

Western Cape
Police



ombudsman

**Together
we can ensure
professional
policing in the
Western Cape**

**Xa simbambisene
amapolisa angenza
umsebenzi
ngobuchule
eNtshona Koloni**

**Ons kan tesame
verseker dat daar
beter polisieering
in die Wes-Kaap
plaasvind**

Tel: 021 483 0669 • e-mail: ombudsman@westerncape.gov.za
Website: www.westerncape.gov.za/police-ombudsman

“People must be encouraged to speak out against maladministration with the surety that their complaints will be taken seriously and in confidence. Every citizen needs to be familiar with their obligations and duties. They must be able to claim the right to be treated justly, promptly and courteously, and to claim their due under the law. Only then will we be able to ensure that government is dedicated to public service and a culture of efficiency and transparency.”



Speech by President Mandela at the African regional workshop of the International Ombudsman Institution Pretoria, 26 August 1996.

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VISION AND MISSION STATEMENT



A society where there is mutual respect and trust between the people and the police.



To enhance the effectiveness and efficiency of Policing and to improve relations between the communities and the SAPS by conducting impartial and independent investigations of complaints in relation to police inefficiency and/or a breakdown of relations between the police and the communities, thus enhancing trust and public confidence in Policing.

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MOTTO



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CONSTITUTIONAL MANDATE

Constitution of the Republic of South Africa, Act 108 of 1996 {Section 206}

- Subsection(3) empowers Provinces to:
 - a) Monitor police conduct.
 - b) Oversee the effectiveness and efficiency of the police service.
 - c) Promote good relations between the police and the community.
 - d) Assess the effectiveness of visible policing...

- Subsection (5) enables subsection (3) for a Province to:
 - a) Investigate, or appoint a commission of inquiry into, any complaint of police inefficiency or a breakdown in relations between the police and any community...

Constitution of the Western Cape, Act 1 of 1998 {Section 66 (1) and (2) }

- Western Cape Government — (a) may investigate, or appoint a commission of inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community.

OVERVIEW

- ❖ The Western Cape Police Ombudsman (WCPO) is situated at the Waldorf Building, St Georges Mall in Cape Town.
- ❖ It is the first office of its kind in South Africa.
- ❖ Transparency, responsiveness and accountability are some of its core values.
- ❖ The WCPO seeks to investigate service delivery inefficiencies against the South African Police Service, within the Western Cape.

LEGISLATIVE MANDATE

Western Cape Community Safety Act, Act 3 of 2013

- Section 10 - Establishment of the Office of Western Cape Provincial Police Ombudsman
- Section 11 – Appointment of Ombudsman
- Section 14 – Independence and Impartiality of Ombudsman
- Section 15 – Functions of Ombudsman
- Section 16 – Submitting Complaints
- Section 17 – Investigations by Ombudsman
- Section 18 – Investigating powers and officers
- Section 30 – Offences and penalties

Western Cape Provincial Police Ombudsman Regulations, 2015; as amended, Amendment, 2020.

LEGISLATIVE MANDATE (CTD)

❖ Section 14: Independence and impartiality of Ombudsman.

❖ The Ombudsman and staff MUST:

- ❖ Serve independently and impartially;
- ❖ Perform their functions in good faith and without fear, favour, bias or prejudice, subject to the Constitution and the law.
- ❖ Preserve confidentiality in respect of any information acquired in terms of this Act.

❖ Section 15: Functions of Ombudsman

❖ The Ombudsman MUST:

- a) Receive and may investigate complaints submitted in terms of Section 16, regarding inefficiency of the police or a breakdown in relations between the police and any community; and
- b) Perform the other functions assigned to him or her under this Act.

SECTION 16 - WHO CAN COMPLAIN?

Any person or a person on behalf of another person;

Any member of the WC Provincial Parliament;

Any other Department or Organized Civil Society organization; may

- Submit a complaint in the prescribed manner and form

SECTION 17: INVESTIGATIONS BY OMBUDSMAN

- (1) The Ombudsman may, if a complaint is not manifestly frivolous or vexatious is submitted, institute any investigation that is necessary into alleged police inefficiency or a breakdown in relations between the police and any community.
- (2) Member of Provincial Parliament refers complaint.
- (3) Notice in Provincial Gazette, make known any investigation being conducted and state that any person may, within a period specified in the notice, make written representations to the Ombudsman.
- (4) Referral of complaint by Ombudsman to another competent authority, IPID, SAPS, CPF, etc.
- (5) Resume investigation not resolved by competent authority.

SECTION 17: INVESTIGATIONS BY OMBUDSMAN (ctd)

- (6) If the Ombudsman is of the opinion that a complaint is of a serious nature or it may more appropriately be dealt with by a commission of inquiry, the ombudsman may recommend to the Premier that a commission of inquiry into the complaint be appointed in terms of the WC Provincial Commissions Act, 1998 (Act 10 of 1998)
- (7) Complainant must be informed if Ombudsman decides not to initiate an investigation of reasons thereof.
- (8) On completion of an investigation which could not be resolved, the Ombudsman must submit a recommendation to the Provincial Minister and inform complainant thereof.
- (9) Provincial Minister must inform the National Minister of Police complaint could not be resolved and inform complainant accordingly.
- (10) Avoid unnecessary duplication, Ombudsman must coordinate functions and activities with authorities having jurisdiction – complaints against police.

Types of Complaints: Allegations of Service Delivery Inefficiencies

POOR INVESTIGATION

- Failure to obtain statements.
- Poor crime scene management.
- Failure to arrest suspects.
- Failure to use investigation aids/experts.

POOR COMMUNICATION

- Supply incorrect information.
- Lack of telephone etiquette.
- Failure to provide feedback.
- Language barriers.

POOR RESPONSE

- Failure to answer telephone.
- Failure to attend to a complaint.
- Lack of police visibility.
- Poor response time or unnecessary delays in attending to victim/complaints.

UNACCEPTABLE BEHAVIOUR

- Manner of effecting an arrest
- Threatening or intimidating a member of the public, whilst on duty.

SECTION 18: INVESTIGATING POWERS AND OFFICERS

- (1) For investigation, the Ombudsman may direct any person to submit an affidavit or affirmed declaration or to appear before him/her, or to give evidence, or to produce any document in that person's possession or under his/her control and may question that person thereon.
- (2) Ombudsman may request an explanation from any person whom he/she reasonably suspects of having information which has a bearing on the matter being investigated or to be investigated.
- (3) Ombudsman may designate staff members as Investigating Officers to perform the functions as per subsections (1) and (2).
- (4) Ombudsman may appoint contract workers.
- (5) Ombudsman must issue Investigating Officers with a Certificate of Appointment.
- (6) Investigating Officers must be in possession of the Certificate of Appointment when performing functions in terms of this Act.

REGULATION 2: SUBMITTING COMPLAINTS

- (1) Preferably in writing but oral complaint submitted in person or telephonically may be accepted-
 - (a) if not possible to reduce complaint to writing;
 - (b) if not possible to send written complaint; or
 - (c) if complaint is urgent and inadvisable to insist on written complaint.
- (2) Oral complaint must be reduced to writing ASAP on Annexure A, by staff member of WCPO and read back to verify.
- (3) If complainant cannot be traced or does not provide requested information to complete Annexure A, the Ombudsman-
 - (a) may decide whether or not to proceed with investigation; and
 - (b) inform member of Provincial Parliament of decision.

REGULATION 2 (CTD): DOCUMENTATION

(1) Completed and signed Annexure A must be accompanied by:

(a) copy of complainant's identity document or passport.

(b) proof that any member or interest group has authorized a person to submit the complaint on behalf of the group, association or organisation with a copy of the identity document or passport of such representative.

(2) Completed and signed Annexure B (Consent of complainant):

(a) if a complaint is lodged on behalf of another person, copy of complainant's identity document/passport and

(b) Copy of representative's identity document/passport.

(3) Written consent of complainant not required if complainant is:

(a) a minor;

(b) incapacitated due to a medical or physical condition;

(c) illiterate; or

(d) in the opinion of the Ombudsman, unable to provide written consent.

REGULATION 2 (CTD): DOCUMENTATION

Sect (10) Permission:

(a) notwithstanding the provisions of any other law, any minor, or any person acting on behalf of a minor, may submit a complaint to the Ombudsman without the assistance of a parent, guardian or any other person.

Sect (11) Information required:

- (a) the name, identity or passport number and contact details of person submitting the complaint on behalf of the complainant;
- (b) The relationship of such person with the complainant; and
- (c) The reasons why the complainant cannot submit the complaint him-or herself.

REGULATION 3: MANNER OF SUBMITTING A COMPLAINT

- (1) Oral complaint in person or by telephone at **021-483 0669**.
- (2) Written complaint submitted to the Ombudsman as follows:
 - (a) hand in at office of Ombudsman during office hours (**6th Floor, Waldorf Building, St Georges Mall, 80 Burg Street, Cape Town**);
 - (b) by facsimile at **021-483 0660**;
 - (c) by registered post, complainant must keep proof that complaint has been posted (**Private Bag X 9043, CAPE TOWN, 8000**);
 - (d) by email (**ombudsman@wcpo.gov.za**); or
 - (e) complete and submit a complaint form online on website of WCPO (**<https://www.westerncape.gov.za/police-ombudsman>**).

OFFICE HOURS:

Monday to Friday (Excluding Public Holidays)

TIME: 07:30 to 16:00

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What should be included on the complaint's form?

The name, identity or passport number and contact particulars of the complainant, if available.

The nature of the complaint.

The date and place of the incident.

A description of the incident and the grounds on which the complainant believes that the complaint should be investigated.

The name of any police official involved in the incident or matter, if known to the complainant.

The name of the police station, if applicable.

The names and addresses, if available, of any person who can provide information relevant to the complaint.

Information regarding other mechanisms that the complainant has used in an attempt to resolve the complaint.

Particulars of any person who was involved in an attempt to resolve the complaint.

Any other relevant information or documents that can be used during the investigation.

RECEIVING OF COMPLAINTS

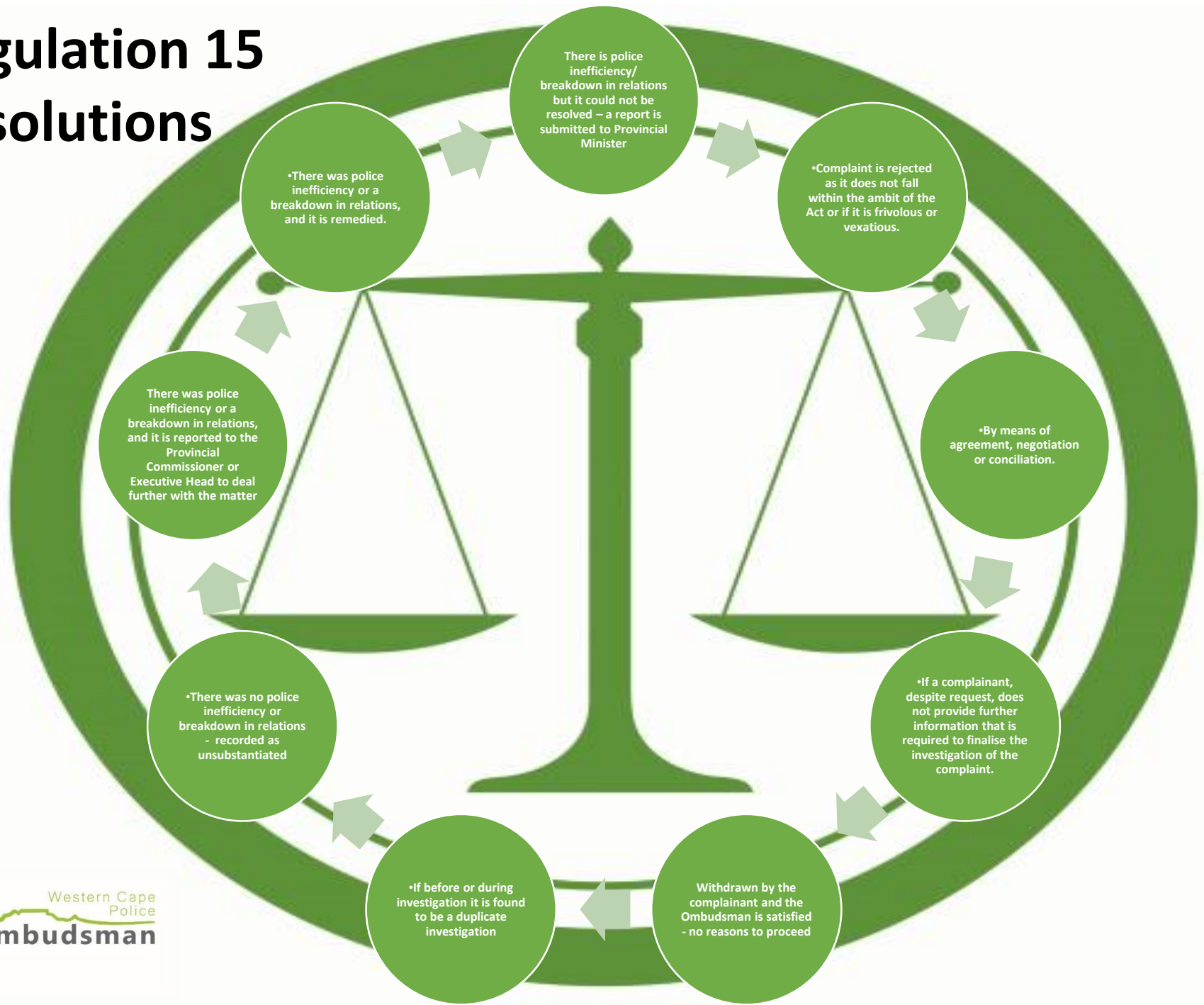
All complaints received via the complaint form are screened to establish whether:

- the complaint relates to service delivery issues, and if so
- whether it is frivolous or vexatious.



Should the Ombudsman decide not to initiate an investigation, the Ombudsman must inform the complainant of the decision and the reasons thereof.

Regulation 15 Resolutions



REGULATION 15, AS AMENDED: WAYS OF RESOLVING A COMPLAINT

- Complaint is rejected as it does not fall within the ambit of the Act or if it is frivolous or vexatious.
- By means of agreement, negotiation or conciliation.
- There is police inefficiency/ breakdown in relations, but it could not be resolved – a report is submitted to Provincial Minister.
- There was police inefficiency or a breakdown in relations, and it is remedied.
- There was police inefficiency or a breakdown in relations, and it is reported to the Provincial Commissioner or Executive Head to deal further with the matter.

REGULATION 15, AS AMENDED: WAYS OF RESOLVING A COMPLAINT

- If a complainant, despite request, does not provide further information that is required to finalise the investigation of the complaint.
- Withdrawn by the complainant and the Ombudsman is satisfied - no reasons to proceed.
- If before or during investigation it is found to be a duplicate investigation
- There was no police inefficiency or breakdown in relations - recorded as unsubstantiated

OFFENCES & PENALTIES

WCCSA, 2013 - Section 30:

(1) It is an offence for any person who -

(a) without just cause, refuses or fails to comply with a direction or request by the Ombudsman, or refuses to answer any question put to him, or gives to such question an answer which to his knowledge is false; or

(b) hinders or obstructs the Ombudsman or an investigating officer in the exercise or performance of his powers or functions in terms of the Act.

Penalties

- Such person is guilty of an offence and liable on conviction to a fine or imprisonment not exceeding three years or both.

WHERE TO COMPLAIN

<u>PHYSICAL ADDRESS:</u>	6th Floor, Waldorf Building St. Georges Mall Cape Town 8001
<u>OFFICE HOURS:</u>	Monday to Friday (excluding public holidays) 07h30 to 16h00
<u>TELEPHONE:</u>	+27 21 483 0669
<u>FAX:</u>	+27 21 483 0660
<u>EMAIL:</u>	ombudsman@wcpo.gov.za
<u>WEB:</u>	https://www.westerncape.gov.za/poliace-ombudsman



FOR MORE INFORMATION

<https://www.westerncape.gov.za/police-ombudsman/>



Thank you so much

Enkosi kakhulu

Baie dankie