Point Engineering
4	Mr. I Kekana	Head of Communications	Cope Limpopo Province
5	Ms. DK Barnard	Member of Parliament	Democratic Alliance
6	Mr. M Mthwalo	Concerned Citizens	Not specified

The PP's office conducted the investigation on Ratanang and made the findings as stated in terms of Section 182 (1) of the Constitution, 1996 that the PP's office has powers to investigate any conduct in state affairs as indicated in 2.8.3. The following are the specific findings made by the PP's office on allegations raised against Malema's Ratanang:

On whether Ratanang and/or Malema benefited improperly from the tender that was awarded to On-Point Engineering (hereafter On-Point), the PP's office found that On-Point paid more than R2 million directly to the Ratanang from November 2010 to May 2012 in the form of dividends and loans. After receiving payment into Ratanang from On Point, an amount of R1 million was withdrawn 5 days after one of the kickbacks was paid under the back-to-back agreements. Further amounts of R160 000 and R100 000 are reflected as having been paid in respect of the Sandton Property and Sandowns Property, respectively. The evidence of Gwangwa in respect of how and by whom it was decided that On-Point should pay (monthly) dividends to the Ratanang and make payments to the Gwangwa Family Trust through Guilder Investments further supported the allegation that the Trusts were probably used as drivers for the transfer of funds obtained unlawfully. The PP's office deduced that as the main source of income of On-Point, the payments made to it by the Department of Roads and Transport (department) in terms of the agreement, On-Point owed its existence as a profit making that could declare regular dividends thereto. Ratanang as one of two shareholders of Guilder Investments accordingly, benefited improperly from the unlawful conduct (Public Protector, 2013:12).

Based on the findings above, the PP's office took the following remedial actions to redress the unethical, unlawful and improper practices as Section 182 (1) (c) of the Constitution, 1996 dictates:

The PP's office advised the Master of the North Gauteng High Court to take urgent steps to initiate an investigation into the administration and disposal of the trust property of the Ratanang and the Gwangwa Family Trusts. This is with specific reference to the payments made to them by On-Point and any assets they acquired, as provided for by Section 16 (2) of the Trust Property Control Act, 1988 (Act No. 57 of 1988) which states that the Master may, if he deems it necessary, cause an investigation by a fit and proper person appointed by him.

To the Acting National Director of Public Prosecutions (NDPP) and the Head of the Asset Forfeiture Unit (AFU) of the National Prosecuting Authority (NPA), the PP's office advised them to take note that the evidence and information obtained during the investigation above, disclosed the commission of the criminal offences, fraud and a contravention of Section 12 of the Precca. Section 12 of Precca states that any person who directly or indirectly accepts or agrees or offers to accept any gratification from any other, whether for the benefit of himself or herself or for the benefit of that other person is guilty of an offence. As a result, the two entities should take steps in order to deal with the evidence of the commission of the criminal offences in the appropriate manner. The PP's office also advised the Acting NDPP and AFU to ensure that the investigation of the criminal offences by the Directorate of Priority Crime

Investigation (DPCI) include a thorough scrutiny of the relationships between the representatives of On-Point, Department managers and members of the relevant Bid Execution Committees (BECs) and the Bid Adjudication Committee (BAC). This should also include the recipients of contracts awarded with the participation of On-Point.

De Wet (2012:1) argues that the PP's office was aiming for the confiscation of the assets of Malema and Gwangwa as she advised the Master of the Pretoria High Court to look at the affairs of the two trusts that were used to syphon money from government coffers. Sunday World (10 December 2012) reported that a farm in Limpopo Province which was part of the PP's office investigation into On-Point was seized after the High Court in Pretoria granted a freezing order. The AFU made the court application for the confiscation of property based on a probe by the Hawks and two independent reports into On-Point by the PP's office and the PriceWater.HouseCoopers. Similarly, News24a (19 March 2013) reported that the court also accepted the Hawks submission that the property of Gwangwa should be confiscated as per the dictates of Section 46 of the Proceeds of Crime Act, 1996 (Act No. 76 of 1996).



Figure 1: Malema's house in Sandown sold for R5 million to cover taxes owed to SARS
Source: http://cdn.primedia.co.ca/primedia-broadcasting/image/upload/c_fill,h_289,q_70,w_463/ri9ifzd5eqarke0xc5ee

Business Tech (03 February 2016) reported that Malema was also charged for tax evasion to the value of R20 million when the tax of R18 million in arrears was added with additional R2 million in interest for the 2005 to 2011. Malema approached the Pretoria High Court to declare a compromise agreement with SARS in 2014 so that he might pay part of the amount owed as binding but SARS opposed the move citing that Malema breached the terms of the agreement and was liable to pay the full amount thereof. According to News24b (2013), Malema's unfinished house was sold for R5.9 million to recover the taxes he evaded for the above-mentioned period (See Figure 1).

2.10.2 Case 2: Public Protector's office investigation on the Nkandla

The Nkandla security upgrades project (Nkandla) case attracted a lot of attention from both the public and all forms of media and has been vital in the discourse of misappropriation of state resources in SA's public service. Although there were other state institutions sanctioned to conduct investigations into the case, the PP's office report has received numerous debates and controversies. For this study, this case served as a litmus test to the effectiveness of the PP's office in ensuring ethical conduct in the public service. The Nkandla debacle has shown how public-political leadership manages and abuses state resources for self-enrichment (Adetiba, 2016:78).

When the case was first reported, the project financial cost rose from R28 million to R65m which was above the initial and allocated budget for the project. By the time the PP's office concluded the investigation, the total cost had escalated to R246 million (Public Protector, 2014:189).

Table 2.2 Key role players in the Nkandla security upgrades investigation

S/N	Name	Position	Sector/Organization
1	Adv. T Madonsela	Former Public Protector	Office of the Public Protector
2	Mr. J Zuma	President	Presidency
3	Mr. J Radebe	Former Minister	Ministry of Justice and Constitutional Development
4	Mr. N Mthethwa	Former Minister	Ministry of Police
5	Mr. TW Nxesi	Former Minister	Ministry of Public Works

6	Dr. S Cwele	Former Minister	Ministry of State Security
7	Mr M. Makhanya	Architect and Principal	Private Agent
8	Brigadier S. J. Adendorff	Head, Security Advisory Services	SAPS
9	Ms N. Mapisa-Nqakula (MP)	Minister	Ministry of Defence and Military Veterans
10	Amb G. Doidge	Former Minister	Ministry of Public Works
11	Ms G. Mahlangu-Nkabinde	Former Minister	Ministry of Public Works
12	Ms H. Bogopane-Zulu (MP)	Former Deputy Minister	Ministry of Public Works
13	Lt Gen V Ramlakan	Former Surgeon-General	South African National Defence Force
14	Dr C. R. Lubisi	Director-General	Presidency
15	Mr S. Malebye	Former Acting Director-General	Department of Public Works
16	Ms G. Pasley	Chief Quantity Surveyor	Department of Public Works
17	Mr J. Rindel	Project Manager of the Nkandla Project	Private
18	Mr J. P. Crafford	Director, Architectural Services	Department of Public Works
19	Mr K. Khanyile	Former Regional Manager	Department of Public Works

Between 2011 and 2012, several complaints were lodged with the PP's office regarding the Nkandla project. Letsoalo and Molele broke the story in the Mail & Guardian of 11 November 2011 that the President's private residence at Nkandla was being improved and upgraded at enormous state expense which constituted maladministration and corruption. During the construction process, there were contradictory statements regarding the exact amount that had to be used for the project. The Department of Public Works (DPW) pronounced that the amount to be used was R36 million while the government and the African National Congress

sources have put the total budget at between R69 million and R400 million. On the contrary, Mr. Maharaj (the then Presidency's spokesperson), said that President Zuma was renovating his Nkandla compound using his own money (ibid).

In 2011, a member of the public lodged the first complaint after discovering that there were some financial and procurement irregularities in the execution of the Nkandla project and has called for the investigation (Adetiba, 2016:58). After the member of public lodged the first complaint, Ms L. Mazibuko (former Democratic Alliance's Member of Parliament) lodged her complaint with the PP's office in terms of the EMEA. Mazibuko requested the PP's office to investigate allegations that some members of the President's family unduly and improperly benefitted from the project that constituted a violation of the Executive Ethics Code (Public Protector, 2014:82). These complaints provided legitimate grounds for investigation by the PP's office, which officially got underway in 2013 and lasted for almost two years. The investigation included public officials in the DPW, Presidency, Defence and Police Ministries that were involved in the project. The investigation was extended to some individuals but in their own personal capacity. Below are the findings of the PP's office:



Figure 2: Below shows President Zuma's Nkandla homestead

Source: https://citizen.co.za/wp-content/uploads/sites/18/2014/03/nkanja_591155821-716x537.jpg?x92827

The PP's office found that the Nkandla project relied on the Cabinet Policy and the National Key Points Acts. From the Cabinet Policy perspective, certain security measures should be provided for the President, Deputy President and members of the cabinet but there was no compliance with the Supply Chain Management policy which eventually led to a flaw of the tendering process. The PP's office also found that the public procurement was used as one of the avenues for unethical conduct that caused the project cost to escalate beyond what was initially planned; and permitted within the prescription of the law (Public Protector, 2014:429). The investigation further revealed that the project implemented added to the private property of the President, thereby giving him and his family benefits beyond what they were entitled to (Adetiba, 2016:60). Vecchiato and Marrian (2014:1) concur that President Zuma unduly benefited from upgrades to his private Nkandla residence.

In terms of Section 6 (4) (a), (b) and (c) of the Public Protector Act, 1994 (Act No. 23 of 1994) and Section 182 (1) and (2) of the Constitution, 1996, the PP's office is required to investigate alleged or suspected unethical conduct which include maladministration, misappropriation of state resources and other improprieties. As a result, the PP's office took the following remedial actions:

The President should take steps with the assistance of the National Treasury and the SA Police Service to determine the reasonable cost of the measures implemented by the DPW at his private homestead that do not relate to security. The PP's office also advised the President to pay a reasonable percentage of the cost of the measures as determined with the assistance of National Treasury. The PP's office further advised that the President should reprimand the Ministers involved for the appalling manner in which the Nkandla project was handled (Public Protector, 2014:442).

The Director-General (D-G) of the DPW advised the PP's office to take urgent steps to identify officials who were involved in the maladministration and price inflation during the project and implement measures to identify why prescripts were not complied with. On this basis, the D-G had to decide if disciplinary action should be taken against them (Public Protector, 2014:444).

From the above case studies, it can be noted that the investigations conducted by the PP's office involving high profile public-political leaders served as a litmus test for the effectiveness of the office because it proved that it functions without fear, favour or prejudice. It can also be concluded that public-political leaders are driven by self-interests while undermining the

ethical codes set to guide them when performing their official duties. The section that follows presents the challenges affecting the PP's office.

2.11 CHALLENGES AFFECTING THE PUBLIC PROTECTOR'S OFFICE

Although the PP's office is empowered by legislation to address and redress unethical conduct as discussed in section 2.8.2, it is equally confronted with many challenges that affect its daily operations. The challenges that affect the effectiveness of the PP's office are diverse and make it difficult for it to address ethical challenges in all spheres of government (Camerer, 2001:42). Some of the challenges affecting the PP's office are:

2.11.1 Lack of independence

Independence is one of the fundamental principles attributable to the effective functioning of the PP's office and the lack of it may be a major impediment towards its daily operations (Sisaye, 2010:39). Section 181 (4) of the Constitution, 1996 states that no person or organ of state may interfere with the functioning of the PP's office and other Chapter 9 Institutions. Tchawouo Mbiada (2017:7) argues that the independence of the PP's office derives from the fact that the Constitution, 1996 created it in unambiguous terms. It provides that the PP's office is independent and subject only to the Constitution, 1996 and the law, and it must be impartial, exercise its powers, and perform its functions without fear, favour or prejudice. In terms of Section 181(3) of the Constitution, 1996, organs of state are enjoined through legislative and other measures to assist and protect the PP's office to ensure its independence, impartiality, dignity and effectiveness at all times.

Critics have used the fact that the PP, as the head of the institution under the present African National Congress-led (ANC) government, is recommended by the ANC parliamentary caucus and appointed by the President (who is also a member of the same party). This may imply political bias (Musuva, 2009:19). Murray (2006:123) shared the same view by stating that the nomination of the PP by Parliamentary Committee makes the impartiality and independence of the office questionable because it is based on the political parties' representation and as a result, the governing party might use its majority to influence the process in favour of their preferred candidate. For example: In 2003, when Advocate (Adv.) Mushwana was appointed as the head of the PP's office, the then DA's Member of Parliament, Mr. D. Gibson said, "*it was against better judgement for African National Congress politicians to be redeployed in sensitive positions that demand a non-political presence*" (Sefara, 2004:10). As a result, the relationship between the PP and the governing party has been a cause for concern. Brummer, Sole and Waka Ngobeni (Mail & Guardian, 03 May 2005) reported that Mushwana refused to investigate allegations involving PetroSA and Imvume Management. In 2009, Judge Poswa ordered that the PP or his successor should investigate complaints that were not yet

investigated, re-investigate all complaints that were lodged and write a report on the outcome of his/her investigation (South Africa: North Gauteng High Court, 2009).

From the above discussion, it is apparent that the PP may consider political implications of the findings on his/her political career and decides not to investigate as Adv. Mushwana allegedly did. As a result, the PP's office may be seen as impartial, partisan and protecting the interests of the powerful political and economic constituencies against the public interests. Therefore, politicians and government officials should avoid entering into the space of the PP's office because this may be seen as interference, which may negatively affect the office's operations.

2.11.2 Criticism and political interference

The investigation of the PP's office into Nkandla gave rise to endless criticisms from politicians affiliated to the Tripartite alliance (African National Congress, Congress of South African Trade Union and the South African Communist Party) (Madue, Tsolo & Ramoabi, 2014:882). De Wet, (2014:10) shared the same view by stating that the criticisms levelled against the PP's office in most instances, come from the high ranking public officials, governing party and the alliance partners which seem adamant to play in the PP's office space and treat the powers and functions of the office with contempt.

Adv. Madonsela (former PP) stated during the release of the Nkandla report (Secure in Comfort), that at some stage, the Minister of Public Works, Mr. Doidge and his deputy, Bogopane-Zulu were involved in the implementation of the Nkandla and that appeared to have created an atmosphere perceived as political interference (Public Protector Statement, 2014:20). At some stage, the verbal attacks directed to the PP's office intensified, more especially when a confidential letter written to the President was leaked to the media (Adetiba, 2016:63). The African National Congress' Secretary-General said, "The ANC is concerned by the manner in which the Public Protector has handled the provisional report on Nkandla. The Public Protector has a personal interest in the case and she was targeting President Zuma and treating him as her personal project, instead of dealing with the Nkandla matter through the relevant institutions" (Seale, 2014:1). Maphatsoe also accused the PP for being a spy of Central Intelligence Agency (CIA). In his own words, Maphatsoe said, "the Chapter 9 institutions were created by the ANC, but are now being used against us, and if you ask why, it is the CIA. Ama [the] Americans want their own Chief Executive Officer in South Africa and we must not allow that. We'll fight and defend the ANC" (eNCA, 2014 September 08).

The above discussion illustrates that that criticisms labelled against the PP's office by public-political leaders indicate that the aforesaid leaders are more than willing to defend each other for their unethical conduct rather than to promote adherence and compliance with the codes and regulatory frameworks to enhance ethical conduct.

2.11.3 Operational inefficiency

From the constitutional point of view, the PP's office is required to ensure that its operational system is as effective and efficient as possible. Sisaye (2010:41) argued that for the PP's office to achieve its constitutional mandate, operational efficiency is unavoidable. Adetiba (2016:76) shares the same view with Sisaye by stating that adequate financing and a competent workforce are important resources needed for any institution to function effectively. With reference to Nkandla, the PP's deputy, Adv. Malunga (2015:3) stated that the PP's office was operating under a very demanding situation and overburdened by the large number of cases of unethical conduct and other improprieties reported for investigation. The PP (Adv. Madonsela) also shared the same view during the release of the Public Protector Media Statement (2014a) and the Nkandla report (Secure in Comfort) when she stated that lack of resources affected her operations as it did not manage to conduct interviews with everyone and to review documents relating to the project (Public Protector, 2014b:108).

On 22 October 2014, Adv. Madonsela presented her office's 2013/2014 annual report to Parliament and asked for a budget that was corresponding in size with the workload of the institution both quantitatively and qualitatively (Public Protector, 2014:10). On several times, the PP (Adv. Madonsela) approached Parliament for additional funding to carry out its duties optimally, but the request was denied (Essop, 2015:1). Mail & Guardian (2012 November 16) also stated that in all occasions, when the PP raised the issue of budget increase to be in line with the workload of the office, the request was met with serious resistance from the African National Congress members of Parliament.

Considering the large volume of cases reported for investigation without adequate resources, it would remain difficult for the PP's office to undertake its constitutional duties as envisaged in Section 181 and 182 of the Constitution, 1996. Therefore, it can be concluded that the PP's office cannot perform its functions properly as long as Parliament and the Treasury continue to provide insufficient resources to the aforementioned office (see section 2.11.1).

2.11.4 Weak application of the legislation and oversight processes

The PP's office effectiveness is allegedly influenced by several factors. Weak application of the pieces of legislation and oversight processes are part of the factors that affect the effectiveness of the office negatively. The relationship between Parliament and the PP's office should be based on the fulfilment of the oversight function as prescribed in Section 55 (2) (b) (ii) of the Constitution, 1996 which states that the National Assembly must provide for mechanisms to maintain oversight of any organ of state. Weak application and non-compliance with legislation, oversight and the dysfunctional legal system are the greatest challenges facing the PP's office because culprits are not punished for their wrongdoings

(Eigen, 1998:87). Impunity and unethical conduct are compatible. Theletsane (2014:836) adds that poor governance may result from factors such as incompetence, ignorance and lack of efficient institutions that can address ethical challenges in the public service.

The Parliament and the judiciary are important arms of government and where these arms of government are weak in terms of providing checks for the executive, corruption thrives (van der Merwe, 2006:38). After the release of the Nkandla report, the Members of Parliament from the African National Congress defended the President who was damningly implicated in the report. In most instances, the remedial actions of the PP's office are treated with contempt. For example, instead of implementing the remedial action, the President preferred to use other statutory bodies such as the SIU and the SA Police Service to make determination on whether he should pay back a portion of the money used on non-security items. All the statutory bodies listed above exonerated the President (SA Police Service Report, 2015:47; SIU Report on Nkandla, 2014:18).

Based on the above view, one can surmise that the President and the National Assembly, who have the constitutional responsibility of seeing to it that there is compliance and adherence to the codes and the legislative frameworks, have been the ones flouting the application of the legislation and oversight processes which render the PP's office weak and toothless. In terms of Section 83 of the Constitution, 1996 the President – (b) must uphold, defend and respect the Constitution, 1996 as the supreme law of the Republic. In respect of the Nkandla case, undermining the obligations of the institutions established in terms of the Constitution, 1996 is equally the same as undermining the Constitution, 1996 itself, that is, the supreme law.

2.11.5 Unenforceability of the Public Protector's remedial actions

The success of any agency is in its ability to enforce its recommendations and to hold the perpetrators to account (Adetiba, 2016:72). This is one aspect which the Constitution, 1996 did not give to the PP's office to make its work easy. In terms of Section 182 (1) of the Constitution, 1996, the PP's office has the power as regulated by national legislation to investigate any conduct in state affairs, to report on that conduct; and to take appropriate remedial action (see section 2.8.3), but lacks powers to enforce remedial action thereof. The PP's office remedial actions are usually treated as if they are not of any legal effect. Two cases stand out in this regard:

The first case in point is the Nkandla case (Section 2.10.2) in which the PP's office found that President Zuma and his family unduly benefited from the project and recommended that the President should pay back the portion of the money used on non-security items. The President knowingly and intentionally undermined both the PP's office remedial action and the Constitution (De Wet, 2014:10).

The second case that has the same characteristics was that which involved the South African Broadcasting Corporation's (SABC) Chief Operations Officer (COO), Mr. H. Motsoeneng. The PP's report, "When Governance and Ethics Fail", stated that Motsoeneng was dishonest and had been allowed to operate above the law and as a result, the SABC board had to take a corrective action against Motsoeneng for lying about his matric certificate and raising his salary from R1.5 million to R2.4 million (Public Protector, 2014:11). The SABC Board did not take corrective measures against Motsoeneng and as a result, the matter was resolved at the Supreme Court of Appeal (SCA) (2015) which ruled that, the PP's powers should be treated equally as that of other administrative bodies and whose findings cannot simply be ignored.

The above information shows that unless remedial actions are challenged in the court of law, the PP's office lacks powers to enforce implementation and compliance with its remedial actions because the Constitution, 1996 has not provided the office to enforce its remedial actions.

2.11.6 Unclear and competing roles of oversight statutory bodies

Accountable public administration is required more especially in the era where public administration is becoming more complex and complicated because of the extensive involvement of the government in promoting the general welfare (Thornhill, 2011:79). In order to achieve accountable public administration, the roles of the established statutory bodies should be clearly defined to avoid parallel investigations when monitoring public officials from operating and performing their duties at will. The PP's office has a mandate to obtain, maintain and promote public accountability as it is with the Auditor-General's office and the SIU (Chetty, 2017:53).

As noted in the Nkandla case, there have been several parallel reports that have been conducted. Besides the report of the PP's office, the SIU, the Parliamentary ad hoc committee and the SAPS also released their reports (Adetiba, 2016:72). Most of the complex cases, more especially those which involve the high profile public-political leaders such as Ratanang, On Point and the Nkandla, are conducted by several statutory bodies as shown earlier in Case 1 and Case 2 (Sections 2.11.1 and 2.11.2).

Table 2.3 Duplication of investigations due to unclear definition of roles

NO	Special Investigation	Public Protector
1	Department of Communications – Proclamation R10 of February 24, 2014	Department of Communications – ICT Indaba – Minister Dina Pule
2	South African Broadcasting Corporations. Proclamation R58 of October 29, 2010	South African broadcasting Authority (SABC) - The case against Hlaudi Motsoeneng
3	South African Police Service – Proclamations R42 of August 10, 2010 and R73 of December 22, 2011	Police Lease Procurement of the Buildings in Pretoria and Durban.
4	South African Post Office Lease (National Head Office) – Eco Point	South African Post Office Limited Proclamations R5 of February 06, 2014 and August 01, 2014

This information was adopted from the Public Protector (2016), SIU Annual Reports, 2010/2011; 2011/2012; 2013/2014 and 2014/2015; and Sello (2016).

Based on the investigations shown in Table 2.3 above, there is duplication in the investigations of complicated cases in between the two statutory bodies, which are, the PP's office and the SIU. Regarding the duplication of the investigations, Chetty, 2017:67) argues that the duplication of investigations has negative effects on the country's coffers because conducting parallel or overlapping investigation appears to suggest the duplication of costs. Parallel investigations bring confusion to the office-bearers. This can be witnessed in the Nkandla project where the Public Protector's office, the Special Investigating Unit and the SA Police Service were involved and produced different and divergent reports (Adetiba, 2016:72). The Special Investigating Unit and the Ministry of Police were deployed and reported directly to the President and therefore, they are susceptible to act in favour of the President (their boss) when compiling their report findings unlike the Public Protector's office which reports and accounts to the National Assembly.

Drawing from the information above, it can be concluded that having several institutions with more or less similar roles to play causes confusion among public officials and the public because they could not know which institution has the mandate to perform certain tasks. Therefore, clear definition of roles among the statutory bodies is very vital because that may help in avoiding parallel investigation, thereby saving financial resources that can be directed

to other programmes in order to change people's lives for the better. The next section presents cooperation between organs of state and the PP's office.

2.12 COOPERATION BETWEEN ORGANS OF STATE AND THE PUBLIC PROTECTOR'S OFFICE

Co-operation among state organs plays a pivotal role in the promotion and enhancement of ethical conduct in the public service. Coetzee (2014:419) claims that lack of co-operation, undermining the role and powers of the PP's office by state organs and high profile government officials have a negative impact in governance. As a result, the public service becomes a fertile ground for corruption and other unethical conduct to grow. In terms of Section 181 (3) of the Constitution, 1996, state organs are required to play a supporting role to the PP's office and other statutory bodies through legislative and other measures.

2.12.1 Separation of powers

Separation of powers is one of the foundations on which SA's constitutional democracy is anchored, and it is distinguished by equality of the executive, legislature and judiciary. According to Dube (2016:34), the main purpose of the separation of powers is to promote institutional and functional independence of the state organs from one another and to foster accountability. The doctrine of separation of powers assumes that power corrupts and separating such powers is very crucial to any constitutional democracy across the world (ibid). In SA, the powers are separated among three state organs discussed below:

2.12.1.1 The Executive

Although the executive should perform the oversight role over the legislature and judiciary, it exercises the minimal role because the President serves at the pleasure of the legislature that appoints him/her. In terms of Section 193 (3) of the Constitution, 1996, the President has powers to appoint the high-ranking officials to lead Chapter 9 Institutions, of which the PP is part. Section 181 requires the executive to see to it that the administration of Section 6 of the Public Protector Act 1994 (Act No. 23 of 1994) and Section 181 of the Constitution, 1996, are properly and constitutionally implemented and complied with.

On the contrary, members of the executive have been less co-operative when the PP's office exercises its mandate (Madue, 2016:8). Several members of the executive publicly criticized the PP's office on the Nkandla matter. One of the notable members of the executive who criticized the PP's office was President Zuma who knowingly and intentionally undermined both the Constitution, 1996, and the PP's office by questioning the authenticity and the legality of the mandate, findings and remedial action of the office thereof (De Wet, 2014:10). The President stated that Adv. Madonsela's findings were just recommendations with no binding

effects. Similarly, some ministers followed suit and Minister Bathabile Dlamini is the case in point. Dlamini accused Adv. Madonsela of being personal in her investigations after she (Madonsela) found that the department acted irregularly by granting the African National Congress Youth League to distribute SA Social Security Agency's food parcels (Pilane, 2016). The then Minister of Police (Mthethwa), also accused the PP's findings as not factual when the report stated that the swimming pool, culvert, chicken run, amphitheatre and cattle kraal do not constitute security features (SA Police Service Report on Nkandla, 2014:11).

From the above incidences, it can be surmised that the executive lacks political will to cooperate and to support the PP's office to successfully enhance ethical conduct in the public service. This is contrary to the provisions of Section 183 (3) of the Constitution, 1996 (section 2.12).

2.12.1.2 The Parliament

In terms of Section 55 (2) of the Constitution, 1996, the Parliament (legislature) must put mechanisms in place to ensure that executive organs of state in the national sphere of government are at all times accountable to it and to maintain oversight role. The Parliament should exercise oversight of - (i) the exercise of national executive authority and the implementation of legislation; and (ii) any organ of state. Nyathela and Makhado (2014:41) argued that oversight may be defined in terms of what the legislatures and their members do and such actions may involve supervising, reviewing and monitoring the executive and other state organs of state's programmes. In terms of Section 55 (2) (a) of the Constitution, 1996 the legislature has a constitutional obligation to ensure the accountability of the national executive and the implementation of the legislation. The oversight role of the legislature extends even to the judiciary. Nyathela and Makhado (2014:43) argued that the core role of the legislature's accountability is to hold the executive organ of state accountable and to influence the justification and legitimacy of their actions.

However, the executive continued to act unethically and violating the Europe, the Middle East and Africa (EMEA) in the legislature's watch. In the PP's report (Secure in Comfort), it was found that the Minister of Police (Mthethwa) failed to apply his mind when signing the Declaration of President Zuma's private residence (Nkandla) as a National Key Point directs the President to implement security measures at own cost and such a failure constituted unethical conduct (Public Protector, 2014:432). So was the case with the Minister of Public Works (Doige). The report further revealed that the President pronounced before Parliament that his family had built its own houses and that was untrue (Public Protector, 2014:437).

Having all the powers vested on the legislature (Parliament) to hold the executive to account, which also goes even to the extent of impeachment, the executive continued to act unethically and violating the EMEA and the Executive Ethics Code in the legislature's watch. Therefore, the legislature has been failing to exercise its constitutional powers to hold the executive accountable and that may be interpreted as lack of cooperation and failure to protect the PP's office when conducting its mandate.

2.12.1.3 The Judiciary

The judiciary is another state organ composed of judges and magistrates who sit in the courts of the Republic of South Africa, ring fences the legislative and executive conduct and ensures that the state does not retreat on its promise to protect individual rights (Dube, 2016:42). The constitutional architects knew beforehand that there might be an abuse of power by the executive and legislative authorities and as a result, vested the judicial powers to the judiciary. In terms of Section 172 (1) (a) of the Constitution, 1996, the courts have the superior power to declare any conduct or act inconsistent with the Constitution, 1996 invalid and also binds all state organs and all persons, private or public, to court orders and decisions. Judiciary has an obligation to ensure that all conduct involving the exercise of public power promotes the spirit, purport and object of the Bill of Rights as prescribed in Section 7 (1) and (2) of the Constitution, 1996.

According to Dube (2016:43), the judicial oversight places the executive officials and the members of the legislature and all state departments under the scrutiny of the courts to determine whether they conducted themselves within or without the parameters of their powers. This kind of judicial oversight prevents the executive officials and the members of the legislature from accumulating all powers and acting with impunity, which leads to the development of tyranny and undermining democratic principles. On several times, the judiciary, like the PP's office, has been under serious attack for performing its constitutional functions with diligence, commitment and accountability (Lenta, 2004:554). The loyalists to the members of the Executive have been accusing the judiciary for judicial overreach. The cases below serve as evidence of the attacks and accusations labelled against the judiciary:

In June 2015, Judge President of North Gauteng High Court Mlambo, on the case involving Democratic Alliance and the SA government, ruled that the government violated the court order to ensure that the Sudanese President, Omar al-Bashir did not leave the country (Church, 2015:2). This ruling was met with serious criticism from the African National Congress and the Congress of South African Trade Unions. 'The Citizen' of 29 June 2017 reported that the Secretary-General of the African National Congress (Mantashe) accused the judiciary for interfering with the executive. On attacks and accusations, the Chief Justice (Mogoeng) said,

“As judges, we do not mind when people criticise us, but the criticism must be factual and move from an informed basis because at the end of the day, we have to do our job to hold all organs of state to account” (Herman, 2017; Manyathela, 2017).

From the discussion on the judiciary, a conclusion can be made that the judiciary, unlike the executive and the legislature, has been playing its role of cooperating, supporting and providing ethical leadership to the PP’s office although it is equally criticized and accused for judicial overreach. It can also be deduced that the total concentration of powers could result in tyranny or suppression of all forms of liberties.

2.13 SUMMARY

South Africa is using the PP’s office to protect and to strengthen constitutional democracy by ensuring that all state organs conduct themselves ethically through being accountable, fair and responsive in the way they treat all persons and deliver the much-needed services. This chapter explored various literature on the following: concept framing for ethics and code of conduct in local government, historical background on moral leadership, contextual and conceptual meaning of ethics, conceptualising operational terms relating to ethics, ethical theories and principles as well as ethical conduct in local government administration. The chapter also focused on the PP’s office and the codes of conduct and ethics, unethical cases investigated by the PP’s office, challenges affecting the PP’s office and co-operation between state organs and the PP’s office. The chapter that follows presents the research methodology employed when conducting the study.

CHAPTER 3

RESEARCH METHODOLOGY

3.1 INTRODUCTION

The previous chapter studied literature sources in order to gather information to provide a theoretical overview of the study. This chapter focuses on research methodology upon which the entire research was based. The chapter also presents the data collection methods, instruments, sampling and sample size, procedures used to collect data, and methods for data analysis as well as the ethical considerations.

3.2 RESEARCH DESIGN AND APPROACH

Research design is a very crucial aspect of any research because the success of any research lies on the functional plan in which certain procedures and methods are connected together in order to obtain a reliable and valid body of data for empirically grounded analyses, conclusions and theory formulation (Bless, Higson-Smith & Kagee, 2006:71). According to Durrheim and Wassenaar (2004:29), research design is a strategic framework for action that serves as a bridge between research questions and the execution or implementation of the research strategy. For MacMillan and Schumacher (2001:166), it is a plan for selecting the population of the study (subjects), research sites and data collection procedures to answer the research question(s). MacMillan and Schumacher further indicate that the goal of a sound research design is to provide results that are judged to be credible. The design in this study focuses on the end product and all the steps in the process to achieve that outcome and to control factors that may interfere or influence the validity of the findings (Burns & Grove, 2003:195). For this study, a descriptive case study design with explanatory features was used. This followed the sequential explanatory model strategy for data collection and analysis (Cameron, 2009:145). Sequential explanatory model is described as mixed methods of data collection strategies that involve collecting data in an iterative process whereby the data collected in one phase contribute to the data collected in the next. In this case, quantitative data was collected and analysed first and followed by the collection and analysis of qualitative data.

3.2.1 Descriptive research

This study aims to answer research questions that focus on describing the phenomenon thoroughly and in depth rather than investigating causal relationships (Vogt, Gardner & Haefelle, 2012:340). The study adopted a descriptive research design. A descriptive research is a research in which a specific situation is studied either to see if it gives rise to any general theories or to see if existing general theories are borne out by the specific situation (Goddard

& Melville, 2001:9). The descriptive research design was adopted in order to answer research questions focusing on describing phenomenon by providing a quantitative description, attitudes, or opinions of a population by studying a sample of that population. The study was a cross-sectional survey design, which implies that data was collected at one particular time. Descriptive research design was chosen for the following reasons:

- First, for its ability of using both quantitative and qualitative methods.
- Second, to provide a clear picture of the phenomenon under study as it naturally happens (Burns & Grove, 2003:201).

3.2.2 Case study research

This study also employed a case study to investigate a contemporary phenomenon in depth and within its real-life context. Case study research was preferred because the boundaries between the phenomenon and the context are not evident and it strives towards a comprehensive and holistic understanding of how participants relate and interact with each other in a specific situation and how they interpret and give meanings to it (Yin, 2008:18; Maree, 2007:75). For the purpose of this study, an empirical study involving a survey and interviews was employed to gain insight into the typical experiences of the participants. During the process, different subjects were involved. Cases include officials working in the PP's office, civic organizations, Mayor, Municipal officials, and the private (tendering) companies to find out how they relate, interpret, believe and perceive the phenomenon under study (See section 3.5). The case study was preferred and employed for the following reasons:

- First, case study method has a strength of using multiple sources and techniques in data collection.
- Second, it has an advantage of providing greater insight and understanding of the dynamics of a specific situation under study and third, a case study uses more data collection tools.

By involving the cases, the study might have an advantage of finding fresh information from reliable sources who might have experienced or witnessed the occurrence of the phenomenon under investigation. This might add value to the study and help in providing relevant information that may address ethical challenges in Vhembe District Municipal Area.

3.2.3 Explanatory research

As a social science research, this research attempts to understand people's perceptions, beliefs and meanings, which they attach to a particular situation under investigation (Leedy & Ormrod, 2010:141). Babbie and Mouton (2008:264) shared the same view by stating that

explanatory research aims to explain and understand how people relate and interpret the phenomenon under study. Therefore, explanatory research design was used as a two phase mixed design whereby qualitative data was used to help explain or build upon initial quantitative results (Maree, 2007:264). The issues relating to ethical challenges have seriously dented the image of public administration for a longer time. After SA attained its democracy in 1994, many cases of unethical conduct such as misappropriation of state resources, corruption, maladministration, embezzlement, fraud and other financial and accounting irregularities were alleged to have been taking place across all public sectors. As a result, explanatory research aims to find out the meanings, beliefs and interpretation people attach to such unethical conduct as well as explaining what ethical conduct entails. This involves explaining whether the PP's office is ineffective as the argument of this study alleged (See section 1.1). The next section will present research methods that the study employed during the collection and interpretation of data.

3.3 RESEARCH METHODS

This section of the study describes research methods employed when conducting the study. This involved research processes, the kind of techniques and procedures used, the individual steps in the research process, and the most objective procedures employed (Mouton, 2001:56). As mentioned in 3.1 above, this study adopted the mixed method research approach which involved quantitative and qualitative research techniques to collect, analyse and interpret data collected through different instruments.

3.3.1 Mixed methods research

The research problem was very complex and as a result, mixed research method was used to draw from the strengths of both (quantitative and qualitative) approaches and to reduce possible weaknesses of one method (Johnson & Onwuegbuzie, 2004:14). The term 'mixed methods research' is broadly accepted to refer to the research that integrates (involves) both the collection and analysis of quantitative and qualitative data within a single study (Halcomb & Hickman, 2015:42). The basis for employing mixed methods research designs are varied, but they are generally described as methods to expand the scope or breadth of research to offset the weaknesses of either approach alone (Driscoll, Appiah-Yeboah, Salib & Rupert, 2007:19). For this study, the mixed method research design necessitated subsequent quantitative and qualitative methods of data collection and analysis. For getting the best results from the mixed research methods, the study employed the sequential mixed model of data collection and analysis. The mixed methods research design was chosen for the following reasons:

First, to provide a more detailed understanding than could be gleaned from a single perspective. Second, to gain data about a wider range of interests and facilitate both insider and outsider perspectives, thereby improving the research and enhancing the significance of interpretation of data. Third, to improve triangulation by combining research methods, clarify the underlying logic, facilitate a better understanding of the relationship between variables and explain idiosyncratic opinions and practices of different subjects. Therefore, for the current study, the mixed strategy was preferred and used to collect the qualitative data in order to help in interpreting the quantitative results (Creswell & Plano Clark, 2011:67).

3.3.2 Quantitative research method

A quantitative research approach unlike the qualitative one is highly formalized and more controlled, with a range that is more exactly and accurately defined (Leedy & Ormrod, 2010:96).

For this study, quantitative method was used to examine the relationship between the effectiveness of the PP's office and enhancing ethical conduct in Vhembe District Municipal Area. During data collection, an empirical survey was conducted and served as an opportunity to obtain data and desired competencies of the sampled subjects.

3.3.2.1 Instrument

In a quantitative research approach, a standardized questionnaire is used to collect data (See Annexure 8). The questionnaire was used to measure the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area and it was designed in English since the study required participants to have passed Grade 12 in order to understand the content and to respond in the language they understand. The questionnaire consisted of three sections. The first section consisted of standardized information on the effectiveness and the role of the PP's office in enhancing ethical conduct. The second section included items dealing with issues relating to the cooperation between state organs and the challenges affecting the effectiveness of the PP's office when performing its oversight and protective roles. The third section of the questionnaire addressed matters on recommendations about the improvement that can help the PP's office to enhance ethical conduct in Vhembe District Municipal Area.

Before the final version of the questionnaire was adopted for use, a pilot study was conducted. A pilot study was undertaken to test the questionnaire's level of understandability, the time it takes to be completed and its reliability. The questionnaire was administered to a group of people that included the following: 1 PP's office representative, 1 District Municipal Official, 2 Local Municipalities' Officials, 2 Ward Councillors, 2 Civic Organizations' Representatives and

1 private (tendering) companies' representatives in Vhembe District Municipal Area. The quantitative research method was preferred for the following reasons:

First, it has clear and consistent instructions to respondents for the completion of questionnaires. Second, questionnaire items are scrutinized for content that promotes bias. Third, it requires objectively evaluating the data consisting of numbers, trying to exclude bias from the point of view of the researcher. Fourth, it has the advantage and ability to use tables, numerical data, frequencies and percentages to analyse and to interpret data as well as helping in drawing conclusions from the data (De Vos, Strydom, Fouche' & Delpont, 2012:63). The intent of using quantitative methodology was to establish and validate relationships for better interpretation of the data.

3.3.3 Qualitative research method

This study employed the qualitative research method with the aim of exploring unknown sectors, identifying the dimensions of the problem, drawing assumptions and understanding motivations. Qualitative method derives its data from interviews and it focuses on the meanings and interpretations that the participants attach to the phenomenon under study. (Delpont & De Vos, 2005:65 in De Vos et al. 2011). Interviews were conducted using an interview schedule (guide) which comprised of open-ended questions (Annexure 9). An interview guide ensured that the interviewer covered the same material and focused on the same predetermined topics and issues and at the same time, remaining conversational and free to probe into unanticipated circumstances and responses. Before the actual interview was conducted in the field, each item in the interview schedule was tested for relevance to the aim and objectives of the study.

This study used qualitative method to examine the societal attitudes towards the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area. Again, qualitative method, that is a systematic-subjective approach, was preferred because it is not as restrictive and formalized as quantitative method because its scope is undefined (Delpont & De Vos, 2005:66). It also has an advantage of describing life experiences; it involves conducting investigation in natural setting and extensive use of descriptive data based on inductive reasoning (Burns & Grove, 2003:19).

3.4 GEOGRAPHICAL AREA OF THE STUDY

This study was conducted in Vhembe District Municipal Area which is one of the 5 district municipalities of Limpopo Province of SA and it is comprised of Collins Chabane, Makhado, Musina and Thulamela Local Municipalities (See Figure 4). The district is located in the far north of the Limpopo Province and it is a category C municipality established in terms of Local

Government Act, 1998 (Act No. 117 of 1998) and it covers an area of 25 597.42 km². Vhembe District Municipality shares northern border with Matabeleland South, Zimbabwe (Source: <https://en.m.wikipedia.org>).

This research site was chosen for the following reasons:

- First, the researcher lives in Vhembe District Municipal Area and he assumed that, empirical data might be collected with lesser resources.
- Second, it was alleged that the effectiveness of the PP's office role in enhancing ethical conduct is a cause for concern, which suggested that the research site was more suitable for this kind of study.

Below: Vhembe District Municipal Area's location Map



Figure 4: Vhembe District Municipal Area's Location Map Source: <https://www.localgovernment.co.za/locals/view/241/Collins-Chabane>

Based on the information provided by Census South Africa 2011, Vhembe District Municipal Area has a population of 1294722 broken down in the following manner:

Table 3.1 Gender and percentages of people living in Vhembe District Municipal Area

S/N	Gender	Number of People	Percentages
1	Male	591496	45.69%
2	Female	703225	54.31

Source of information: https://en.m.wikipedia.org/wiki/Vhembe_District_Municipality

Table 3.2 First languages spoken in Vhembe District Municipal Area

S/N	Languages	Number of people	Percentages
1	Tshivenda	860116	67.16%
2	Xitsonga	317850	24.82%
3	Other	27248	2.13%
4	Sepedi	20498	1.60%
5	Afrikaans	16818	1.31%
6	English	13615	1.06%
7	Sesotho	13180	1.03%
8	IsiNdebele	3721	0.29
9	SiSwati	2588	0.20%
10	IsiZulu	1770	0.14%
11	Sign language	1279	0.10%
12	Setswana	1269	0.10%
13	IsiXhosa	738	0.06

(Source <https://census2011.adrianfrith.com/place/934>)

Table 3.3 Population groups, number and percentage of people in Vhembe District Municipal Area

S/N	Population group	Number of people	Percentages
1	Black African	860116	98.22%
2	White	317850	1.13%
3	Coloured	1833	0.14%
4	Indian/Asian	5267	0.41%
5	Other	1314	0.10%

Source: https://en.m.wikipedia.org/wiki/Vhembe_District_Municipality

3.5 POPULATION OF THE STUDY

In this study, the total population consists of 139 respondents due to the withdrawal of one subject due to some challenges beyond our control. With reference to this study, population of the study refers to the members of a group of people defined as respondents/participants to whom the research measurements refer by reported results, findings and inferences (Babbie & Mouton, 2008:174; Rubin & Babbie, 2010:139). The target population for this research, which the study wanted to describe therefore, included the PP's officials, municipal officials, civic organizations and private (tendering) companies' representatives found in Vhembe District Municipal Area during the time of data collection process.

3.6 SAMPLING

Sampling refers to the process of selecting a subset from a defined population with the purpose of representing the particular population (Neuman, 2011:241). It is worth stating that studies are not the same and therefore, the size of the sample may differ greatly depending on various aspects such as the size of the pool from which subjects are selected, the aim and objectives of the study and the resources needed to conduct the study. As for this study, it was not possible for all the members of Vhembe District Municipal Area to be included in the study. In order to make the study as representative as possible, the study sample was selected by using both probability and non-probability sampling methods.

3.6.1 Sampling methods

This study adopted a mixed method research and it has used both probability and non-probability sampling methods in a sequential explanatory manner whereby quantitative research preceded the qualitative research. These sampling methods are described below:

3.6.1.1 Probability sampling

In this study, probability methods were based on the principles of randomness and probability theory (Maree, 2007:172). There are four prominent categories of probability sampling methods, which are simple random, systematic random, stratified random and cluster sampling methods. This study preferred stratified sampling procedure for selecting the participants for the study in order to ensure a fair and equal representation of the variables. Stratification was based on the four local municipalities that constitute Vhembe District Municipal Area. Within each section, participants were selected through stratified random sampling. This was achieved by writing out the names in pieces of paper, which then was folded and put in a basket. After thorough reshuffling, the element was then selected, recorded and then put back in the basket until the required number of subjects was obtained. Stratified sampling was used because in probability sampling, every member of the population has a known probability of being included in the sample of the study (Alvi, 2016:12). The quantitative component was used in order to present the statistical data which was later described by the qualitative component. In this study, probability sampling was used for the following advantages: first, stratified sampling technique reduces the chance of systematic errors; second, probability-sampling technique produces a better representative sample and third, it minimizes the chance of bias.

3.6.1.2 Non-probability sampling

A non-probability sampling procedure was selected in order to identify subjects because there was no guarantee that the suitable number of participants would be easily identified. Non-probability sampling technique is a technique in which the odds of selecting particular individuals are not known and it does not provide equal opportunity for being selected to participate in the study. Since the population of this study was heterogeneous, purposive sampling which is one of the non-probability sampling was used. Purposive sampling is the most important type of non-probability sampling that permits for personal judgment when selecting subjects who would be informative regarding the data needed for the study (Strydom, 2011:231). In purposive sampling, the sample is approached having a prior purpose in mind and the criteria of the elements to be included in the study is predefined. Non-probability sampling was used for the following advantages: First, non-probability sampling techniques

need less effort. Second, these techniques need less time to finish up and they are not much costly.

3.6.1.3 Sample size

In heterogeneous populations, bigger samples are needed to represent the diversity of the population (Maree, 2007:178). Taking time and cost into consideration, the sample size of this study was set at 132 and it was distributed as in Table 3.4 below:

Table 3.4: The number of participants selected for the study

S/N	Number of Participants	Institution/Sector	Percentage
1	8 Public Protector's office officials	Public Protector – Musina office	6.1%
2	8 District Municipal Officials	Vhembe District Municipality	6.1%
3	24 Local Municipalities' Officials	4 Local Municipalities – Collins Chabane, Makhado, Musina and Thulamela	18.2%
4	40 Ward Councillors	4 Local Municipalities – Collins Chabane, Makhado, Musina and Mutale	30.3%
5	40 Civic Organizations' Representatives	Public Representative Sector	30.3%
6	12 private (tendering) companies' representatives	Private Sector	9.0%
	Total Number of Participants = 132		100%

In each institution, the researcher identified some people and contacted them through e-mails and telephone calls to assist with the distribution and collection of questionnaires from the study population. The research used 132 participants for questionnaire and 7 for interviews.

3.7 DATA COLLECTION AND INSTRUMENTS

The feasibility and success of any research depends on the data collection and instrument used to solicit and measure data on targeted variables in a systematic manner, which enables one to answer questions and evaluate the outcomes thereof (Davies & Hughes, 2014:104). In order to find clear knowledge and understanding on the phenomenon under investigation, this study employed sequential mixed methods data collection strategies to validate one form of

data with the other and/or to address different types of questions (Creswell & Clark 2007:118). In order to achieve the objectives of the study, both primary and secondary data were collected.

3.7.1 Primary data

Primary data refers to the data that is collected specifically to answer the question posed by the study (Hox and Boije, 2005:593). For the collection of primary data, an empirical investigation was undertaken to obtain data that would strengthen the validity and worthiness of the research using both quantitative and qualitative research methods. Empirical investigation in this regard refers to knowledge derived by the process of practical and scientific experience and inquiries and it involves a well-designed process of collecting and analysing data in a systematic, purposeful and responsible manner (Isaac & Michael, 1997:2). The study used two sources to obtain the primary data: the PP's Reports and Case Studies that informed the formulation of the research topic and the sampled subjects to answer the question posed by the study in order to get the complete understanding of the phenomenon under study.

3.7.2 Data collection procedure

During the first meeting, the researcher introduced himself to the participants who were also briefed about the purpose of the study and the procedures as well as what was expected of them, including the use of an audio recording during discussions. During the same meeting, participants who showed willingness to participate in the study were given the consent forms to sign (See Appendix 4), the contents in the consent forms were fully explained, and after signing, the consent forms were collected back. Appointment dates were arranged with individuals, discussions took place as arranged, and questionnaires and interviews were used to collect the primary data.

3.7.2.1 Questionnaire

According to Abawi (2013:3), a questionnaire is a data collection instrument consisting of a series of questions and other prompts for gathering information from respondents. Babbie (2007:246) defines a questionnaire as "a document containing statements, other types of items designed to obtain appropriate information for analysis, and it typically entails several statements that contain structured response categories". The statements thereof were examined for face validity, sequence clarity and bias. In this study, the participants (Section 3.5) were divided into 11 groups to complete the self-administered questionnaire in different dates as prior arranged. During the process, questionnaires were distributed to the participants who completed them, and then collected back after completion. The questionnaire comprised

of closed-ended statements which adopted the Likert scale format (*strongly agree, agree, not sure, disagree and strongly disagree*) (See Annexure 8). The study considered the following when designing the questionnaires: they were sufficiently short and attractive, minimise cost and effort to the respondents, promise feedback to all the participants in the study and follow-up phone calls and visits to the participants.

The study adopted and used questionnaire for the following reasons: First, it saves time. Second, it can cover the bigger sample at low cost. Third, the participants answer questions without being manipulated.

3.7.2.2 Interviews

This study also used Interviews as a data collection technique. An interview is a two-way conversation in which the interviewer asks the participant questions to collect data and to learn about the ideas, beliefs, views, opinions and behaviours of the participant (Maree, 2007:87). According to Boyce and Neale (2006:3), interviewing is a qualitative research technique that involves conducting intensive individual interviews with a small number of respondents to explore their perspectives on a particular idea, program, or situation. In this study, interviews consisted of collecting data by asking questions face-to-face with the respondents.

For the successful conduct of the interviews, semi-structured interview guide comprised of flexible open-ended questions developed according to the objectives of the study (Section 1.5) as a framework. Interview schedule provided the set of predetermined questions that needed to be asked as an appropriate instrument to guide and engage the subjects and to direct the narrative terrain (Holstein & Gubrium 1994 in Disoloane, 2012:140) (Annexure 9). The interview guide also left opportunity to probe in order ask the respondents to give more explanation to clarify question (if needed), and to ask the respondents to provide more explanation if the answer they provide is vague.

Before conducting the interviews, appointments were made and dates set in order to avoid inconveniences relating to failure to find the respondents, denied access and so on. On the dates set for the interviews, before engaging on the interviews, the following steps were undertaken: First, introduction to the respondents was made and the respondents introduced themselves too. Second, an overview of the research topic was given. Third, ground rules that guided the interviews were established. Fourth, uncertainties and concerns from the respondents were thoroughly dealt with and; lastly, the questions that guided the interviews were made available (Interview Schedule in Annexure 8).

After conducting the interviews, time was taken to thank each individual respondent who took part in the study and stressed how helpful their contribution had been and they were assured

of the high degree of privacy and anonymity regarding the information they provided. On average, the interview/discussion took 45 minutes with each respondent and this prolonged engagement with the respondents was aimed at identifying recurring themes and to give chance to ask probing questions to find clarity, perceptions, interpretations and hidden information required for the topic under investigation (DePoy & Gibson, 2008:108).

3.7.3 Secondary data

For this study, secondary data was collected from different sources. Secondary data is that data collected for a different purpose and reused for another research question (Hox & Boije, 2005:596). Documentary sources from which secondary data obtained include the catalogue of dissertations and theses of SA Universities, relevant published textbooks and other literature, the Constitution, 1996 and other relevant laws and statutes; policy documents, literature study, case studies, archival sources and internet sources.

3.8 DATA ANALYSIS AND INSTRUMENT

Every data collected needs processing to manage order, structure and meaning when seeking understanding, beliefs, perceptions and perspectives of the sampled subjects on the topic under investigation (Marshall & Rossman, 1999:150). For this study, data analysis process comprised of both quantitative and qualitative approaches. In order to get the best out of the two data analysis approaches, the study employed the sequential explanatory model strategy whereby the first phase of the study consisted of the analysis of quantitative data while the second phase of the study involved the analysis of qualitative data (Cameron, 2009:145). This study used sequential explanatory model as the mechanism for reducing and organizing data to produce findings (Burns & Grove, 2003:479).

3.8.1 Analysis of quantitative data

In this study, quantitative data solicited through questionnaires and the questionnaire items were coded in a manner that would generate data by structuring questionnaire items in close-ended manner. Quantitative data is the data that is expressed in numerical terms in which the numeric values could be large or small (Technical Assistance Center, 2006:33). The study involved several strategies to analyse quantitative data, which include summary and variance measures. This study adopted variance measures in order to produce a descriptive statistics by analysing one variable at a time (univariate) using Statistical Package for Social Sciences (SPSS). The data was cleaned before it was entered into the Microsoft Excel spreadsheet that was later copied into the SPSS. The analysed quantitative data were presented in tables, frequencies, percentages.

3.8.2 Analysis of qualitative data

Qualitative data analysis involved making large amount of data manageable. With reference to the qualitative data, the study used interviews to gather the most relevant data from the purposively selected subjects. For the analysis of qualitative data, the study used descriptive-explanatory content (thematic) analysis. A descriptive-explanatory based approach was appropriate for the study as its intention was to bring to the forefront the daily experiences and beliefs of the respondents as presented during the interview sessions. The study adopted Van Manen's (1990:85) six steps of data analysis and steps as follows:

Step 1

- The respondents' descriptions were repeatedly read until the researcher got familiar with what had been (meant) said.

Step 2

- In the second step, the data was re-read while identifying, marking meaningful and relevant statements or phrases which seemed to be of great value towards the phenomenon under investigation.

Step 3

- Every statement that was significant was noted and highlighted.

Step 4

- Clusters were created to organize different statements and similar themes of meanings identified were grouped together.

Step 5

- The researcher tried to find links between the themes and then described and summarized them.

Step 6

- Regularities and similar sets of ideas were grouped into sub-themes and compared in order to get the quality data needed for the successful and effective data analysis.

In this study, qualitative research method involved the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns (Creswell, 2003:190).

3.9 ETHICAL CONSIDERATIONS

Ethics is a good conduct and the moral obligation or responsibilities we have towards others (Vogt, Gardner & Haefelle, 2012:227). For this study, the following ethics served as guidelines when conducting this study:

3.9.1 Permission to conduct a study

All areas have the custodians and it would have been unethical to enter into their areas and started conducting a study without their permission. The researcher therefore obtained permission to conduct the study from authorities and the respondents in advance to avoid being denied access.

3.9.2 Informed consent

Informed consent refers to permission granted in full knowledge of the possible consequences that may occur during the course of the study (Davies & Hughes, 2014:43). Before starting with the data collection, a written consent was obtained from the participants after informing them about the purpose of the study and the role they had to play.

3.9.3 Confidentiality and Anonymity

Confidentiality means not to share information beyond agreed limit (Davies & Hughes, 2014: 44). As a result, the information that participants provided was treated with the highest degree of confidentiality and their identities were kept anonymous at all times.

3.9.4 Voluntary participation

De Vos, Strydom, Fouche' and Delport (2012:116) define voluntary participation as a process of taking part in an activity freely without being coerced and during the process, the participant had the right to decline or withdraw from participating in the study. In this study, participants took part in the study voluntarily and no one was unfairly pressurised (Maree, 2007:172).

3.9.5 Protection from harm

The fundamental ethical rule of social research is that it must cause no harm to participants (Babbie, 2007:27). It is upon this background that the researcher did everything possible to protect the participants and never in any means exposed them into any danger.

3.10 SUMMARY

The research methodology and design form the basis of reliability and validity of any scientific research, which is expected to make a meaningful contribution to the body of knowledge. The significance of this chapter was to highlight several methodological choices employed when

conducting the study. An elaboration with regard to the research design and methodology was discussed in order to justify the manner in which data collection was handled. Research design, sample for the study, procedure followed in collecting data, measuring instruments and statistical analysis followed in this study were discussed in this chapter. The results of the study will therefore, be presented, analysed and interpreted in the next chapter.

CHAPTER 4

DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1 INTRODUCTION

In the previous chapter, detailed explanation regarding the research design and methodology was given in order to justify the manner in which data was collected. This chapter focuses on reporting the respondents' perceptions and understanding of the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area. At first, this chapter describes challenges encountered during data collection process and proceeds to discussing the nature of the data collected for the study to enable the reader to understand how the data was set. The data collected through questionnaire is presented in tables, frequencies and percentages while the data collected through interviews is presented in a descriptive-explanatory form.

4.2 CHALLENGES ENCOUNTERED DURING DATA COLLECTION

The purpose of this section is to provide a brief description of the challenges encountered during the data collection process and are expounded hereunder:

4.2.1 Bottle-necks and bureaucratic processes

Busy schedules, bottlenecks, red tapes and bureaucratic processes made it very difficult to secure appointment with the PP (head of the institution) and therefore, might have affected the reliability and the validity of the data collected for the study.

4.2.2 Provision of dishonest and wrong responses

As Welman et al. (2009:73) stated, provision of dishonest and wrong responses occur because of participants being afraid of victimization due to the sensitivity of the topic under study. This occurs for a variety of reasons, which include reluctance to participate and concealing true feelings about the issue under study. In order to ensure the reliability and validity of the data, the participants' anonymity and safety became a priority and the information they provided was treated with the highest degree of confidentiality. This study employed a mixed research approach and it used both quantitative and qualitative methods to collect and to analyse data. Therefore, the study will present both quantitative and qualitative data in subsection 4.3 below.

4.3 PRESENTATION, ANALYSIS AND INTERPRETATION OF QUANTITATIVE DATA

This section focuses on the presentation, analysis and interpretation of data collected through questionnaire using SPSS. The data is presented in tables, frequencies and percentages followed by a synthesis of the findings. The questionnaire was divided into three sections (Section A, B and C) as described in 3.7.2.1 above.

4.3.1 Biographical details of the participants

This sub-section presents the biographical details of the study participants.

Table 4.1: Gender classification of the participants

	Respondents	Frequencies	Percentages
1	Male	75	56.8%
2	Female	57	42.2%
	TOTAL	132	100%

The table above shows the gender classification of the participants

As illustrated in Table 4.1 above, the participants consisted of 75 males (56.8%) and 57 females (42.2%).

From the statistical data provided in Table 4.1 above, it can be concluded that majority of the participants, in terms of gender, were males.

Table 4.2: Age of the participants

	Respondents	Frequencies	Percentage
1	Less than 20 years	1	0.8%
2	21 to 30 years	52	39.4%
3	31 to 40 years	42	31.8%
4	41 to 50 years	26	19.7
5	51 and above	11	8.3
	TOTAL	132	100%

Table 4.2 presents the age of the participants in frequencies and percentages

The information provided in Table 4.2 shows that 1 (0.8%) of the participants was less than 20 years old while, 52 (39.4%) were between 21 and 30 years old. On the other hand, 42 (31.8%) participants were above the age of 30 years but below 41 years while 37 (28%) were above 40 years old.

Based on the information presented in Table 4.2, it can be concluded that majority of the participants at 131 (99.2%) were above 20 years of age.

Table 4.3: Level of education of the participants

	Respondents	Frequencies	Percentage
1	Grade 12 and below	47	35.6%
2	Diploma/Degree	52	39.4%
3	Honours Degree	25	18.9%
4	Master's Degree	7	5.3%
5	Doctoral Degree	1	0.8%
	TOTAL	132	100%

In Table 4.3, the study presents the educational levels of the participants.

As illustrated in Table 4.3, 47 (35.6%) of the participants had passed grade 12, while 52 (39.4%) had completed a diploma/degree. Table 4.3 also shows that 25 (18.9%) of the participants have achieved the level of honours degree, 7 (5.3%) obtained masters' degrees while only 1 (0.8) had a doctoral degree. From Table 4.3, a conclusion can be drawn that the majority of the participants at 85 (64.4%) had achieved a tertiary education, and can read and write.

Table 4.4: Occupation/position of the participants

	Respondents	Frequencies	Percentage
1	Public Protector Officials	10	7.6%
2	Municipal employees	40	30.3%
3	Civic Organizations' representatives	40	30.3%
4	Private (tendering) company's representatives	8	6.1%
5	Ward Councillors	34	25.7
	TOTAL	132	100%

The table above illustrates the occupation/positions of the participants.

The responses in Table 4.4 indicate that 10 (7.6%) of the participants were employed as PP's officials, 40 (30.3%) were Municipal employees while the other 40 (30.3%) were Civic Organizations' representatives. The table also indicates that, 8 (6.1%) of the participants were private (tendering) companies representatives whereas 34 (25.7%) were ward councillors. A

conclusion can be drawn that all the participants are playing a certain role towards the public of Vhembe District Municipal Area.

Table 4.5: Work experience of the participants in years

	Respondents	Frequencies	Percentage
1	10 years and below	78	59.1%
2	11 to 20 years	31	23.5%
3	21 to 30 years	14	10.6%
4	31 to 40 years	7	5.3%
5	41 years and above	2	1.5%
	TOTAL	132	100%

The work experiences of the participants are shown in Table 4.5 above.

Table 4.5 shows that 78 (59.1%) of the participants have 10 years or less work experience, while 31 (23.5%) have between 11 to 20 years work experience while 31 (23.5%) have between 11 and 20 years work experience. The table also shows that 14 (10.6%) of the participants have between 21 years and 30 years work experience whereas 7 (5.3%) of the participants have between 31 and 40 years work experience while only 2 (1.5%) have 41 years and more work experience. Therefore, it can be concluded that 109 (82.6%) of the subjects who took part in this study have 20 years or less of work experience

SECTION A:

4.3.2 THE ROLE AND EFFECTIVENESS OF THE PUBLIC PROTECTOR'S OFFICE IN ENHANCING ETHICAL CONDUCT

Table 4.6: The PP was set up to protect the citizens from unfair treatment

	Respondents	Frequencies	Percentage
1	Strongly agree	84	63.6%
2	Agree	35	26.5%
3	Not sure	7	5.3%
4	Disagree	2	1.5%
5	Strongly disagree	4	3%
	TOTAL	132	100%

The information in the above table indicates the reason of the establishment of the PP's office.

Table 4.6 illustrates that 84 (63.6%) participants strongly agreed with the idea that the PP's office was set up to protect citizens from unfair treatment by public officials whereas 35 (26.5%) also agreed with the same statement. Table 4.6 also shows that 4 (3%) of the participants strongly disagreed with the view that the PP's office was set up to protect the citizens from unfair treatment while 2 (1.5%) disagreed with the same notion. The other 7 (5.3%) the participants were not sure if the PP's office was set up for the afore-said idea. It can be seen in Table 4.6 that the high number of participants at 119 (90.2%) agreed with the view that the PP's office was set up to protect citizens from unfair and unethical treatment by the public officials. This serves as an indication that a large portion of the populations knows the reason for the existence of the PP's office.

Table 4.7: Investigative powers of the PP's office regarding unethical practices

	Respondents	Frequencies	Percentage
1	Strongly agree	56	42.4%
2	Agree	63	47.7%
3	Not sure	10	7.6%
4	Disagree	3	2.3%
5	Strongly disagree	0	0
	TOTAL	132	100%

Investigative powers of the PP's office are shown in the table above.

According to Table 4.7, the statistical data shows that 63 (47.7%) of the participants agreed with the view that the PP's office has powers to investigate all unethical practices in all spheres of government while 3 (2.3%) of the participants from the sample disagreed with the same thought. The data also indicates that 10 (7.6%) of the participants were not sure whether the PP's office has powers to investigate all forms of unethical practices whereas 56 (42.4%) strongly agreed with the same notion. It is noticeable in Table 4.7 that the high percentage of participants at 90.1% who agreed with this statement is indicative that the PP's office has powers to investigate all unethical practices in all spheres of government.

Table 4.8: The PP serves as checks over public servants

	Respondents	Frequencies	Percentage
1	Strongly agree	47	35.6%
2	Agree	69	52.3%
3	Not sure	12	9.1%
4	Disagree	3	2.3%
5	Strongly disagree	1	0.7%
	TOTAL	132	100%

In terms of the above table, the PP serves as checks over public servants

Table 4.8 indicates that 47 (35.6%) of the participants strongly agreed that the PP's office serves as checks over all public servants as a measure to promote ethical conduct while only 1 (0.7%) participant strongly disagreed with the same view. The table further shows that 69 (52.3%) of the participants agreed with the view that the PP's office serves as checks over all public servants whereas 3 (2.3%) participants disagreed with such a view point. It is also shown that 12 (9.1%) of the participants were not sure of such a notion. Table 4.8 clearly shows that the high number of participants (116) who agreed with the statement that the PP's office serves as checks over all public servants as a measure to promote ethical conduct.

Table 4.9: The role of the PP's applies to all citizens

	Respondents	Frequencies	Percentage
1	Strongly agree	21	15.9%
2	Agree	88	66.7%
3	Not sure	14	10.6%
4	Disagree	8	6.1%
5	Strongly disagree	1	0.8%
	TOTAL	132	100%

The table shows that the role of the PP's office applies to all citizens.

The statistical data in Table 4.9 shows that 88 (66.6%) of the participants agreed with the viewpoint that the role of the PP's office applies to all citizens including the executive and the legislatures whereas 8 (6.1%) disagreed with the same viewpoint. In the same way, 21 (15.9%) of the participants strongly agreed while 1 (0.7%) strongly disagreed with the view that the role of the PP's office applies to all citizens. The table also indicates that 14 (10.6%) of the participants were not sure of such a point view. It can be seen from the data in Table

4.9 that the high number of participants who agreed with the view that the role of the PP's office applies to all citizens including the executive and the legislatures is indicative that all citizens are subject to the functions of the PP" office.

Table 4.10: All members of the public know about the role of the PP's office

	Respondents	Frequencies	Percentage
1	Strongly agree	10	7.6%
2	Agree	27	20.5%
3	Not sure	26	19.7%
4	Disagree	24	18.2%
5	Strongly disagree	45	34.0%
	TOTAL	132	100%

Table 4.10 indicates that all members of the public know about the role of the PP's office.

Table 4.10 shows that 45 (34%) of the participants strongly disagreed while the other 24 (18.2%) disagreed with the idea that all members of the public know about the role of the PP's office in enhancing ethical conduct. Similarly, 10 (7.6%) of the participants strongly agreed with the same view whereas the other 45 (34.0%) strongly disagreed. From the data in Table 4.10, it can be seen that majority of the participants at 69 (52.2%) disagreed with the statement that all members of the public know about the role of the PP's office.

Table 4.11: Empowerment of the PP's office to investigate all unethical conduct

	Respondents	Frequencies	Percentage
1	Strongly agree	64	48.5%
2	Agree	51	38.6%
3	Not sure	8	6.1%
4	Disagree	7	5.3%
5	Strongly disagree	2	1.5%
	TOTAL	132	100%

The table indicates that the PP's office is empowered to investigate all unethical conduct.

Table 4.11 illustrates that 64 (48.5%) of the participants strongly agreed while the other 51 (38.6%) also agreed with the statement that the PP's office is empowered to investigate all forms of unethical conduct in Vhembe District Municipal Area's public service. The table also

indicates that 2 (1.5%) of the participants strongly disagreed with the same statement while the other 7 (5.3%) also disagreed with the statement. Only 8 (6.1%) of the participants were not sure of the view that the PP's office is empowered to investigate all unethical conduct in Vhembe District Municipal Area's public service. It is observable from Table 4.11 that the majority of the participants at 115 (87%) agree that the PP's office is empowered to investigate all forms of unethical conduct in Vhembe District Municipal Area's public service.

Table 4.12: The impact of investigative powers of the PP's office

	Respondents	Frequencies	Percentage
1	Strongly agree	32	24.2%
2	Agree	77	58.3%
3	Not sure	12	9.1%
4	Disagree	10	7.6%
5	Strongly disagree	1	0.8%
	TOTAL	132	100%

In Table 4.12, the impact of the investigative powers of the PP's office is interrogated.

The statistical data in Table 4.12 shows that of all the participants, 32 (24.2%) strongly agreed that the investigative powers entrusted to the PP's office makes it very effective when performing its functions while the other 77 (58.3%) also agreed with the view. From the same table, 10 (7.6%) of the participants disagreed while 1 (0.8%) strongly disagreed with the same notion whereas 12 (9.1%) of the participants were not sure of the impact thereof. From Table 4.12, it can be noticed that the high percentage of the participants at 82.5% (109) agreed with the idea that the investigative powers entrusted to the PP's office makes it very effective.

Table 4.13 Public servants respect and obey the PP's constitutional duties

	Response	Frequencies	Percentage
1	Strongly agree	2	1.5%
2	Agree	7	5.3%
3	Not sure	8	6.1%
4	Disagree	51	38.6%
5	Strongly disagree	64	48.5%
	TOTAL	132	100%

The table above, presents responses regarding the respect afforded to the PP's office.

The data in Table 4.13 shows that 64 (48.5%) participants strongly disagreed while the other 51 (38.6%) disagreed with the view that all public servants respect and obey the constitutional duties of the PP's office. The table also indicates that 8 (6.1%) of the participants were not sure of such a statement. The other 2 (1.5%) participants strongly agreed with the idea that all public servants respect and obey the constitutional duties of the PP's office while the other 7 (5.3%) also agreed with the same statement. From Table 4.13, it can be concluded that the high percentage of the participants at 87.1% disagreed with the notion that all public servants respect the constitutional duties of the PP's office. This indicates that generally, public servants have no regard for the PP's office constitutional duties.

Table 4.14: The PP's office investigates all cases equally

	Response	Frequencies	Percentage
1	Strongly agree	19	14.4%
2	Agree	32	24.2%
3	Not sure	47	35.6%
4	Disagree	27	20.5%
5	Strongly disagree	7	5.3%
	TOTAL	132	100%

The information in the table above indicates that the PP's office investigates all cases equally.

Table 4.14 shows that 47 (35.6%) of the participants were not sure if the PP's office investigates all cases of unethical conduct equally irrespective of who transgresses against the legal framework. It is also shown in the same table that 19 (14.4%) participants strongly agreed while 27 (20.5%) disagreed with the thought that the PP's office investigates all unethical conduct cases equally. The data also indicates that 7 (5.3%) of the participants strongly disagreed while the other 32 (24.2%) agreed with the same view. It can be seen in Table 4.14 that majority of the participants at 51 (38.6%) agreed with the view that the PP's office investigates all unethical conduct cases equally irrespective of who transgresses against the legal framework. This is an indication that the PP's office is performing its functions without fear, favour or prejudice.

Table 4.15: PP's office can initiate its investigations unlike other Chapter 9 Institutions

	Response	Frequencies	Percentage
1	Strongly agree	22	16.7%
2	Agree	16	12.1%
3	Not sure	7	5.3%
4	Disagree	18	13.6%
5	Strongly disagree	69	52.3%
	TOTAL	132	100%

The above table examines if the PP's office can initiates its own investigations than others.

Data in Table 4.15 shows that 69 (52.3%) participants strongly disagreed with the idea that unlike other Chapter 9 Institutions, the PP's office is effective because it can initiate its own investigation while the other 22 (16.7%) strongly agreed with the same idea. The table also shows that 18 (13.6%) of the participants disagreed with the notion above whereas the other 16 (12.1%) agreed with it. The other 7 (5.3%) participants were not sure if the PP's office is effective or if it can initiate its own investigations. It can be noticed from Table 4.15 that majority of the participants at 87 (65.9%) disagreed with the perception that the PP's office is effective because it can start investigations.

SECTION B:

4.3.3 COOPERATION BETWEEN ORGANS OF STATE AND THE CHALLENGES AFFECTING THE PP'S OFFICE WHEN PERFORMING ITS FUNCTIONS

Table 4.16: Constitution, 1996 requires organs of state to cooperate with the PP's office

	Response	Frequencies	Percentage
1	Strongly agree	67	50.8%
2	Agree	57	43.1%
3	Not sure	7	5.3%
4	Disagree	0	0
5	Strongly disagree	1	0.8%
	TOTAL	132	100%

The table asks if the Constitution, 1996 requires organs of state to cooperate with the PP's office.

Table 4.16 shows that only 1 (0.8%) of the participants strongly disagreed with the view that the Constitution, 1996 provides that other state organs must cooperate and play a supporting role to the PP's office while the other 67 (50.8%) strongly agreed with the same view point. It is also indicated that 57 (43.1%) of the participants agreed with the viewpoint whereas 7 (5.3%) were not sure if the Constitution, 1996 provides that other state organs should cooperate and play a supporting role to the PP's office. Therefore, it conclusions can be drawn that majority of the participants (124) agreed with the view that the Constitution, 1996 provides that other state organs must cooperate and play a supporting role to the PP's office. This is an indication that all state organs are required to to support and cooperate with the PP's office.

Table 4.17: Cooperation between organs of state and the PP's office

	Response	Frequencies	Percentage
1	Strongly agree	14	10.6%
2	Agree	34	25.8%
3	Not sure	19	14.4%
4	Disagree	51	38.6%
5	Strongly disagree	14	10.6%
	TOTAL	132	100%

Table 4.17 presents responses on cooperation between organs of state and the PP's office.

Statistical data in Table 4.17 shows that 51 (38.6%) of the participants disagreed with the notion that all state organs cooperate with the PP's office to enhance ethical conduct whereas the other 14 (10.6%) from the same sample strongly disagreed with the notion. Similarly, 34 (25.8%) of the participants agreed with the view that all state organs cooperate with the PP's office to enhance ethical conduct while the other 14 (10.6%) strongly agreed with the same idea. The same table, it is indicates that 19 (14.4%) of the participants were not sure of such an idea. It can be pointed out from Table 4.17 that the high number of participants at 65 (49.2%) did not agree with the view that all state organs cooperate with the PP's office to enhance ethical conduct. This may mean that state organs do not show full cooperation with the PP's office.

Table 4.18: Local state departments work with the PP's office

	Response	Frequencies	Percentage
1	Strongly agree	14	10.6%
2	Agree	15	11.4%
3	Not sure	25	18.9%
4	Disagree	58	43.9%
5	Strongly disagree	20	15.2%
	TOTAL	132	100%

The information on whether local state departments work with the PP's office.

The data in Table 4.18 indicates that 14 (10.6%) participants strongly agreed and the other 15 (11.4%) agreed with the notion that local state departments are willing to work with the PP's office during investigation. The table also shows that 25 (18.9%) participants were not sure if local state departments are willing to work with the PP's office during investigation. From the same table, it is indicated that 58 (43.9%) participants disagreed and likewise 20 (15.2%) strongly disagreed with the notion that local state departments are willing to work with the PP's office during investigation. It is clear from Table 4.18 that the high percentage of participants (59.1%) disagreed with the point of view that local state departments support and work with the PP's office during investigation. This is an indication that local government department are not always willing to work with the PP's office.

Table 4.19: Local departments compel officials to provide information to the PP's office

	Response	Frequencies	Percentage
1	Strongly agree	17	12.9%
2	Agree	19	14.4%
3	Not sure	12	9.1%
4	Disagree	54	40.9%
5	Strongly disagree	30	22.7%
	TOTAL	132	100%

The table above presents the statistical data on whether local departments compel officials to provide information to the PP's office.

Table 4.19 indicates that 12 (9.1%) participants were not sure if the local departments compel public officials to provide all information to the PP's office when conducting investigations. It is also indicates that 17 (12.9%) participants strongly agreed while the other 19 (14.4%)

agreed with the viewpoint that local departments compel officials to provide all information to the PP's office when conducting investigations. Likewise, 30 (22.7%) of the participants strongly disagreed whereas the other 54 (40.9%) disagreed with the same viewpoint. From Table 4.19, it can be clearly seen that 84 (63.8%) disagreed with the notion that local departments compel officials to provide all information to the PP's office when conducting investigations.

Table 4.20: Public officials regard the PP's office as a source of ethical behaviours

	Response	Frequencies	Percentage
1	Strongly agree	22	16.7%
2	Agree	18	13.6%
3	Not sure	11	8.3%
4	Disagree	34	25.8%
5	Strongly disagree	47	35.6%
	TOTAL	132	100%

Table 4.20 enquires if public officials regard the PP's office as a source of ethical behaviours.

The information in Table 4.20 shows that 47 (35.6%) participants strongly disagreed whereas the other 22 (16.7%) strongly agreed with the view that public officials always regard the PP's office as the source of ethical behaviours within their departments. It is also indicated that 11 (8.3%) of the participants were not sure of such a view. The table further indicates that 34 (25.8%) of the participants disagreed whereas the other 18 (13.6%) agreed with the same view. Therefore, it is vivid from Table 4.20 that the high percentage of the participants at 61.4% disagreed with the notion that public officials always regard the PP's office as the source of ethical behaviours within their departments.

Table 4.21: The PP's office has enough staff to fulfil its duties

	Response	Frequencies	Percentage
1	Strongly agree	28	21.2%
2	Agree	15	11.4%
3	Not sure	23	17.4%
4	Disagree	36	27.3%
5	Strongly disagree	30	22.7%
	TOTAL	132	100%

The table above enquires if the PP's office has enough staff need to fulfil its duties.

The numerical data in Table 4.21 indicates that 36 (27.3%) participants disagreed with a view that the PP's office has enough staff needed to function effectively and efficiently whereas the other 30 (22.7%) strongly disagreed with the view. It is also shown that 15 (11.4%) of the participants agreed while 28 (21.2%) strongly agreed with the point of view that the PP's office has enough staff needed to function effectively and efficiently. The table further indicates that 23 (17.4%) of the participants were not sure whether such a view is true or not. It is noticeable from Table 4.21 that the high number of participants at 66 (50%) disagreed with the view that the PP's office has enough staff needed to function effectively and efficiently. This shows that the PP's office needs enough resources at all times to enable it to function effectively.

Table 4.22: Provision of resources by the treasury

	Response	Frequencies	Percentage
1	Strongly agree	14	10.6%
2	Agree	28	21.2%
3	Not sure	15	11.4%
4	Disagree	66	50%
5	Strongly disagree	9	6.8%
	TOTAL	132	100%

Table 4.22 examines if the PP's office is provided with enough resources by the treasury.

Responses in Table 4.22 shows that 66 (50%) participants disagreed with the notion that the treasury always provides the PP's office with resources it needs to fulfil its mandate while the other 28 (21.2%) agreed with the same view. It also indicates that that 15 (11.4%) of the participants were not sure of such a view. The table further indicates that 9 (6.8%) participants

strongly disagreed and the other 14 (10.6%) agreed with the point of view that treasury provides the PP's office with resources needed to fulfil its mandate. It therefore, can be concluded that the majority of participants disagreed with the view that the treasury provides the resources needed for the PP's office to fulfil its mandate.

Table 4.23: Government departments support the PP's office

	Response	Frequencies	Percentage
1	Strongly agree	10	7.6%
2	Agree	20	15.2%
3	Not sure	27	20.5%
4	Disagree	38	28.7%
5	Strongly disagree	37	28.0%
	TOTAL	132	100%

The table above presents data on whether government department support the PP's office.

Table 4.23 shows that 10 (7.6%) of the participants strongly agreed whereas 37 (28.0%) strongly disagreed with the notion that government departments are always willing to give support to the PP's office during investigations. Likewise, 20 (15.2%) of the participants agreed while 38 (28.7%) disagreed with the same notion. The table also shows that 27 (20.5%) of the participants were not sure if government departments always give support to the PP's office during investigations. The statistical data in Table 4.23 shows that majority of the participants at 75 (56.7%) disagreed with the view that government department are always willing to give support to the PP's office during investigations. This serves as an indicator that government departments do not support the PP's office in enhancing ethical conduct.

Table 4.24: Parliament equally holds all implicated people in PP's report to account

	Response	Frequencies	Percentage
1	Strongly agree	14	10.6%
2	Agree	17	12.9%
3	Not sure	8	6.1%
4	Disagree	77	58.3%
5	Strongly disagree	16	12.1%
	TOTAL	132	100%

The information on whether parliament equally holds all implicated people to account is provided in the table above.

Table 4.24 indicates that 77 (58.3%) of the participants disagreed while 16 (12.1%) strongly disagreed with the idea that the parliament holds all people implicated in the PP's report to account equally. It is also indicated that 17 (12.9%) of the participants agreed while the other 14 (10.6%) strongly agreed with the viewpoint that parliament holds all people implicated in the PP's report to account equally whereas the other 8 (6.1%) were not sure of such a notion. It can therefore, also be concluded that majority of the participants (93) disagreed with the statement that parliament holds all people implicated in PP's report to account equally. This may be interpreted as denoting that the parliament might be biased at some point.

Table 4.25: Public officials view the PP's remedial actions as binding

	Response	Frequencies	Percentage
1	Strongly agree	18	13.6%
2	Agree	30	22.7%
3	Not sure	7	5.3%
4	Disagree	31	23.5%
5	Strongly disagree	46	34.9%
	TOTAL	132	100%

The above examines if public officials view the PP's remedial actions as binding

Numerical data in Table 4.25 shows that 30 (22.7%) participants agreed with the statement that PP's remedial actions are always welcomed as binding by all public officials whereas 31 (23.5%) disagreed. The table also indicates that 18 (13.6%) participants strongly agreed with the same view while 46 (34.9%) of them strongly disagreed and 7 (5.3%) expressed that they were not sure of such a notion. From Table 4.25, a conclusion can be drawn that majority at 77 (58.4%) disagreed with the notion that PP's remedial actions are always welcomed as binding by all.

SECTION C:

4.3.4 RECOMMENDATIONS ABOUT THE IMPROVEMENT THAT CAN HELP THE PP'S OFFICE TO ENHANCE ETHICAL CONDUCT IN VHEMBE DISTRICT MUNICIPAL AREA

Table 4.26: Proper pieces of legislation can help improve the PP's office

	Response	Frequencies	Percentage
1	Strongly agree	76	57.6%
2	Agree	49	37.1%
3	Not sure	6	4.5%
4	Disagree	1	0.8%
5	Strongly disagree	0	0
	TOTAL	132	100%

The information in the table above examines if proper pieces of legislation can help improve PP's office performance.

Table 4.26 indicates that 76 (57.6%) participants strongly agreed with the statement which assumes that proper pieces of legislation can help the PP's office to effectively enhance ethical conduct in Vhembe District Municipal Area while the other 49 (37.1%) agreed with the same statement. Only 1 (0.8%) participant disagreed with the same view which suggests that proper pieces of legislation can help the PP's office to effectively enhance ethical conduct while 6 (4.5%) of the participants were not sure if that can help in anyway. Conclusion can be drawn that putting proper pieces of legislation can help in improving the effectiveness of the PP's office when performing its functions. This is an indication that proper and relevant pieces of legislation should be promulgated as a measure to improve the functionality of the office.

Table 4.27: Non-interference into the PP’s office functioning

	Response	Frequencies	Percentage
1	Strongly agree	45	34.1%
2	Agree	71	53.8%
3	Not sure	16	12.1%
4	Disagree	0	0
5	Strongly disagree	0	0
	TOTAL	132	100%

Table 4.27 examines if Constitution, 1996 prohibits any form of interference to the PP’s office.

Table 4.27 indicates that 71 (53.8%) of the participants agreed with the viewpoint that in terms of Section 181 (4) of the Constitution, 1996, no person or organ of state may interfere with the functioning of the PP’s office when fulfilling its mandate while the other 45 (34.1%) of the participants strongly agreed with the same statement. The other 16 (12.1%) participants were not sure of such a statement. Therefore, conclusion can be drawn that there is a provision in terms of Section 181 (4) that no one should interfere with the functioning of the PP’s office when fulfilling its mandate.

Table 4.28: Definition of roles of the PP’s office and other Chapter 9 Institutions

	Response	Frequencies	Percentage
1	Strongly agree	50	37.9%
2	Agree	68	51.5%
3	Not sure	11	8.3%
4	Disagree	3	2.3%
5	Strongly disagree	0	0
	TOTAL	132	100%

This table (4.28) interrogates if clear definition of the PP’s office and other Chapter 9 Institutions can help improve the PP’s office performance.

Table 4.28 above illustrates that 50 (37.9%) participants strongly agreed with the notion that clear definition of the roles of Chapter 9 Institutions can help improve the PP’s office to enhance ethical conduct while 68 (51.5%) agree with the same view. From the same sample, 11 (8.3%) participants were not sure of the notion whereas only 3 (2.3%) participants disagreed with such a notion. Based on the statistical data in Table 4.28, conclusion can be

drawn that clear definition of roles of Chapter 9 Institutions can help to improve the effectiveness of the PP's office to enhance ethical conduct.

Table 4.29: PP's office powers to investigate and to charge the perpetrators

	Response	Frequencies	Percentage
1	Strongly agree	51	38.6%
2	Agree	70	53.0%
3	Not sure	8	6.1%
4	Disagree	0	0
5	Strongly disagree	3	2.3%
	TOTAL	132	100%

Table 4.29 asks if providing the PP's office with powers to investigate and to charge perpetrators can help improve the PP's office.

The numerical data provided in Table 4.29 shows that 3 (2.3%) participants strongly disagreed with the viewpoint that giving the PP's office powers to charge the perpetrators is another mechanism that can be used to improve the office to enhance ethical conduct whereas the other 51 (38.6%) strongly agreed with the viewpoint . It is further indicated that 70 (53.0%) participants agreed with the notion that giving the PP's office powers to charge the perpetrators is another mechanism that can be used to improve the previously mentioned office to enhance ethical conduct whereas the other 8 (6.1%) were not sure if that can help in anyway. From the data in Table 4.29, it can be concluded that majority of the participants agreed that giving the PP's office powers to charge perpetrators could help in improving the functionality of the previously mentioned office to enhance ethical conduct.

Table 4.30: The PP's office should have its own department and budget

	Response	Frequencies	Percentage
1	Strongly agree	57	43.2%
2	Agree	51	38.6%
3	Not sure	16	12.1%
4	Disagree	6	4.6%
5	Strongly disagree	2	1.5%
	TOTAL	132	100%

Table 4.30 presents the responses on whether the PP's office should have its department.

The numerical data shows that 57 (43.2%) participants strongly agreed with the point of view that the PP's office should have its own department and budget separate from the Justice and Constitutional Development whereas the other 2 (1.5%) strongly disagreed with the same idea. The table further indicates that 51 (38.6%) of the participants agreed with the very same statement while the other 6 (4.6%) disagreed with such a notion. From the same table, 16 (12.1%) participants were not sure of such an idea. Based on the data in Table 4.30, it can also be concluded that majority of the participants (108) agreed with the view that the PP's office should have its own department and budget separate from the Justice and Constitutional Development. This may be a sign that the PP's office cannot operate to its full potential due to bureaucratic controls and that in a normal situation, this may deprive the office of its constitutional independence.

The previous section presented, analysed and interpreted quantitative data collected through questionnaire. Quantitative data was presented following the sequence of the research objectives and analysed using SPSS. The next section will present, analyse and interpret qualitative data collected through interviews.

4.4 PRESENTATION, ANALYSIS AND INTERPRETATION OF QUALITATIVE DATA

4.4.1 INTRODUCTION

This section presents, analyses and interprets qualitative data collected through interviews from the PP's officials, Mayoral officials and other Vhembe District Municipal officials, representatives of the Civic Organizations and private (tendering) companies who are regarded as key informants. In this section, the term respondent is used to refer to the subjects instead of participants. The table below shows the key informants for the qualitative study.

Table 4.31 below illustrates the key informants (respondents):

S/N	KEY INFORMANTS	AS RESPONDENTS
1	Public Protector's office representative	Respondent 1
2	Municipal Finance Manager's office representatives	Respondent 2
3	Private (tendering) companies' representatives	Respondent 3
4	Office of the Municipal Manager's representatives	Respondent 4
5	Civic Organizations' representatives	Respondent 5

6	Procurement Office representatives	Respondent 6
7	Ward Councillors' representatives	Respondent 7

4.4.2 Question 1: What is the role of the Public Protector's office in enhancing ethical conduct in Vhembe District Municipal Area?

Regarding the above question posed by the study in Annexure 8, the following response was elicited from Respondent1:

...to protect all against administrative injustices, improve service delivery and promote good governance in state affairs at any level of government. ...pursues proper conduct and Batho Pele principles in state affairs and seeks to promote the principle of accountability, integrity and responsiveness. This is done through investigating any conduct in state affairs or in 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 take appropriate remedial action as it is empowered by legislation.

Regarding the follow-up 1.2 in Annexure 8 on whether the powers vested on the PP's office are sufficient, the respondent said:

...the powers are sufficient; firstly, the powers are derived from the Constitution of the Republic of South Africa, 1996, that is the supreme law of the Republic. Secondly, the Public Protector's office has also additional powers and functions prescribed by national legislation (Public Protector Act, 1994 as amended). In terms of Section 7 of the Public Protector Act, 1994 (Act No. 23 of 1994), the Public Protector has the power to investigate on his or her own initiative or on receipt of a complaint.

(The PP's office)

The view of the respondent concurs with the literature review as revealed in sections 2.8.3 and 2.9.1 that the PP's office has a role to protect citizens from unfair treatment in all spheres of government. It also indicates that the PP's office has sufficient constitutional and legislative powers to function effectively. It can be concluded that the role of the PP's office is to protect citizens from unfair treatment as it has sufficient legislative powers to investigate all alleged or suspected unethical conduct in all spheres of government.

This study has also roped in the Municipal Finance Office when collecting qualitative data. On the same question, Respondent 2 responded as follows:

...the Public Protector's office has a responsibility to ensure that the Municipal Finance Management and the Systems Acts are adhered to and complied with by all public officials at all times. This is because the Public Protector's office is empowered to investigate any suspected or alleged cases of unethical conduct in all spheres of government, report on the matter and take appropriate remedial action as per the prescription of Section 182 (1) (a-c) of the Constitution, 1996.

When responding to the probing question 1.1 in Annexure 8, Respondent 2 said:

...the office lacks constitutional and legislative powers to enforce compliance with its remedial actions. ...this was proved in the old Venda Pension Fund in which the Public Protector's office ordered the National Treasury to pay back the pensions to their respective beneficiaries but until today, no money has been paid back since 2016.

(Municipal Finance office)

The response above shows that the PP's office has a responsibility to ensure that the Municipal Finance Management and the Systems Acts are adhered to and complied with, and it is empowered to investigate any suspected cases of unethical conduct. This view concurs with sections 2.8.3; 2.9.1; 2.10.1, 2.11.4 and 2.11.5; and therefore, it can be concluded that the PP's office has sufficient investigative powers but lacks enforceability of its remedial action.

Concerning Question 1 in Annexure 8 about the role of the PP's office in enhancing ethical conduct, respondent 3 responded as follows:

...the Public Protector's office serves as a watchdog to ensure that citizens are protected and treated with utmost respect and care, thereby creating a sense of trust in government by investigating all cases of alleged or suspected unethical conduct taking place in public service. ...although the Public Protector's office has powers to investigate all forms of unethical conduct, Vhembe District Municipality is failing to supply water to its masses and no investigation has been conducted to identify the cause of the failure.

When responding to the probing Question 1.1 in Annexure 8 regarding the constitutional and legislative powers, the respondent said:

... The legislative and constitutional powers that the Public Protector's office has been accorded by the constitutional provisions are sufficient for the office to perform its constitutional functions effectively. The Constitutional Court of South Africa's judgment on Nkandla ruled that the Public Protector's remedial actions are binding. The Constitutional Court advised that the remedial actions could not be undermined or treated with contempt...

(Private company)

The respondent is of the view that the PP's office functions as a watchdog to ensure that citizens are always protected and treated with respect. This should be done through investigating all cases of alleged or suspected unethical conduct taking place in all spheres of government. From the above view, it can be concluded that the PP's office has a mandate to ensure that citizens are protected from all forms of ill-treatment (see section 2.8.3) and has enough powers to fulfil its mandate although sometimes the powers are undermined or misunderstood (see sections 2.10 and 2.11.5).

Responding to Question 1 (in Annexure 8) which is based on the role of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area, the respondent argued:

...the Public Protector's office has a mandate to investigate cases of maladministration, mismanagement and misappropriation of state resources and to keep the government departments at checks. The office also plays a pivotal role in protecting the Republic's constitutional democracy by ensuring that citizens are at all times protected from unfair treatment such as being denied basic services because of political affiliation.

Answering the follow-up Question 1.1, (contained in Annexure 8) which interrogates the sufficiency of the constitutional and legislative powers, the respondent stated that:

...the constitutional and legislative powers given to the Public Protector's office are insufficient constitutional and legislative powers because the office cannot enforce the implementation of its recommendations...

(Municipal Manager's office)

The respondent's view based on the above responses is that the PP's office has a mandate to investigate cases of maladministration and misappropriation of state resources and to keep the government at checks. This view concurs with what the literature puts forth in sections 2.8.1; 2.8.3 and 2.9.1 that the office of the Public Protector has sufficient powers to investigate the previously mentioned cases, but lacks powers to enforce compliance (see sections 2.11.4

and 2.11.5). Based on the respondent's view above, it can be concluded that although the PP's office lacks powers to enforce compliance with its remedial actions, it has a mandate to investigate cases of maladministration and misappropriation of state resources and to enhance ethical conduct.

Still on Question 1 (Annexure 8) regarding the role of the PP's office in enhancing ethical conduct in Vhembe Municipal Area, the respondent responded:

...the Public Protector's office as an institution was established to protect and to defend people from unfair treatment, human rights violation and administrative flaws by public servants. ... in terms of Section 182 (1) of the Constitution of the Republic of South Africa, 1996 the Public Protector's office is empowered to investigate all forms of unethical conduct relating to corruption, maladministration, financial irregularities and other improprieties taking place within the public sector...

With regard to probing Question 1.1 in Annexure 8 which is enquiring about the sufficiency of constitutional and legislative powers provided for the PP's office to enhance ethical conduct, the respondent said:

...considering the non-compliance challenges faced by the Public Protector's office, it can be convincingly argued that the constitutional and legislative powers vested on the Public Protector's office are insufficient since the office cannot enforce its recommendations. ...the Nkandla case is one in point in which it was difficult for the remedial actions to be implemented.

(Civic Organization)

The respondent is of the view that the PP's office was established to protect and to defend the people from unfair treatment, human rights violation and administrative flaws by investigating unethical conduct in all spheres of government, but lacks legislative powers to enforce its remedial actions. This view supports what sections 2.8.1 and 2.8.3 and 2.11.4 and 2.11.5 of the literature revealed. It can therefore, be concluded that the PP's office has a significant role to play in protecting and defending the people from unfair treatment, human rights violation and administrative flaws by investigating unethical conduct in all spheres of government and it should be given legislative powers to enforce compliance with its remedial actions.

When answering Question 1 in Annexure 8 which is about the role of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area, respondent 6 said:

...the role of the Public Protector's office is to ensure that government officials are ethical and to see to it that it is corruption-free by investigating all unethical conduct in all spheres of government... If unethical conducts are identified, the Public Protector's office should investigate such activities as prescribed by Section 182 of the Constitution of the Republic of South Africa, 1996.

Responding to the probing Question 1.1 in Annexure 8 that interrogates the sufficiency of the constitutional and legislative powers provided for the PP's office to enhance ethical conduct, respondent 6 answered in as follows:

...the legislative and constitutional powers given to the Public Protector's office are found lacking in that, although the recommendations are said to be binding, they are being undermined by public officials knowing that the Public Protector's office has no power to enforce its recommendations.

(Procurement office)

The respondent's view above is that the role of the PP's office is to ensure that government officials behave ethically and to see to it that there is no corruption by investigating unethical conduct in all spheres of government. This view is in agreement with what the literature study indicated in sections 2.8.1, 2.8.3 and 2.11.5. Therefore, it can also be concluded that the role of the PP's office is to ensure that government officials are ethical, there is no corruption, and if corruption is alleged, the office should intervene by investigating such conduct but it does not have powers to enforce its remedial actions.

Regarding Question 1 in Annexure 8, "What is the role of the PP's office in enhancing ethical conduct in Vhembe District municipal Area?" Respondent 6 answered:

...the Public Protector's office was created to investigate, on its own initiative or on receipt of a complaint, any alleged maladministration in connection with the affairs of government at any level. ...to ensure that administrative processes are run in accordance to the prescription of the Municipal Finance Management and Municipal Systems Acts by investigating whenever there is an alleged unethical conduct...

Question 1.1 in Annexure 8 enquires about the constitutional and legislative powers provided for the PP's office and respondent 6 responded as follows:

...the powers vested to the Public Protector's office have never been sufficient because the office has powers to investigate cases of unethical conduct, but has none to enforce its recommendations. ...the investigations are conducted, findings show that there were irregular and unethical conduct but few compliance and punishments were applied to serve as deterrent to other perpetrators.

(Ward councillor)

The respondent's view in this regard is in agreement with sections 2.8.1 and 2.11.5 of the literature study, which indicate that the PP's office was established to investigate any alleged maladministration in all affairs of government at any level. It was also noted that the office does not have sufficient constitutional and legislative powers to enforce compliance with its remedial actions. From the responses above, it can be concluded that the PP's office was created to investigate on its own initiative or on receipt of a complaint of any alleged maladministration in all affairs of government. The office therefore, is faced with a challenge because it lacks sufficient constitutional and legislative powers to enforce compliance with its remedial actions.

Conclusion

Based on the responses above, respondents 1, 3, 4 and 5 are of the view that the role of the PP's office is to protect and defend citizens/people from unfair treatment by investigating unethical conduct in all spheres of government. Respondents 2, 4, 5, 6 and 7 claim that the constitutional and legislative powers vested on the PP's office are not sufficient to enable such an office to undertake its functions effectively and efficiently. Therefore, it can be concluded that the role of the PP's office is to protect all the citizens/people from unethical conduct and unfair treatment in all spheres of government by investigating all alleged unethical conduct, but the challenge is that it lacks constitutional and legislative powers and credibility to enforce compliance with its remedial actions.

4.4.3 Question 2: How effective is the Public Protector's office in enhancing ethical conduct in Vhembe District Municipal Area? (See Annexure 8)

When answering Question 2 above (Annexure 8), the respondent said:

...the Public Protector's office has been effective since its establishment although it suffers some setbacks. ...the Public Protector's office is very

effective in performing its constitutional duties as witnessed through the restored lives of people, human dignity and public trust ... sometimes the public judge expect the Public Protector's office to act on every case, even those that do not fall within its jurisdiction, which is not possible. All matters reported to the office are therefore, assessed and if they fall within its jurisdiction, then the office acts upon the matters. To prove its effectiveness, the office has investigated 40 000 cases of unethical conduct in 2016/2017.

Regarding the follow-up Question 2.1 in Annexure 8 about the evidence support respondent 1 indicated that:

The PP's office has proved beyond doubt that it is effective by investigating serious cases affecting 10 municipalities, 28 contracts and in which a politician (Mr. Malema) was implicated, the Ratanang Family Trust and the On Point Engineering. These cases are found in the Public Protector's report of 2010 (Report on investigation into complaints relating to the improper awarding of tenders by municipalities in the Limpopo and North West) and unfinished housing project at Ha-Makumeke as well as the much talked about Nkandla upgrade project debacle among the many.

(PP's office)

The view of the respondent is that the PP's office is very effective when performing its duties and this has been proved by the high number of cases (40 000) which the office investigated and concluded. This is consistent with what the literature study has shown in section 2.8.1. Based on the view of the respondent above, conclusion can be drawn that the PP's office is very effective when fulfilling its constitutional mandate and the high number of cases that were taken, investigated and concluded by the office in 2016/2017 bear witness to such effectiveness.

Concerning Question 2 in Annexure 8, which enquires about the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area, the respondent said:

...the Public Protector's office is partially effective as there are many cases in Vhembe District Municipal Area which have not yet been investigated, and those investigated have not been holding any to account. In some cases, the procurement and supply chain policies are intentionally violated and tenders awarded to friends and relatives who had no traceable service providers' records.

On the follow-up Question 2.1 in Annexure 8, the respondent provided the following as evidence supporting the idea in question 2 above as follows:

...the Public Protector's office has investigated several cases in Vhembe District Municipal Area and the Ratanang Family Trust Fund and the irregular awarding of tenders by On-Point Engineering are the cases in point. On the contrary, the Public Protector's office has failed dismally to redress the administrative flaws that took place during the construction of the Thohoyandou Bus/Taxi Rank, which has ever since been completed but not used because of a poor workmanship. Similarly, the office has not yet investigated the case of the disappearance of funds allocated to construct the Dididi-Phaphazela road.

(Municipal Finance office)

The viewpoint of the respondent is that the PP's office is not as effective as expected because it is failing to achieve its mandate. These include investigating the poor workmanship of the Thohoyandou Bus/Taxi Rank and the disappearance of the funds allocated to construct the road from Phangami Mall to Dididi and Phaphazela villages and other cases that the office investigated. Their remedial actions were not implemented due to lack of enforcement powers. This view concurs with section 2.11.5 of the literature study that indicates that the PP's office lacks powers to enforce compliance with its remedial actions. Therefore, conclusion can be drawn that the PP's office is not effective enough to fulfil its mandate due to lack of powers to enforce compliance with its remedial actions.

Based on Question 2 in Annexure 8 that enquires about the effectiveness of the PP's office in enhancing ethical conduct, the respondent answered in as follows:

...assessing the effectiveness of the Public Protector's office can be very confusing because even though the office conducts many investigations, only a few people comply with its remedial actions. ...then, considering the high number of cases investigated with few implementation of the remedial actions, one can argue that the investigations conducted are a mere formality and a waste of state resources. This serves as a sign that the Public Protector's office is not effective enough in enhancing ethical conduct in Vhembe District Municipal Area because the perpetrators are not held accountable for their unethical conduct activities.

When responding to the probing Question 2.1 in Annexure 8 about the evidence (examples) supporting the answer in 2 above, the respondent said:

...it is true that the Public Protector's office has investigating powers but lacks powers to enforce its remedial action. The Treasury has ignored the call of the Public Protector's to pay back the money of Venda Pension Fund, to its respective owners. To date, the money has not been paid yet. This shows that the Public Protector's office is not effective.

(Private company)

The literature study has shown in section 2.11.5 that the PP's office only has the powers to investigate cases of unethical conduct but lacks the powers to enforce its remedial action. This is the same view that the respondent shares. The PP's office is not effective enough in enhancing ethical conduct in Vhembe District Municipal Area because the perpetrators are not held accountable for their unethical conduct activities due to lack of powers to enforce its recommendations. Based on the views above, it can be concluded that the PP's office is not effective enough to enhance ethical conduct in Vhembe District Municipal Area because it does not have powers to enforce its recommendations.

When answering Question 2 in Annexure 8, which deals on the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area, the respondent responded as follows:

...the Public Protector's office is partially effective when enhancing ethical conduct in Vhembe District Municipal Area. ...this is because many people seem not to know about the office and its functions. ...as a result, they cannot report cases of unethical conduct and this renders the office ineffective. ...sometimes, instead of the office to go to collect information from the whistle-blower, the office wants the poor whistle-blower to travel to the office. I personally reported the case of corruption with the office and forwarded electronic mail documents several times but until now, I do not know how far the office has gone with my case.

In Annexure 8, Question 2.1, the respondent gave the following as evidence to support the view in Question 2 above:

...in the Public Protector's Report 18 of 2011/12, the Public Protector's office found that government had mishandled the privatizations of the Vhembe Pension Fund but its remedial actions have never been implemented. ...in the other case, a R700 million a year feeding scheme tender was investigated in Vhembe District Municipal Area but no one was punished for irregular awarding of such a tender. These cases prove that the PP's office

is not effective because it investigates cases effectively but lacks powers to enforce compliance with its recommendations...

(Municipal Manager's office)

The view of the respondent in this regard is that the PP's office is not effective enough to enhance ethical conduct because it concentrates on the reported cases while ignoring those who do not know about the office or the functions thereof. The office does not reach out to those who want to report cases for investigation as the respondent indicated that he reported a case for investigation, but nothing was done and the remedial actions of other investigations have not been enforced. Therefore, it can be concluded that the PP's office is not effective as it is expected in terms of Section 182 of the Constitution, 1996 due to lack of enforcement powers and insufficient provision of resources needed for any institution to function properly. This concurs with section 2.11.5 of the literature review, which indicates that the PP's office lacks powers to enforce its remedial action.

When answering Question 2 in Annexure 8 about the effectiveness of the PP's office in enhancing ethical conduct, the respondent said:

...the Public Protector's office is not effective to enhance ethical conduct in Vhembe District Municipal Area because there are many complaints lodged with the office by local citizens, which have not been investigated. Some of the cases that the Public Protector's office investigated have not been implemented as per the recommendations of the office because the office does not have constitutional and legislative powers to enforce its remedial actions.

Responding to Question 2.1 in Annexure 8, the respondent provided the following as evidence supporting the response in Question 2 above:

...there are allegations of many cases which are not resolved (Venda Pension Fund) while some have not even been investigated (Thohoyandou Bus/Taxi Rank and the Dididi-Phaphazela road in which millions of Rands disappeared without a trace). There are also suspected unethical conduct such as nepotism and jobs for pals that have not been investigated too.

(Civic organization)

The view of the respondent is that the PP's office is not effective because there are many cases which have not been sufficiently investigated. The respondent's view is in agreement with what the literature study revealed in sections 2.8.3; 2.9.1; 2.11.3 and 2.11.5. Based on

the view above, conclusion can be made that the PP's office is not effective enough to enhance ethical conduct in Vhembe District Municipal Area. This is evidenced by the many cases that have not been investigated and lack of remedial actions for some cases that the office investigated.

On Question 2 which asks about the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area (See Annexure 8), the respondent said:

...although the Public Protector's office is always on the media due to the work it has been doing, it is very rare to find investigations it conducted in Vhembe District Municipal Area. The office is almost non-existent in Vhembe District Municipal Area because I never witnessed any investigation conducted by the office in our area. If my memory still serves me well, I only saw and heard about the Public Protector's office in Vhembe District Municipal Area when the office visited Thohoyandou Town Hall in 2016...

Regarding the follow-up Question 2.1 in Annexure 8, which sought supporting evidence for Question 2 above, the respondent answered as follows:

...there are allegations which have not been investigated, and allegations against the Department of Water Affairs and Sanitation (DWAS) in Vhembe District Municipal Area is a case in point. DWAS alleged that that Vhembe District Municipality owes R600 million in water provision and services and the complaint of an alleged misappropriation and mismanagement of funds at the defunct Mutale Local Municipality that have not been investigated as yet.

(Ward councillor)

The respondent holds a view that the PP's office is not effective as its existence is not visible across Vhembe District Municipal Area. This response is in support of the view in section 2.11.3 of the literature study. Based on the view above, conclusion can be drawn that the PP's office is ineffective because it is failing to perform its constitutional mandate as directed by Section 182 (1) of the Constitution, 1996 that requires the office to investigate all cases of unethical conduct in all spheres of government.

Conclusion

Based on the response above, respondents 2, 3 and 5 perceive the PP's office as partially effective while respondents 4, 6 and 7 argued that the PP's office is not effective to enhance ethical conduct in Vhembe District Municipal Area. Therefore, it can be concluded that the

PP's office is not as effective in enhancing ethical conduct as it has been envisaged in Section 182 of the Constitution, 1996 which states that the PP's office is empowered to investigate all cases of unethical conduct, make report and to take appropriate remedial actions.

4.4.4 Question 3: What are the challenges affecting the effectiveness of the PP's office when fulfilling its constitutional mandate? Please list and explain each of them.

Regarding Question 3 (See Annexure 8) as presented above, the respondent said:

...there are several challenges affecting the effective functioning of the Public Protector's office and among them are financial and human (specialist investigators, specialised skill in other key areas of investigations, auditing skill and procurement specialists) and limited infrastructure which are very important for the office to function properly.

Concerning the follow-up Question 3.1 in Annexure 8 that asks about the causes of these challenges, the respondent answered:

...general economic and social challenges for the country and poor economic growth are the major causes of the challenges affecting the PP's office when performing its constitutional obligations.

Regarding the probing Question 3.2 (See Annexure 8) which asks about the measures that to curb the challenges, the respondent said:

...the Public Protector's Office should be adequately resourced in all respects in order to enable it to discharge its constitutional mandate efficiently. ...allowing the Public Protector's office to perform its functions without any interference or influence can make the office very effective.

(PP's office)

From the responses above, the respondent noted that financial, infrastructure and human resources are among the challenges affecting the effectiveness of the PP's office. These are challenges caused by general economic and social challenges and poor economic growth facing the country. It can be concluded that the PP's office lacks financial, infrastructure and human resources which are very important for it to undertake its constitutional mandate.

Regarding the challenges affecting the effectiveness of the PP's office posed by Question 3 (See Annexure 8), respondent 2 responded as follows:

...criticism and interference by the political party's officials has a serious repercussion on the day-to-day functioning of the Public Protector's office.

...lack of independence discredit the credibility of the office as in most cases; its functions and remedial actions are refuted citing impartiality. Other important factors that affect the effectiveness of the office are lack of resources and lack of powers to enforce its remedial action.

Based on the follow-up Question 3.1 in Annexure 8 that enquires about the causes of each the challenges, the respondent said:

...the lack of political will and unfettered discretionary powers entrusted to the public officials is the main cause of the challenges facing the Public Protector's office because due to these discretionary powers, officials tend to undermine the duties of the office and become reluctant to provide resources needed for any office to function properly.

Concerning Question 3.2 in Annexure 8 about what can be done to curb the challenges affecting the effectiveness of the PP's office, the respondent responded as follows:

...the Public Protector's office needs to be provided with sufficient constitutional powers to enable it to manage and operate above the discretionary powers vested on the public officials. It should also be empowered legislatively to hold public officials accountable through enforcing its remedial actions.

(Municipal Finance office)

The view of the respondent is that criticisms and political interference by political parties, the lack of independence and lack of powers to enforce its remedial actions are the challenges affecting the PP's office. These challenges are alleged to be caused by unfettered discretionary powers entrusted to the public officials and lack of political will. Providing the PP's office with sufficient constitutional powers to manage and to operate above the discretionary powers vested upon the public officials can help a great deal to make the office effective. From the views above, conclusion can be drawn that the PP's office is being affected by criticisms and political interference and lack of political will to cooperate with the previously mentioned office.

When answering the Question 3 in Annexure 8 about the challenges affecting the PP's office functioning, the respondent answered as follows:

...lack of resources render the Public Protector's office ineffective because without resources, it will be very difficult for the office to investigate all the cases of unethical conduct. ... I lodged a complaint with the Public

Protector's office regarding the disappearance of funds allocated for constructing road from Phangami Mall to Dididi-Phaphazela and no investigation has commenced as yet due to lack of resources.

Responding to the probing Question 3.1 in Annexure 8 about the challenges affecting the effectiveness of the PP's office, the respondent stated that:

...poor and insufficient provision of resources (financial, infrastructure and human) and lack of commitment to cooperate with the Public Protector's office by the government officials are some of the challenges affecting the functioning of the PP's office. The previously mentioned challenges are caused by Treasury's reluctance to provide adequate resources to the PP's office.

When answering Question 3.2 in Annexure 8 about the mechanisms that can be used to curb the challenges affecting the PP's office, the respondent said:

...providing sufficient budget can help in addressing the challenges affecting the Public Protector's office because that will make the office to operate and function well without constraints.

(Private company)

The respondent noted that lack of resources and insufficient capacity are some of the challenges affecting the PP's office and have negative effects in the day-to-day running of the office. These challenges are caused by lack of commitment to support the PP's office and unwillingness to provide the resources by the Treasury. Therefore, conclusion can be drawn that the PP's office is being under resourced due to the Treasury's unwillingness to provide enough resources needed for any office to function properly.

Regarding Question 3 which focuses on the challenges affecting the PP's office (See Annexure 8), respondent 4 responded as follows:

...the Public Protector's office is faced with challenges relating to lack of financial and human resources as well as infrastructure that are a necessity for any institution to be operational. Similarly, political interference and lack of political will are the other detrimental challenges impeding the Public Protector's office from functioning properly in Vhembe District Municipal Area.

Concerning the follow-up Question 3.1 (Annexure 8) on the challenges affecting the effectiveness of the PP's office, the respondent said:

...lack of cooperation and support by the public officials and prominent politicians are the major causes of the challenges affecting the Public Protector's office when conducting its duties. ...among the diverse causes, ambiguous and weak application of pieces of legislation which have loopholes for the perpetrators to manoeuvre through to the public purse without being prosecuted are some of the challenges.

Regarding follow-up Question 3.2 in Annexure 8 that focuses on what can be done to curb the challenges affecting the PP's office, the respondent mentioned the following:

...the office should have its own independent department and separate budget. ...the Public Protector's office needs to be empowered with equal powers to enforce its remedial actions as it has powers to investigate all forms of unethical conduct in all levels of government. ...the Public Protector's office should be provided with the necessary resources required for the effective functioning of the office.

(Municipal Manager's office)

The respondent is of the view that the PP's office lacks adequate resources required for any institution to function properly and these challenges are caused by lack of cooperation and support by the public officials and prominent politicians and ambiguous and weak application of pieces of legislation. It can therefore, be concluded that the PP's office is inadequately provided with financial, infrastructure and human resources corresponding with the workload of the office.

Respondent 5 mentioned the following when answering Question 3 in Annexure 8 concerning the challenges affecting the effectiveness of the PP's office:

...one of the evident challenges affecting the Public Protector's office is the lack of powers to enforce its recommendations. ...shortage of resources also affect the Public Protector's office negatively and renders it a toothless institution because without adequate resources, the office cannot achieve its mandate.

Regarding the follow-up Question 3.1 in Annexure 8 about the challenges affecting the PP's office, the respondent said:

...the Public Protector's office is faced with political interference, lack of powers to enforce its remedial actions, lack of financial and human resources are some of the serious challenges facing the Public Protector's

office. ...insufficient constitutional powers to force compliance with its remedial actions is one of the many challenges and has serious repercussions on the way the office functions...

Based on Question 3.2 in Annexure 8 that interrogates what can be done to curb the challenges affecting the functioning of the PP's office, the respondent said:

...the Public Protector's office should be provided with sufficient constitutional powers to enforce compliance with its remedial actions and adequate resources which are very important for the effective operation of such an office.

(Civic organization)

The view of the respondent is that lack of powers to enforce its recommendations and shortage of resources needed by the office to run smoothly are the challenges that render the office toothless. These challenges are alleged to have been caused by lack of desire or political will to see the PP's office succeeding in fulfilling its mandate and therefore, the PP's office should be given sufficient resources and equal powers to enforce its remedial actions as it has powers to investigate all cases of unethical conduct. Based on the views above, it can be concluded that the PP's office is faced with lack of resources and legislative powers to enforce compliance with its remedial actions and as a result, it cannot help in improving ethical conduct in the Vhembe District Municipal Area.

In respect of the Question 3 (Annexure 8) which interrogates the challenges affecting the PP's office when fulfilling its constitutional mandate, respondent 6 responded as follows:

...lacking resources such as funds, offices and human capital is a serious challenge facing the Public Protector's office to date. ...the other critical challenge is that during the investigation, some government officials hide information needed by the Public Protector's office to investigate unethical conduct.

With regard to the follow-up Question 3.1 in Annexure 8, the respondent identified the following as the causes of the challenges affecting the PP's office:

...lack of human, financial resources and political will as well as proper cooperation between the state organs and the Public Protector's office are some of the causes that have serious repercussions on the effectiveness of the afore-mentioned office.

Question 3.1: What do you think are the causes of each? Please list and provide detailed explanation for each.

...lack of political will and insufficient cooperation between the state organs and the Public Protector's office is one cause that has serious repercussions on the effectiveness of the afore-mentioned office. ...lack of human and financial resources is another cause of the challenges because without sufficient resources the Public Protector's office cannot successfully deal and address the ethical challenges facing the public sector...

Question 3.2 in Annexure 8, enquires about what can be done to curb the challenges affecting the PP's office and the respondent responded as follows:

...the Public Protector's office should be provided with enough resources, infrastructure, and human as well as legislative powers to enforce compliance with its recommendations and to hold the perpetrators accountable for their actions.

(Procurement office)

The respondent's view is that the PP's office is faced with challenges ranging from lack of political will, concealing important information during investigation and inadequate provision of resources that are needed for any office to function effectively. All these challenges are caused by lack of political will and insufficient cooperation between state organs and the PP's office. Therefore, conclusion can be drawn that the PP's office is not sufficiently equipped for the mandate it was established for because it lacks resources and powers to force public officials to provide information during investigation.

Question 3 in Annexure 8 enquires about the challenges affecting the PP's office when fulfilling its constitutional mandate and the respondent said:

...politicians like to play and interfere in the space of the Public Protector's office and such impedes the office from performing its functions to the fullest. ...lack of resources has been the cause of the Public Protector's office wobbling when performing its duties. ...investigations demand financial and human resources, which the Public Protector's office is seriously lacking, and such a lack renders the office toothless.

When responding to the follow-up Question 3.1 (See Annexure 8) regarding the causes of the challenges affecting the PP's office, the respondent said:

...there is no clear-cut answer to this, but lack of political will and support from the executive and the public officials are the main causes of the challenges affecting the Public Protector's office to date. ...similarly, the lack of financial and human resources that the National Treasury is reluctant to provide to the office with....

When answering Question 3.2 in Annexure 8, which asks about what can be done to curb the challenges affecting the PP's office, the respondent said:

...the PP's office should be free from political interference and the Treasury should be provided with sufficient legislative powers to enforce its recommendations.

(Ward councillor)

The view of the respondent is that political interference, lack of political will and resources have been the challenges facing the Public Protector's office and cause its wobbling when performing its duties. Based on the above view, it can be concluded that the PP's office is facing challenges relating to political interference, lack of political will and resources without which it cannot operate properly and effectively.

Conclusion

From the responses regarding Question 3 in Annexure 8, all the 7 respondents perceive lack of resources as one of the critical challenges facing the PP's office while respondent 2 and 7 also indicated interference as one of the challenges impeding the office from performing its functions in Vhembe District Municipal Area. These challenges are said to be caused by unfettered discretionary powers, lack of commitment and cooperation, weak application of pieces of legislation and providing insufficient resources as well as lack of political will. Therefore, conclusion can be drawn that if the PP's office lacks resources needed and political will which are very crucial for the successful functioning of the office, it cannot dispense its mandate efficiently.

4.4.5 Question 4: Are the organs of state showing commitment to cooperate with the PP's office? Please give reason for your answer.

Concerning Question 4 (See Annexure 8) which interrogates whether state organs are showing commitment to cooperate with the PP's office, respondent 1 holds the following view:

...the organs of state are committed to cooperate and have a good relationship with the Public Protector's office because year in and year out, the Public Protector's office holds stakeholder engagement with all organs

of state in pursuance of collaborative governance. This is done to ensure continued cooperation and organs of state are provided with opportunity to state or indicate on how the matter should be addressed as provided in Section 7 (9) of the Public Protector Act, 1994 (Act No. 23 of 1994). Section 7 (9) of the Public Protector Act, 1994 (Act No. 23 of 1994) provides state organs with the intended remedial action notice which provides the state organs with an opportunity to state or indicate on how the matter should be addressed.

When responding to the follow-up Question 4.1 in Annexure 8, which seeks to find out how cooperation between the state organs and the PP's office can be forged, the respondent said:

...continued engagement through meetings, forums and stakeholder management and entering into agreements, memoranda of understanding and bilaterals to ensure that the relationship we have been building is maintained may serve as instruments to forge cooperation between the Public Protector's office and the organs of state. ...constant workshops on ethical conduct and corruption may also play a pivotal role in forging cooperation...

(PP's office)

The respondent views that state organs are committed to cooperate and to have a good relationship with the PP's office. The respondent mentioned the entering into memoranda of understanding between the PP's office and organs of state as a sign of showing commitment to ensure continued cooperation and how organs of state had to respond to the PP's office enquiries. Continued engagement through meetings, constant workshops on ethical conduct and corruption and entering into agreements can help in forging the much-needed cooperation between organs of state and the PP's office. Based on this view, it can therefore, be concluded that organs of state are committed to cooperate and to support the PP's office when performing its functions in Vhembe District Municipal Area.

When answering Question 4 (Annexure 8) which sought to find out if the organs of state are showing commitment to cooperate with the PP's office, respondent 2 responded in this way:

...some of the state organs do not commit themselves to cooperate with the Public Protector's office, when the office investigates their partners in crime and as a result, they do their best to undermine the office's remedial action. ...the State Capture is one case in point. ...if the state organs are

cooperating and supporting the PP's office, the Gupta brothers, Ajay, Atul and Rajesh should not be walking free today...

On the follow-up Question 4.1 (See Annexure 8) which sought to find ways in which cooperation can be forged between organs of state and the PP's office, the respondent said:

...the best way to forge strong and sound cooperation between the Public Protector's office and the other state organs can be through enacting laws which compel all state organs to cooperate and punish those who do not comply with the office's remedial actions. The afore-said laws should also empower each state organ to play an oversight role as a measure to promote cooperation with the Public Protector's office.

(Municipal Finance office)

According to the respondent's view, there is cooperation shown by other organs of state but not all state organs cooperate and support the PP's office when conducting its constitutional functions. Cooperation can be forged through enacting laws that force all state organs to cooperate and punish those who do not comply with the laws thereof. Therefore, conclusion can be drawn that although there is cooperation between some of state organs and the PP's office, laws that compel other state organs to cooperate and bring punishment to those who do not comply with them may help in forging such cooperation.

In Annexure 8, Question 4 sought to find if the organs of state are showing commitment to cooperate with the PP's office when performing its constitutional mandate. The respondent said:

...yes, state organs are cooperating and supporting the Public Protector's office when fulfilling its constitutional mandate of investigating and keeping the government at checks and balances as a measure to enhance ethical conduct.

Answering Question 4.1 in Annexure 8, which sought to establish measures that can be put in place to forge cooperation between organs of state and the PP's office, the respondent said:

...there should be clear policies that address the issue of cooperation between organs of state and the Public Protector's office so that the office functions smoothly, effectively and continuously. Further, a cordial arrangement should be established which becomes constant and regular in delivering coherent responses.

(Private company)

The view of the respondent is that organs of state are showing commitment to cooperate and to support the PP's office when fulfilling its constitutional mandate of enhancing ethical conduct. As a measure to forge and to improve cooperation thereof, formulating clear policies aimed at addressing the issue of cooperation between organs of state and the PP's office is paramount. This view can lead to the conclusion that organs of state are showing commitment to cooperate with the PP's office when fulfilling its constitutional mandate and the cooperation, therefore, such can be improved by formulating clear policies aimed at promoting cooperation.

In answering Question 4 in Annexure 8, which enquires about whether organs of state are showing commitment to cooperate with the PP's office, the respondent responded as follows:

...organs of state are not providing the necessary cooperation and support needed to help the Public Protector's office to fulfil its mandate with ease because they do not cooperate among themselves too. In most cases, the executive which considers the PP's remedial actions as mere suggestions, criticizes the judiciary for judicial whenever it clarifies laws.

Regarding Question 4.1 in Annexure 8 that sought to find out mechanisms that can be used to forge cooperation between organs of state and the PP's office, the respondent responded as follows:

...Sections 181 and 182 of the Constitution, 1996 and the Public Protector Act, 1994 (Act No. 23 of 1994) should be amended to force all state organs to cooperate with the Public Protector's office and to set punitive measures for failing to comply with the amended Sections thereof. ...each state organ should be legislatively empowered to monitor the affairs of the other and see to it that all the three state organs fulfil their constitutional obligations and provide support to the PP's office...

Municipal Manager's office)

The respondent's point of view is that state organs are not providing the necessary cooperation and support to the PP's office because the executive always criticizes the PP's office and considers its remedial actions as just mere recommendations, and similarly, blames the judiciary for judicial overreach when it clarifies the stance of the laws. There is a need to amend Sections 181 and 182 of the Constitution, 1996 and Section 6 of the Public Protector Act, 1994 to force organs of state to cooperate with the PP's office as well as to give powers to each organ of state to monitor the affairs of the other. It can therefore, be concluded that there is no sufficient cooperation between the organs of state and the PP's office and as a result, there is a need for the amendment of Section 181 and 182 of the Constitution, 1996

and Section 6 of the Public Protector Act, 1994 to force cooperate and put punitive actions for non-compliant.

On Question 4 in Annexure 8, which enquires if organs of state are showing commitment to cooperate with the PP's office, the respondent said:

...some organs of state are not showing commitment to cooperate and to support the Public Protector's office although Section 181 of the Constitution, 1996 states that all organs of state are required to cooperate and to support the afore-mentioned office. ...only the judiciary has been doing its best to cooperate and to protect the Public Protector's office from political attacks unlike the executive and the parliament, which showed no commitment whatsoever...

When responding to the probing Question 4.1 in Annexure 8, which focuses on what should be done to forge cooperation between organs of state and the PP's office, the respondent said:

...some new pieces of legislation should be promulgated to reduce the total separation of powers to promote cooperation between the state organs and the Public Protector's office. ...the promulgated pieces of legislation should compel the judiciary, executive and parliament to cooperate and work together with the PP's office in order to achieve a common goal of promoting ethical conduct and good governance.

(Civic organization)

The view of the respondent is that organs of state are not showing commitment to cooperate with the PP's office except the judiciary, which has been cooperating and defending the PP's office from attacks. As a result, there is a need for the promulgation of some pieces of legislation in order to reduce the total separation of powers. Therefore, it can be concluded that cooperation between organs of state and the PP's office is almost non-existent and in order to forge cooperation, some pieces of legislation should be promulgated to reduce the total separation of powers that are being misused for wrong reasons.

In Annexure 8, Question 4 sought to find out whether organs of state are showing commitment to cooperate with the PP's office in enhancing ethical conduct and the respondent answered as follows:

...state organs had been the ones criticizing and undermining the functions and remedial actions of the Public Protector's office, more especially the

executive and the parliament. ...some judges such as Scheepers of the Cape High Court also said in his judgment that the recommendations of Public Protector's office are not binding which make public officials undermine the office...

When answering the follow-up Question 4.1 in Annexure 8 that sought to find out the ways that can be used to forge cooperation between organs of state and the PP's office, the respondent said:

...to succeed in forging cooperation thereof, legislative and regulatory framework should be put in place to force state organs to support and cooperate with the Public Protector's office when performing its functions. ...these frameworks should address the problem of total separation of powers lead to undermining the role the state organs should play...

(Procurement office)

The respondent's point of view is that organs of state have been the ones criticizing and undermining the constitutional mandate of the PP's office instead of cooperating with it, more especially the executive and the parliament. The respondent also noted that there is a need for legislative and regulatory frameworks to help in addressing the problem of total separation of powers that lead to the undermining of the role of the office.

Regarding Question 4 (See Annexure 8) which enquires about whether organs of state are showing commitment to cooperate with the PP's office, the respondent responded:

...the judiciary is more committed to cooperate and to protect the Public Protector's office from unfounded criticisms and political interference while the executive and the parliament show no serious commitment to cooperate with the previously mentioned office. The executive and parliament have been blaming the Public Protector's office for impartiality while the judiciary was accused for judicial overreach...

Question 4.1 (See Annexure 8) enquires about how cooperation can be forged:

...officials in state organs should be ethical and comply with some pieces of legislation guiding the functioning of their state entities and the PP's office and punishment be incurred for non-compliant. ...organs of state should be empowered constitutionally and legislatively to perform oversight role over each other as a mechanism to forge cooperation thereof...

(Ward councillor)

The respondent holds the view that among all organs of state, the judiciary is the one showing commitment to cooperate and to protect the PP's office than the executive and the legislature. Thus, officials working for state organs should be ethical, the organs of state should be empowered constitutionally and legislatively to perform oversight over each other and to punish those who do not cooperate with the PP's office. Based on the view above, it can be concluded that the judiciary, unlike the executive and the legislature, is committed to cooperate and to support the PP's office and the officials working for organs of state should behave ethically and comply with legislation guiding their entities.

Conclusion

The responses above show that respondents 4, 5 and 6 argued that state organs are not committed to cooperate with the PP's while respondents 2 and 7 stated that not all state organs are committed to cooperate and to defend the PP's office when performing its functions. In order to forge cooperation between state organs and the PP's office, respondents 2, 4, 5, 6 and 7 suggested that putting pieces of legislation in place that compel organs of state to cooperate with the PP's office can help a great deal. Therefore, it can be concluded that state organs are not fully committed to cooperate and to support the PP's office and as a result, pieces of legislation which carry punitive measures and compel organs of state to cooperate with the PP's office should be promulgated.

4.4.6 Question 5: What are the recommendations that can be made to help improve the effectiveness of the PP's office to enhance ethical conduct in Vhembe District Municipal Area? Provide as many as possible.

Regarding Question 5 in Annexure 8 that enquires about the recommendations and strategies that can be used to improve the effectiveness of the PP's office, the respondent said:

...quality investigations and quality reports with implementable remedial actions, application of negotiation, conciliation and mediation, settlement agreements, conclusion of agreements and engaging in stakeholder meetings may be some of the strategies that can be used to help improve the effectiveness of the Public Protector's office...

(PP's office)

The respondent noted that quality investigations and reports with implementable remedial actions and negotiations and holding stakeholder meetings are some of the strategies that can be used to improve the effectiveness of the PP's office. Therefore, it can be concluded that the PP's office effectiveness may be improved by conducting quality investigations and reports with implementable remedial actions and negotiations and engaging in stakeholder

meetings in which all stakeholders can speak up their minds and suggest what should be done.

When answering Question 6 (See Annexure 8) which focused on the recommendations and strategies that can be implemented to improve the effectiveness of the PP's office, the respondent responded:

...the Public Protector's office should have its own department and budget that is sufficient for undertaking its workload. This includes powers to enforce compliance with its remedial actions. It should also be empowered to promote positive ethos in government by holding the accounting officers accountable, more especially when there are accounting and financing irregularities...

(Municipal Finance office)

The respondent's view is that the PP's office should be having its own department and sufficient budget in line with its workload. The office should also be empowered to promote positive ethos by holding accounting officers accountable as this might contribute to the improvement of the PP's office effectiveness. Based on this view, it can be concluded therefore, that the effectiveness of the PP's office can be improved by creating its independent department and providing sufficient budget in line with its workload and providing the office with powers to hold accounting officers accountable.

Concerning Question 5 (See Annexure 8) which focused on the recommendations and strategies which can help in improving the effectiveness of the PP's office, the respondent answered as follows:

...formation of citizens, civil rights organizations and the Public Protector's office forums of representatives may contribute immensely in improving the effectiveness of the Public Protector's office. ...the Public Protector's office should be empowered to enforce its remedial actions and to charge for non-compliance....

(Private company)

The view of the respondent is that all the stakeholder formations such as citizens, civil rights organizations and the PP's office forums representatives may be vital in improving the effectiveness of the PP's office while empowering the office with powers to enforce its remedial actions should also be put as a priority. Therefore, it can be concluded that giving powers to PP's office to enforce its remedial actions and holding stakeholder formation, which include

the representatives of the PP's office, may play a vital role in improving the effectiveness of the PP's office.

When responding to Question 5 in Annexure 8, which focused on the recommendations that can be made to help improve the effectiveness of the PP's office, the respondent said:

...the Public Protector's office should be provided with enough resources, which include financial, human and infrastructure needed to fulfil its mandate. ...the office should equally be empowered to enforce its remedial action and to confiscate property accumulated through illegal means as it has powers to investigate unethical conduct...

(Municipal Manager's office)

The respondent's view is that there is a need for the PP's office to be provided with adequate and sufficient resources and powers to enforce its remedial actions and to confiscate all the property acquired through unethical conduct. Therefore, conclusion can be drawn that providing the PP's office with adequate and sufficient resources in line with its workload and powers to enforce its remedial actions can help a great deal in improving the effectiveness of the PP's office.

Regarding Question 5 contained in Annexure 8 on the recommendations that can be made to improve the effectiveness of the PP's office, respondent 5 said:

...the Public Protector's office should be given powers to enforce its remedial action and it should be provided with sufficient resources it needs to successfully perform its functions...

(Civic organization)

The view of the respondent is that the PP's office should be provided with proper powers to enforce compliance with its remedial actions and sufficient resources in line with its workload. Based on the view above, it can be concluded that the PP's office should be given powers to enforce its remedial actions and sufficient resources in accordance with the workload of the office.

In response to Question 5 (Annexure 8) which enquires about the recommendations that can be made to improve the effectiveness of the PP's office, the respondent stated the following:

...the Public Protector's office should be given powers to hold officials liable, to enforce compliance with its remedial actions, and to confiscate property

accumulated through unethical practices. ...the office should be provided with enough resources in line with its workload.

(Procurement office)

Based on the response above, it can be noted that giving the PP's office powers to hold officials accountable for their unethical conduct and providing it with enough resources may play a big role in improving the effectiveness of the office. It can therefore, be concluded that the PP's office effectiveness can be improved greatly by giving the office powers to hold officials accountable and providing it with sufficient resources it needs to function properly.

When responding to Question 5 (See Annexure 8) which enquires about the recommendations and strategies that may be implemented to improve the effectiveness of the PP's office, the response was as follows:

...providing the Public Protector's office with powers to enforce its remedial action and resources it needs to perform its constitutional duties may help improve the effectiveness of the office.

(Ward councillor)

The view of the respondent is that the PP's office should be fully empowered to investigate and enforce compliance with its remedial actions and it should be provided with all forms of resources necessary for it to function properly. Therefore, conclusion can be drawn that the effectiveness of the PP's office might be improved greatly by giving it powers to investigate and to enforce its remedial actions and by providing it with sufficient resources to enable it to perform its functions with ease.

Conclusion

Several mechanisms and strategies can be used to help improve the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area. Respondents 3, 4, 5, 6 and 7 hold a view that empowering the PP's office to enforce its remedial action is one of the strategies that can be used to improve the effectiveness of the PP's office. Similarly, respondents 2, 5, 6 and 7, noted that providing the PP's office with adequate resources may help improve the effectiveness of the office while respondents 3, 4 and 6 view empowering the PP's office to charge and confiscate the property accumulated through illegal means as another strategy that may be used. It can be concluded that the effectiveness of the PP's office may be improved by giving it legislative powers to enforce compliance with its remedial actions and providing it with sufficient resources needed to fulfil its mandate effectively.

4.5 SUMMARY

This chapter focused on the presentation, analysis and interpretation of the quantitative data collected through questionnaire. Tables, frequencies and percentages were used to discuss and present the results of the quantitative data obtained from 132 participants (see Table 3.4) in detail. It is also in this chapter where qualitative data collected through interviews were presented, analysed and interpreted. The qualitative data were analysed using content analysis and presented in a descriptive-narrative form. In the next and concluding chapter, major findings, conclusions and recommendations of the study will be discussed in order to contribute to new knowledge regarding the effectiveness of the PP's office in enhancing ethical conduct within Vhembe District Municipal Area.

CHAPTER 5

MAJOR FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF THE STUDY

5.1 INTRODUCTION

This study began by articulating the problem and providing tentative answers in Chapter 1. In Chapter 2, an attempt was made to present arguments about what is already known about the problem through a process of consulting authoritative literature sources. Chapter 3 presented the research methodology that was followed in the designing and collection of data that was presented, analysed and interpreted in Chapter 4.

The main thrust of this chapter is to draw the study to its finality by presenting research conclusions derived from both the literature study and the study findings, by suggesting further research areas and providing a summary. This study was motivated by the fact that the theoretical terrain of ethics in Vhembe District Municipal Area posits that despite the existence of the PP's office set up to investigate all forms of unethical conduct, in general, the outcomes of ethics in practice are still unethical. All this revolved around the main guiding research question for this study, which is, "How effective is the Public Protector's office in enhancing ethical conduct in Vhembe District Municipal Area?"

5.2 MAJOR FINDINGS AND CONCLUSIONS OF THE STUDY ON EACH OBJECTIVE

The main purpose for this chapter is to discuss the major findings of the study that were unveiled during the data analysis process in Chapter 4 so that their contextual meaning may be brought to the surface. Both quantitative and qualitative findings were discussed in a sequential explanatory manner. The responses to the questionnaire were presented, analysed and interpreted and the findings thereof, are summarised below.

The study shows that all the participants are playing a certain role towards the masses of Vhembe District Municipal Area. Regarding the work experience in years, the majority of participants at 82.6% have 20 years or less of work experience. Of all the participants, 60.7% are working at Vhembe District Municipality and the other four at local municipalities, which are Collins Chabane, Makhado, Musina and Thulamela while the other 30.3% are members of the Civic Organization and the remaining 9.0% are the representatives of the private (tendering) companies (See Table 3.4). The next section presents major findings derived from the responses based on the objectives of the study as a framework.

5.2.1 Research objective 1: To analyse and define ethics and a code of conduct as variables influencing accountability of public officials in Vhembe District Municipal Area

Concerning this research objective, the literature study shows that there is no consensus about what ethics are and entail. The definitions below provide insight into the complex nature of what makes up ethics. According to Mafunisa (2001:335), ethics refer to a set of rules or standards governing the moral conduct of employees in an institution and deals with values relating to human conduct with respect to rightness or wrongness of particular actions and to the goodness or badness of the motives and ends of such actions. Similarly, Gildenhuis (2004:13) defines ethics as principles or standards of human conduct which are sometimes referred to as morals and essentially deal with what is right and wrong, good and bad and acceptable and unacceptable (section 1.10). For this study, ethics refer to the determination of what is right and proper, fair and just in the decisions and actions that affect people and it is important for one to accept the accountability and responsibility for one's actions and have a concept of right and wrong and a moral code. In section 1.10 of the literature study (Chapter 1), Petersen and Krings (2009:501) define a code of conduct (code) as a written document, which defines the ethical standards of an institution, which include rules of how to interact and relate with co-workers and clients, rules of compliance with the law, policies and workplace security and leadership principles. A code is rule-based in nature and it describes the types of expected behaviour unambiguously as well as establishing the mechanisms for monitoring compliance while effecting punitive measures for non-compliance (Naggiah, 2012:38). Therefore, for this study, a code is considered as a measuring or guiding rod towards what is right or wrong and promotes and encourages conduct that is acceptable in a given area or society.

5.2.2 Research objective 2: To describe the role of the Public Protector's office in enhancing ethical conduct in Vhembe District Municipal Area

With regard to the second objective above, the quantitative study findings indicate that the majority of the participants at 119 (90.2%) agreed that the PP's office was set up to protect citizens from unfair treatment by the public officials and serves as a check over all public servants to promote ethical conduct. The PP's office is empowered to investigate all unethical conduct in all spheres of government and the public in general. The qualitative findings show that the PP's office should ensure that public officials protect citizens from unfair treatment to ensure that they conduct themselves ethically. The findings of the study also show that the constitutional and legislative powers entrusted to the PP's office are insufficient for such an office to undertake its functions effectively.

Therefore, it can be concluded that the role of the PP's office is to protect all the citizens from unfair treatment such as human rights abuse, maladministration, misappropriation of state resources and other improprieties by investigating all unethical conduct in all spheres of government. This view concurs with what the literature study indicated in sections 2.8.3; 2.9.1; 2.10; 2.10.1 and 2.10.2). The findings also show that the PP's office lacks powers to enforce its remedial actions as revealed in section 2.11.5.

5.2.3 Research objective 3: To determine the challenges affecting the effectiveness of the PP's office when performing its oversight and protective roles

Based on the research objective above, the quantitative study found that the PP's office is faced with the shortage of staff and other resources, which the treasury is not always willing to provide and on the other hand, the parliament does not hold all people implicated in the PP's report to account equally. As a result, remedial actions of the PP's office are always treated with contempt. Similarly, the qualitative study found that the PP's office is facing challenges which affect its effectiveness, and they include lack of resources, criticism and political interference, concealing important information required during investigation and lack of powers to enforce its remedial actions. The study also found that these challenges are caused by unfettered discretionary powers and lack of political will as well as lack of commitment to support the PP's office when performing its functions.

Based on the findings above, conclusion can be drawn that the PP's office is faced with shortage of both financial and human resources and it lacks powers to enforce compliance with its remedial actions. These challenges are alleged to have been caused by the uncontrolled and unlimited powers vested on the public officials, which cause them to act with impunity and to treat the PP's office remedial actions with contempt.

5.2.4 Research objective 4: To assess cooperation between state organs and the PP's office enhancing ethical conduct in Vhembe District Municipal Area

From the quantitative data, the study found that the high number of respondents at 124 (93.9%) agreed with the view that the Constitution, 1996 provides that organs of state should cooperate and play a supporting role to the PP's office. Despite this provision, the study also found that majority of the participants at 65 (49.2%) disagreed with the notion that all state organs cooperate with the PP's office to enhance ethical conduct. Similarly, qualitative study findings show that organs of state are not committed to cooperate and to support the PP's office when performing its functions and in most cases, attack the PP's office.

Based on the findings above, it can also be concluded that organs of state are not showing full commitment to cooperate and to support the PP's office in its attempts to enhance ethical conduct in Vhembe District Municipal Area.

5.3. The main research objective: To investigate the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area

The main objective of the study was set to examine the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area. The quantitative study findings show that the majority of the participants at 87 (65.9%) disagreed with the notion that the PP's office is effective than other Chapter 9 Institutions although it can initiate its own investigations. Although the PP's office is entrusted with the powers to investigate, to advise and to redress unethical conduct, the study findings show that a high number of participants at 115 (87.1%) are of the view that the PP's office is not effective because public officials neither respect nor comply with its recommendations. Similarly, the qualitative study findings show that the PP's office is not effective when performing its functions because it fails to investigate reported allegations of illegal and irregular awarding of tenders to pals without following due processes and to enforce its remedial actions.

Therefore, conclusion can be drawn that the PP's office is not as effective in enhance ethical conduct as envisaged in Section 182 of the Constitution, 1996.

5.4 RESEARCH CONCLUSIONS

From the major findings and evidence of this study, conclusions can be drawn that:

- * The PP's office's role is to protect citizens from unethical conduct relating to: human rights abuse, unfair treatment, maladministration, misappropriation of state resources and other improprieties through investigating alleged or suspected unlawful conduct as well as to make reports and take appropriate remedial actions.
- * The PP's office is faced with challenges which affect its effectiveness, and some of these challenges are political interference, lack of resources and inability to enforce its recommendations. These challenges are caused by unfettered powers vested on the public officials.
- * There is a lack of cooperation between the organs of state and the PP's office, which the Constitution, 1996 requires the state organs to provide so that the PP's office can perform its functions without fear, favour, prejudice, or interference.
- * The purpose of conducting this study was to examine and resolve the problem relating to the ineffectiveness of the PP's office in enhancing ethical conduct in

Vhembe District Municipal Area. Despite the powers vested on the PP's office to investigate all forms of unethical conduct in all spheres of government, the PP's office is not effective enough in enhancing ethical conduct due to lack of constitutional powers to enforce its recommendations and lack of sufficient resources.

5.5 RECOMMENDATIONS OF THE STUDY

Recommendations of the study may be likened to a vision which presents tomorrow's solutions to the problems of today. From this view, it is worth stating that the value of any study project is contained in the recommendations that the study proposes as a means to solve the problems in question. The recommendations of this study therefore, have been packaged in a way clearly shows how the newly obtained information add value to the advancement of knowledge in this study field in line with what was discussed in Chapter 1 (see section 1.5). The recommendations of this study are presented below:

5.5.1 Challenges affecting the effectiveness of the PP's office when performing its oversight and protective roles

The PP's office is faced with a variety of challenges which affect its effectiveness when performing its constitutional functions. These include political interference, lack of resources and inability to enforce its recommendations. These challenges are allegedly caused by unfettered powers vested on the public officials. This finding serves as an indication that the PP's office is not sufficiently resourced and suffers political interference and lacks powers to enforce its recommendations. This is not conducive for the PP's office to enhance ethical conduct. Therefore, the study recommends that the PP's office should be provided with enough resources (infrastructure, financial and human) and should be empowered constitutionally and legislatively to enforce its recommendations equally as it has powers to investigate unethical conduct in all spheres of government.

5.5.2 Cooperation between organs of state and the PP's office to enhancing ethical conduct in Vhembe District Municipal Area

The Constitution, 1996 requires other state organs to cooperate, support and to provide ethical leadership to the PP's office and to see to it that the office functions without fear, favour, prejudice or interference. According to the findings of the study, there is no cooperation, support and provision of ethical leadership as per the requirement of the Constitution, 1996. Instead, some state organs such as the executive and the parliament accuse the PP's office of targeting members of the governing party while the judiciary is accused of judicial overreach whenever it clarifies the stance of the law. These affect the functioning of the PP's office

negatively with regard to enhancing ethical conduct. As a result, the study recommends that the government should formulate policies and other regulatory frameworks that can help in forging cooperation between state organs and the PP's office as a measure to enhance ethical conduct in all spheres of government. The study also recommends that a joint comprehensive cooperation policy framework should be formulated. The aforementioned joint comprehensive cooperation policy should include ethics officer (to give advice on ethical matters), PP's office representative (to give advice in terms of policy point of view) and a representative from the judiciary (to provide guidance from the legal point of view) to promote cooperation and understanding between the institutions which have the mandate to promote ethical conduct.

5.5.3 The effectiveness of the Public Protector's office in enhancing ethical conduct

The Constitution, 1996 and the Public Protector Act, 1994 (Act No. 23 of 1994) should empower the PP's office to investigate all unethical conduct practices in all spheres of government. The finding of the study shows that although there are constitutional, legislative and institutional frameworks of good governance in the SA's public service, the feasible application and implementation remain a challenge. The powers vested on the PP's office to investigate all alleged or suspected unethical conduct are insufficient to perform its functions effectively. This finding therefore, indicates that the PP's office does not have all the necessary instruments required to undertake its constitutional obligations, and the instruments include legal powers to enforce its remedial actions, adequate infrastructure distribution (offices) and enough human and financial resources. These create unfavourable environment for the PP's office to enhance ethical conduct in Vhembe District Municipal Area. Therefore, the study recommends the review and amendment of some Sections of the Constitution, 1996, especially Sections 181 and 182 and Section 6 of the Public Protector Act, 1994 to give the PP's office powers to enforce compliance with its recommendations and to prohibit any form of interference into its affairs. The study further recommends the provision of adequate resources to enable the PP's office to function properly.

5.6 IMPLICATIONS OF THE STUDY

This section of the study provides implications of the study and supports the fact that the dissertation not only made a significant contribution to knowledge in its immediate discipline, but also has significant implications for the wider body of knowledge where other disciplines (fields) could benefit from its findings. The findings from the analysis respond to the study's research questions and help to achieve its goals, which are to investigate the effectiveness of the PP's office in enhancing ethical conduct, to analyse and to define ethics and a code of conduct as variables influencing accountability. These also include describing the constitutional role of the PP's office in enhancing ethical conduct, determining the challenges

affecting the effectiveness of the PP's office, assessing cooperation between state organs and the PP's office (See section 1.5).

5.6.1 Scholarly implications

In this study, scholarly implications include theoretical and methodological contributions to existing bodies of knowledge. Scholarly implications therefore, explicitly state implications that extend an existing body of conceptual and methodological knowledge. It is worth highlighting that this dissertation was the first in the Public and Development Administration in SA. The scholarly implications thereof could be helpful for scholars and researchers. From the findings thereof, it could be stated that the study contributed to the existing knowledge in the following ways:

- Deepening understanding of the topic under investigation
- Model building
- Methodology development and;
- Theory or concept testing

Table 5.1 Components of scholarly implications

Implications	Implementers	Beneficiaries
<p>Deepening understanding on the effectiveness of the PP's office in enhancing ethical conduct</p> <p>Building models that can be used to direct the day-to-day functioning of the PP's office</p> <p>Developing the methodology that can be used when conducting the PP's office businesses and;</p> <p>Testing the theory or concept</p>	<p>Information professionals, university and community librarians.</p>	<p>Researchers, scholars, students and other people who are interested in the functioning of the PP's office in enhancing ethical conduct</p>

5.6.2 Implications for practice

Implication 1:

The research literature has shown that the PP's office is faced with wide range of challenges that affect its functions and these include lack of constitutional powers to enforce its remedial actions. As a result, there is a need for the promulgation of some pieces of legislation to give the PP's office constitutional and legislative powers to enforce compliance with its remedial actions as it has constitutional and legislative powers to investigate all alleged unethical conduct cases.

Implication 2:

The research finding revealed that the PP's office is under-resourced which also affects its effectiveness negatively when conducting its constitutional obligations. From this finding of the study, it can be suggested that sufficient provision of resources (financial, infrastructure and human) bring benefits, which combined could improve not only the effectiveness, consistency and quality of the investigations of the PP's office, but also improve the reliability and implementability of its remedial actions and concluding investigations timeously and expeditiously.

Implication 3:

The study also found that there is a lack of cooperation between organs of state due to lack of relevant policies and regulatory frameworks, which compel organs of state officials to cooperate with the PP's office. Therefore, it can be noted that in order to forge cooperation that Section 181 of the Constitution, 1996 requires from the organs of state, there should be a promulgation of new pieces of legislation which control and compel officials working for these entities to cooperate, support and provide ethical leadership to the PP's office.

Table 5.2 Components of practical implications

Implications	Implementers	Beneficiaries
Promulgation of pieces of legislation and formulation of policies that give the PP's office constitutional and legislative powers to enforce compliance with its remedial actions	Parliament of the Republic of South Africa, Department of Justice and Constitutional Development; and Policy implementers, evaluators and monitors and reviewers	Government departments, companies working with government and the public
Provision of sufficient resources may bring benefits, which combined could improve not only the effectiveness, consistency and quality of the investigations but also improve the reliability and implementability of its remedial actions and concluding investigations timeously and expeditiously.	The National Treasury, Portfolio Committee on Justice and the Parliament of the Republic of South Africa	The PP's office, National Treasury and the public
Promulgation of new pieces of legislation, which control and compel officials working for organs of state to cooperate, support and to provide ethical leadership to the PP's office	Parliament of the Republic of South Africa, Department of Justice and Constitutional Development	The PP's office, government departments and the public

5.7 RECOMMENDATIONS FOR FURTHER RESEARCH

This study project was conducted in Vhembe District Municipality in the Limpopo Province and the findings of the study therefore, are only applicable to Vhembe District Municipal Area. This study opened various avenues for further investigations below:

- * The challenges facing the PP's office in forging cooperation with the local municipalities responsible for implementing ethics programmes

- * Further research into the effectiveness of the PP's office in enhancing ethical conduct in the Limpopo Local Government.
- * Examining people's perceptions regarding the role of the PP's office in combating illegal procurement processes in Vhembe District Municipal Area

Further research endeavours can be extended to include all other district municipalities across the country to investigate and to test the effectiveness of the PP's office in enhancing ethical conduct in local governments.

5.8 SUMMARY

The main objective of this final chapter was to present the summary of the findings based on the research questions which guided this study for the past two years. The answers thereof have been provided for all the research questions but with varying degrees of success. In this chapter, major findings, conclusions and recommendations of the study were discussed. It is in this chapter where more specific and representative recommendations and conclusions of the study were made that might contribute to new knowledge that can help in improving the effectiveness of the PP's office in enhancing ethical conduct in Vhembe District Municipal Area. This chapter also discussed the scholarly and practical implications of the study and further proposed further research areas. As a result, many new research questions in the enhancement of ethical conduct within district municipalities may emerge that will serve to initiate further research studies in the future. In this regard, the researcher's view is that a focus on the effectiveness of the PP's office in enhancing ethical conduct in an effort to promote good governance, administrative mechanisms, integrity and the ethical behaviour of local government will provide the district municipalities of SA with wide range of intervention strategies.

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ANNEXURES

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**SCHOOL OF MANAGEMENT SCIENCES
OFFICE OF THE DEAN**

School of Management Sciences
Private Bag x 5050
Thohoyandou
0950
06 February 2018

Limpopo Province, South Africa
The Managers
Vhembe District Municipality
Thohoyandou
0950

RE: REQUEST FOR PERMISSION TO COLLECT DATA FOR THE STUDY OF MR. N. E. RAPHASHA (STUDENT NUMBER: 11625120).


The above matter refers:

We hereby wish to confirm that Mr. N.E. Raphasha of Student Number: 11625120, is a registered Master of Administration (MADMIN) student at the University of Venda and is researching on the following topic: "The effectiveness of the Public Protector's Office in enhancing ethical conduct in Limpopo Local Government: The Case of Vhembe District Municipality.

In order for him to complete his study, we request you and your institution to provide him with the information that he might need for his study project. As an Institution of Higher Learning, we believe that the research he is undertaking will yield the results that might also assist your Department. We therefore, request your Department to assist him with the necessary information that will be collected through questionnaires and interviews and the information provided will be solely used for this study purposes only and will be treated with the highest degree of confidentiality.

We hope that you will find this in order and therefore, anticipate your assistance. For any queries, please feel free to contact me at Cell: 082 2926235 or e-mail: jacov@univen.ac.za

Professor N.J Vermaak (Supervisor: School of Management Sciences)


7/02/2018

Annexure 2

LETTER TO THE PARTICIPANT/RESPONDENT

Enquiry: Mr. N. E. Raphasha

P.O.Box 11044

Cell No. 072 974 1926 / 073 348 4803

Maniini, M. C. P

E-mail: christhecoan@gmail.com

0950

28 November 2017

Dear Respondent

I, Raphasha N. E. am a student at the University of Venda registered for Master of Administration (MADMIN) degree. I am conducting a research project on **“The effectiveness of the Public Protector’s office in enhancing ethical conduct in Limpopo Local Government: The Case of Vhembe District Municipality”**.

I would be most grateful if you help me with this part of my research by becoming one of the interviewees. I may assure you that the interviews will be conducted anonymously and have been designed mainly to answer questions regarding the topic under investigation.

Please note that:

- Your participation is fully voluntary
- Any information given will be treated with the strictest confidentiality
- You do not have to provide your name or any other identification
- For the research purposes, please answer questions honestly
- The results may be used to help policy-makers to enhance ethical conduct in local government administration for the provision of efficient and effective service delivery.
- Your cooperation is valued and will ensure the success of the research
- There are no correct or incorrect answers

In anticipation, please accept my sincere appreciation for your willingness to assist in this regard.

Hope you will find this in order.

Yours faithfully

.....

Raphasha N. E. (Mr).

Consent form (Declaration by participant/Respondent)

By signing below, I agree to take part in a research study entitled: *The effectiveness of the Public Protector's office in enhancing ethical conduct in Limpopo Local Government: The Case of Vhembe District Municipality.*

I declare that:

- * I have read the consent form and the information contained herein is written in a language with which I am fluent and comfortable.
- * I have had a chance to ask questions and all my questions have been adequately answered.
- * I understand that taking part in this study is voluntary and I have not been pressurised to take part.
- * I may choose to leave the study at any time and will not be penalised or prejudiced in any way.
- * I may be asked to leave the study before it has finished, if the study doctor or researcher feels it is in my best interest or if I do not follow the study plan, as agreed to.

Signed at: on this day:

Signature of the participant:

Signature of the witness:

Declaration by investigator

I (Researcher's full names) declare that:

- * I explained the information in this document to
- * I encouraged him/her to ask questions and took adequate time to answer them.
- * I am satisfied that he/she adequately understands all aspects of the research, as discussed above.
- * I will not use an interpreter and if might be used, then the interpreter must sign here:
Signature of the interpreter:

MEMO 1

From: Mr. N. E. Raphasha
Public and Development Administration
University of Venda, Private Bag x5050
Thohoyandou, 0950

To: Vhembe District Municipal Manager

Thohoyandou, 0950

Sir/Madam

REQUEST FOR PERMISSION TO CONDUCT INTERVIEWS AND TO DISTRIBUTE QUESTIONNAIRES TO MUNICIPAL FUNCTIONARIES AND COUNCILLORS

Permission is hereby requested from Executive Mayor, Municipal Council and Municipal Manager before the contact with participants is made. The main purpose for this request is to collect primary data for a Master of Administration qualification in the Public and Administration and Management field of study at the University of Venda. The title of this study is 'The effectiveness of the Public Protector's office in enhancing ethical conduct in Limpopo Local Government'. The interest is to investigate the effectiveness of the Public Protector's office in enhancing ethical conduct and to examine the theoretical terrain of ethics in local government as a measure to influence public officials' ethical behaviour.

PURPOSE OF THE INTERVIEWS AND QUESTIONNAIRE

The means of collecting data will be in a form of interviews and questionnaires. The interviews will be conducted with the high-ranking officials in the Vhembe District Municipal Area and the questionnaires will be distributed and conducted in person to respondents. In cases where questionnaires have only been distributed, the researcher will collect them in person during the same week of distribution. While the dissemination of the results will be done through a master's dissertation and municipalities which may be in need of such results may forward their individual requests to the research or alternatively to the University of Venda.

CONFIDENTIALITY AND ANONYMITY

You are assured that your responses will be used only for scholarly purposes. Your personal details and feedback will not be shared with any other person. Confidentiality and anonymity on individual responses will be highly maintained.

CONTACT DETAILS

Mr. N. E. Raphasha: 0729741926/0713806002 E-mail: 11625120@mvula.univen.ac.za or christhecoan@gmail.com.

I hope that the requested permission will be granted.

Kind regards

Mr. N. E. Raphasha

Vhembe District Municipality's permission

VHEMBE DISTRICT MUNICIPALITY

PRIVATE BAG X5006, THOHOYANDOU, 0950
TEL: 015 960 2000, FAX: 015 962 1017
Website: www.vhembe.gov.za



Ref: 4/2/1
Enq: Ndou T.S
Date: 19 April 2018



ATTENTION: Mr Raphasha N.E

RE: APPLICATION TO CONDUCT ACADEMIC RESEARCH: YOURSELF.

1. Your application dated 06 February 2018 refers.
2. It is with pleasure to inform you that your request mentioned above is hereby granted to you.
3. Please contact Skills Development Facilitator at 015 960 3541/076 242 6890 in order to arrange the starting date.
4. Should there be anything you need clarity on, feel free to call our office at 015 960 3558.

Kind Regards

**MUNICIPAL MANAGER
MR RAMBADO M.R**

20/4/2018
DATE

MEMO 2

From: Mr. N. E. Raphasha
Public and Development Administration
University of Venda, Private Bag x5050
Thohoyandou, 0950

To: Public Protector Regional Manager
Musina Municipality, 0900

Sir/Madam

REQUEST FOR PERMISSION TO CONDUCT INTERVIEWS AND TO DISTRIBUTE QUESTIONNAIRES TO PUBLIC PROTECTOR OFFICIALS AT MUSINA

Permission is hereby requested from the Public Protector's Office Regional Manager in Vhembe District Municipal Area before the contact is made with the participants. The purpose of this request is to collect primary data for a Master of Administration qualification in the field of Public Administration and Management at the University of Venda. The title of my study is 'The effectiveness of the Public Protector's office in enhancing ethical conduct in Limpopo Local Government: The Case of Vhembe District Municipal Area'. The interest thereof, is to investigate the effectiveness of the Public Protector's office in enhancing ethical conduct and to examine the theoretical terrain of ethics in local government.

THE PURPOSE OF THE INTERVIEWS AND QUESTIONNAIRES

The means of collecting data will be in a form of interviews and questionnaires. The interviews will be conducted with the high-ranking officials in the Public Protector's office in Musina (Vhembe District Municipal Area) and the questionnaires will be distributed and conducted in person to respondents. In cases where questionnaires have only been distributed, the researcher will collect them in person in a week's time. The dissemination of the study results will be done through a master's dissertation and the Public Protector's office may get the results on request.

CONFIDENTIALITY AND ANONYMITY

You are assured that your responses will be used only for scholarly purposes. Your personal details and feedback will not be shared with any other person. Confidentiality and anonymity on individual responses will be highly maintained.

CONTACT DETAILS

Mr. N. E. Raphasha: 0729741926/0713806002 E-mail: 11625120@mvula.univen.ac.za or christhecoan@gmail.com.

I hope that the requested permission will be granted.

Kind regards

Mr. N. E. Raphasha

INSTRUMENT
QUESTIONNAIRE

This study is focusing on the effectiveness of the Public Protector's office in enhancing ethical conduct in Limpopo Local Government: The Case of Vhembe District Municipality. Please put a cross (X) where you feel is appropriate. Note that there is no right or wrong answer.

BIOGRAPHICAL DETAILS OF PARTICIPANT
1. Gender of the participant

Male	1
Female	2
Other (Specify)	3

2. Age of the participants

Less than 20 years	1
21 to 30 years	2
31 to 40 years	3
41 to 50	4
51 and above	5

3. Level of education of the participant

Grade 12 and below	1
Diploma/Degree	2
Honours Degree	3
Master's Degree	4
Doctoral Degree	5

4. Occupation of the participants

Public Protector's official	1
Municipal employee	2
Civic Organization's Representative	3
Private (tendering) company's Representative	4
Other (Specify)	5

5. Work experience of the participant

Less than 10 years	1
11 to 20 years	2
21 to 30 years	3
31 to 40	4
41 and above	5

SECTION A: THE EFFECTIVENESS AND THE ROLE OF THE PUBLIC PROTECTOR'S OFFICE IN ENHANCING ETHICAL CONDUCT

Item	The Public Protector's office role in enhancing the ethical conduct in the local government system.	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
6	The PP's office was set up to protect citizens from unfair and unethical treatment by public officials.					
7	The PP has powers to investigate all unethical practices in all spheres of government.					
8	The PP serves as checks over all public servants as a measure to promote ethical conduct.					
9	The role of the PP applies to all citizens including the executive and the legislature.					
10	All members of the public of Vhembe know about the role of the PP in enhancing ethical conduct.					

Item	The effectiveness of the PP's office in enhancing ethical conduct in Vhembe local government.	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
11	The PP's office is empowered to investigate all forms of contraventions of law in public service.					
12	The investigative powers entrusted to the PP makes it very effective when performing its functions.					
13	All public servants respects and obey the constitutional obligations of the PP.					
14	The PP investigates all the case equally, irrespective of who transgresses against the legal framework.					
15	Unlike other Chapter 9, the PP is effective because it can initiate investigation on its own.					

SECTION B: COOPERATION BETWEEN STATE ORGANS AND THE CHALLENGES AFFECTING THE EFFECTIVENESS OF THE PUBLIC PROTECTOR'S OFFICE WHEN PERFORMING ITS OVERSIGHT AND PROTECTIVE ROLES

Item	The cooperation between the Public Protector's office and other state organs	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
16	The Constitution provides that other state organs must cooperate and play a support role to the PP.					
17	All state organs cooperate with the PP's office to enhance ethical conduct by state officials.					
18	Local state departments support and work with the PP's office every time there is investigation.					
19	Local departments compel all officials to provide all information and documents when PP needs them.					
20	Public officials always regard the PP as the source of ethical behaviours within their departments.					

Item	Challenges facing the Public Protector's office when fulfilling its mandate	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
21	The PP's office has enough staff including investigators and law experts.					
22	The treasury and the justice portfolio committee always provide the PP with resources it needs.					
23	Government departments are always willing to give support and work with the PP's office.					
24	The parliament holds all people implicated in the PP's report to account equally.					
25	All public officials always welcome PP's remedial actions as binding.					

SECTION C: RECOMMENDATIONS ABOUT THE IMPROVEMENT THAT CAN HELP THE PUBLIC PRTECTOR'S OFFICE TO ENHANCE ETHICAL CONDUCT IN VHEMBE

Item	Recommendations about strategies and mechanism that can be used to improve the effectiveness of the Public Protector's office	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
26	Proper pieces of legislation can help the PP to enhance ethical conduct in Vhembe.					
27	As the Constitution stated, non-interference can see the PP fulfilling its mandate with ease.					
28	Clear definition of the role of Chapter 9 Institutions can also help the PP to conduct investigations without counter-investigations.					
29	Giving the PP powers to investigate and to prosecute is another mechanism that can be used.					
30	PP's office must have its own budget and department separate from justice.					

"THANK YOU FOR YOUR PARTICIPATION"

INSTRUMENT

INTERVIEW SCHEDULE

This study focuses on the effectiveness of the Public Protector's office in enhancing ethical conduct in Limpopo Local Government: The Case of Vhembe District Municipality. You are cordially requested to take part in this study and you are guaranteed that your identity will remain anonymous. This interview schedule can take at 25 minutes of your time. Please answer the following questions to the best of your understanding:

1. How effective is the Public Protector's office in enhancing ethical conduct in Vhembe local government administration?

- 1.1 Please provide evidence (examples) supporting your answer in 1 above. (Why do you think so?)

2. What is the role of the Public Protector's office in enhancing ethical conduct in Vhembe local government administration?

2.1 Are the constitutional and legislative powers provided for the Public Protector to enhance ethical conduct sufficient? Give as many reasons as possible to support why you hold such a view.

3. What are the challenges affecting the effectiveness of the Public Protector's office when fulfilling its constitutional mandate? Please list and explain each of them.

3.1 What do you think are the causes of each? Please list and provide detailed explanation for each.

3.2 What do you suggest can be done to curb these challenges as a measure to create environment to improve the effectiveness of the Public Protector's office?

4. Are the organs of state showing commitment to cooperate with the Public Protector?
Please give reason for your answer.

- 4.1 How can the cooperation between the Public Protector's office and other state organs be forged in order to enhance ethical conduct in Vhembe local government?

5. What are the mechanisms that can be used to help improve the effectiveness of the Public Protector's office in enhancing ethical conduct in the public service? Provide as many as possible.

Thank you for participating in this study and such is highly appreciated.