**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 TO RECEIVE ‘COMPREHENSIVE’ RESPONSE FROM CHAIRPERSON ON RECUSAL APPLICATION**

**Parliament, Friday, 23 September 2022 –** The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office today discussed the application brought by the PP for Chairperson Mr Qubudile Dyantyi and Committee Member Mr Kevin Mileham to recuse themselves.

After hearing from all members present, Mr Dyantyi indicated that he will table a comprehensive response on all the grounds raised in the application. “There is a need to respond to each of the 12 grounds in detail, paragraph by paragraph, in a very thorough way. Our response is going to be so thorough to demonstrate how these facts matter.”

He informed members that the committee will reconvene in the first week of October and indicated that in the interim external legal advice on the recusal application would be sought as per the committee’s decision. During discussions on the recusal application, committee members also requested an investigation into the conduct of Adv Dali Mpofu in a meeting on 13 September 2022, where it is alleged that he threatened the Chairperson. Committee members were of the view that a complaint should be lodged with the Legal Practice Council regarding Adv Mpofu’s conduct. The majority of committee members indicated today that they reject the application, as they have experienced no bias on the part of the Chairperson.

Earlier in the day, Ms Fatima Ebrahim, from Parliament’s Constitutional and Legal Services Office, told the committee that Mr Dyantyi serves as Chairperson at the behest of the committee, while MPs serve at the behest of their political parties. She stated that it is not Mr Dyantyi's committee, but rather the committee as a collective that will determine whether the Public Protector has committed misconduct or is incompetent, as alleged. Furthermore, she said Mr Mileham is just one member of the committee, with no more power than any other member.

Ms Ebrahim said the parliamentary rules do not provide for a specific procedure to remove a chairperson or a member of a committee and the latter is usually dealt with politically. It is therefore up to both the Chairperson and Mr Mileham to consider the recusal application as it relates to them and to inform the committee of whether they intend recusing themselves. Thereafter, the committee, as the body that appointed Mr Dyantyi, will have to consider whether they wish to remove him as Chairperson. She informed the committee that an application for recusal is very serious and requires careful consideration. She further noted that if the committee resolves that either one is biased, their continued presence on the committee will taint proceedings and their respective parties should be consulted about removing them as members.

On Wednesday, Adv Mpofu brought the application that included 12 reasons for Mr Dyantyi’s recusal and others against Mr Mileham. Some of the grounds against Mr Dyantyi include: the scope of the enquiry, unlawful and unilateral amendment of directives and the misapplication thereof; refusal to subpoena President Cyril Ramaphosa and unduly favouring the evidence leaders and unwarranted proximity to collusion with them; and generally adopting an oppositional posture towards the PP and/or her representatives.

Adv Mpofu told the committee that Mr Mileham is the spouse of the complainant, Ms Natasha Mazzone, who initiated the motion and there is therefore an inherent bias based on Mr Mileham’s relationship with the complainant.

Evidence leader Adv Nazreen Bawa then placed on record the response of the evidence leaders to the fourth ground of recusal, which alleges that the Chairperson unduly favours the evidence leaders and speaks of the Chair’s “proximity to collusion” with them. She said such allegations are “unfounded” and at no time did the evidence leaders act in a manner where they colluded with the Chairperson, nor did the application include any evidence to support the allegation.

Mr Dyantyi said in his concluding remarks that he will preside over the next meeting in which his “blow-by-blow” response to the allegations will be tabled, taking into account all issues raised by committee members today.

The committee was established by the National Assembly (NA) on 16 March 2021 to conduct a constitutional inquiry into the Public Protector’s fitness to hold office. Committee documents can be found at: [Committee for Section 194 Enquiry - Parliament of South Africa](https://parliament.us15.list-manage.com/track/click?u=174940c63c5e06b60f5650bea&id=5e580eafd5&e=da105e4f6a)

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHAL F OF THE CHAIRPERSON OF THE COMMITTEE FOR SECTION 194 ENQUIRY, MR QUBUDILE DYANTYI.**

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