

**AD HOC COMMITTEE TO NOMINATE A PERSON FOR
APPOINTMENT AS PUBLIC PROTECTOR**

QUESTIONNAIRE FOR CANDIDATES



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Section 193 of the Constitution, 1996 and section 1A of the Public Protector Act 23 of 1994 set out the requirements for appointment as the Public Protector.

To assist the Ad Hoc Committee in its process, all those who have applied or been nominated for appointment as Public Protector are requested to supplement their application or nomination by answering this questionnaire.

Please return the questionnaire by no later than 08 July 2016 to:

Mr V Ramaano

vramaano@parliament.gov.za

SECTION 1: PERSONAL

1.1. What are your full names and surname?

1.1.1. Surname **HOFMEYR**

1.1.2. Full names **WILLIAM ANDREW**

1.2. What is your date and place of birth?

1.2.1. Date of birth **22 NOVEMBER 1954**

1.2.2. Place of birth **CAPE TOWN**

1.2.3. Citizenship **SOUTH AFRICAN**

1.2.4. Identity Number 

1.3. Please indicate your gender **MALE**

1.4. Please furnish particulars of your tertiary education:

Qualification	Institution	Year
BA (Economics)	University of Cape Town (UCT)	1974 – 1976
MA (Economic History)	UCT (part time): not allowed on campus until my banning order expired in Oct 1981	1977 – 1985
LLB	UNISA (part time) UCT (full time): not allowed on campus in 1988 and 1989 due to restriction order and detention	1983 – 1984 1985 – 1989
Completed Articles for admission as an attorney	Law Society, Cape of Good Hope	1989 – 1991

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1.5. Please furnish chronological particulars of employment/work experience since leaving school or university

Name of employer	Position	Period
Metropolitan Life Assurance	Actuarial student	1977 – 1984
United Democratic Front Western Cape	Western Cape Executive Member responsible for media and campaigns, also acting as treasurer for most of the period. Worked full-time but unpaid while studying law at UCT	1986 – 1989
Mallinick Richman Ress & Cloenberg Attorneys	Candidate attorney (still serve on UDF Executive)	1989 – 1991
African National Congress Western Cape	Campaign organiser. Worked full-time but unpaid	1991 – 1992
ANC Western Cape	Assistant Secretary on Western Cape Executive – full time paid position	1992 – 1994
Parliament	Member of Parliament for ANC	Apr 1994 – Apr 1999
Parliament	Parliamentary counsellor to Deputy President Mbeki	Apr 1998 – Apr 1999
National Prosecuting Authority	Special Director of Public Prosecutions (Head of Asset Forfeiture Unit)	May 1999 – Apr 2001
Special Investigating Unit	Head	Aug 2001 – Nov 2011
National Prosecuting Authority	Deputy National Director of Public Prosecutions (Head: Asset Forfeiture Unit)	Apr 2001 – Aug 2015
National Prosecuting Authority	Deputy National Director of Public Prosecutions (Head: Legal Affairs Division)	Aug 2015 to date

1.6. **Please provide details of any other experience that you feel may be relevant:**

I wish to elaborate on the experience above as follows:

1) **Experience as a member of Parliament and the Constitutional Assembly (1994 to 1999):**

As set out in my CV, I have extensive experience in Parliament that is very relevant to the position of Public Protector.

As a **Member of the Constitutional Assembly** until 1996, I have detailed knowledge of the debates and thinking regarding the establishment and role of the Public Protector and other chapter 9 institutions.

As a former **Member of Parliament**, I have detailed knowledge of the legislative thinking regarding the establishment of the Public Protector, as well as the independence of the Public Protector and its relationship with and accountability to the Parliament. I also gained good experience on how the legislature can and should hold the Executive and independent institutions to account.

As a former **Parliamentary Counsellor to the Deputy President**, I have considerable knowledge and experience in the workings of the Executive and the Presidency at the highest levels of government, and helped to manage and advice on the relationship between the Executive and Parliament.

From my experience, in Parliament and inside and outside the state, I believe strongly in the **accountability of state institutions to Parliament**. But it is equally important that the independence of institutions in Chapter 9 (and others such as the judiciary and NPA) must be jealously safeguarded.

Thus I believe that it is vital that an excellent relationship must be built between the Public Protector and Parliament. While in Parliament, I was the *de facto* deputy chair of the Justice Committee at a time when it enjoyed an excellent reputation for its tough but fair approach to holding state institutions to account. Generally it adopted a **non-partisan approach and tried to build consensus** whenever possible.

2) **Experience in accounting to Parliament (1999 to 2016):**

As the former head of the AFU, I have been part of NPA delegations that account to Parliament once or twice a year since 1999. I believe strongly that Parliamentary

oversight is one of the most critical instruments of a democracy, I have gained extensive insight and experience in how to deal with it and what is required.

I have always believed in providing as much information to Parliament as possible, both about the strengths and weaknesses of the AFU and SIU. I had learnt from my own experience as an MP that one must take the committees into your confidence about problems and issues in your institution, and that one must not try to overstate or exaggerate your performance as the true facts are usually known or will emerge in the future.

Thus I believe in going the extra mile in accounting, and have tried to be brutally honest about any weaknesses that may exist.

I believe that I have managed to maintain excellent relationships with the relevant Parliamentary committees, and their members from all parties. As a representative of the NPA and SIU, I have always enjoyed an excellent and respectful working relationship with members of all political parties in Parliament.

3) Experience in working in the Executive at National, Provincial and Local Government level (1999 to 2016):

As former head of the SIU and AFU, I have worked closely with a wide variety of state institutions at Ministerial and Director-General level, but also at very operational levels.

I believe that in many cases it is possible to build partnerships with state institutions to deal effectively with corruption and maladministration because in many cases there is a joint interest in doing so.

Thus at the SIU, I was able to build innovative partnerships with a number of state institutions who often agreed to fund the work of the SIU. A significant portion of the growth of the SIU was funded through such partnerships.

Similarly at the AFU, several departments have approached it in the past for assistance to deal with corruption.

Clearly it must be borne in mind that this is not always possible and that possible conflicts of interest may arise.

4) Experience in working with inter-departmental structures in the Executive (1999 to 2016)

I have often represented the NPA at the monthly meetings of the Directors-General of the JCPS cluster. In the process, I have gained a good understanding and experience in the functioning of these structures, and how they interact with other state and non-state institutions.

I have also participated in the Anti-Corruption Task Team – see below for more detail.

I believe that my wide exposure to many senior officials and members of the executive over many years make it possible to do many investigations in a cooperative and non-hostile manner, and to ensure that there are positive outcomes and buy-in for recommendations for corrective action and proposals for improvement.

Obviously, this is not always possible, but it is important to do so when possible.

5) Experience in working with international organisations (1999 to 2016):

As former head of the SIU and AFU, I have worked closely with a wide variety of international organisations as well as state institutions in other countries.

A particular focus has been to assist other African countries in the development of asset forfeiture capacity.

This has given me a broader exposure to the experience of other countries, and enabled me to get a better sense of how to approach challenges in South Africa.

6) Experience in establishing and running state institutions: AFU (1999 to 2015)

I have fairly unique experience in establishing a state institution from scratch, and facing all the challenges

I was **head of the AFU** and started it with 2 other staff members seconded from the office of the NDPP.

Initially, we all did all the work needed which ranged from legal work to administrative work, finding offices and furniture, and making tea. We also had to gather and evaluate evidence required for our applications from various law enforcement and other bodies that had gathered it.

An important part of my work was to build excellent stakeholder relationships with all the many bodies that had some law enforcement mandate, from the specialist units in SAPS that focused on serious crime, to the tax and custom arms of SARS, bank supervision and foreign exchange divisions of the Reserve Bank, and newer bodies such as the Financial Services Board and the Financial Intelligence Centre.

In addition, we also built relationships with a number of private sector organisations that dealt with crime, ranging from Business Against Crime, the banks through SABRIC and even professional bodies such as the Law Societies who investigated attorneys who abused their trust accounts.

One of the critical success factors was to draw on the experience of the few other countries that had done asset forfeiture relatively successfully, especially the United States, United Kingdom, Canada, Australia and Ireland. In most countries, including many developed ones, asset forfeiture was not a tool that was much used at the time that the AFU was set up in 1999.

We built excellent relationships with international bodies that that promoted asset forfeiture, especially the United Nations Office on Drugs and Crime and the Commonwealth.

I was involved in all aspects of the work of the AFU, including the management of staff and all legal work, including building relationships with a wide array of local and international stakeholders as discussed further below.

The AFU rapidly established a reputation as a performance driven organisation with excellent service delivery, and it managed to continue increasing all its outputs at a rapid rate until I left.

7) I am widely recognised as an international expert on asset forfeiture and have vast experience in working with international bodies: AFU (1999 to 2015)

South Africa has played a prominent role in the international development of the use of asset forfeiture, and I and several members of my management team are recognised as international experts in the field.

Personally, I have served on a number of international expert working groups on asset forfeiture, both for the United Nations and the Commonwealth. This was due to

the fact that initially South Africa was one of a small group of countries that had managed to implement asset forfeiture effectively.

I have been invited several times to address plenary sessions of the UN Convention against Corruption on various aspects of the effective use of asset forfeiture, and have also served on the conference committee that drafted the final resolution for adoption.

A further indication of the international recognition my work and that of the AFU is that I received about 20 or more invitations a year to address various conferences, workshops or training events while I was at the AFU.

I have tried to attend only 1 or 2 events a year, and sent other managers or senior staff to contribute at these events. Several of them are now recognized as experts in their own right.

I have worked extensively with the United Nations Office for Drugs and Crime that is responsible for its Convention against Corruption (UNCAC), the Commonwealth and to some extent with the BRICS countries.

I have participated in the rigorous evaluations that various international bodies conduct on South Africa's compliance with our obligations under international treaties which all require us to have effective asset forfeiture measures in place, and to use them:

- the UN regarding its conventions against Corruption and Organised Crime
- the Financial Action Task Force (FATF) regarding anti-money laundering measures
- the Organisation for Economic Cooperation and Development (OECD) regarding foreign bribery

8) I have played an important role in working with state institutions in Africa to assist them with doing asset forfeiture effectively and to build capacity (2001-2015)

Subsequently, the AFU has also played a leading role in assisting the prosecuting authorities and police in a large number of African countries to do asset forfeiture effectively. This involves both strategic advice at a senior level to ministers and senior officials, but has included very practical assistance.

It was able to do so because we recognised that much can be learnt from the developed world, but that those lessons need to be adapted for the developing world that is much less well resourced.

The AFU developed an acclaimed hands-on mentoring and training programme that is conducted about 3 to 4 times a year for about 15 people at a time. It is for prosecutors, police and members of anti-corruption authorities who actually do the work.

I believe that I will be able to play a significant role internationally as is required by the Public Protector. Not only does South Africa have considerable expertise and experience to share with others, but it is also vital to learn from the expertise and experience of others if one is to improve continuously.

I also believe that South Africa can play a significant role internationally, partly because it straddles the experiences of the developed and developing world.

9) Practical cooperation with the Public Protector: knowledge of its functioning

I have personally been involved in cooperating with the Public Protector. I have gained good insight into the functioning and operations of the office, and have worked with several of the senior managers and staff.

As Head of the SIU, I was personally part of a very important and complex joint investigation into the procurement of a large building by SAPS that involved the then National Commissioner of SAPS. The SIU team lead by me contributed very significantly to the final report of the Public Protector.

As Head of the AFU, I was also personally involved in the AFU investigation of the farm acquired by Mr Malema. The AFU also worked closely with the Public Protector on this matter and it was referred to the AFU for follow up action. The farm was frozen and later forfeited and sold by the AFU.

I was also invited to serve on the interview panel for one of the senior positions in the office of the Public Protector.

In addition, I dealt with several complaints laid with the Public Protector against the AFU by persons whose properties were forfeited by the AFU. I was personally involved in dealing with the complaints made to the Public Protector by persons

whose assets had been frozen or forfeited by the AFU, and prepared the formal responses to the Public Protector.

10) The Anti-Corruption Task Team: role in conceptualising and establishing the ACTT and making it effective

When the ACTT was established by cabinet, both the SIU and AFU were identified as members of ACTT.

As head of the SIU and AFU, I was part of the small team that worked on the strategic approach for ACTT, as well as the practicalities of how it could function effectively by institutionalising collaboration.

While I was head of SIU, I ensured that the SIU provided the infrastructure for the functioning of ACTT, including office space and equipment, as well as IT infrastructure. The SIU also provided the bulk of the investigative capacity.

I played an important role in the development of the ACTT from 2010 until August 2015 when I was removed as head of the AFU, and made many of my most skilled and senior managers and staff available on a full-time basis to ensure its success.

During this time I was intimately involved in the formulating of government's new and comprehensive anti-corruption strategy with a broad range of role-players, including the Hawks, SIU, NPA (including AFU), the Presidency, National Treasury, SARS, DPSA and others, as well as some international experts.

We worked closely with technical experts from the Technical Assistance Unit in National Treasury, the Department of Monitoring and Evaluation in the Presidency and the Hawks during this time in shaping a new overall approach for government to combat corruption.

The achievements of the AFU was the main feature of the performance reporting for the first few years as it was able to complete the work necessary to obtain freezing orders well before convictions could be obtained.

11) Improving performance and building a high performance culture

From my own activist background, I believe in leading by example and I am passionate about building high performance institutions that serve the public excellently.

This can be a challenge in the state institutions where there is often a very passive culture, but I believe that I have been able to achieve this, and that there is much to learn from other well-functioning state institutions.

12) Building excellent cooperation with law enforcement and other state institutions

I believe strongly that it is vital for state institutions, including the Public Protector, to work together and cooperate when possible.

In this regard, my experience in establishing the AFU as well as the SIU is very useful as both depend on other institutions to be really effective.

I believe that it is vital to find ways to institutionalise cooperation rather than depending on individual willingness to cooperate, and to utilise formal Service Level Agreements or Memoranda of Understanding.

An important part of this work is to ensure that the credit for the work done is shared, and to find mechanisms to ensure that egos do not get in the way.

I have worked extensively with SAPS to set up AFU and to establish good working relationships with its various divisions, down to a provincial level.

But it was also vital to engage at all levels with other state institutions, especially law enforcement bodies, and to identify ways in which cooperation could be of benefit to all those involved.

EXPERIENCE OUTSIDE THE STATE

13) Past experience

I have extensive experience as an activist and sometimes a leader in the early union movement, the civic movement, the NGO sector and later the UDF and ANC.

14) Lead by example and inspiring others to action

I believe strongly in leading by example from my experience as an activist in the early union movement, the civic and NGO sectors and later the UDF and ANC.

15) I have much personal experience of the abuse of state power against poor people, my personal friends and myself, and have vast experience of ways to deal with it

In 1973 I did my compulsory military service after leaving school. It was the first time that I experienced serious and sometimes virulent racism, especially towards African people. I also gained a serious aversion to the extreme authoritarian attitude in the military and the abuse of power that went with it.

During my various activities as a community activist I gained extensive experience in the abuse of state power and often ordinary people were treated really badly.

I also gained personal insight into the conditions in police cells and police brutality during the many times I was arrested while distributing various publications, or participating in other activities.

16) Assisting individuals and communities who had problems with the state

During my various activities as a community activist I gained extensive experience in working with poor people from disadvantaged backgrounds, and assisting them with their problems with the state or employers. This included the use of negotiations and/or the threat of litigation or other means to assist them. This included:

- My first community experience in 1974-75 when I worked as a tutor at Sached (the SA Committee for Higher Education) which provided tutorial assistance to African and Coloured students with their university studies.
- In 1975, I was active in the NUSAS Communities Commission where I taught literacy to a small group of domestic workers.
- In 1975-76 I was active in the NUSAS Wages Commission and worked as a volunteer on Saturdays at the Western Province Workers Advice Bureau which provided work related advice, mainly to African workers.
- Advice on opposing bus fare increases in late 1970s, assisted with analyzing the financial position of the main bus company in Cape Town.

17) I am a strong believer in plain language communication and have considerable experience in writing and producing educational material for communities

I am a strong believer in and advocate for plain language communication to enable poor and disadvantaged communities to understand more of what the state is doing, and what remedies are available to them.

Together with others, we successfully lobbied for a special effort for the Constitution to be written in as plain legal language as possible.

In the AFU and SIU, I also introduced communication training for lawyers and investigators to ensure that even court papers are drafted in as plain language as possible.

While I was active in the NUSAS Wages Commission I was part of the editorial board and wrote extensively for a widely circulated worker publication produced in Xhosa. I also assisted with the all aspects of its production and distribution, and became the editor of the publication when it was banned and produced under a new name until it was also banned.

During my banning order I was involved in writing and producing worker and community histories that was distributed widely through community organisations and unions.

After my banning order I worked for Grassroots community newspaper that supported community and union organisations and became part of the editorial team.

In both the UDF and ANC I was heavily involved in the production of media, including pamphlets, posters, newsletters, media releases and advertising. I believe strongly in drawing on the strength of professionals in the field, but do insist on plain language communication that is accessible to as wide an audience as possible.

18) I have good experience and skills in communicating through the commercial media

I acted as media liaison person for the UDF and ANC, and was the spokesperson for the AFU for several years. I have appeared with Ministers and DGs at many press conferences. Generally, I believe that I have been able to make a good impact while avoiding any major disasters.

I believe that I have acquired a good understanding of how to make an impact through the mass media, but I am also aware of the pitfalls of being too focused on the media rather than on the real work that needs to be done.

19) Personal experience of injustice and empathy with those who suffer injustice at the hands of state institutions

During my time as a political activist I gained extensive and practical experience how different parts of the criminal justice system works or fails to work, and how it can be abused to violate the rights of the poor and marginalized who do not have the resources I had to fight the system.

But I also learnt how ineffective it can be. I lived a large part of my life on the wrong side of the law, and have broken the law hundreds of times, seldom being caught and only once being convicted.

In my work, my experience has given me an excellent insight in how the criminal mind works, and how they are able to exploit the problems and inefficiencies in law enforcement.

In addition, it concerns me that there is often a failure to work together and this results in a failure to deliver justice to the victims of crime.

20) Technical skills

I have excellent **computer skills** developed from 1977 onwards and was one of the first activists who had a personal computer. I have excellent skills in MSWord, Excel, Powerpoint and have helped to develop several customized mainframe packages to the AFU and SIU.

I taught myself to touch type on a manual typewriter in the 1970s and have used a personal computer from 1986. I am adept at doing my own documents.

I have excellent **numeracy skills** from my work as an **actuary** and experience helps with analyzing performance of organisations, financial statements, etc. I have been able to develop sophisticated ways in tracking the performance of the AFU and SIU, from an organisational to an office and even individual level.

Both as human rights lawyer acting for communities and organisations, as well as my role as the main events and rally organiser for ANC and UDF

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I am an excellent organiser of events and people from my experience in the democratic movement

At the NPA and SIU I have completed several intensive management training courses, as well as intensive assessments by independent service providers. Copies of these assessments are available.

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1.7. Please provide details of your language proficiency:

Language proficiency (state 'good', 'fair' or 'poor')							
	Language						
	English	Afrikaans	Xhosa	German	Latin		
Speak	Good	Good	Poor	Poor	Poor		
Read	Good	Good	Poor	Poor	Poor		
Write	Good	Good	Poor	Poor	Poor		

SECTION 2: MOTIVATIONAL

2.1. Please explain why you believe you are the right person to serve as the next Public Protector?

1) I am an activist and believe in taking action to make a difference

First and foremost, I have through my adult life been passionate about fighting injustice from whatever source it emanates. My activism has been informed by the notion that each of us is capable of making a difference in society, and to improve the lives of the people around us.

2) I have very relevant academic qualifications

I believe that my academic qualifications are very relevant to the position of Public Protector.

A law degree and good understanding of the law is an important requirement for the position. My law degree included a substantial course on constitutional law, and a

research paper on the rights of prisoners which informed my litigation against the state and lead to the change of the law relating to prisoners.

My BA degree included a major in Economics which I believe gives me a good understanding of how society works and the role of the state in society.

It also included 2 years of Mathematics and 1 year of Mathematical Statistics which has proved very useful in work in the state.

3) Experience

I have dealt with my relevant experience, including the managing of large organisations, investigations and litigation in section 1.6, as well as in my CV, and will not repeat it here.

To head an organisation as large as the Public Protector I believe that it is vital that one should have extensive leadership and management skills and experience.

I have extensive experience and a very good track record as a manager of large and complex organisations, and have a proven ability to focus on and deliver excellent performance.

I believe that my experience in the following is very relevant to the work of the Public Protector:

- drafting parts of the Constitution and much legislation
- being a member of Parliament and accounting to Parliament
- working with the Executive and its various structures
- establishing and managing state institutions,
- working with international bodies,
- assisting and working with many state institutions, law enforcement and
- assisting and working with the Public Protector,

4) Integrity

Perhaps the most important requirement for the position is to have a high level of integrity. I have tried to live my life according to the highest standards of integrity, and have sacrificed much for this at times.

When I joined the NPA, I had decided to let ANC membership lapse because of the possible perceived conflict of interest when dealing with certain cases.

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I have tried hard to maintain a high level of integrity in my work in the state, and it certainly has been a challenge at times as my integrity has been tested more than most by some very difficult situations I have faced.

This was especially because of some of the issues that arose in investigations, and the fact that one has to make a hard choice whether to stay in the state and hopefully be able to prevent the abuse of state institutions, or whether to leave and criticise from outside.

After the first few years in the NPA, I was excluded dealing with a number of high profile DSO matters, I believe, because I asked too many questions.

In other cases, such as the Selebi matter, I have been faced with a situation where the then president tried to force NPA to abuse its powers to assist him in his political fights in the ruling party, and suspended the NDPP when he refused to do so.

When Mr Pikoli was suspended, I supported him strongly and did my utmost to subvert the intention of a range of politicians and senior public servants who tried to force the NPA to do the bidding of the executive at the time. I and others faced considerable opposition from senior members in the NPA, as well as politicians and senior officials outside.

I have had to deal with very tough situations where some of my closest comrades and friends in the ANC were lobbying me to persuade me to assist the then President against his political rival. This led to a permanent breakdown in my relationship with several of my friends.

I later discovered that some of those who were closest to me in the NPA and SIU, such as McCarthy and Davids, were part of these events.

In other matters, I have had to make very hard decisions as well. This included the events leading up to and after the seizure of over R100 million of assets of Mr Fana Hlongwane relating to the arms deal. In the end, I disagreed publicly with the then NDPP, Mr Simelane, about his decision to withdraw the freezing order granted by a judge.

I have always resisted and tried to make it difficult as possible for those who were trying to abuse the NPA to achieve political objectives, but I cannot say that I always succeeded.

I have written extensively on this in an affidavit filed in the DA Zuma matter. It is not possible to capture the issue in a short motivation such as this, but I am happy to elaborate on this at or prior to the interviews if required.

5) Good skills in guiding and managing investigations

I believe that the large bulk of the work of the Public Protector involves investigating allegations of corruption and maladministration, and that one of the critical skills required is to assemble and manage the teams that do such investigations.

I have a great deal of experience of managing and investigations and investigators from my work at the SIU where I was very involved in all major investigations. In the AFU I have often been involved in joint task teams with the SIU, SAPS or DSO in major cases

I believe that I have considerable and excellent experience in managing investigations and investigators, in the AFU and especially in the SIU.

This involves the creation and management of effective and multi-skilled teams, as well as the oversight of progress of investigations and providing guidance on legal and practical issues that arise.

In the AFU I have often been involved in joint task teams with the SIU, SAPS or DSO in major cases.

6) Relevant management experience

I believe that my management experience in both the AFU and SIU is highly relevant to the position of Public Protector.

7) Relevant management training

I have been completed to a number of management training courses, first at my work in the early 1980s, and several more at the SIU and NPA. I believe strongly that good management experience and training is an important component of leading a state institution successfully.

This has not only given me better insight into my own abilities, but I believe has equipped me to be a better manager and leader of a medium sized to large organisation.

Some of the courses included formal assessments of my management style and capabilities which I believe is an invaluable tool in assisting me to become a better manager and leader.

I am prepared to make these assessments available to the committee if required.

8) Good and experienced leader with a proven track record

I have a proven ability and an excellent track record as a leader as set out in my CV and elsewhere.

I am able to motivate and inspire others to go beyond the call of duty, and to ensure that there is passion and commitment.

At the same time, I believe strongly in collective leadership. It is vital to build a management team with a common vision if one is to ensure that there is a common vision in the organisation.

I have considerable and practical experience of building and managing effective and high performance teams, and in many places I have managed to create a culture of excellence.

9) Excellent in developing effective organisational strategies

I have considerable experience in developing effective organisational strategies, and have been able to achieve major innovations both the AFU and SIU that have improved their performance significantly.

However, I do believe in thinking carefully and obtaining wide buy-in before deciding on and implementing major organisational changes. I have seen too many failures from good intentioned changes.

I am very familiar with the strategic approach adopted by government in its Results Based Management, which is essentially an outcomes based approach rather than one focusing only on outputs, and believe that this is a significant advance in ensuring that one makes an impact on the challenges that face our society.

10) Excellent legal skills and experience in managing litigation

I have very good legal experience that is relevant to the work of the Public Protector.

I have considerable experience in using the law to fight injustice in my own litigation with the state, and have devised novel strategies such as the use of an Anton Pillar

order, the unbanning of UDF meetings during the various emergencies, and assisting to develop the law regarding the rights of prisoners in my own case.

As set out in my CV at para 11, at the AFU I have gained extensive experience in civil litigation in my work at the AFU which essentially has to obtain court orders in all its matters. I believe that the work of the head needs to be focused on both the actual litigation issues, but also on managing litigation and ensuring that there is a sound and good litigation strategy.

I believe that one can always learn more, and that one must strive to be the best.

11) Innovative Investigative techniques

At the SIU I worked with a team of investigators and data analysts to develop innovations that can reduce investigation times dramatically, such as the use of data analysis and data mining such as of data relating to procurement.

12) Stakeholder skills and building partnerships

I believe strongly that corruption and maladministration require holistic solutions that must include prevention and education as critical parts of the solution, as well as working with other relevant institutions where relevant.

I have excellent skills in working jointly with other state institutions on cases, and in finding win-win solutions at both the AFU and SIU and I believe that it is one of the critical reasons for success they achieved.

13) Internal integrity and the need to avoid leaks

I believe strongly in strong internal integrity measures, and have much experience in developing and implementing such measures at the SIU and to some extent the AFU.

I introduced a range of (sometimes harsh) integrity measures needed to ensure that those who have money or power cannot subvert the processes to evade justice. I have personal experience of how much this can undermine confidence in critical institutions.

It is also particularly important in high profile case to prevent the leaks of information, as these may do great harm not just to those implicated, but also to the institution itself.

14) Wide exposure to the constitutional and legislative framework for chapter 9 institutions

As a Member of Parliament I gained a large amount of insight into the role of many of the chapter 9 institutions.

I involved in the discussions and some of the negotiations about the chapter 9 institutions in the final constitution, and I was also very involved in the processing of the legislation establishing these institutions.

15) Very good negotiation skills and the ability to build consensus and to find win-win solutions

I believe strongly in building consensus, even though there are times when a one needs to make decisions that are not popular. I have implemented this at both the AFU and SIU with excellent results.

My CV reflects some of the issues that I dealt in the negotiations process for the final Constitution. In the process I built excellent relationships with members of the opposition parties, and we were able to find a consensus in almost all the difficult issues which had to be negotiated.

As a result, almost all the legislation processes by the Justice Committee was approved unanimously, including very contentious laws such as that dealing with the TRC.

16) Building good non-partisan relationships for the common good

Through my role in the final Constitution and in Parliament, I managed to build good relationships of respect with most of the members of the opposition parties.

17) Long experience of working with the poor and disadvantaged

I have spent much of my adult life prior to joining the state working with those who are poor or disadvantaged, and am passionate about dealing with injustice.

This passion was strengthened by my own personal experience of injustice and abuse of state power.

I believe that this is an important part of the work of the Public Protector, and that my experience will be very useful in being able to find innovative practical and legal ways to fight for justice.

18) I have very personal experience of repression and abuse of power by the state, and how to fight it through the use of the law and otherwise

I have lived for a long time on the wrong side of the law and managed to avoid being convicted, and have a good sense of the weaknesses of the justice system CJS and how those who abuse the rights of others think.

I am also very familiar with many of the role-players in the corruption terrain from past cases, and have worked with almost all of them.

In addition, my long experience in law enforcement enables me to make links and be aware of many past investigations. Given the lack of capacity in dealing with the challenges of M&A, good experience of developing training programmes for entry level staff as well as more advanced high level training

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2.2. In your opinion, what are the key challenges facing our country and what role should the Public Protector play in supporting our democracy?

- a) I believe that the key challenges in South Africa are to achieve greater economic growth, to deal better with poverty and inequality, and to deal more effectively with corruption and maladministration.
- b) the Public Protector has an important role to play by holding to account those who are guilty of abusing the resources that are required to deal with the problems of poverty and inequality.
- c) A holistic anti-corruption strategy should deal with investigation/deterrence, prevention and education as mutually reinforcing elements.
- d) Although the implementation of a general anti-corruption strategy is not really in its mandate, I believe that the Public Protector can play a significant role in several ways.
- e) However, there are clearly issues of independence for the Public Protector to play too direct and active a role in government's anti-corruption strategy.
- f) The investigations of the Public Protector are in most cases certainly part of the investigative leg, especially if they are referred for disciplinary or criminal action. In this way they can also have a deterrent effect and help to prevent future corruption.

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- g) The recommendations of the Public Protector can also make for better systems and procedures that will serve to prevent corruption.
- h) Finally, I believe that the Public Protector's announcements of its findings can serve both as a deterrent to others, and is a valuable part of an education leg of an anti-corruption strategy.
- i) In this way, more resources can be freed for the economic upliftment of the poor, and to reduce inequality There are of course other major challenges in the economic sphere

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SECTION 3: GENERAL

- 3.1. Are there any circumstances, financial or otherwise, known to you which might cast doubt on your fitness to hold office as Public Protector? (Indicate with an “X”) 4

YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
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If so, please furnish particulars.

I do not think that there are such circumstances, but for the sake of full disclosure I mention the following below:

Financial circumstances

- a) During the period 1985-1992 I worked without pay for the UDF and ANC while I lived of my savings. I also paid many of the UDF and ANC expenses. As a result I was deeply in debt at the time, but I was not credit blacklisted as far as I am aware.

Other circumstances

- b) Soon after the killings in Soweto in June 1976, I helped to organise and participated in an unlawful solidarity march from UCT to Athlone and Langa. The march was illegal and about 150 students and members of the public who joined us were eventually arrested and held at Roeland Street Prison in Cape Town. After a few court appearances, we were offered admission of guilt fines of about R50 and paid them. I was advised that this does not constitute a criminal record.
- c) During 1975 and 1976 I was arrested about 15 other times while distributing a worker newspaper to African and Coloured workers. We were usually held for a few hours and were never charged with any offence.
- d) During the various states of emergency in the late 1980s, I was arrested on about 20 or more occasions for being present at various illegal gatherings, for being in African townships, or for not obeying orders from the police. I was never charged.
- e) I was one of the main organisers of the 1989 Defiance Campaign in the Western Cape when the Emergency Regulations and various unjust laws

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were defied. During the campaign I was arrested several times for publicly defying my restriction order that included house arrest at night. After several arrests I was formally charged and the police attempted to oppose my release on bail, but failed. Instead I was detained under the emergency regulations soon thereafter.

- f) I was also arrested after an illegal “sit-in” at the National Party offices after an ANC Youth League protest as part of a campaign of mass action. I think this was during a break down in the negotiations. Although I was not aware of it at the time, I was informed some years later by the then Attorney-General of the Cape that the SA Police had presented a docket to him but that he declined to prosecute.

g) professional disagreements with boss

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- 3.2. Has any legal or other professional body ever found you guilty of any unprofessional or disgraceful conduct? (Indicate with an “X”)

YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
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If so, please furnish particulars.

I have not been found guilty, but in the interest of full disclosure I disclose the following:

I have not been convicted of any such offence, but in the interest of full disclosure I wish to mention the following. However, I do not believe it impacts on my fitness to hold office as Public Protector.

I learnt much later that the police had laid a complaint against me with the Cape Law Society arising from the “sit-in” referred to above. As far as I know it did not take the matter further.

- 3.3. Have you ever been convicted of any offence involving dishonesty, violence, or any other disreputable and/or dishonourable conduct? (Indicate with an “X”)

YES		NO	X
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If so, please furnish full particulars and dates.

I have dealt with details that may be relevant in para 3.2 above.

- 3.4. At any of your previous places of employment have you ever faced an internal investigation, a disciplinary inquiry or been dismissed from employment? (Indicate with an “X”)

YES	X	NO	
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If so, please furnish particulars.

Faced a formal disciplinary enquiry: No

Dismissed from employment: No

Faced internal investigations Yes, as set out below.

a) I accepted a written warning received in about 2010

I accepted a written warning for a relatively minor infraction of the new procurement rules in 2010. If I recall correctly, as many as 50 other senior managers in the NPA were disciplined for such infractions at the time.

The case related to my approval for AFU staff members to attend an annual conference of anti-money laundering professionals as I had previously done in the past. A total fee of about R20 000 was charged.

I (and those who advised me) were not aware that the process in relation so such events had changed, and that we were required to go through a formal procurement process and source alternative quotes. In this case, there were no similar events as this was the only event of its kind at the time.

For the sake of completeness, I wish to mention that I have been the subject of investigations that are not internal investigations. I should add that this is something that is likely to happen to any person who has to investigate and take action against rich and powerful individuals.

b) The complaint laid against me and others by an accused (David King)

I mention this matter as it was reported extensively in the press at the time, although it does not fall in the ambit of the questions as there was no internal investigation of which I was aware.

In 2010 Mr Dave King, the accused in a criminal matter involving several hundred million Rand that had been ongoing for about 10 years, laid a complaint against me with the then NDPP, Mr Simelane. He alleged that I was guilty of corruption in relation to negotiations regarding a settlement of his matter. King later paid about R800 million to SARS as part of a settlement and pleaded guilty to some of the charges in the criminal case.

The prosecution team and I had acted throughout on advice of senior counsel. I proposed to the NDPP that he should approach the General Council of the Bar to nominate one or more senior counsel to investigate the allegation as had happened previously when serious allegations were made against senior NPA managers. This was to ensure that a credible and independent view was obtained on whether there were any breaches of professional and/or ethical standards on my part or the NPA team.

As far as I understand, the Integrity Management Unit (**IMU**) and the internal prosecutor who was asked to advise on the matter did not find any merit in the allegations, and supported the suggestion.

Despite this advice, the NDPP instructed that the matter must be referred to the SAPS for a criminal investigation. After several months, I was informed that the investigation by SAPS had been closed.

(c) Complaint by SIU members

I also mention this matter as it was reported in the press at the time, although it does not fall in the ambit of the questions as there was no internal investigation into my role in the matter.

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I am aware that the matter was formally scrutinized by the SIU and its auditors. I am not aware of any concerns raised regarding my role as an individual or accounting officer at the time.

In about 2010 some union members at SIU made a criminal complaint against me in my capacity as the Head and Accounting Officer of the SIU. It related to the procurement of refurbishments at the SIU offices in the context of an ongoing labour dispute with members of the union who sought to exercise undue influence over the operations of the SIU. I am not sure how the matter was dealt with by the SAPS. I was never formally informed about an investigation or engaged about the matter.

I am not aware of any current disciplinary or other internal investigations against me.

- 3.5. Are there any other relevant matters which concern your honesty, integrity and reliability which you should bring to the attention of the Committee? (Indicate with an "X")

YES	X	NO	
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If so, please furnish particulars.

- 1) My integrity has been questioned in public by a number of people after an affidavit I filed in the litigation by the DA against the NPA in the Zuma matter. I am happy to provide a full explanation and the relevant affidavits should the committee request this.
- 2) The current NDPP made certain allegations about my integrity in a court application concerning the NPA. Acting on legal advice, I responded to those issues in an affidavit filed in court. I am happy to provide a fuller explanation and the relevant affidavits should the committee request this.

I believe that any person who has to deal with allegations of impropriety against rich or powerful figures in the public or private sector is likely to be subjected to unwarranted attacks and criticism.

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Although such criticism can be very unfair and destructive, and can undermine the integrity both of the person and the institution, it is unfortunately part of the job for those who have to investigate rich and/or powerful persons.

Thus it is important to have the toughness and resilience to deal with it, and I believe my past experiences have equipped me to do so.

In both these matters I unfortunately come across attempts by senior colleagues in the NPA to manipulate the NPA to the political advantage of powerful interests outside the NPA.

In both these matters I was faced by difficult situations where I believed that senior colleagues in the NPA had behaved unethically. In both matters I acted on legal advice about what I should do. However difficult it was to do so, I believed that I had to follow the dictates of my conscience and do what was ethically correct.

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SIGNATURE

DATE