



# FACT SHEET ON FINALISED CASES OF FINANCIAL MISCONDUCT FOR THE 2011/2012 FINANCIAL YEAR

Public Service Commission  
February 2013



## Vision

A champion of public administration excellence in democratic governance in South Africa

## Mission

To promote the constitutionally enshrined democratic principles and values of the Public Service by investigation, research, monitoring, evaluation, communicating and reporting on public administration.

# FACT SHEET ON FINALISED CASES OF FINANCIAL MISCONDUCT FOR THE 2011/2012 FINANCIAL YEAR

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## INTRODUCTION AND BACKGROUND

In terms of sections 195 and 196 of the Constitution of the Republic of South Africa,<sup>1</sup> 1996, the Public Service Commission (PSC) is mandated to, amongst others, investigate, monitor and evaluate the organisation and administration, and the personnel practices of the Public Service.

In terms of section 85(1) of the Public Finance Management Act, 1999 (PFMA)<sup>2</sup>, read with Chapter 4 of the Treasury Regulations<sup>3</sup>, 2002, all Public Service departments must, as soon as the disciplinary proceedings in cases of financial misconduct are finalised, report to amongst others the PSC on the outcome of the cases. In exercising its Constitutional mandate and to give effect to the above-mentioned legislative framework governing financial management in the Public Service, the PSC has thus, since the 2001/2002 financial year, published reports annually on finalised cases of financial misconduct reported by both national and provincial departments. For the 2011/2012 financial year, the PSC has taken a decision to publish a *"Fact Sheet on finalised cases of Financial Misconduct"* which will provide a statistical overview of finalised financial misconduct cases reported for the financial year, as well as trends analysis of cases reported since the 2008/2009 financial year.

## OBJECTIVES OF THE STUDY

The objectives of the Fact Sheet on finalised cases of Financial Misconduct for the 2011/2012 financial year were to:

- a) provide a statistical overview of finalised cases of financial misconduct reported by national and provincial departments for the 2011/2012 financial year; and
- b) provide trends analysis of cases reported since the 2008/2009 financial year.

## METHODOLOGY

The following methodology was followed in the execution of the project:

- a) A circular was disseminated per facsimile and electronic-mail to all national and provincial departments. The circular was a reminder to all national and provincial departments requesting them to submit to the PSC reports on finalised cases of financial misconduct for the 2011/2012 financial year.
- b) Telephonic follow-ups were made with the departments to confirm receipt of the circular.
- c) The format for reporting financial misconduct was made available to departments by placing it on the PSC's Website.
- d) On the expiry of the due date for inputs, follow-ups were made telephonically as well as through electronic-mail with the departments that did not report by the due date.
- e) The information provided by both national and provincial departments was captured onto a database.
- f) The information was subsequently analysed and as a result a *"Fact Sheet on finalised cases of Financial Misconduct for the 2011/2012 Financial Year"* was compiled.

1 Republic of South Africa. The Constitution of the Republic of South Africa, Act No. 108 of 1995.

2 Republic of South Africa. The Public Finance Management Act No. 1 of 1999.

3 Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No 23463 dated 25 May 2002.

## STATISTICAL OVERVIEW

### a) Total number of finalised cases of financial misconduct reported by national and provincial departments for the 2011/2012 financial year

Reports on finalised cases of financial misconduct were received from all national and provincial departments.

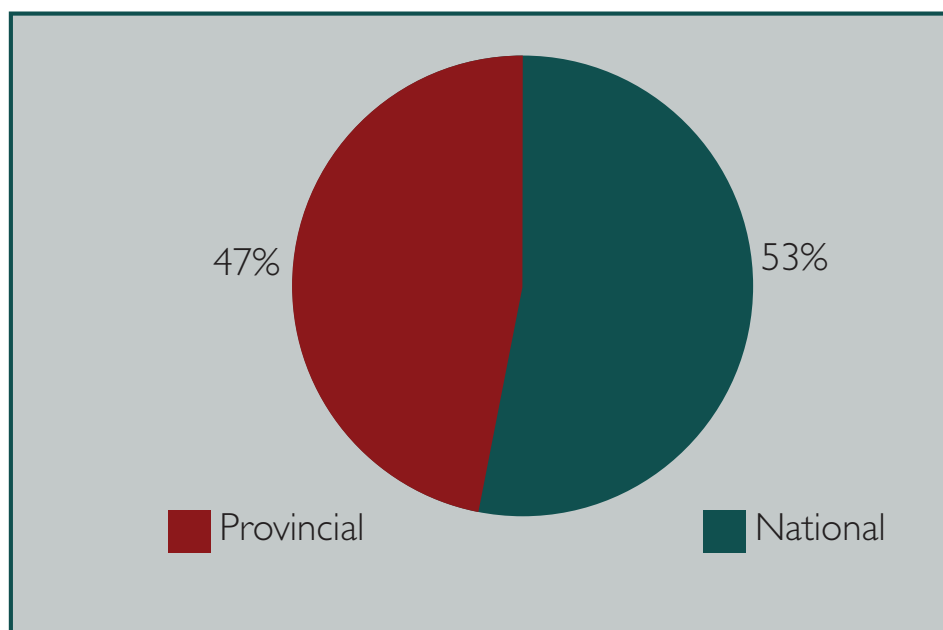
**19** national departments submitted a “**nil return**”. A “**nil return**” means that the department reported that no financial misconduct cases were finalised in that particular financial year. **Table I** below provides a list of the **19** national departments that submitted a “**nil return**” for the 2011/2012 financial year:

**Table I: List of national departments that submitted a “nil return”**

DEPARTMENTS	
Agriculture, Forestry and Fisheries	Arts and Culture
Basic Education	Communications
Economic Development	Health
Higher Education and Training	Military Veterans
National Treasury	Office of the Public Service Commission
Performance Monitoring and Evaluation	Secretariat for Police
Social Development	Sport and Recreation South Africa
The Presidency	Tourism
Traditional Affairs	Transport
Women, Children and People with Disabilities	

**Appendix A** provides a breakdown of the **54** departments within provincial administrations that submitted a “**nil return**”.

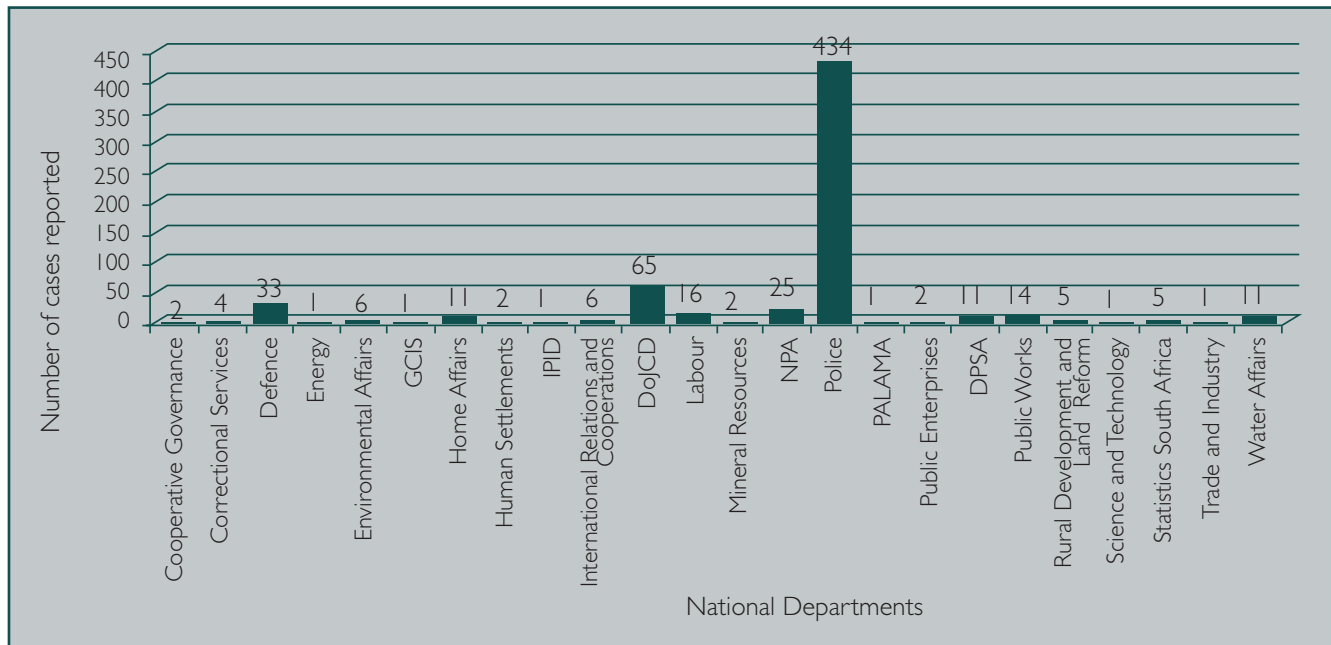
**Figure I** provides a breakdown of the total number of financial misconduct cases reported by national and provincial departments for the 2011/2012 financial year. A total number of **1243** financial misconduct cases were reported by both national and provincial departments for the 2011/2012 financial year. **Figure I** reflects that of the **1243** cases reported, **53% (660)** were reported by national departments and **47% (583)** were reported by provincial departments.



**Figure I: Total number of financial misconduct cases reported by the national and provincial departments for the 2011/2012 financial year**

## National Departments

**Figure 2** below provides a breakdown of the **660** financial misconduct cases reported by national departments for the 2011/2012 financial year:



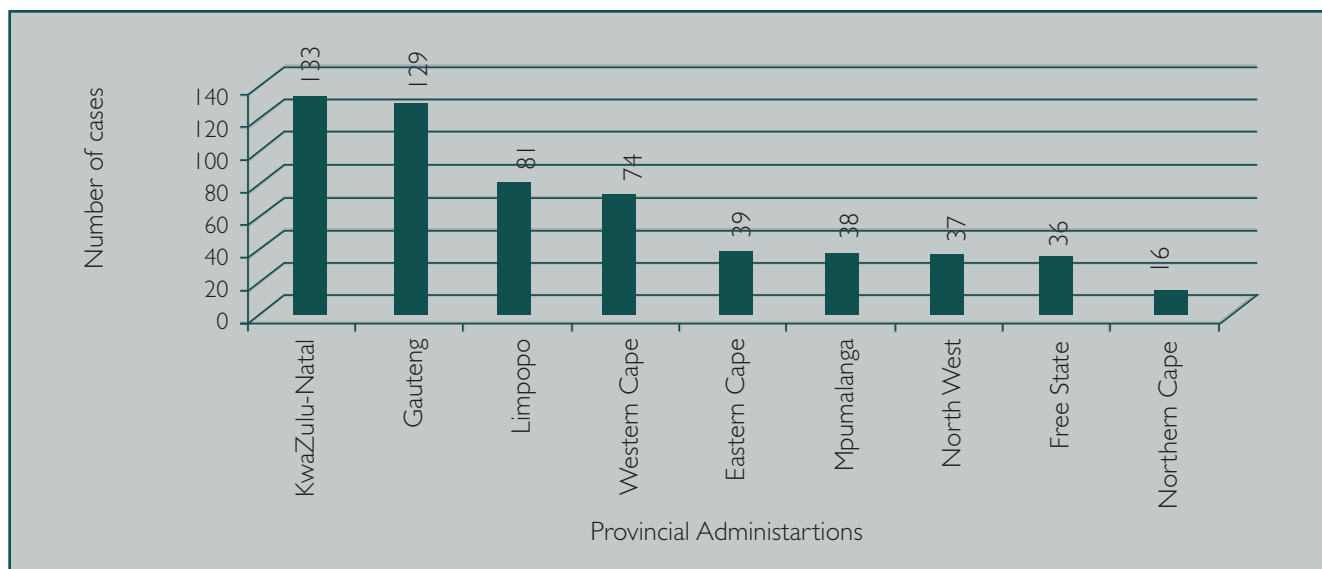
**Figure 2: Number of financial misconduct cases reported by national departments**

Of the **660** financial misconduct cases reported by national departments, the Department of Police reported the highest number **434 (65.8%)** of cases. The majority of the cases reported by the Department of Police were in respect of gross negligence (i.e. loss of state firearms and damage to state vehicles). The Department of Justice and Constitutional Development (DoJCD) reported the second highest number of cases **65 (9.8%)**, followed by the Department of Defence with **33 (5%)** cases. The majority of cases reported by the DoJCD and the Department of Defence were in respect of fraud.

The Departments of Energy, Government Communications and Information Systems (GCIS), Independent Police Investigative Directorate (IPID), Public Administration Leadership Management Academy (PALAMA), Science and Technology, and Trade and Industry reported that they have each finalised one (**1**) case of financial misconduct for the 2011/2012 financial year.

## Provincial Administrations

**Figure 3** below provides an overview of the **583** financial misconduct cases reported by the provincial departments for the 2011/2012 financial year:



**Figure 3: Number of financial misconduct cases reported at provincial level**

The KwaZulu-Natal Province reported the highest number **133 (22.8%)** of cases. Since the 2007/2008 financial year, the KwaZulu-Natal Province has been reporting the highest number of financial misconduct cases. Gauteng Province has reported the second highest number **129 (22.1%)** of cases, followed by Limpopo Province that reported **81 (13.9%)** cases. The Northern Cape Province reported the least number **16 (2.7%)** of cases.

**Appendix B** provides a breakdown of the financial misconduct cases reported by the departments within provincial administrations.

### b) Types of financial misconduct cases reported

In terms of Treasury Regulations 4.3.1<sup>4</sup>, departments are required to report on, amongst others, the type of financial misconduct the official is alleged to have committed. For statistical purposes, the PSC categorised the types of financial misconduct cases reported by departments. **Table 2** below reflects the categories of financial misconduct and the description of cases reported by departments that fall in these categories.

**Table 2: Description of the types of financial misconduct cases categorised by the PSC**

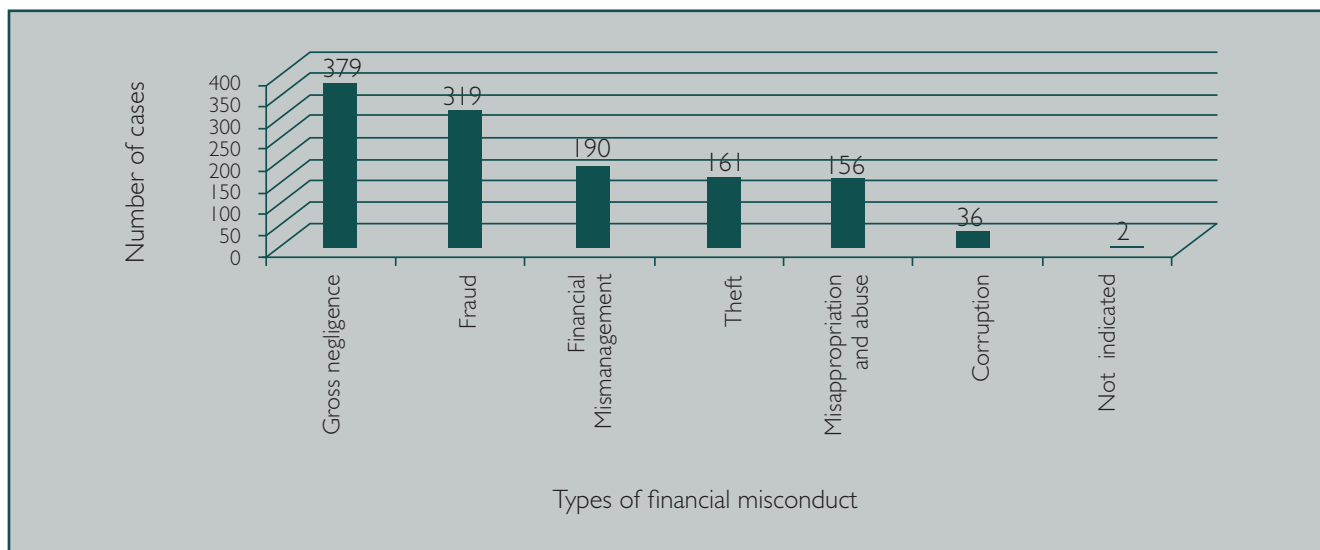
TYPE	DESCRIPTION
Corruption	Defined in the Prevention and Combating of Corrupt Activities Act, 2004. <sup>5</sup>
Fraud	The unlawful and intentional making of a misrepresentation which causes actual and/or potential prejudice to another.
Financial Mismanagement	Expenditure other than unauthorized expenditure, incurred in contravention of, or that is not in accordance with a requirement of any applicable legislation.
Theft	The unlawful taking with the intent to steal something which is prone to being stolen.
Misappropriation and abuse	The wrongful, improper or excessive use of public funds and/or assets in a person's care.
Gross negligence	Any act or omission without considering the consequences thereof.

<sup>4</sup> Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No. 23463 dated 25 May 2002.

<sup>5</sup> Republic of South Africa. Prevention and Combating of corrupt Activities Act, No. 12 of 2004.



**Figure 4** below provides an overview of the types of financial misconduct cases reported by national and provincial departments for the 2011/2012 financial year:



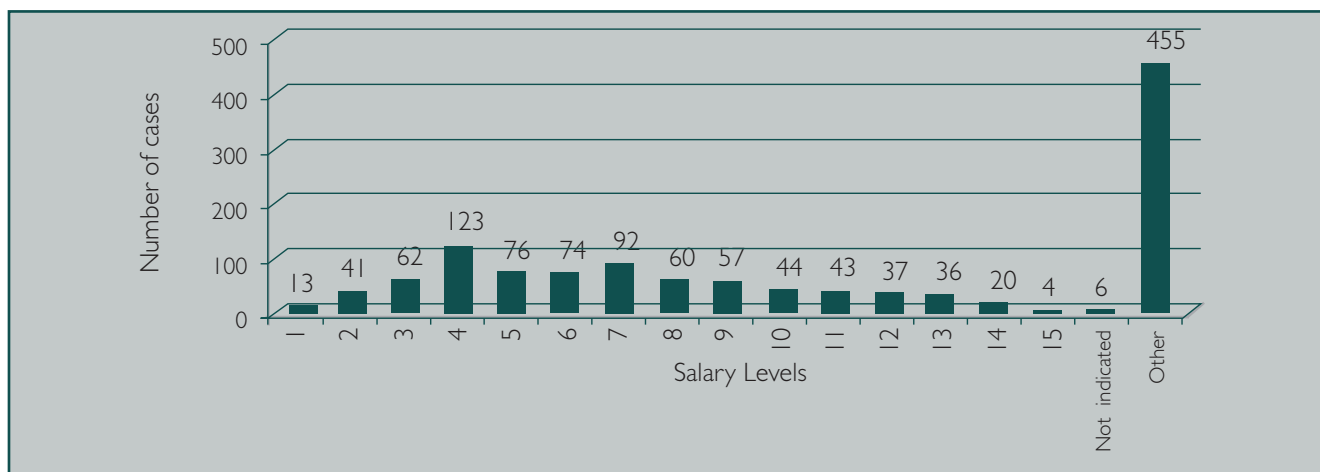
**Figure 4:** The types of financial misconduct cases reported by departments for the 2011/2012 financial year

**Figure 4** above shows that of the **1243** financial misconduct cases reported, departments failed to indicate the type of financial misconduct in **2 (0.2 %)** cases. Of the remaining **1241** cases, “gross negligence” was the category of financial misconduct reported with the highest number of cases **379 (30.5%)**. This was followed by “fraud” with **319 (25.7%)** cases and “financial mismanagement” with **190 (15.3%)** cases. The category with the least number of cases reported was “corruption” with **36 (2.9%)** cases.

### c) Levels of employees charged with financial misconduct

In terms of Treasury Regulations 4.3.1<sup>6</sup>, departments are required to report on, amongst others, the ranks of the employees that have been charged with financial misconduct. Due to the use of different rank designations by departments, the PSC, requested departments to indicate the salary levels of employees, for statistical purposes.

**Figure 5** below provides an overview of the number of financial misconduct cases reported per salary level.



**Figure 5:** Salary levels of employees charged with financial misconduct

Of the **1243** financial misconduct cases reported, **541 (43.5%)** of the cases were reported in respect of salary levels 1 to 8. Financial misconduct appears to be most prevalent at salary levels 4 to 7 (**365 cases [29.4%]**). The highest number of cases was reported in respect of employees on salary level 4 at **123 (9.9%)**. The Department of Police, in most of the cases reported the salary band of the employee charged with financial misconduct. Furthermore, the NPA in a few cases reported the salary levels as "D3". In view of the fact that the salary levels did not fall within the salary levels 1 to 16, the PSC has categorised it as other. In **455 (36.6%)** cases, the salary levels were reflected as "other". In **6 (0.5%)** cases the salary levels of employees were not indicated.

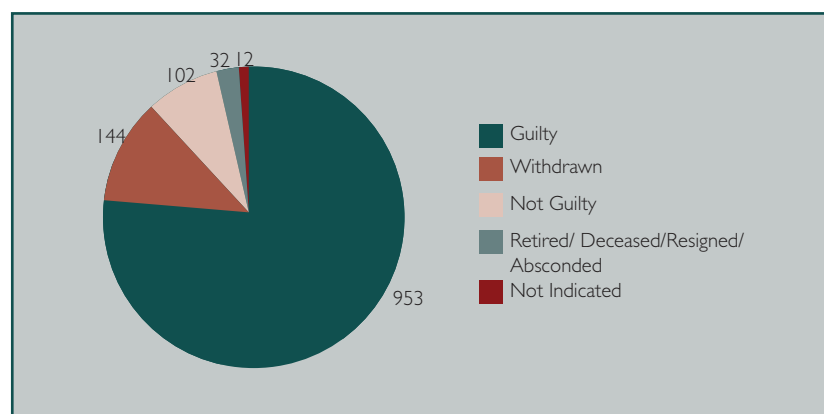
A total of **181 (14.6%)** cases were reported in respect of employees on the Middle Management level (MMS) (salary levels 9 - 12). In respect of employees on the Senior Management Service (SMS) level (salary levels 13 - 15), departments reported that they have finalised **60 (4.8%)** cases in the 2011/2012 financial year. It is a concern that a high level of employees on the MMS and SMS level are still involved in misdemeanors relating to financial misconduct.

#### d) Outcome of financial misconduct cases

In terms of Treasury Regulations 4.3.17, departments are required to report on, amongst others, the outcome of disciplinary proceedings in respect of cases of financial misconduct. The PSC has categorised the outcomes for statistical purposes. The categories of the outcomes of the disciplinary proceedings reported by national and provincial departments are indicated in **Table 3** below.

**Table 3: Types of outcomes of financial misconduct cases reported**

CATEGORY	DESCRIPTION
Guilty	Cases where the Chairperson of the disciplinary hearing had found the employee guilty of the charge(s), or the employee pleaded guilty to the charges.
Withdrawn	Cases where the employee was charged with misconduct, but the charge(s) was/were withdrawn. The reasons for the withdrawal of the charges are ascribed to a lack of evidence, the time frame since the incident occurred, the employee repaying the loss and in some cases the transfer of the employee to another department.
Not guilty	Cases where the Chairperson of the disciplinary hearing has found the employee not guilty of the charge(s).
Retired/ Deceased/ Resigned/ Absconded	Cases where, whilst the disciplinary case was pending – <ul style="list-style-type: none"> <li>the employee attained the prescribed retirement age and retired from the Public Service;</li> <li>the employee passed on;</li> <li>cases where the employee has left the employ of the Public Service; and</li> <li>the employee absented him/herself from his/her official duties without permission for a period exceeding one calendar month.</li> </ul>



**Figure 6: Outcome of financial misconduct cases for the 2011/2012 financial year**

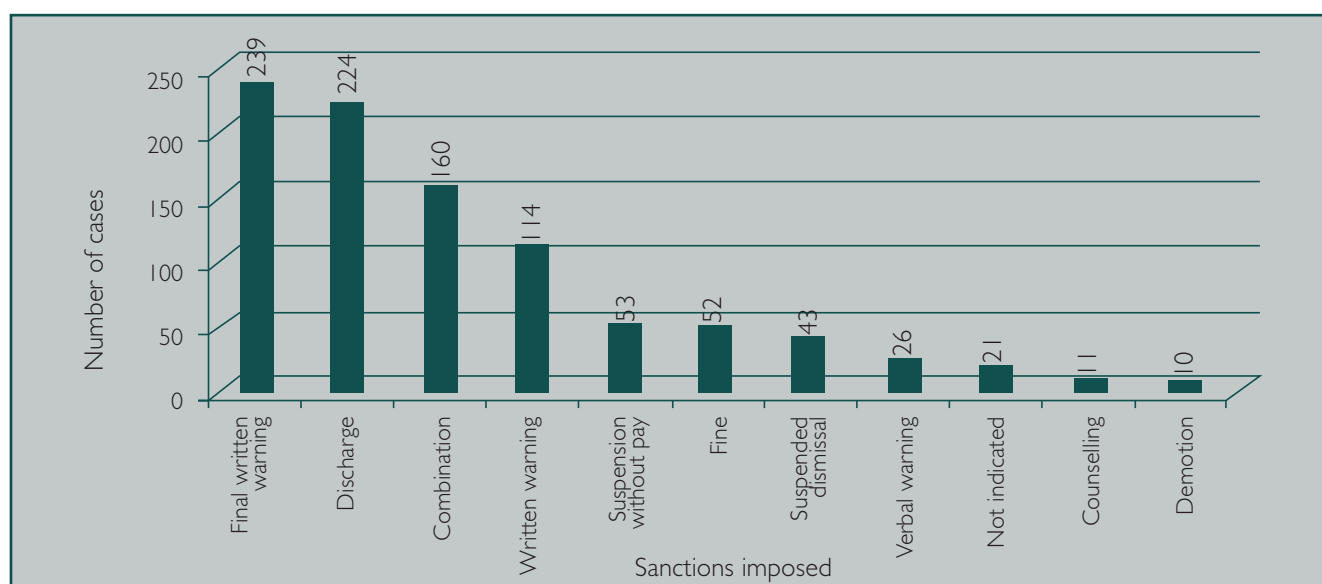
**Figure 6** provides an analysis of the outcome of financial misconduct cases reported to the PSC during the 2011/2012 financial year. The figure reflects that employees were found guilty in **953 (76.7%)** of the **1243** cases reported. In **144 (11.6%)** cases, the charges against the employees were withdrawn. Employees were found not guilty in **102 (8.2%)** cases.

In **32 (2.6%)** of the cases, it was reported that the employee either died, resigned, retired or absconded prior to the financial misconduct case against him/her was finalised. Departments did not indicate the outcome in respect of **12 (0.9%)** cases.

#### e) Sanctions imposed in cases of financial misconduct

In terms of section 38 of the PFMA<sup>8</sup>, the Accounting Officer of a department must take effective and appropriate disciplinary steps against an employee who contravenes or fails to comply with the provisions of the PFMA and/or who undermines the financial management and internal control system of the department. This is put into effect by various procedures pertaining to disciplinary action that are applicable in the Public Service, depending on the legislation in terms of which an employee is employed, e.g. the Public Service Act, 1994<sup>9</sup>, the South African Police Service Act, 1995<sup>10</sup> and the Defence Act, 1957<sup>11</sup>.

**Figure 7** below provides an overview of the sanctions imposed in financial misconduct cases reported by national and provincial departments for the 2011/2012 financial year.



**Figure 7: Sanctions imposed in financial misconduct cases reported by national and provincial departments**

#### Note:

“Combination” refers to those cases where the chairperson of the disciplinary hearing pronounced a combination of sanctions as provided for in clause 7.4(a)(v) of the Disciplinary Code and Procedures, e.g. a final written warning and suspension without pay.

Sanction imposed in terms of the South African Police Service Discipline Regulations, 2006. “Suspended dismissal” means, should the employee commit a similar or related act of misconduct before the expiry of the six months’ period, the sanction of dismissal will be implemented.

**Figure 7** above shows that departments reported that in **953** cases employees were found guilty and sanctions were imposed. In **21 (2.2%)** of the **953** cases, departments did not indicate the type of sanction imposed. In **239 (25.1%)** cases a sanction of “final written warning”, was imposed. “Final written warning” was the most common sanction imposed. This was followed by the sanction of “discharge” that was imposed in **224 (23.5%)** cases and “combination” in **160 (16.8%)** cases. The sanction that was least imposed was “demotion” with **10 (1%)** cases.

<sup>8</sup> Republic of South Africa: The Public Finance Management Act No. 1 of 1999.

<sup>9</sup> Republic of South Africa: The Public Service Act 103 of 1994 (as amended).

<sup>10</sup> Republic of South Africa: The South African Police Service Act 68 of 1995.

<sup>11</sup> Republic of South Africa: The Defence Act 44 of 1957.

## f) Cost of Financial Misconduct at national and provincial level

Table 4: Cost of financial misconduct reported at national and provincial level

NATIONAL/PROVINCES	AMOUNT	AMOUNT RECOVERED	NO LOSS TO THE STATE	AMOUNT NOT RECOVERED
Eastern Cape	R13 486 131.96	R116 600.00	R3 108 590.30	R10 260 941.66
Free State	R1 850 952.61	R9 400.00	R1 417 039.00	R424 513.61
Gauteng	R14 135 915.07	R27 058.84	R8 165 254.46	R5 943 601.77
KwaZulu-Natal	R39 044 977.38	R81 649.68	R1 453 341.00	R37 509 986.70
Limpopo	R2 194 429.30	R992 910.81	R123 419.66	R1 078 098.83
Mpumalanga	R3 829 365.35	R70 211.31	R955 225.93	R2 803 928.11
National	R149 407 626.99	R946 447.83	R133 593 365.58	R14 867 813.58
North West	R731 536.37	R39 487.83	R307 099.82	R384 948.72
Northern Cape	R486 907.23	R27 299.00	R10 855.10	R448 753.13
Western Cape	R4 698 920.89	R30 060.00	R1 245 390.35	R3 423 470.54
<b>TOTAL</b>	<b>R229 866 763.15</b>	<b>R2 341 125.30</b>	<b>R150 379 581.20</b>	<b>R77 146 056.65</b>

Cases such as fraud, theft, misappropriation and abuse, and gross negligence are sometimes detected prior to a loss being suffered by departments. Thus, not all cases of financial misconduct will result in a loss to the State. The total cost reported by national and provincial departments emanating from unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from cases of financial misconduct reported in respect of the 2011/2012 financial year was **R229 866 763.15**.

Despite departments being provided with a format for the reporting of financial misconduct cases, some departments did not provide all the required information. In some instances, departments did not provide information regarding the costs of the financial misconduct and the recovery thereof. Reports submitted by national and provincial departments indicated that an amount of **R2 341 125.30 (1.1%)** was recovered from the employees found guilty of financial misconduct and an amount of **R150 379 581.20 (65.4%)** was considered as no loss to the State as the State did not suffer any loss. At the time departments reported to the PSC, it was indicated that an amount of **R 77 146 056.65 (33.5%)** was not recovered.

### National departments

**Appendix B** provides a breakdown of the cost of financial misconduct reported by national departments.

The total cost of financial misconduct reported by national departments was **R149 407 626.99**. The cost of financial misconduct was the highest in the Department of Human Settlements with a total cost of **R100 001 500.00**, which represents **66.9%**, of the total cost reported by national departments. The high amount reported by the Department of Human Settlements was as a result of 1 case amounting to **R100 000 000.00**. The case was with regard to a contravention of section 38 (1) (n) of the PFMA. The Department that reported the second highest cost of financial misconduct was the Department of Home Affairs with a cost of **R11 998 482.16 (8%)**.

The Department of Science and Technology reported that it finalised 1 case of financial misconduct but did not indicate the cost. The Department of Mineral Resources reported the lowest cost of **R5 475.49 (0.003%)**.

## Provincial departments

**Appendix C** provides a breakdown of the cost of financial misconduct in the various departments at provincial level.

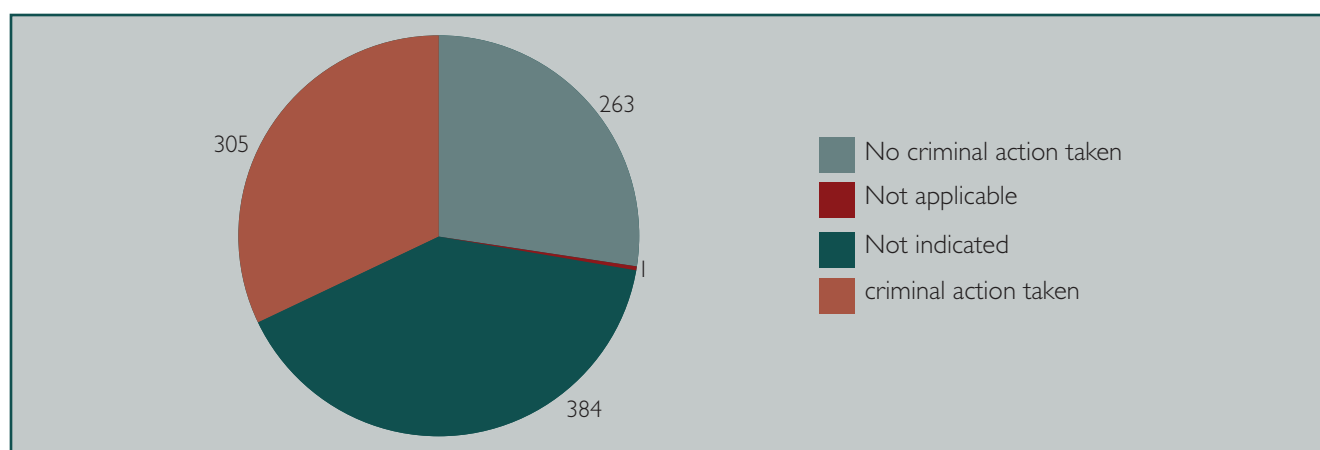
The total cost of financial misconduct reported by provincial departments for the 2011/2012 financial year is **R80 459 136.16**. The KwaZulu-Natal Province reported the highest cost of financial misconduct amounting to **R39 044 977.38**. This is equivalent to **48.5%** of the total cost of financial misconduct reported by provinces.

Gauteng Province reported the second highest amount with regards to the cost of financial misconduct, **R14 135 915.07** representing **17.6%** of the total cost of financial misconduct reported by provinces. The Northern Cape Province reported the lowest cost of financial misconduct amounting to **R486 907.23 (0.6%)**.

### g) Criminal Proceedings instituted against employees charged with financial misconduct

Treasury Regulations 12.5 and 4.3.1<sup>12</sup>, and the Prevention and Combating of Corrupt Activities (PCCA) Act, 2004<sup>13</sup>, are the legislative frameworks that guide departments on criminal proceedings to be instituted against employees charged with financial misconduct.

**Figure 8** below provides an overview of the reports provided by departments regarding further action taken against employees in respect of criminal proceedings.



**Figure 8: Breakdown of the responses by departments in regard to criminal proceedings instituted against employees**

For the 2011/2012 financial year, of the **953** cases in which employees were found guilty of financial misconduct, criminal proceedings were instituted against employees in **305 (32%)** of the cases. In **263 (27.6%)** cases, departments indicated that no criminal proceedings were instituted against employees. In **384 (40.3%)** of the cases, the departments failed to indicate whether criminal proceedings were instituted against employees charged with financial misconduct. In one **(1) (0.1%)** case the department indicated that further action was not applicable.

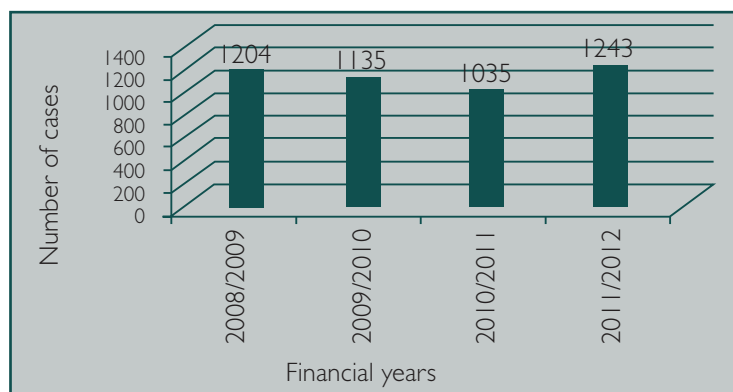
<sup>12</sup> Republic of South Africa: Treasury Regulations, 2002 published in Government Gazette No. 23463 dated 25 May 2002.

<sup>13</sup> Republic of South Africa. Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004.

## TREND ANALYSIS OF FINANCIAL MISCONDUCT CASES REPORTED SINCE THE 2008/2009 FINANCIAL YEAR

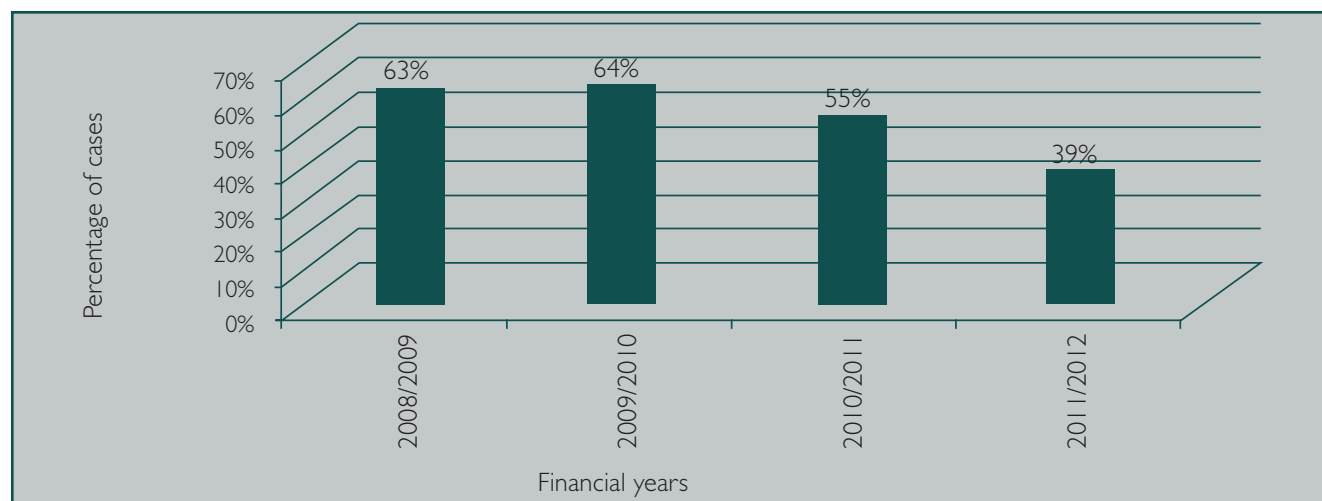
### a) Increase in financial misconduct cases for the 2011/2012 financial year

**Figure 9** provides an overview of the number of financial misconduct cases reported since the 2008/2009 to 2011/2012 financial year: **Figure 9** indicates that the highest number of financial misconduct cases (**1243**) was reported in 2011/2012 financial year. The number of cases has increased by **208** cases in the 2011/2012 financial year in comparison to **1035** cases reported in the 2010/2011 financial year.



**Figure 9: Number of financial misconduct cases reported for the financial years 2008/2009 to 2011/2012**

### b) Decrease in cases in the categories “fraud” and “theft”

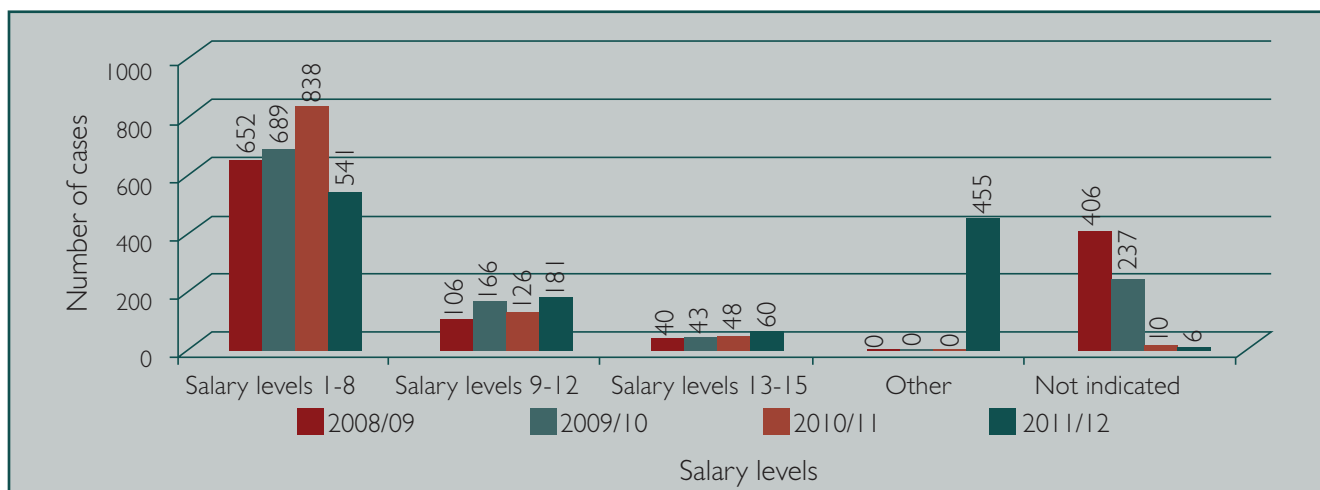


**Figure 10: Fraud and Theft cases reported for the financial years 2008/2009 until 2011/2012**

**Figure 10** above reflects the comparison of cases reported in the category “fraud” and “theft” from the 2008/2009 to the 2011/2012 financial year. The figure indicates that fraud and theft comprised **480 (39%)** of the cases reported in the 2011/2012 financial year. Cases of financial misconduct in the category “fraud and theft” remained consistently high for the 2008/2009 to 2010/2011 financial years. However in the 2011/2012 financial year, the number of cases reported in the category “fraud and theft” decreased by **16%** in comparison to the number of cases in the same category that was reported in the 2010/2011 financial year.

### c) Increase in the number of SMS members charged with financial misconduct

**Figure 11** on the next page provides an overview of the levels of the employees charged with financial misconduct over the past four financial years (2008/2009 to 2011/2012).

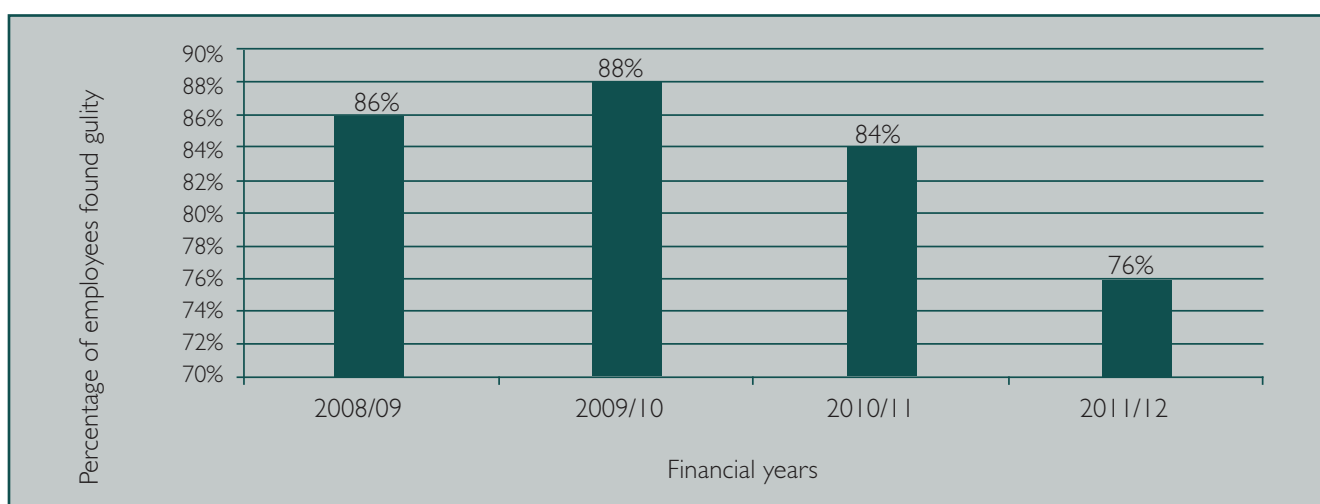


**Figure 11: Salary levels of employees charged with financial misconduct for the financial years 2008/2009 until 2011/2012**

**Figure 11** above shows that financial misconduct was the highest at salary levels 1 to 8 during the 2008/2009 to 2011/2012 financial year. There appears to be a drastic increase in the number of cases reported in respect of employees on salary levels 13 to 15, SMS members. The total number of cases of financial misconduct committed by SMS members have increased from **48** in the 2010/2011 financial year to **60** in the 2011/2012 financial year. This is indicative that there has been an increase by **12 (20%)** cases.

#### **d) Decrease in the percentage of employees found guilty of financial misconduct**

**Figure 12** below provides an overview of the percentage of employees that were found guilty in respect of financial misconduct for the 2008/2009 to the 2011/2012 financial year.

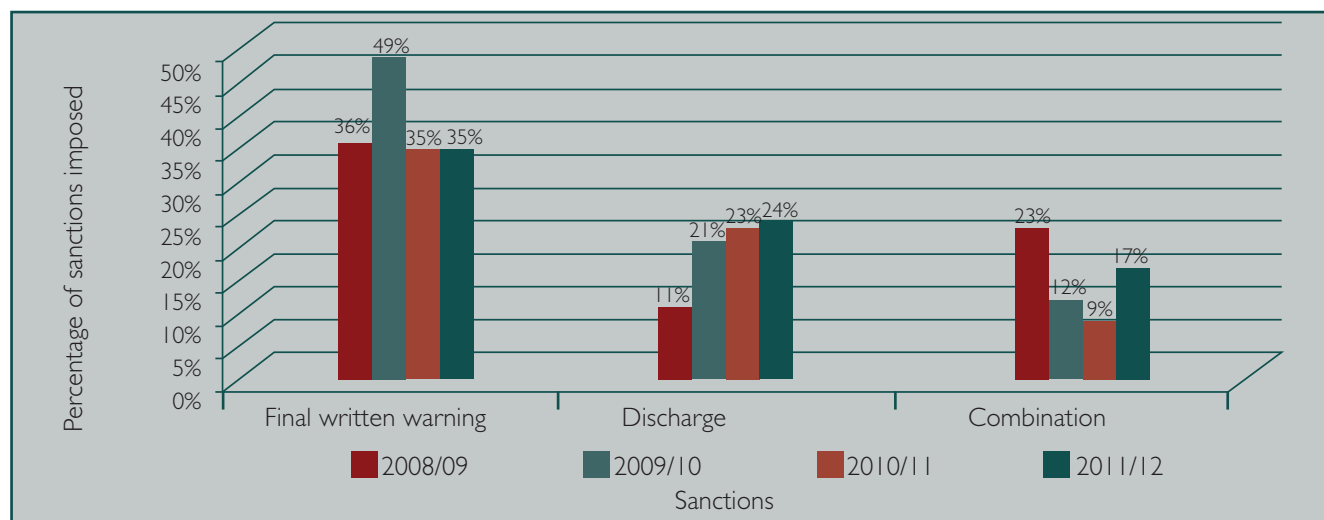


**Figure 12: Percentage of employees that were found guilty for the financial years 2008/2009 until 2011/2012**

**Figure 12** above shows that there has been a decrease of **8%** in the percentage of employees found guilty in the 2011/2012 financial year in comparison to that of the 2010/2011 financial year. Furthermore, for the financial years 2008/2009 to 2010/2011 the percentage of employees found guilty remained between **84%** and **88%**.

### e) Most prevailing sanction imposed in the Public Service

**Figure 13** below provides an overview of the most prevailing sanctions imposed for the financial years 2008/2009 to 2011/2012 financial year.



**Figure 13: Most prevailing sanctions imposed in financial misconduct cases over the past four financial years**

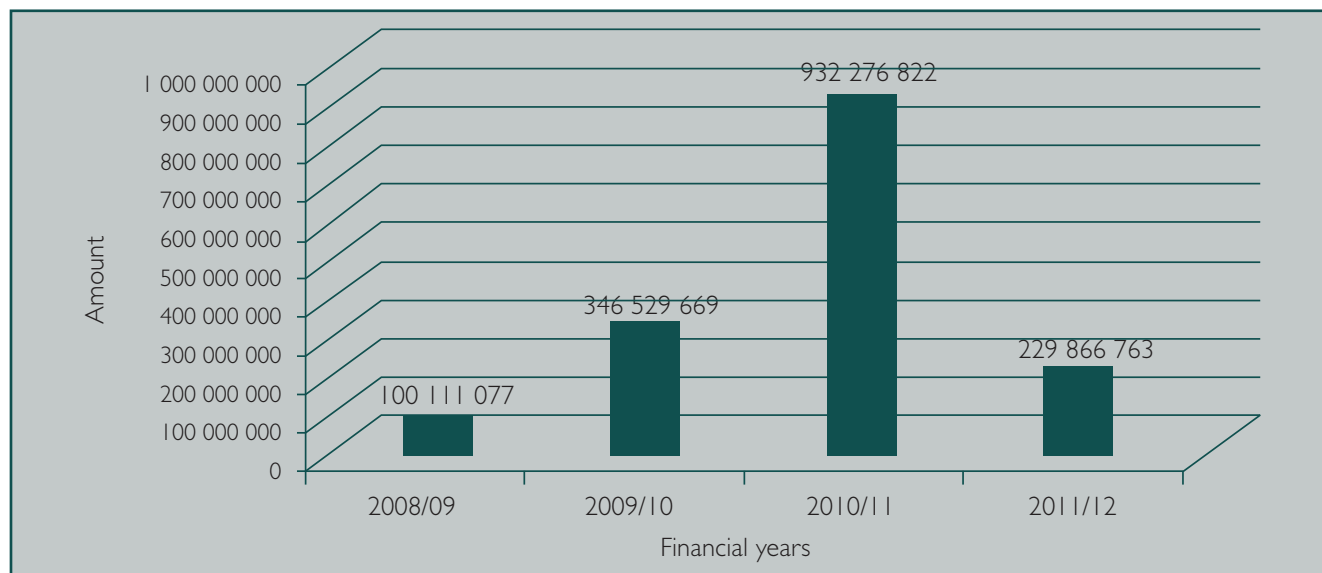
**Figure 13** above shows that final written warning is the most prevalent sanction imposed in the past four financial years. For the 2011/2012 financial year, a sanction of final written warning was imposed in **35%** of the employees that were found guilty of financial misconduct. Furthermore, a sanction of discharge was imposed in **24%** of the cases in which employees were found guilty of financial misdemeanors. In comparison to the 2010/2011 financial year, a combination of sanctions increased from **9%** to **17%** in the 2011/2012 financial year. A combination of sanctions was also the least imposed sanction for the 2011/2012 financial year.

Sanctions imposed in disciplinary cases are at the discretion of the Presiding Officer, subsequent to consideration of the merits of the case and the mitigating and aggravating circumstances. Given that disciplinary matters are a management function and are not dealt with at a central point but by the departments themselves, there will always be inconsistencies in the sanctions imposed for misconduct of the same nature. This is evident in the reports submitted by departments for the 2011/2012 financial year, where there were inconsistencies in the sanctions imposed for cases of a similar nature. An example of such a case is whereby an employee was found guilty of theft of an amount of R30.00 and was discharged whilst other employees who committed fraud amounting to larger amounts were given a final written warning or suspension without pay.



## f) Decrease in cost of financial misconduct

**Figure 14** below provides an overview of the cost of financial misconduct for the past four financial years (2008/2009 to 2011/2012).



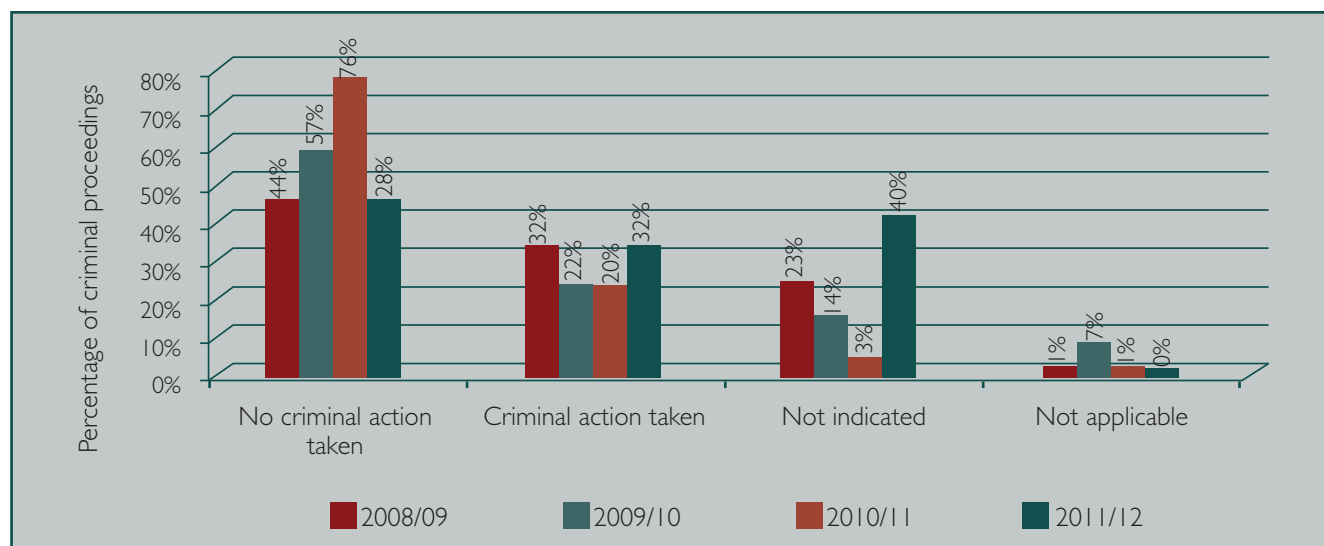
**Figure 14:** Total cost of financial misconduct per financial year

**Figure 14** above shows that there has been a **75%** decrease in the cost of financial misconduct in comparison to the 2010/2011 financial year i.e. from **R932 276 821.56** in the 2010/2011 to **R229 866 763.15** in the 2011/2012 financial year. Although there has been a huge decrease in the cost of financial misconduct, the number of financial misconduct cases reported for 2011/2012 financial year has increased by **208 (16.7%)** in comparison to the number reported in the 2010/2011 financial year.

Some departments did not submit a report on finalised cases of financial misconduct for the 2010/2011 financial year and some departments did not provide the amounts involved. It is therefore impossible for the PSC to provide an accurate figure on the cost of financial misconduct for the 2011/2012 financial year and also to provide a comprehensive comparison of costs in relation to previous financial years.

### g) Increase in criminal proceedings instituted in cases of financial misconduct

**Figure 15** below provides an overview of the percentage of cases where criminal proceedings were instituted against employees charged with financial misconduct.



**Figure 15: Criminal proceedings instituted against employees charged with financial misconduct for the financial years 2008/2009 until 2011/2012**

**Figure 15** above reflects that for the 2011/2012 financial year, departments instituted criminal action in **32%** of the cases and in **28%** of the cases, no criminal proceedings were instituted. There has been a **12%** increase in criminal proceedings instituted compared with the 2010/2011 financial year. In **40%** of the cases reported for the 2011/2012 financial year, departments failed to indicate whether criminal proceedings were instituted or not.

In terms of section 34(1) of the PCCA Act<sup>14</sup>, any person who holds a “position of authority” is compelled to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R100 000.00 or more to the SAPS. Not all acts of financial misconduct will result in criminal or civil action being taken against an employee. For example, cases of gross negligence, may not necessarily involve criminal conduct.

### h) Recovery of monies lost through financial misconduct

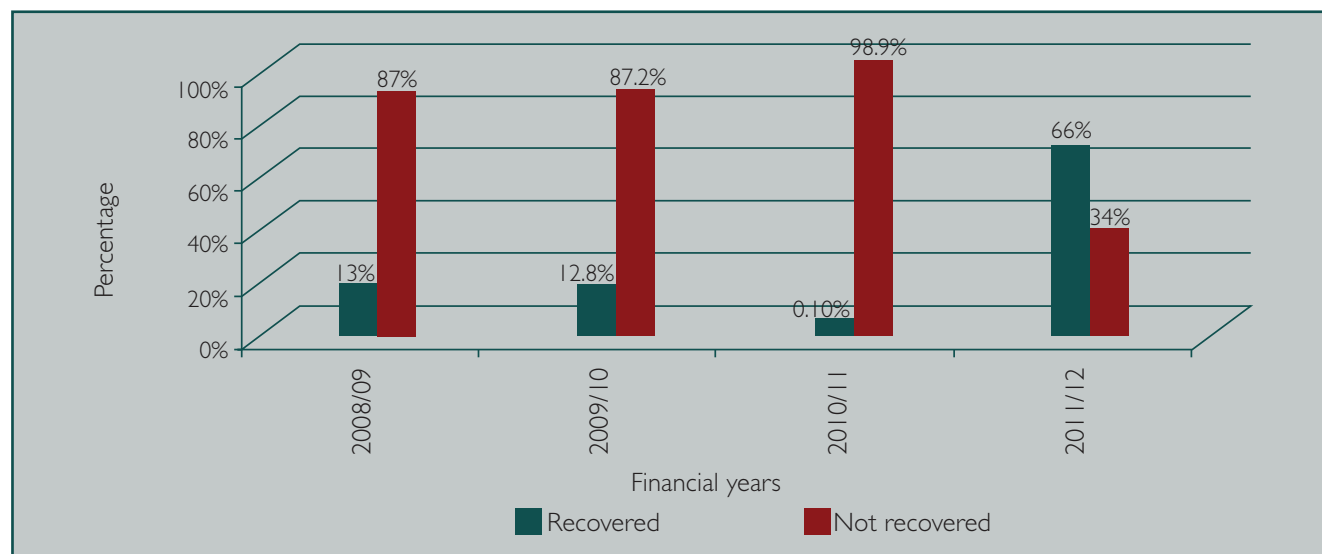
Section 38(c)(i) of the PFMA<sup>15</sup> read in conjunction with Treasury Regulations, Part 5, paragraph 12.5.1<sup>16</sup>, requires accounting officers to take effective steps to collect all monies owing to the department.

<sup>14</sup> Republic of South Africa. Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004

<sup>15</sup> Republic of South Africa. The Public Finance Management Act No. 1 of 1999.

<sup>16</sup> Republic of South Africa: Treasury Regulations, 2002 published in Government Gazette No. 23463 dated 25 May 2002

**Figure 16** below provides an overview of the percentage of recovery of the value of the loss and/or damage as a result of financial misconduct in the Public Service for the past four financial years (2008/2009 to 2011/2012).



**Figure 16: Recovery of monies lost due to financial misconduct for the financial years 2008/2009 until 2010/2011**

**Figure 16** shows that in the 2011/2012 financial year both national and provincial departments reported that a total of **R152 720 706.50 (66%)** was recovered from the employees found guilty of financial misconduct or the financial misconduct did not result in any loss to the State. An amount of **R77 146 056.65 (34%)** is reflected as not recovered for the 2011/2012 financial year. In comparison to the 2010/2011 financial year, there has been a huge increase (**66%**) in the amount recovered/no loss to state (i.e. from **0.10% to 66%**). From the information provided by departments, a further amount of **R1 005 027.61 (0.11%)** was recovered in respect of the 2010/2011 financial year.

As not all departments indicated whether the actual recovery had taken place or not, the statistics contained in this report would not provide an accurate picture of the monies recovered.

## CONCLUSION

The number of public service officials that commit and are charged with financial misconduct is increasing at an alarming rate. Although there has been a decrease in the cost of financial misconduct in comparison with the previous financial year (2010/2011), the number of employees charged for misdemeanors relating to financial misconduct in the 2011/2012 financial year has increased by **25%**. Although public sector departments have put control systems in place to prevent financial misdemeanors, there are still some public service employees who find loopholes in the systems to conduct such misdemeanors. The PSC trusts that the overview and trend analysis provided in this Fact Sheet would assist departments to keep a vigilant eye on areas that are susceptible to financial misconduct and tighten internal controls.

## APPENDIX A: BREAKDOWN OF THE 54 DEPARTMENTS WITHIN PROVINCIAL ADMINISTRATIONS THAT SUBMITTED A “NIL RETURN”

PROVINCE	DEPARTMENT
<b>EASTERN CAPE</b>	Economic Development, Environmental Affairs and Tourism
	Human Settlements
	Local Government and Traditional Affairs
	Office of the Premier
	Provincial Planning and Treasury
	Safety and Liaison
	Sport, Recreation, Arts and Culture
	Transport
<b>FREE STATE</b>	Co-operative Governance and Traditional Affairs
	Human Settlements
	Office of the Premier
	Provincial Treasury
	Rural Development
<b>GAUTENG</b>	Agriculture and Rural Development
	Economic Development
	Local Government and Housing
<b>KWAZULU-NATAL</b>	Community Safety and Liaison
	Human Settlements
	Office of the Premier
	Provincial Treasury
	Sport and Recreation
	Transport
<b>LIMPOPO</b>	Agriculture
	Public Works
	Safety, Security and Liaison
<b>MPUMALANGA</b>	Co-operative Governance and Traditional Affairs
	Culture, Sport and Recreation
	Economic Development, Environment and Tourism
	Finance
	Office of the Premier
	Public Works, Roads and Transport
<b>NORTH WEST</b>	Economic Development, Environment, Conservation and Tourism
	Finance
	Human Settlements, Public Safety and Liaison
	Local Government and Traditional Affairs
	Public Works, Roads and Transport

PROVINCE	DEPARTMENT
	Sport, Arts and Culture
NORTHERN CAPE	Agriculture, Land Reform and Rural Development
	Co-operative Governance, Human Settlements and Traditional Affairs
	Education
	Environment and Nature Conservation
	Office of the Premier
	Provincial Treasury
	Roads and Public Works
	Sport, Arts and Culture
	Transport, Safety and Liaison
WESTERN CAPE	Economic Development and Tourism
	Environmental Affairs and Developmental Planning
	Human Settlements
	Local Government
	Office of the Premier
	Provincial Treasury
	Social Development
	Transport and Public Works

## APPENDIX B: BREAKDOWN OF FINANCIAL MISCONDUCT CASES REPORTED BY PROVINCIAL DEPARTMENTS

NATIONAL/PROVINCE	DEPARTMENT	NUMBER OF CASES
<b>Eastern Cape</b>	Education	11
	Health	8
	Roads and Public Works	4
	Rural Development and Agrarian Reform	1
	Social Development and Special Programmes	15
<b>Eastern Cape Total</b>		<b>39</b>
<b>Free State</b>	Agriculture	1
	Economic Development, Tourism and Environmental Affairs	1
	Education	9
	Health	7
	Police, Roads and Transport	10
	Public Works	2
	Social Development	3
	Sport, Arts, Culture and Recreation	3
<b>Free State Total</b>		<b>36</b>
<b>Gauteng</b>	Community Safety	7
	Education	8
	Finance	1
	Health	91
	Infrastructure Development	3
	Office of the Premier	1
	Public Transport, Roads and Works	2
	Social Development	14
	Sport, Arts, Culture and Recreation	2
<b>Gauteng Total</b>		<b>129</b>
<b>KwaZulu-Natal</b>	Agriculture, Environmental Affairs and Rural Development	5
	Arts and Culture	2
	Co-operative Governance and Traditional Affairs	7
	Economic Development and Tourism	1
	Education	79
	Health	7
	Public Works	27
	Social Development	5
<b>KwaZulu-Natal Total</b>		<b>133</b>

NATIONAL/PROVINCE	DEPARTMENT	NUMBER OF CASES
<b>Limpopo</b>	Co-operative Governance, Human Settlements and Traditional Affairs	12
	Economic Development, Environment and Tourism	24
	Education	13
	Health	17
	Office of the Premier	4
	Provincial Treasury	1
	Roads and Transport	6
	Social Development	3
	Sport, Arts and Culture	1
<b>Limpopo Total</b>		<b>81</b>
<b>Mpumalanga</b>	Agriculture, Rural Development and Land Administration	1
	Community Safety, Security and Liaison	1
	Education	25
	Health	2
	Human Settlements	4
	Social Development	5
<b>Mpumalanga Total</b>		<b>38</b>
<b>North West</b>	Agriculture and Rural Development	3
	Education	5
	Health	19
	Office of the Premier	4
	Social Development, Women, Children and People with Disabilities	6
<b>North West Total</b>		<b>37</b>
<b>Northern Cape</b>	Economic Development and Tourism	1
	Health	1
	Social Development	14
<b>Northern Cape Total</b>		<b>16</b>
<b>Western Cape</b>	Agriculture	2
	Community Safety	3
	Cultural Affairs and Sport	2
	Education	45
	Health	22
<b>Western Cape Total</b>		<b>74</b>
<b>Total for provinces</b>		<b>583</b>

## APPENDIX C: COST OF FINANCIAL MISCONDUCT REPORTED AT NATIONAL LEVEL

DEPARTMENTS	AMOUNT	AMOUNT RECOVERED	NO LOSS TO THE STATE	AMOUNT NOT RECOVERED
Cooperative Governance	R1 740 116.74	R0.00	R1 740 116.74	R0.00
Correctional Services	R1 222 000.00	R2 000.00	R0.00	R1 220 000.00
Defence	R378 870.09	R22 817.52	R9 745.00	R346 307.57
Energy	R65 000.00	R0.00	R65 000.00	R0.00
Environmental Affairs	R214 428.63	R2 910.00	R192 779.12	R18 739.51
Government Communications and Information Systems	R241 000.00	R241 000.00	R0.00	R0.00
Home Affairs	R11 998 482.16	R19 190.00	R11 979 292.16	R0.00
Human Settlements	R100 001 500.00	R1 500.00	R100 000 000.00	R0.00
Independent Police Investigative Directorate	R68 000.00	R0.00	R68 000.00	R0.00
International Relations and Cooperation	R1 371 313.28	R5 600.00	R0.00	R1 365 713.28
Justice and Constitutional Development	R4 650 341.00	R244 624.32	R0.00	R4 405 716.68
Labour	R999 042.86	R59 873.78	R302 433.21	R636 735.87
Mineral Resources	R5 475.49	R0.00	R0.00	R5 475.49
National Prosecuting Authority	R5 194 381.98	R0.00	R4 499 447.90	R694 934.08
Police	R11 240 057.39	R32 243.94	R10 172 339.98	R1 035 473.47
Public Administration Leadership and Management Academy	R214 894.27	R214 894.27	R0.00	R0.00
Public Enterprises	R1 803 364.30	R86 575.30	R1 716 789.00	R0.00
Public Service and Administration	R225 835.47	R0.00	R225 835.47	R0.00
Public Works	R108 227.05	R1 300.00	R0.00	R106 927.05
Rural Development and Land Reform	R11 662.54	R3 058.58	R1 783.96	R6 820.00
Science and Technology	R0.00	R0.00	R0.00	R0.00
Statistics South Africa	R60 122.58	R0.00	R23 165.00	R36 957.58
Trade and Industry	R8 860.12	R8 860.12	R0.00	R0.00
Water Affairs	R7 584 651.04	R0.00	R2 596 638.04	R4 988 013.00
<b>TOTAL</b>	<b>R149 407 626.99</b>	<b>R946 447.83</b>	<b>R133 593 365.58</b>	<b>R14 867 813.58</b>



## APPENDIX D: COST OF FINANCIAL MISCONDUCT REPORTED AT PROVINCIAL LEVEL

PROVINCE	DEPARTMENT	AMOUNT	AMOUNT RECOVERED	NO LOS TO THE STATE	AMOUNT NOT RECOVERED
<b>Eastern Cape</b>	Education	R9 979 364.66	R1 16 600.00	R0.00	R9 862 764.66
	Health	R3 108 590.30	R0.00	R3 108 590.30	R0.00
	Roads and Public Works	R181 777.00	R0.00	R0.00	R181 777.00
	Rural Development and Agrarian Reform	R400.00	R0.00	R0.00	R400.00
	Social Development and Special Programmes	R216 000.00	R0.00	R0.00	R216 000.00
<b>Eastern Cape Total</b>		<b>R13 486 131.96</b>	<b>R116 600.00</b>	<b>R3 108 590.30</b>	<b>R10 260 941.66</b>
<b>Free State</b>	Agriculture	R3 420.00	R0.00	R0.00	R3 420.00
	Economic Development, Tourism and Environmental Affairs	R95 289.37	R0.00	R0.00	R95 289.37
	Education	R8 673.00	R0.00	R0.00	R8 673.00
	Health	R1 490 711.77	R0.00	R1 417 039.00	R73 672.77
	Police, Roads and Transport	R90 370.74	R6 590.00	R0.00	R83 780.74
	Public Works	R13 550.00	R2 750.00	R0.00	R10 800.00
	Social Development	R138 922.80	R0.00	R0.00	R138 922.80
	Sport, Arts, Culture and Recreation	R10 014.93	R60.00	R0.00	R9 954.93
<b>Free State Total</b>		<b>R1 850 952.61</b>	<b>R9 400.00</b>	<b>R1 417 039.00</b>	<b>R424 513.61</b>
<b>Gauteng</b>	Community Safety	R0.00	R0.00	R0.00	R0.00
	Education	R235 609.91	R18 060.00	R96 429.58	R121 120.33
	Finance	R0.00	R0.00	R0.00	R0.00
	Health	R412 250.12	R1 863.84	R68 524.88	R341 861.40
	Infrastructure Development	R5 240 950.00	R0.00	R0.00	R5 240 950.00
	Office of the Premier	R300.00	R0.00	R300.00	R0.00
	Public Transport, Roads and Works	R0.00	R0.00	R0.00	R0.00
	Social Development	R225 400.00	R0.00	R0.00	R225 400.00
	Sport, Arts, Culture and Recreation	R8 021 405.04	R7 135.00	R8 000 000.00	R14 270.04
<b>Gauteng Total</b>		<b>R14 135 915.07</b>	<b>R27 058.84</b>	<b>R8 165 254.46</b>	<b>R5 943 601.77</b>

PROVINCE	DEPARTMENT	AMOUNT	AMOUNT RECOVERED	NO LOSSTO THE STATE	AMOUNT NOT RECOVERED
<b>KwaZulu-Natal</b>	Agriculture, Environmental Affairs and Rural Development	R1 310 609.52	R0.00	R2 000.00	R1 308 609.52
	Arts and Culture	R1 435 841.00	R0.00	R1 435 841.00	R0.00
	Co-operative Governance and Traditional Affairs	R165 597.91	R65 982.08	R0.00	R99 615.83
	Economic Development and Tourism	R3 690.00	R1 545.00	R0.00	R2 145.00
	Education	R17 846 768.17	R5 000.00	R15 000.00	R17 826 768.17
	Health	R7 082.88	R6 482.88	R500.00	R100.00
	Public Works	R43 000.00	R2 639.72	R0.00	R40 360.28
	Social Development	R18 232 387.90	R0.00	R0.00	R18 232 387.90
<b>KwaZulu-Natal Total</b>		<b>R39 044 977.38</b>	<b>R81 649.68</b>	<b>R1 453 341.00</b>	<b>R37 509 986.70</b>
<b>Limpopo</b>	Co-operative Governance, Human Settlements and Traditional Affairs	R1 285 317.95	R718 438.99	R91 381.00	R475 497.96
	Economic Development, Environment and Tourism	R67 170.57	R0.00	R1 000.00	R66 170.57
	Education	R232 979.00	R192 921.00	R0.00	R40 058.00
	Health	R367 566.44	R69 778.64	R0.00	R297 787.80
	Office of the Premier	R16 268.00	R0.00	R0.00	R16 268.00
	Provincial Treasury	R2 000.00	R0.00	R0.00	R2 000.00
	Roads and Transport	R42 810.84	R11 772.18	R31 038.66	R0.00
	Social Development	R160 316.50	R0.00	R0.00	R160 316.50
	Sport, Arts and Culture	R20 000.00	R0.00	R0.00	R20 000.00
<b>Limpopo Total</b>		<b>R2 194 429.30</b>	<b>R992 910.81</b>	<b>R123 419.66</b>	<b>R1 078 098.83</b>
<b>Mpumalanga</b>	Agriculture, Rural Development and Land Administration	R9 000.00	R0.00	R0.00	R9 000.00
	Community Safety, Security and Liaison	R0.00	R0.00	R0.00	R0.00
	Education	R439 298.93	R65 702.00	R313 416.93	R60 180.00

PROVINCE	DEPARTMENT	AMOUNT	AMOUNT RECOVERED	NO LOSS TO THE STATE	AMOUNT NOT RECOVERED
	Health	R2 607 384.00	R0.00	R0.00	R2 607 384.00
	Human Settlements	R4 509.31	R4 509.31	R0.00	R0.00
	Social Development	R769 173.11	R0.00	R641 809.00	R127 364.11
<b>Mpumalanga Total</b>		<b>R3 829 365.35</b>	<b>R70 211.31</b>	<b>R955 225.93</b>	<b>R2 803 928.11</b>
<b>North West</b>	Agriculture and Rural Development	R175 189.82	R0.00	R154 859.82	R20 330.00
	Education	R214 561.00	R24 371.00	R0.00	R190 190.00
	Health	R144 174.95	R11 746.08	R0.00	R132 428.87
	Office of the Premier	R41 999.85	R0.00	R0.00	R41 999.85
	Social Development, Women, Children and People with Disabilities	R155 610.75	R3 370.75	R152 240.00	R0.00
<b>North West Total</b>		<b>R731 536.37</b>	<b>R39 487.83</b>	<b>R307 099.82</b>	<b>R384 948.72</b>
<b>Northern Cape</b>	Economic Development and Tourism	R400 000.00	R0.00	R0.00	R400 000.00
	Health	R820.00	R0.00	R0.00	R820.00
	Social Development	R86 087.23	R27 299.00	R10 855.10	R47 933.13
<b>Northern Cape Total</b>		<b>R486 907.23</b>	<b>R27 299.00</b>	<b>R10 855.10</b>	<b>R448 753.13</b>
<b>Western Cape</b>	Agriculture	R0.00	R0.00	R0.00	R0.00
	Community Safety	R400.00	R0.00	R400.00	R0.00
	Cultural Affairs and Sport	R700.00	R700.00	R0.00	R0.00
	Education	R1 652 469.59	R29 060.00	R1 238 390.35	R385 019.24
	Health	R3 045 351.30	R300.00	R6 600.00	R3 038 451.30
<b>Western Cape Total</b>		<b>R4 698 920.89</b>	<b>R30 060.00</b>	<b>R1 245 390.35</b>	<b>R3 423 470.54</b>
<b>Grand Total</b>		<b>R80 459 136.16</b>	<b>R1 394 677.47</b>	<b>R16 786 215.62</b>	<b>R62 278 243.07</b>

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