

The Public Protector

[Your Full Name]

[Your Address]

[Your Contact Details]

[Date]

The Public Protector

[Address of the Public Protector's Office]

Dear Public Protector,

Subject: Complaint Regarding Discrimination Against Fathers in Children's Courts and the High Court's Failure to Uphold Its Duties as Upper Guardian

I, [Your Full Name], hereby lodge a formal complaint concerning the systemic discrimination against fathers in children's court proceedings and the High Court's failure to address this issue in its capacity as the upper guardian of all children.

**Background and History of the Complaint:**

The children's courts in South Africa have consistently applied the maternal preference rule, which unfairly favours mothers in custody and parental rights cases. This practice is not only contrary to the equality provision in the Constitution but also undermines the best interests of the child. Fathers are subjected to additional requirements and burdens, such as the payment of damages, the need to approach a court to access their equal rights, and the imposition of evaluations by the family advocate, which are not applicable to mothers. This state-sanctioned discrimination persists despite the absence

of such discrimination against women in formal education and the workplace, where affirmative action measures are in place to integrate them.

### **Reasons for Requesting an Investigation by the Public Protector:**

The High Court, as the upper guardian, has failed to fulfil its duties by allowing this injustice to continue unabated. The discrimination against fathers in children's courts robs children of the full involvement of both parents, which is crucial for their well-being and development. The persistence of this discrimination in 2024, despite the constitutional provisions and the evolving societal norms, is a reflection of the High Court's failure to exercise its oversight powers effectively. This failure has contributed to the challenges faced by the children born after the constitution, who now languish as adults in a country plagued by high youth unemployment, excessive levels of violence and crime, gender-based violence, and failing education and state institutions.

### **Steps Taken to Resolve the Issue:**

[Describe any efforts you have made to address this issue, such as engaging with the children's courts, the High Court, or other relevant authorities. Provide details of any correspondence, complaints, or legal actions taken, and the outcomes of these efforts.]

### **Supporting Documents:**

[List and attach any relevant documents, such as court orders, affidavits, research papers, or other evidence that supports your complaint and highlights the discrimination against fathers and the High Court's failure to address the issue.]

### **Preferred Outcome:**

I request that the Public Protector investigate the systemic discrimination against fathers in children's courts and the High Court's failure to uphold its duties as the upper guardian. I hope that this investigation will lead to recommendations for legal and institutional reforms to ensure that fathers are treated equally in parental rights matters and that the best interests of the child are truly prioritised. I also request that the Public

Protector examine instances where mothers have withheld children from fathers, amounting to kidnapping, and the role of the High Court in addressing such cases.

I declare that the information provided in this complaint is true and accurate to the best of my knowledge. I am willing to cooperate fully with any investigation conducted by the Public Protector and provide further information or evidence as required.

Thank you for your attention to this matter.

Sincerely,

[Your Signature]

[Your Full Name]