

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



**PUBLIC PROTECTOR
SOUTH AFRICA**

REPORT NO 11 of 2008/09

REPORT ON A SYSTEMIC INVESTIGATION INTO THE DEFICIENCIES WITH THE PROCESSING OF PENSION BENEFITS PAYABLE TO FORMER GOVERNMENT EMPLOYEES AND THEIR DEPENDANTS

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(a) EXECUTIVE SUMMARY

1. The Office of the Public Protector (the Office) had been swamped with complaints about government employee pension benefits. These complaints account for a significant number of the complaints dealt with by the Office, and relate mainly to undue delays with the payment of pension benefits, or to pension benefits that were allegedly calculated incorrectly.
2. The Office had been dealing with the complaints on a case-by-case basis and usually resolved complaints to the satisfaction of the complainants. Due to the fact that such interventions by the Office did not reduce the inflow of complaints, the Office embarked on a systemic investigation into the deficiencies with the processing of pension benefits payable to former government employees and their dependants. The purpose was to identify patterns or systemic deficiencies that contributed to the large number of complaints received by the Office, and to address these deficiencies.
3. The complaints received are:
 - 3.1 The delay in the payment of benefits caused by both the Government Employees Pension Fund (GEPF) and the employer departments;
 - 3.2 The failure of GEPF and the employer departments to advise the complainants of the status or progress with the processing of their pensions, and to provide reasons for delays;
 - 3.3 The failure of GEPF and employer departments to respond to queries of the complainants;

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- 3.4 Allegations that pension calculations were incorrect;
 - 3.5 Allegations that GEPP refused to recalculate pension benefits;
 - 3.6 Allegations that the period of employment or membership was not correctly captured; and
 - 3.7 Allegations that pensionable service that had been bought back had not been properly calculated.
4. The investigation comprised of:
 - 4.1 An analysis and evaluation of complaints received by the Office;
 - 4.2 An evaluation of the legislation pertaining to government employees pension benefits;
 - 4.3 A consideration of the legislative framework pertaining to service delivery in the public service;
 - 4.4 Discussions with departments and stakeholders; and
 - 4.5 A two-day workshop with human resource personnel of national departments, the Premiers' Offices, as well as provincial departments. The workshop discussed the causes for the delays, identified and devised solutions to these problems.

5. Key Findings

- 5.1 There is a general delay in the processing and payment of pension benefits to government employees.
- 5.2 Government employees, who exited the system, were improperly prejudiced as a result of the undue delays in the processing of their pension benefits.
- 5.3 The primary source of undue delays could be attributed to the failure by employer departments to:
 - 5.3.1 Submit the relevant exit documents to Pensions Administration for members who have exited the Fund;
 - 5.3.2 Submit correctly completed documentation in accordance with the Procedure Manual compiled by Pensions Administration; and
 - 5.3.3 Respond timeously to enquiries and requests for additional information which in turn flowed from the lack of compliance with the prescribed rules and procedures of the Fund, as well as the lack of efficient and effective communication between GEPP and the employer departments.

6. Recommendations of the Public Protector

- 6.1 Training by the Department of Public Service and Administration (DPSA) and GEPP of all relevant personnel, must be provided in respect of the completion of pension exit documents and the payroll administration system that is applicable.

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- 6.2 Employer departments and GEPF should ensure proper compliance by employees with the provisions of the *Batho Pele* (People First) principles for service delivery, as well as the Code of Conduct for Public Servants.
- 6.3 The information on the applicable payroll systems should be continuously updated and corrected by employer departments. The payroll systems would then be able to generate updated exit documents.
- 6.4 An effective complaints handling mechanism should be introduced at the employer departments and GEPF, to identify problem areas immediately. An internal complaints process is an informal and flexible process and will also provide an early opportunity for the employer departments and GEPF to detect problems that are arising in the administration process.
- 6.5 The quality of information at the Call Centre of GEPF should be improved.
- 6.6 Personnel at the Call Centre should be properly trained on the process of the payment of exit benefits, and must have access to information in respect of members exiting the system.
- 6.7 The employer departments and GEPF should publish service standards to ensure that pension benefits are paid within specified timeframes. This will foster good public administration that is acceptable, lawful, fair, transparent and responsive.
- 6.8 GEPF should introduce measures to ensure that all deficiencies are identified after the first submission of exit documents by the employer departments. This would prevent the continuous requests for updated and amended information by GEPF from employer departments.

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7. GEPF should take urgent steps to:
 - 7.1 Improve the channels of communication with government departments at both national and provincial levels;
 - 7.2 Develop its information technology infrastructure to comprise methods of communication that will allow for the facilitation of internal and external information to the employer departments to ensure quick and efficient response to all enquiries;
 - 7.3 Establish provincial offices of GEPF in all provinces and consider establishing district offices within the provinces where the need is identified;
 - 7.4 Appoint client managers for the different national and provincial departments;
 - 7.5 Issue clear instructions in respect of the requirements where previous periods of service of employees fell under other funds such as the previous Transkei, Bophuthatswana, Venda and Ciskei funds.
 8. Every department at national and provincial levels must at regular intervals inform employees of the rules of GEPF and the different options available to them when exiting the Fund.
 9. DPSA should assist in the formation of a "Pensions Forum" at national and provincial levels.

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10. GEPF should urgently continue with the project launched at the end of 2004 to identify and address all unprocessed exits with the aim of ensuring that the withdrawal documents are received from all members who have terminated their membership.

REPORT ON A SYSTEMIC INVESTIGATION INTO THE DEFICIENCIES WITH THE PROCESSING OF PENSION BENEFITS PAYABLE TO FORMER GOVERNMENT EMPLOYEES AND THEIR DEPENDANTS

1. INTRODUCTION

1.1 This report is submitted to Parliament, the Minister of Public Service and Administration, the Minister of Finance, the Premiers of Gauteng, Limpopo, KwaZulu Natal, Northern Cape and Eastern Cape Provincial Governments and the Board of Trustees as well as the Chief Executive Officer of the Government Employees Pension Fund.

1.2 The Office of the Public Protector (the Office) received, and continues to receive, numerous complaints relating to the payment of government employee pension benefits. The complaints, although diverse, relate mainly to undue delays of payments of pension benefits and dissatisfaction with the pension benefits received.

2. THE COMPLAINTS

2.1 The complaints received are briefly as follows:

2.1.1 The Government Employees Pension Fund (GEPF) and employer departments failed to respond to queries of complainants, and in particular, failed/refused/neglected to inform the complainants of the progress of their pension applications, as well as the reasons for apparent delays in processing such applications;

2.1.2 Pension calculations were incorrect;

2.1.3 GEPF refused to recalculate pension benefits;

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- 2.1.4 Periods of employment or membership of the Fund were not correctly captured; and
- 2.1.5 Pensionable service that had been bought back, were not properly calculated.
- 2.2 The Office was dealing with these complaints on an *ad hoc* basis to the satisfaction of the complainants in most instances, but this did not stem the tide of complaints.
- 2.3 As these complaints kept on being lodged with the Office, and increased significantly, it was decided to conduct a systemic investigation into the manner in which government employee pension benefits were processed and paid. The aim was to determine whether there were any systemic deficiencies that contributed to the complaints, and to address these deficiencies.

3. THE POWERS AND FUNCTIONS OF THE PUBLIC PROTECTOR

- 3.1 The institution of Public Protector was established in terms of section 181 of the Constitution of the Republic of South Africa, 1996 (the Constitution).
- 3.2 The Public Protector's legal mandate, powers and functions flow from the Constitution and the Public Protector Act, 1994. Section 182(1) of the Constitution provides that the Public Protector has the power, as regulated by national legislation:

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- 3.2.1 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;
 - 3.2.2 To report on that conduct; and
 - 3.2.3 To take appropriate remedial action.
- 3.3 The Public Protector has additional powers and functions as prescribed by national legislation - section 6(4) of the Public Protector Act, 1994, provides that the Public Protector shall be competent to investigate on his or her own initiative, or on receipt of a complaint, any alleged maladministration in connection with the affairs of government at any level. In terms of the said section the Public Protector also has jurisdiction to investigate any alleged act or omission by a person performing a public function.
- 3.4 The Public Protector was therefore empowered by legislation to initiate a systemic investigation, and had the necessary jurisdiction over the institutions involved.

4. APPLICABLE LEGISLATION

4.1 The Constitution

- 4.1.1 Section 195(1) of the Constitution provides that the public administration must be governed by the democratic values and principles enshrined in the Constitution, including, *inter alia*, the following principles:
 - 4.1.1.1 Maintaining a high standard of professional ethics;
 - 4.1.1.2 Using resources efficiently, economically and effectively;

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- 4.1.1.3 Providing services impartially, fairly, equitably and without bias;
 - 4.1.1.4 Responding to people's needs and encouraging the public to participate in policy making;
 - 4.1.1.5 Accountable public administration; and
 - 4.1.1.6 Fostering transparency by providing the public with timely, accessible and accurate information.

4.1.2 Section 41(1)(h) of the Constitution provides that all spheres of government and intergovernmental relations must co-operate with one another in mutual trust and good faith by:

- (i) fostering friendly relations;
- (ii) assisting and supporting one another;
- (iii) informing one another of, and consulting one another on, matters of common interest;
- (iv) coordinating their actions and legislation with one another;
- (v) adhering to agreed procedures; and
- (vi) avoiding legal proceedings against one another.

4.2 The Code of Conduct for the Public Service

4.2.1 Chapter 2 of the Public Service Regulations, 2001 (promulgated in Government Notice R1 of 5 January 2001) provides for a Code of Conduct for the Public Service (Code of Conduct). Regulations C.1 to C.4 of Chapter 2 of the Code of Conduct *inter alia* provide for an employee:

- 4.2.1.1 To be faithful to the Republic and to honour the Constitution and abide thereby in the execution of his or her daily tasks;
- 4.2.1.2 To put the public interest first in the execution of his or her duties;

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- 4.2.1.3 To loyally execute the policies of the Government of the day in the performance of his or her official duties as contained in all statutory and other prescripts;
 - 4.2.1.4 To co-operate with public institutions established under legislation and the Constitution in promoting the public interest;
 - 4.2.1.5 To serve the public in an unbiased and impartial manner;
 - 4.2.1.6 To be polite, helpful and reasonably accessible in his or her dealings with the public, at all times treating members of the public as customers who are entitled to receive a high standard of service;
 - 4.2.1.7 To be committed through timely service to the development and upliftment of all South Africans;
 - 4.2.1.8 To recognise the public's right of access to information;
 - 4.2.1.9 To respect and protect every person's dignity and his or her right as contained in the Constitution;
 - 4.2.1.10 To co-operate fully with other employees to advance the public interest;
 - 4.2.1.11 To strive to achieve the objectives of his or her institution;
 - 4.2.1.12 To be punctual in the execution of his or her duties;
 - 4.2.1.13 To execute his or her duties in a professional and competent manner; and
 - 4.2.1.14 To promote sound, efficient, transparent and accountable administration.

4.3 Batho Pele principles

- 4.3.1 In 1997 the Department of Public Service and Administration (DPSA) published a White Paper on Transforming Public Service Delivery (General Notice 1459 of 1997, published on 1 October 1997 in Government Gazette No 18340). The purpose of the White Paper was to provide a policy frame work and a practical implementation strategy for

the transformation of public service delivery. The White Paper is also known as the Batho Pele White Paper. Batho Pele can be translated to People First.

4.3.2 The White Paper identified eight Batho Pele principles for transforming public service delivery. These principles are:

4.3.2.1 *Consultation:*

Citizens should be consulted about the level and quality of the public services they receive and, wherever possible, should be given a choice about the services that are offered;

4.3.2.2 *Service standards:*

Citizens should be told what level and quality of public services they will receive so that they are aware of what to expect;

4.3.2.3 *Access:*

All citizens should have equal access to the services to which they are entitled;

4.3.2.4 *Courtesy:*

Citizens should be treated with courtesy and consideration;

4.3.2.5 *Information:*

Citizens should be given full, accurate information about the public services they are entitled to receive;

4.3.2.6 *Openness and transparency:*

Citizens should be told how national and provincial departments are run, how much they cost, and who is in charge;

4.3.2.7 *Redress:*

If the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective

remedy; and when complaints are made, citizens should receive a sympathetic, positive response; and

4.3.2.8 *Value for money:*

Public services should be provided economically and efficiently in order to give citizens the best possible value for money.

5. PROCEDURES OF GOVERNMENT EMPLOYEES PENSION FUND

5.1 GEPF is regulated in terms of the Government Employees Pension Fund Law, 1996 (the GEPF Law, 1996), and the Rules of the Government Employees Pension Fund (Proclamation 21 published in Government Gazette 17135 of 19 April 1996).

5.2 GEPF is governed by a Board of Trustees and administered by the Pensions Administration Directorate (Pensions Administration), which is a chief directorate within the National Treasury.

5.3 GEPF is a defined benefit fund. This means that the benefits are defined in terms of the rules of the Fund. As such the benefits are generally guaranteed and are not dependant on the investment returns of the Fund or on the level of employee contributions.

5.4 The defined benefits payable to all members are usually based on two variables, namely the final average salary and the years of pensionable service of the member.

5.5 GEPF provides benefits on:

- Resignation;
- Retirement;

- Discharge; and
- Death.

5.6 For an investigation of this nature it was not only necessary to understand the rules of the Fund but also to be *au fait* with the legislation referred to. Such rules and legislation provide the essential steps in processing a claim and the standards of service delivery that can be expected. GEPF developed a procedure manual for the benefit of government employers, called the *Procedure Manual for the Interaction between Pensions Administration and Government Employers* (the Manual). The Manual deals with the GEPF Law, 1996, and Regulations, as well as the Pension Administration Business Rules, in a simplified manner. It serves to inform government employers of the procedures and rules for interacting with Pensions Administration.

5.7 Employer departments are responsible for ensuring that the required information (that sets in motion the payment of benefits) is submitted to Pensions Administration correctly and on time. The procedures provided for in the Manual must be followed before any pension benefit can be calculated.

5.8 Where the particulars of an exiting member are incorrect, outdated or have changed after the original submission of documents, Pensions Administration would return the affected documents to the employer department to make the necessary corrections and to resubmit.

5.9 Once the new and corrected set of documents is received, Pensions Administration would process the benefit payable to the exiting member. Thereafter, the calculation of the exiting member's full benefit will be

submitted to the South African Revenue Services (SARS) in order to calculate the tax payable in terms of the Income Tax Act, 1962.

5.10 After calculation of the tax payable, the process is complete and the benefit will be paid to the employee.

5.11 The Manual refers to the following application forms:

- Admissions Application – Form Z125;
- Financial Contributions toward the Pension Fund – Form Z126;
- Employer Salary Schedule;
- Withdrawal from Fund Application – Form Z102
- Nomination of Beneficiaries – Form WP1002;
- Updating Personal Particulars of Member – Form Z864;
- Updating Bank Particulars – Form Z894;
- Application for Spouse Pension– Form Z143;
- Application for Purchase of Service – Form Z215;

5.12 For purposes of this report the following provisions of the Manual are important to be able to evaluate allegations of deficiencies in the system:

5.12.1 Admissions and updating transactions:

- Updating the personal attributes (what is meant is "particulars") of a member;
- Registration of a spouse or life partner;
- Nomination of beneficiaries for member's benefits;
- Transfer of a member between government employers;
- Updating the bank particulars of a member or pensioner;
- Confirming the existence of a pensioner.

5.12.2 Withdrawal from the Fund transactions:

- Withdrawal of a member due to resignation/absconding;
- Withdrawal of a member due to retirement/discharge;
- Withdrawal of a member due to death;
- Notification by a member of a divorce settlement.

5.12.3 Payment administration transactions:

- Applying for a spouse pension;
- Time frame for submission and payment of benefits.

5.13 Admissions and updating transactions: Updating the personal attributes of a member

5.13.1 Every member and employer department has the responsibility to notify GEPP of any change in personal particulars.

5.13.2 A Form Z864 must be submitted in order to update the following information:

- Personal particulars of a member;
- Personal particulars of a spouse or life partner;
- Personal particulars of a dependant;
- Medical scheme particulars;
- Contact details.

5.14 Admission and updating transactions: Registration of a spouse or life partner

5.14.1 One is recognised as a spouse of a member of the Fund when:

- Married in terms of the Marriage Act 25 of 1961;
- Married in terms of the Customary Marriages Act 12 of 1998; or
- Recognised by a religious group as married.

5.14.2 One is recognised as a life partner of a member of the Fund if:

- Both persons are unmarried;
- The partnership excludes any other relationship and involves co-habitation; and
- Responsibility is shared for each other's common welfare needs, financially and otherwise.

5.14.3 Pensions Administration and the Lesbian and Gay Equality Project entered into an agreement in terms of which same-sex life partners can be registered as beneficiaries for a pension benefit, provided that affidavits proving the permanent nature of the relationship are disclosed to Pensions Administration. The same applies to heterosexual life partners.

5.14.4 The required forms for registering a spouse or a life partner as a dependant for a pension benefit or other civil benefit are the following:

- Updating of Personal Particulars of Member Form Z864 and Nomination of Beneficiaries Form WP1002 are used before the withdrawal of a member; or
- Application for Spouse Pension Form Z143 and Withdrawal from Fund Application Form Z102 are used after the withdrawal of a member due to death.

5.15 Admission and updating transactions: Nomination of beneficiaries

5.15.1 A member may nominate any person to receive part of the pension benefits that may accrue to him or her. The nominated beneficiary need not be a relative or dependant of the member. This nomination is done on the Nomination of Beneficiaries Form WP1002.

5.15.2 The completed Form WP1002 is essential to assist the Board of Trustees with the payment of benefits to a member's dependants or nominated beneficiaries in the event of death before retirement.

5.15.3 The Board of Trustees may exercise its discretion to override the member's nomination should it be considered appropriate.

5.15.4 The information on Form WP1002 is not only essential in assisting the Board of Trustees to make these decisions, but also to trace dependants where necessary. Members are advised to review and amend their nominations regularly.

5.16 Admission and updating transactions: Transfers between government employers

5.16.1 The transfer of a member between government departments does not affect membership of the Fund. However, Pensions Administration must be informed of the transfer.

5.16.2 Should an employer department interface with GEPF via a payroll administration system, such as PERSAL, the notification of the transfer must be done on Form Z125. No certified documentation is required.

5.16.3 With regard to paper based submissions the notification of the transfer must also be done on Form Z125 and must be submitted by the employer department. However, certified copies of documents are required in this case.

5.17 Admission and updating transactions: Updating the bank particulars of a member, pensioner or beneficiary

5.17.1 The latest banking details of members and their beneficiaries must be submitted to Pensions Administration. This must be done on Form Z894, with the required attachments as stipulated on the form. Only original copies must be submitted as no photocopies will be acted upon.

5.17.2 “Beneficiary” includes deceased estates, dependants or nominees. Payments are made to the beneficiary only and not to any third party.

5.18 Admission and updating transactions: Confirming the existence of a pensioner

5.18.1 Pensions Administration annually confirms that a pensioner is still alive by using a Life Certificate Form. The Life Certificate Form is first issued one month after the member became a pensioner.

5.18.2 Thereafter, the Life Certificate Form is issued annually for completion by the pensioner, 3 months before pension payments are due to lapse.

5.18.3 The Life Certificate Form must be signed, a thumbprint affixed, confirmed by two witnesses, certified by a Commissioner of Oaths and then returned to Pension Administration. The Form also provides for the income tax number of the pensioner to be filled in.

5.18.4 If the Life Certificate Form is not received by Pensions Administration within 3 months, the annuity payments to the pensioner will be suspended.

5.19 Withdrawal from the Fund transactions: Withdrawal of a member due to resignation or absconding

5.19.1 In this instance the following documentation is required:

- Withdrawal from Fund Application Form Z102;
- Updating Personal Particulars of Member Form Z864;
- Updating Bank Particulars Form Z894;
- Certified copy of a bar-coded identity document or passport (the copy must allow scanning);
- Certificate of Approval for Discharge; and
- Statement of departmental deductible debt in terms of the GEPF Law, 1996 or the Associated Institutions Pension Funds Act 41 of 1963.

5.20 Withdrawal from the Fund transactions: Withdrawal of a member due to retirement or discharge

5.20.1 Special circumstances to be considered here concern voluntary severance packages: In terms of Public Service Coordinating Bargaining Council (PSCBC) Resolution 7 of 2002, employees who leave the public service at the age of 55 years and have at least ten years of pensionable service, may receive the full normal retirement benefits or the full actuarial interest calculated in terms of the GEPF Law, 1996.

5.20.2 The Department of Public Service and Administration (DPSA) has with effect from 1 January 2006 in terms of section 3(3)(c) of the Public Service Act, 1994, as amended, issued under cover of circular 1/6/21

dated 16 January 2006, a determination on the introduction of an employee-initiated severance package.

5.20.3 In instances of retirement or discharge the following documentation is required:

- Withdrawal from Fund Application Form Z102;
- Updating Personal Particulars of Member Form Z864;
- Updating Bank Particulars Form Z894;
- Certified copy of the member's identity document;
- Approval of early retirement, or discharge in the case of a voluntary service package;
- Copy of the service contract;
- Statement of departmental debt deductible in terms of the GEPP Law, 1996 or the Associated Institutions Pension Funds Act 41 of 1963;
- Application and Approval Form for voluntary service package;
- Copy of final salary advice.

5.21 Withdrawal from the Fund transactions: Withdrawal of a member due to death

5.21.1 The employer department must ensure that a correctly completed Form Z102 is submitted in respect of the deceased employee. A certified identity document, death certificate and copy of the final salary advice must accompany the application.

5.21.2 The Form Z894 in this instance will be required for the dependants, the deceased estate, or trust of the member. In the case of a deceased estate, a letter of executorship is required, and in the case of a trust, a

copy of the trust deed is required, together with authorization from the Master of the High Court.

5.21.3 The Nomination of Beneficiaries Form WP1002 must be submitted.

5.21.4 With regard to the children of the member, the following must be submitted:

- A certified copy of the birth certificates of the registered minor children from the current or previous marriage, whether biological or adopted - benefits payable will be paid to the Master of the High Court;
- Should the minor children, from the current or previous marriage, whether biological or adopted, be in the care of a guardian, confirmation of the guardian's appointment with the contact details of the guardian;
- With regard to a major child or other dependant, a certified copy of the identity document and proof of financial dependency.

5.21.5 In respect of a spouse from a previous marriage, certified copies of the identity document and the divorce decree are essential.

5.22 Withdrawal from the Fund transactions: Notification by member of a divorce settlement

5.22.1 Where an order is made for the payment of a pension value in a divorce action in accordance with the Divorce Act, 1979 it is necessary to submit an application form to Pensions Administration.

5.22.2 If there is a court order in terms of the Divorce Act, 1979 benefits are only payable upon the *withdrawal* of the member from the Fund, and not before. The Form Z102 must be completed as for a resignation type transaction, with the following particulars:

- The date of divorce must replace the date of service termination;
- "Divorce case" must be supplied as the reason for termination of service.

5.22.3 The following documents should be attached to Form Z102:

- A copy of the complete and final divorce order;
- Updating Personal Particulars of Member Form Z864, or the particulars of the ex-spouse must be registered with Pensions Administration.

5.23 Payment administration transactions: Applying for a spouse's pension

5.23.1 A member must register his or her spouse with the Fund as the lawful husband, lawful wife or life partner.

5.23.2 If a member/pensioner dies and the period of pensionable service or un-expired period of service is at least ten years, the surviving spouse will be paid a spouse's pension.

5.23.3 However, should the member/pensioner die, leaving more than one spouse, it is within the discretion of the Board of Trustees to decide which of them will receive the spouse's pension. If payment is to be

made to more than one spouse, the Board will decide on the ratio of payment. In terms of the amendments to the Associated Institutions Pension Fund Law, Government Gazette nr 18953 of 1998, if a spouse survives a female member or pensioner, who died after 1 July 1998, he is entitled to a spouse's pension.

5.23.4 An application for a spouse's pension must be done on Form Z143. A separate form must be submitted for each application where there is more than one spouse applying. A certified copy of the marriage certificate issued by the Department of Home Affairs must accompany the application. Alternatively, a certified customary union certificate, Hindu marriage certificate or lobolo affidavit will be accepted.

5.23.5 In respect of heterosexual and same-sex life partners, a committee was established to evaluate and decide on each application. The committee will decide on an application within 60 days from the date of receiving the correctly completed application with required documentation. The applicant will be informed of the decision within 20 days from the date of the decision and may appeal an adverse decision.

5.24 Payment administration transactions: Time frame for submission and payment of benefits

5.24.1 The employer department must submit all relevant documents at least six to eight days before the last day of service of the member. Exceptions to this rule are resignations and cases of death in service.

5.24.2 In terms of section 26 of the GEPF Law, 1996 a benefit shall be paid to the member, pensioner or beneficiary within a period of 60 days after

the date on which the correctly completed documents were received from the employer department. If a benefit is not paid within a period of 60 days, interest shall be paid by the Fund to the member, pensioner or beneficiary. Interest is calculated from 60 days after the last day of service at the employer department of that member or pensioner, or after the death of the pensioner, at the prescribed rate, as provided for in section 6 of the Government Employees Pension Law Amendment Act 21 of 2004.

6. THE INVESTIGATION

6.1 Analysis and evaluation of complaints received by the Office

6.1.1 Perusal of complaints received by the Office

- 6.1.1.1 The Office perused a total of 629 complaint files in respect of dissatisfaction with the payment of GEPF pension benefits.
- 6.1.1.2 Of the total number of files perused, 103 complaints were directed against GEPF after payment of benefits was made to the complainants. These complaints were in respect of calculations (including years of pensionable service used to calculate benefits), and in respect of the submission of Life Certificates. In almost all these complaints the pensioners had requested information from Pensions Administration, but alleged that they did not receive any response to their queries.
- 6.1.1.3 A total of 158 complaints were directed against national government departments. Of these, 72 complaints were unfounded. In another 20 of these matters, the delay occurred at

Pensions Administration, and in the remaining 66, delays occurred at the national departments.

- 6.1.1.4 As far as provincial departments were concerned, a total of 149 complaints were received in respect of education departments, and 144 complaints in respect of health departments. A total of 75 complaints were received for the remaining provincial departments. In most of these complaints delays occurred at the provincial departments, either because the withdrawal documents were not submitted on time, or the information submitted was incorrect.

6.1.2 Evaluation of the complaints received by the office

- 6.1.2.1 The following allegations were levelled against GEPF and employer departments:
- 6.1.2.1.1 Life Certificates submitted to the Fund were not recorded timeously;
- 6.1.2.1.2 Payment of benefits was delayed where there was a pension endorsement in terms of a divorce decree;
- 6.1.2.1.3 Pensions Administration and employer departments failed to furnish pension benefit calculations (quotations) at the request of a member who wished to determine the best option;
- 6.1.2.1.4 Employer departments and Pensions Administration did not respond to enquiries made by the widows of former members. After the death of a spouse, widows often enquired about benefits payable by the Fund. Widows were often not aware of the fact that benefits had been paid during the life of the pensioner and in many instances the pensioner received only a gratuity during his lifetime;

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- 6.1.2.1.5 Difficulties were experienced in obtaining the correct documents from a member in prison;
- 6.1.2.1.6 Employer departments did not submit certified copies of the member's identity document or the Updating Bank Particulars Form Z894 with the Withdrawal from Fund Application Form Z102;
- 6.1.2.1.7 The Withdrawal from Fund Application Forms Z102 were not properly completed by certain employer departments;
- 6.1.2.1.8 Where a member died while still employed, employer departments did not assist the spouse with the completion of the Application for Spouse Pension Form Z143;
- 6.1.2.1.9 Employer departments requested Pensions Administration to deduct departmental debts from pension benefits but did not inform members properly about the nature of the debt;
- 6.1.2.1.10 Members were not properly informed of the effect of the various options available to them and often wanted to change the chosen option after their last working day; and
- 6.1.2.1.11 Members who had previously been members of other funds such as the Transkei, Bophuthatswana, Venda and Ciskei funds, often did not receive benefits for contributions made to the other funds. It was expected of members to prove their contributions to funds they previously belonged to.

6.1.3 Observations made from the perusal of complaint files

- 6.1.3.1 **Calculations of benefits for members who intend to retire or resign (quotations):** Pensions Administration did not have the staff capacity to attend to requests for quotations. They were not

always in possession of all the necessary information to calculate these benefits correctly.

6.1.3.2 **Payment of benefits where a member was divorced:** GEPF must adhere to divorce decrees and the contents of divorce agreements. It should however be noted that the law provided for specific interpretation to a divorce agreement. The benefit would be calculated as a percentage, as contained in the divorce agreement, of the resignation benefit of the member at the time of divorce.

6.1.3.3 **Payment of benefits to deceased estate accounts:** Payments to deceased estates were only effected where beneficiaries had not been identified. The Board of Trustees then had to decide on the distribution of the benefit in terms of section 22 of the GEPF Law, 1996. Payments to estates were often delayed due to the fact that the beneficiaries did not open a deceased estate account at a banking institution.

6.1.3.4 **Life Certificates of retired members:** Two problems were identified in respect of Life Certificates submitted by retired members:

- Members did not complete Life Certificates or only completed it after their annuity was suspended; and
- Life Certificates were incomplete when submitted by the retired members.

6.1.3.5 **Monthly pensions payable to pensioners:** Most complaints about the non-payment of monthly pensions related to Life Certificates not submitted, or not captured timeously by Pensions Administration. Pensioners sometimes complained about the amount they received. This was usually as a result of income tax deducted by the Fund and that the pensioner was not aware of.

- 6.1.3.6 **Nominations of beneficiaries:** Although a member could nominate beneficiaries by completing the Nomination of Beneficiaries Form WP1002, it is within the discretion of the Board of Trustees in terms of section 22 of the GEPF Law, 1996, to override the member's nomination should it be considered appropriate.
- 6.1.3.7 **Undue delay with the payment of spouse's pension:** These payments fell into two categories, namely spouses of pensioners who passed away, and spouses of members who died while still in service. Where a pensioner had died and GEPF was aware of an existing spouse or life partner, the necessary forms were sent to the widow or life partner for completion. Where a member who was still in service died, the necessary withdrawal forms were completed by the employer department. In both cases delays were experienced because information at the Fund's disposal was incorrect.
- 6.1.3.8 **Transfer of benefits to another fund:** Most of the complaints about transfer of funds to another pension fund were in respect of the change of the option previously chosen by the member on resignation. Members were not aware of the difference in calculating a benefit that was withdrawn and paid in a lump sum to the member, as opposed to the considerable increased benefit where the benefit was transferred to another pension fund. GEPF's Guidelines and Benefit Brochure (the Brochure) for members contained detailed information on the transfer of benefits to other funds. Delays with the transfer of funds occurred as a result of attempts to transfer actuarial interest into funds that did not qualify as approved retirement funds in terms of the GEPF Law, 1996.

6.2 Specific Case Studies

6.2.1 South African Teachers Union complaint

- 6.2.1.1 During 2006 the Office received a complaint from the South African Teachers Union (SATU).
- 6.2.1.2 The complaint was in response to an article which appeared in the Beeld newspaper at the beginning of July 2006, in which the jurisdiction of the Public Protector to investigate allegations of undue delay against government institutions was discussed.
- 6.2.1.3 In the complaint, SATU listed 83 of their members who had retired or resigned from the various provincial departments of education, or were entitled to death benefits, who had not received their pension benefits from the Fund.
- 6.2.1.4 The Office investigated the reasons for the alleged undue delay for each of the 83 persons listed in the complaint. An analysis of these complaints confirmed undue delay with the processing of pension applications to be the common denominator.
- 6.2.1.5 Retirement, resignation and death benefits were only paid to the exiting member or the nominated beneficiary, six to twelve months after retirement, resignation or death. This delay would in certain instances be as long as eighteen months.
- 6.2.1.6 Death benefits which were to be paid into a deceased member's estate, as well as spouse's benefits, were also subjected to unreasonably long delays of twelve to eighteen months.

6.2.2 Public Protector Report No 26 of 2007/08

- 6.2.2.1 On 19 February 2007 the Office noticed an article in the Beeld newspaper. The article referred to the pension benefits of Mr S J Prinsloo that were not paid seven months after his resignation from the South African Police Service (SAPS). It was decided to conduct an investigation on own initiative.
- 6.2.2.2 After investigating it was found that Mr Prinsloo was improperly prejudiced as a result of the undue delay in the processing of his pension benefits. It was further found that the primary source of the undue delay could be attributed to the failure by SAPS to submit timeously correctly completed pension withdrawal documentation and the failure to respond timeously to the incorrectly completed forms returned to them. Various consultations with SAPS indicated that the delays experienced were caused by a lack of staff.

6.2.3 Public Protector Report No 27 of 2007/08

- 6.2.3.1 The Public Protector conducted an investigation into allegations of undue delay in the payment of pension benefits by GEPA and the payment of death benefits by the Office of the Compensation Commissioner and the National Treasury.
- 6.2.3.2 Mrs M Blom is the widow of a police officer who died on 25 July 2006 while on duty. It came to the attention of the Office during March 2007 that Mrs Blom had not received any pension benefits to date. She was contacted by the Office and all the necessary information was obtained. It was decided to conduct an own initiative investigation.

6.2.3.3 As in the previous case dealt with in paragraph 6.2.2 above it was found that Mrs Blom was improperly prejudiced as a result of the undue delay in the processing of the pension benefits, and that the primary source of the undue delay could be attributed to the failure by SAPS to submit correctly completed pension withdrawal documentation timeously, as well as the failure to respond timeously to the incorrectly completed forms returned to them. Once again it appeared that the delays experienced were due to a lack of staff.

6.2.4 Public Protector Report No 38 of 2007/08

6.2.4.1 Another example of such cases the Office investigated, would be a complaint of maladministration relating to the calculation and payment of pension benefits to a former member of SAPS, Mr K B Lalela (the complainant), and the delay by SAPS to submit the relevant pension documents to GEPF.

6.2.4.2 It was found that SAPS was responsible for the incorrect calculation of the departmental debts of the complainant. Based on what had been received from SAPS, GEPF then deducted the incorrect amount from the pension benefits payable to the complainant, and paid it over to SAPS to settle the "departmental debt".

6.2.4.3 Once again SAPS was also responsible for the delay in submitting pension documents of the complainant to GEPF. The complainant was found to have been prejudiced by the long delay in the matter and to be entitled to interest on the pension benefits paid to him.

6.2.4.4 SAPS agreed to pay interest to the complainant for the period that it unlawfully withheld his pension benefits as “departmental debt”, but declined to pay interest for the period of undue delay before submitting the pension documents to GEPF, that is from 1 May 2000 to 5 March 2003.

6.2.4.5 The Public Protector recommended that SAPS also pays interest on the pension benefits of the complainant for the period 1 May 2000 to 5 March 2003, at the rate that was applicable at the time in terms of the Prescribed Rate of Interest Act, 1975. This recommendation is still being followed up with SAPS.

6.2.5 Public Protector Report No 39 of 2007/08

6.2.5.1 Yet another example of a complaint dealt with by the Office concerned allegations of maladministration relating to the payment of pension contributions and undue delay with the submission of pension documents. In this case the allegations were made against the Department of Education of the Limpopo Provincial Government. The maladministration and undue delay resulted in a subsequent delay to pay pension benefits to the former employee of the Department, Ms I S Elbrecht.

6.2.5.2 It was found that the Department of Education failed to pay over monthly pension contributions in respect of the complainant to GEPF for a period of five years (1997 to 2002). The Department also failed to pay the complainant’s salary and notch increases for the same period. It was also found that the Department was responsible for the undue delay in submitting duly completed

pension documents to GEPF, after the retirement of the complainant. The complainant was prejudiced by the maladministration and the long delay in the matter.

- 6.2.5.3 The pension benefit for the period 1980 to 1997 was paid to the complainant on 14 November 2006. Following negotiations between the parties facilitated by the Office, the Department of Education paid over the arrear pension contributions to GEPF. The pensionable period of the complainant was amended by GEPF, her pension benefit re-calculated and the outstanding benefit paid to the complainant on 06 November 2007. It was further found that the complainant was entitled to interest on her pension benefits for the period of five years and nine months. Thus the Public Protector recommended that the Department pays interest accordingly. This recommendation is also being followed up to ensure implementation.

6.2.6 Conclusion

- 6.2.6.1 It appears from the cases investigated that the provisions of the Constitution, the Code of Conduct for the Public Service and the Batho Pele principles, discussed in Chapter 4 above, were not always adhered to. Many of these cases would probably never have come to the Public Protector, should these provisions and principles have been kept in mind by officials.

6.3 Discussions with stakeholders

6.3.1 GEPF

6.3.1.1 Various meetings were held with different officials from Pensions Administration to get their responses and share their experience with regard to the observations made from the complaints listed above. The Board of Trustees was also approached in this regard.

6.3.1.2 The response of Pensions Administration on the identified problems was the following:

- **Calculations of benefits for members who intended to retire/resign (quotations):** Pensions Administration did not have the capacity to attend to such requests and was often not in possession of all the necessary information. The GEPF website did have a function where a member could calculate his benefits. The concern on the part of Pensions Administration was that the calculation was still dependent on the information supplied by the member;
- **Payment of benefits where a member was divorced:** Pensions Administration could only act in accordance with the applicable legislation and where a divorce decree did contain an order in terms of section 7(8) of the Divorce Act;
- **Payment of benefits to deceased estate accounts:** Payments to deceased estates were only effected where no beneficiaries had been identified. Delays in these instances were usually as a result of the estate banking details not being received;

- **Life Certificates of retired members:** Pension Administration identified two problems with Life Certificates. Firstly, the failure by members to submit the certificates, and secondly that certificates were not properly completed. Often pensioners neglected to change their addresses with GEPF and as a result did not receive the Life Certificates sent to them. Pensions Administration instituted a reminder system where a second certificate was posted if the first was not returned to Pensions Administration after a specific time. Clear instructions on the correct completion were subsequently posted with Life Certificates;
- **Monthly pensions payable to pensioners:** Most enquiries relating to the non-payment of monthly pensions related to the Life Certificate requirements or the amount of the pension payable. These enquiries were a matter of routine correspondence at Pensions Administration;
- **Nomination of beneficiaries:** Although a member could nominate beneficiaries in the event of death, the Board of Trustees had a discretion in terms of section 22 of the GEPF Law, 1996, to override the member's nomination should it be considered appropriate;
- **Undue delay with the payment of spouse's pension:** These payments fell into two categories, namely spouses of pensioners who passed away and spouses of members who died while still in service. Where a pensioner died and Pensions Administration was aware of an existing spouse, they would post the necessary forms for completion. Where a member died while still in service, the employer department completed the necessary withdrawal

forms. Pensions Administration continually requested members to update the records of their dependants;

- **Transfer of benefits to another fund:** Most complaints received in this regard related to members changing their options after exit because of poor advice or incorrect information. Pensions Administration continually updated its brochures and website. The opinion of officials at Pensions Administration was that members also had a responsibility to make sure they were aware of the different options available to them. Delays in actuarial transfers usually occurred as a result of incomplete or incorrect information available to GEPF.

6.3.1.3 GEPF identified further issues that resulted in a delay with the payment of benefits during 2006:

- In more than 70 000 instances members had exited the Fund but no exit documents were submitted. Towards the end of 2004 the GEPF launched a project to identify and address all unprocessed exits. During the first phase of the project about 20,000 cases were finalized. Statistically, the main difficulties were experienced in KwaZulu-Natal and the Eastern Cape, followed by the Departments of Health and Education, as well as SAPS.
- As a result of the project, exit documents started flooding in. The relevant staff at GEPF was unable to cope with the deluge and therefore another project, internally referred to as "ICU", was initiated to attend to the backlog.
- The initial project, to obtain exit documents where members had exited the Fund, could however not continue due to budgetary

constraints. The number of instances where exit documents have not been submitted has, since 2005, grown to 92,000.

6.3.1.4 Certain difficulties with respect to information technology were also identified:

- The PERSAL system did not have all the necessary information pertaining to members on record;
- Certain challenges were experienced with regard to updating of the PERSAL system;
- There was no document tracking system to improve the flow of physical documentation;
- There was no proper knowledge management information system available.

6.3.1.5 The delays in the finalisation of the payment of pension benefits were therefore reported by Pensions Administration to have been exacerbated by the capacity problems at Pensions Administration.

6.3.1.6 Pensions Administration further reported that in general a major source of delay with all types of benefits was attributed to the failure of the employers departments that:

- Failed to submit the exit notification documents on behalf of members who had exited the Fund;
- Submitted incorrect and incomplete documentation; or
- Failed to submit the required supporting documentation.

6.3.1.7 Specific problems frequently encountered with the submission of exit documents by the employer were identified as follows:

- Incorrect service dates were often indicated on the exit document, or no supporting documentation was attached to confirm these dates;
- No tax reference number was supplied on the exit document;
- Incorrect forms were used, or where correct forms were used they were not completed correctly;
- Prohibited alterations were made on the exit documents and bank forms;
- Service periods indicated on the Form Z102 at different employer departments would overlap;
- Information supplied in respect of dependants was insufficient. For example, important documents such as birth certificates were not submitted, details of guardians, or proof of student registration in respect of urgent applications were not provided, etc;
- The exit documents were not properly authorized by the employer, for example there were no date stamps, official signatures, etc;
- The banking details of beneficiaries were incorrect or not supplied at all;
- In respect of divorce matters, incorrect or no divorce decrees were attached;
- Nomination forms were found to have been signed after the date of death of the deceased.

6.3.1.8 In their response to the Office, GEPF made the following suggestions:

- GEPF was of the opinion that their service to members would greatly improve if Pensions Administration did not need to

reprocess approximately 40% of all exit documents received by them. GEPF requested the Public Protector to emphasise, in his report, the importance of the submission of correctly completed documents by employer departments. Submission of documents prior to the last day of service should be encouraged;

- GEPF should enter into a service level agreement with employer departments to deliver an efficient and professional service to members.

6.3.2 Other stakeholders

6.3.2.1 During the investigation, meetings were held with various other stakeholders who submitted inputs. SAPS was visited and problems were discussed. The North West and Gauteng Education Departments were also visited and the problems they encountered were discussed. Further, a matter was addressed with the specific department whenever an individual complaint was investigated. Written submissions were also received from the Gauteng Education Department, the Free State Health Department and Office of the Premier of KwaZulu-Natal.

6.3.2.2 It was stated by these stakeholders that a lack of knowledge, skills, experience, commitment and discipline on the part of the public servants at the employer who complete and submit the exit documents were reasons for the delay. A lack of personnel and a high turnover of personnel in the human resources sections also contributed to the delays.

6.3.2.3 A lack of sufficient information technology and trained staff to operate the systems also existed in some employer departments.

6.3.2.4 From these meetings and submissions a list of questions was drafted that needed to be discussed.

6.3.2.5 These questions were the following:

- Does your department have a specialised unit to attend to exit documents of employees?
- Are employees trained on a continuous basis to perform this function and who does the training?
- Is the PERSAL system user friendly to perform the exit function of an employee?
- Are employees informed on a continuous basis of the different options they have when exiting the Fund?
- Do you find GEPF accessible for any enquiries?
- Is the Call Centre at GEPF accessible for enquiries?
- Does GEPF inform you timeously of any errors that may occur on exit documents submitted by you?
- Do you know who to contact at GEPF if problems are encountered?
- In your opinion, should GEPF have offices in each province?
- In terms of the amended rules of GEPF, interest is now payable 60 days after the exit of the employee. Who should be responsible for the payment of the interest where a delay does occur?

7. WORKSHOP: SYSTEMIC INVESTIGATION ON THE PAYMENT OF CIVIL PENSION BENEFITS

7.1 Introduction

7.1.1 During the course of the investigation consultations were held with various government departments and officials involved in the administration of pension matters. It soon became evident that the source of the problems experienced is not confined to a single department or institution, but that about every employer department is potentially contributing to the systemic deficiencies. It was therefore a more feasible option for the Office to arrange a workshop, instead of trying to meet with all the officials individually.

7.1.2 On 2 and 3 August 2007, a two-day workshop was held to discuss the causes for the delays in the payment of civil pension benefits and to identify solutions to these problems. To ensure the successful outcome of the investigation, the meaningful participation of all stakeholders was of the utmost importance.

7.1.3 The Public Protector invited the human resource personnel from all the national departments as well as from the provincial departments, and all the Premier's offices. Annexed hereto is a list of attendees and the departments represented by them, marked A.

7.1.4 The workshop was officially opened by the Public Protector.

7.1.5 Various speakers from the Office addressed the workshop. The reason for the workshop was explained by Ms Viviers, a member of the Project

Team responsible for the investigation. Another member, Adv Cilliers, addressed the delegates on the possible solutions to address the problem of delays in payment of pension benefits, and Chief Investigator Adv de Waal explained the processes the Office would follow in respect of the report on the investigation.

7.1.6 Representatives from GEPF (Mr M Lindeque), SAPS (Director JAM Jamieson), the Department of Health: Free State Provincial Government (Ms M Moloji) and the Gauteng Shared Services Centre (Mr M Mboyi) addressed the workshop, highlighting their department's specific problems with the payment of pension benefits.

7.1.7 The delegates actively participated through questions and suggestions. After the presentations made by the representatives of the departments, delegates were invited to ask questions and make comments. Thereafter, they were divided into four discussion groups to engage in in-depth discussions on the list of questions referred to in paragraph 6.3.2.5 above, as well as any other matter that they felt should be discussed. The different groups gave feedback on their discussions to the workshop and their suggested solutions to the problems were discussed.

7.2 Summary of suggestions by delegates at the Workshop

7.2.1 Delegates were in agreement that in general delays did occur with the processing and payment of pension benefits. However, there was no consensus as to the source of the delays.

7.2.2 Delegates attending the workshop made the following suggestions to solve the difficulties experienced:

7.2.2.1 Training for all relevant personnel should be provided in respect of processing pension exit documents and the PERSAL system;

7.2.2.2 The problem currently existing with quotations requested by members should be addressed;

7.2.2.3 The Department of Home Affairs should be approached for assistance where documents are to be issued by it. This is in respect of full unabridged birth certificates, abridged marriage certificates and bar-coded identity documents for members or their dependants, exiting the Fund where they are not in possession of these documents;

7.2.2.4 The PERSAL system should be programmed to issue the withdrawal documents once the information on the system could be verified as 100% correct;

7.2.2.5 Communication between GEPF and employer departments should be improved;

7.2.2.6 GEPF should consider establishing offices at district level in all the provinces;

7.2.2.7 GEPF should consider the appointment of client managers for each national and provincial department - the South African National

Defence Force and the Gauteng Shared Services Centre have appointed client managers at GEPF already;

7.2.2.8 The quality of information supplied by the Call Centre at GEPF should be improved. GEPF should consider training personnel in all aspects of the procedures. Personnel at the Call Centre should have access to all information in respect of members exiting the system;

7.2.2.9 The return of documents where “petty” errors on the withdrawal forms occur should be reconsidered. The issue of communication was vital in this instance;

7.2.2.10 All departments should obtain a scanner to ensure that copies of identity documents submitted could be scanned;

7.2.2.11 In instances where standard requirements cannot be met due to special circumstances (for example a new banking form required from a member staying abroad), the delegates requested that consistency with respect to what was, and was not, acceptable to GEPF should be addressed;

7.2.2.12 Retirement orientation courses should be presented to members who were reaching the age of retirement and had indicated that they would retire;

7.2.2.13 The problems experienced in respect of pensionable service periods with the previous Transkei, Bophuthatswana, Venda and Ciskei funds, should be addressed on an urgent basis;

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- 7.2.2.14 Members exiting the system and whose tax clearance was rejected by SARS should be informed immediately. Employer departments should also be informed;
- 7.2.2.15 The Office should consider making the workshop an annual event. The creation of a "Pensions Forum" at national and provincial levels should be considered.

8. EVALUATION

- 8.1 Section 7(3) of the GEPF Law, 1996, empowers GEPF to request information from employer departments to effectively and efficiently administer the Fund. The information required should be set out in the Form Z102A and should be completed and signed on behalf of the employer department.
- 8.2 In terms of regulation VII.H of the Public Service Regulations, 2001, issued in terms of the Public Service Act, 1994 (Government Notice R1 of 5 January 2001) the Head of a Department is required to keep record of each employee, as a minimum reflecting particulars in respect of marital status and dependants. All employer departments are obliged to provide correct and complete information to GEPF and if it necessitates enquiries to be made, the employer department should do so.
- 8.3 All organs of state are constitutionally and in principle obliged to give effect to the fundamental rights of access to information and to the right to administrative action that is lawful, reasonable and procedurally fair.

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- 8.4 The Constitution requires the public administration to perform effectively and efficiently in all respects.
- 8.5 All spheres of government and all organs of state are constitutionally bound to assist and to co-operate with one another to ensure proper service delivery.
- 8.6 Public servants are by law obliged to perform their daily functions and tasks in an efficient and effective manner, in accordance with the Constitution, legislation and policies. Failure to do so may constitute misconduct.
- 8.7 Proper implementation of the Batho Pele principles would take service delivery in the public administration to the level envisaged by the Constitution.
- 8.8 Continued adherence to legislation and policies would adequately address and prevent undue delay in payment of pension benefits.

9. FINDINGS

- 9.1 After due consideration of the complaints received by the Office, discussions with all stakeholders, and discussions at the workshop, it was found that a general delay did exist in the processing and payment of pension benefits.
- 9.2 Government employees who exited the system were improperly prejudiced as a result of the undue delay with the processing of their pension benefits.

9.3 The primary source of undue delays could be attributed to the failure by employer departments to:

- Submit the pension exit documents to Pensions Administration for members who have exited the Fund; or
- Submit correctly completed documentation in accordance with the Manual.

9.4 The failure by employer departments to respond timeously to enquiries and requests for additional information which in turn flowed from the lack of compliance with the prescribed rules and procedures of the Fund, as well as the lack of efficient and effective communication between GEPF and the employer departments.

10. RECOMMENDATIONS

10.1 In terms of section 182(1)(c) of the Constitution and section 6(4)(c)(ii) of the Public Protector Act, 1994, it is recommended that:

10.1.1 Training by DPSA and GEPF of all relevant personnel must be provided in respect of the completion of pension exit documents and the payroll administration system that is applicable;

10.1.2 Employer departments and GEPF should ensure proper compliance by employees with the provisions of the *Batho Pele* principles and the Code of Conduct for the Public Service;

-
- 10.1.3 The information on the applicable payroll systems should be continuously updated and corrected by employer departments in terms of regulation V11.H of the Public Service Regulations, 2001 (Government Notice R1 of 5 January 2001). The applicable payroll system would then be able to generate updated exit documents;
- 10.1.4 An effective complaints handling mechanism should be introduced at the employer departments and GEPF, to identify problem areas immediately. An internal complaints process is an informal and flexible process and will also provide an early opportunity for the employer departments and GEPF to learn of problems that are arising in the administration process;
- 10.1.5 The quality of information at the Call Centre of GEPF should be improved;
- 10.1.6 Personnel at the Call Centre should be properly trained on the process of the payment of exit benefits, and have access to information in respect of members exiting the system;
- 10.1.7 The employer departments and GEPF should publish service standards to ensure that pension benefits are paid within specified timeframes. This will foster good public administration that is acceptable, lawful, fair, transparent and responsive;
- 10.1.8 GEPF should introduce measures to ensure that all deficiencies are identified after the first submission of exit documents by the employer departments. This would prevent the continuous requests for updated and amended information by GEPF from employer departments;

10.1.9 GEPF should take urgent steps to:

- 10.1.9.1 Improve the channels of communication with government departments at both national and provincial level;
- 10.1.9.2 Develop its information technology infrastructure to comprise methods of communication that will allow for the facilitation of internal and external information to the employer departments to ensure quick and efficient response to all enquiries;
- 10.1.9.3 Establish provincial offices of GEPF in all provinces and consider establishing district offices within the provinces where the need is identified, as suggested by delegates at the workshop;
- 10.1.9.4 Appoint client managers for the different national and provincial departments;
- 10.1.9.5 Issue clear instructions in respect of the requirements where previous periods of service fell under other funds such as the previous Transkei, Bophuthatswana, Venda and Ciskei funds;

- 10.1.10 Every department, at national and provincial levels, must at regular intervals inform employees of the rules of GEPF and the different options available to employees when exiting the Fund;

- 10.1.11 DPSA should assist in the formation of a "Pensions Forum" at national and provincial levels, as suggested by delegates at the workshop;

- 10.1.12 GEPF should urgently continue with the project launched at the end of 2004 to identify and address all unprocessed exits with the aim to ensure that the withdrawal documentation is received from all members who have terminated their membership.

11. CONCLUSION

- 11.1 It is not the aim of this report merely to criticise, but rather to identify the causes for the delays in the payment of pension benefits. It is so that improving service delivery in the public sector is not a short term project or a once off process. The recommendations made in this report should therefore be continuously implemented and the processes within each and every employer department should be revisited regularly.
- 11.2 The Public Protector previously reported (Special Report No 19) that proper, efficient and effective communication is the cornerstone of efficient service delivery in the public administration. Addressing basic, but fundamental, issues throughout all levels of the public administration, in a regulated and disciplined manner, while motivating all employees to aspire to the correct attitude with regard to efficient communication and conduct, should result in a substantial improvement to address service delivery shortcomings that have been highlighted in this report.
- 11.3 It is the responsibility of every employee in the public sector to ensure that they show commitment towards improving communication and service delivery in their departments, to address bad attitudes of others in this regard, and to co-operate with diligence and initiative to enhance the quality and quantity of the services that they provide.

**ADV ML MUSHWANA
PUBLIC PROTECTOR OF
THE REPUBLIC OF SOUTH AFRICA
DATE:**

Assisted by:

**Adv E de Waal, Chief Investigator
Adv E Cilliers, Senior Investigator
Ms S Viviers, Senior Investigator
Ms C Pillay, Senior Investigator
Mr T Pather, Senior Investigator**

Annexure A

**WORKSHOP: SYSTEMIC INVESTIGATION ON THE PAYMENT OF
CIVIL PENSION BENEFITS**

ATTENDANCE REGISTER: Government Employees Pension Fund

Delegate Name	Department
Mr M Lindeque	GEPF
Ms V Heenop	GEPF
Ms M vd Klashorst	GEPF
Ms E de Witt	GEPF
Ms C de Vries	GEPF
Mr K Rousseau	GEPF
Ms H Nel	GEPF

ATTENDANCE REGISTER: National Departments

Delegate Name	Department	Position
Ms HM van der Linden	Agriculture	Assistant Director: HRM
Ms E Lepart	Agriculture	Chief Human Resources Officer
Ms S van Niekerk	Arts and Culture	Assistant Director: HRM
Ms K Sekwele	Communication	Director
Mr Ndala	Correctional Services	Deputy Director: Retention and Terminations
Moabancue Rabora	Correctional Services	Assistant Director
JH du Preez	Defence	Deputy Director
Tabea Rahube	Education	Senior Personnel Officer
Lucky Mhlongo	Education	Senior Personnel Officer
Mr R Jock	Environmental Affairs	Chief Director: Human Resources
Tebogo Mabitsi	Environmental Affairs	Deputy Director: HR
Phileman Mpati	Environmental Affairs	Assistant Director: HR
Silas Ntuli	Environmental Affairs	Assistant Director
Ms A van den Berg	Foreign Affairs	Deputy Director: Human Resource
Mr M Matsape	Health	Deputy Director
Ms W van Zyl	Health	Chief Personnel Officer
Mr R Olifant	Home Affairs	Senior Personnel Officer
Mr F Kumalo	Home Affairs	Manager
Mr MC Ramalepe	Housing	Deputy Director
P Maponya	Justice	PPO
N Boerrigter	Justice	Chief PO
Cheryl Taut	Labour	Assistant Manager
Percy Sengwane	Labour	Personnel Practitioner
Renette Labuschagne	Labour	Senior Clerk
Z Mdebuka	Labour	Manager
LG Basson	Master of High Court	Acting Chief Master
T Singo	Master of the High Court	
Ms J van der Westhuizen	Mineral & Energy Affairs	Chief Personnel Officer
Ms J van der Merwe	Mineral & Energy Affairs	Deputy Director: HR Utilisation

Ms P Shabangu	National Prosecuting Authority	HR Manager
Mrs C White	National Prosecuting Authority	Assistant Manager
Mr J Hector	Provincial and Local Gov	Manager: HRM
Mr M Mosoa	Provincial and Local Gov	Assistant Director: HR
Dorah Mawela	Public Enterprises	Senior Personnel Practitioner
Ms P Harding	Public Service & Administration	Assistant Director
Mr J Bobbert	Public Service & Administration	Principal Personnel Officer
Ms C Brink	Public Service & Administration	Acting Chief Director: Conditions of Service
Mr P Twala	Public Service & Administration	Specialist
Ms JH Human	Public Service Commission	ASD: Conditions of Service
Mrs R Mostert	Public Works	Director: HR Admin
Ms MS Booysen	Public Works	Manager
Dir J A M Jamieson	SA Police Service	Section Head: Service Absence & Terminations
Senior Supt C S Mahoi	SA Police Service	SAPS: Injury on Duty
Senior Supt MR Mamaregane	SA Police Service	Financial Services
Senior Supt AL du Plooy	SA Police Service	Finance
Supt M N Rossouw	SA Police Service	Supervisor
Supt W Vrey	SA Police Service	Section Commander: Pension
Capt A Ferreira	SA Police Service	
Mr N Coetzee	SARS	HR Specialist
Mr A Wybenga	SARS	HR Team leader
Mr T Ramasimong	SARS	Law Interpretation Officer
Ms D Pietersen	SARS	Policy and procedures
Mr R Msimango	Social Security Agency SASSA	Senior HR Practitioner
Mr S Sithole	Social Security Agency SASSA	Manager
Mr E Sibuyi	Social Security Agency SASSA	Administrative Officer
Mrs G Sebati	Treasury	Chief Director
Mrs MR Modiba	Treasury	HR Practitioner
Ms AH van der Westhuizen	Transport	Assistant Director: HRD

Mr J Mahlangu	Transport	HRD
Mr A Mafanele	Water Affairs and Forestry	Director: HRM
Prudence Msimeki	Water Affairs and Forestry	ASD: Pensions

ATTENDANCE REGISTER: Provincial Departments

Delegate Name	Department	Position
Mr L Jali	Eastern Cape: Health	PPD
MT Mrara	Eastern Cape: Health	Deputy Director
Mr LM Masoka	Eastern Cape: Health	Manager
Ms Y Fassi	Eastern Cape: Premier	Manager
Mr SS Samuel	Free State: Education	Deputy Director
Ms M Moloji	Free State: Health	Chief Personnel Officer
Mr Dineo Tsoeu	Free State: Sports and Culture	Assistant Manager
Mr M Bloem	Free State: Sports and Culture	Chief Personnel Officer
Mr W Booii	Free State: Sports and Culture	Personnel Officer
Mr T Mhlanga	Gauteng: Education	Assistant Director
Ms Lynne Roborg-Cove	Gauteng: Education	Acting Deputy Director
Ms Rosalind Kayter	Gauteng: Education	Senior Administrative Officer
Ms S Mtshali	Gauteng: Premier	Assistant Director
Mr M Mboyi	Gauteng Shared Service Centre	Senior Manager: Management Services and Employee Exits
Ms N Sekere	Gauteng Shared Service Centre	Deputy Manager
Mr D Sekgapane	Gauteng Shared Service Centre	Teamleader
Mr GB Sithole	Kwa-Zulu Natal: Premier	Manager
Ms ML de Bruin	Kwa-Zulu Natal: Premier	Assistant Manager
Mr SS Digomo	Limpopo: Health	
Mrs MM Sethosa	Limpopo: Health	
LJ Kekana	Limpopo: Health	Senior Personnel Practitioner
Mr BJ Nake	Limpopo: Premier	Senior Manager: Human Resource Management
NJ Molabe	Limpopo: Premier	Manager: Compensation and Service Benefits
Mr JR Nkosi	Mpumalanga:	Director: HRM

	Education	
Mrs Z Albanie	Northern Cape: Education	Chief Director: HR
Mr G Prinsloo	Northern Cape: Education	Chief Personnel Officer
Ms Z van Heerden	Northern Cape: Education	Assistant Director
J Vaaltyn	Northern Cape: Premier	Chief Personnel
Sylvia Mtai	Northern Cape: Premier	Assistant Director
Ms A de Villiers	North West: Education	Director: HRM
Mr Coleman Rampagane	North West: Health	Assistant Director: Conditions of Service
Mr Manase Badimo	North West: Health	Deputy Director: HRM
Mrs N Pietersen	Western Cape: Health	Assistant Director
Mr M Colyn	Western Cape: Health	Consultant
Mr B Booth	Western Cape: Health	Assistant Director
Mrs M Engelbrecht	Western Cape: Education	Deputy Director
Ms B Esau	Western Cape: Education	Chief Personnel Officer