

PULSE

OF THE PUBLIC SERVICE



Custodian of Good Governance

PUBLIC SERVICE COMMISSION QUARTERLY BULLETIN VOLUME 15

01 OCTOBER TO 31 DECEMBER 2020

RECOVER BETTER WITH
INTEGRITY

NON-PAYMENT
OF GOVERNMENT
SUPPLIERS

IMPLEMENTATION OF
THE **FINANCIAL
DISCLOSURE
FRAMEWORK**

NATIONAL ANTI-CORRUPTION HOTLINE 0800 701 701



CONSTITUTIONAL MANDATE

The PSC derives its mandate from sections 195 and 196 of the Constitution, 1996.

The PSC is tasked and empowered to, amongst others, investigate, monitor, and evaluate the organisation and administration of the Public Service.

This mandate also entails the evaluation of achievements, or lack thereof of Government programmes. The PSC also has an obligation to propose measures that would ensure effective and efficient performance within the Public Service and to promote values and principles of public administration as set out in the Constitution, throughout the Public Service.

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1. INTRODUCTION

This edition of the Pulse of the Public Service covers the period 01 October to 31 December 2020 which is the third quarter of the 2020/21 Financial Year. It focuses on governance matters in the Public Service including amongst others, managing reporting lines and hybrid working arrangements due to Coronavirus (COVID-19). Matters relating to ethics, non-payment of government suppliers within 30 days and overall number of complaints and grievances handle by the Public Service Commission (PSC) up to 31 December 2020 are also reported on.

The PSC has noted with appreciation the rollout of the COVID-19 vaccine as a preventative measure against the pandemic. This will go a long way in getting the country back to normality. However we still note that COVID-19 is still with us and it might be for a long time.

The PSC calls on Government to ensure that the procurement of the COVID-19 vaccine is corrupt-free. Allegations of corruption in the Public Service undermines the importance of Constitutional Values and Principles (CVPs) which public administration must live by. In this regard, the PSC will continue to promote the CVPs throughout the Public Service with the aim to change the mind-set and behaviour of public servants.

The professionalization of the public service project whose intent is to capacitate the state is something that the PSC has been at the forefront of especially through its work on “Building a Career-Oriented, Professional and Capable Public Service for a Developmental State”. The introduction of meritocracy and integrity in the hiring and promotion into key positions in the public service, removal of political interference, and making the public service what President Ramaphosa calls “a fit for purpose” organization committed to serve South Africans is what professionalization will ultimately attain.

The PSC still encourage members of the public to report any wrongdoing or corrupt activities through the National Anti-Corruption Hotline (NACH) on 0800 701 701.

2. GOVERNMENT HAS THE RESPONSIBILITY TO MANAGE EMPLOYEE PRODUCTIVITY AND RESPONSIVENESS TO THE PUBLIC IN HYBRID WORKING ARRANGEMENTS

Since March 2020, the South African government has and continues to implement measures to curb the spread of the COVID -19 pandemic, inclusive of different levels of lockdown. Throughout this period, essential services across all sectors had to remain accessible and most government employees had to adjust to hybrid modes of working by combining remote and office-based arrangements. Depending on the nature of the work that employees perform, some employees continue to present themselves to the workplace regularly, whereas employees with uncontrolled comorbidities are either expected to work remotely and/or to present themselves to the workplace less frequently, and when necessary. It is thus undeniable that the circumstances and the places where employees perform their duties and how services are provided to the public have been affected. However, the legislative framework that governs how employees present themselves to their workplaces and how they serve the public have not been changed.

According to section 23 of the Constitution of the Republic of South Africa, 1996, everyone has the right to fair labour practice and to an environment that is not harmful to their health or well-being - this is in spite of the fact that some services are, by nature, predisposed to harm than others. The provisions of the Constitution provide a framework of how employers should deal with employees. Together with that is a set of CVPs that the Public Service and all organs of the state must comply with. These CVPs inform the ethical, professional and legal parameters within which the government as an employer and a serving arm of the state should conduct its business.

Flowing from the rights conferred by the Constitution, section 186 of Labour Relations Act, 66 of 1995 provides for the right against unfair labour practice to ensure that in everything that the employer does, fairness is paramount. If the employer, occasioned by the economic hardship that comes with the lockdown at the instance of the pandemic has to change how it conducts its business and thus how work is done, such should be carried out in a manner that does not unjustly prejudice its workers.

While the conditions of employment are outlined in the Basic Conditions of Employment Act, 75 of 1997 (BCEA), the Occupational Health and Safety Act, 85 of 1993 requires every employer to provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health and safety of his employees. Whereas both the employer and employees have different types of responsibilities to take precautions to ensure safety at the workplace during the COVID-19 pandemic, the Constitution and legislation requires that the working relationship should remain lawful and fair, to both the employer and to the employee. Above all, service provision to the citizenry must be provided without excuses. As such, the employer is duty bound to provide the necessary working environment plus tools of trade to facilitate hybrid working arrangements and service delivery to the public. In the same breath, employees should play their part by rendering service to the employer and the public, irrespective of whether the employer is physically or electronically watching. *So, in the Public Service, a review of the applicable prescripts to deal with challenges and opportunities created by hybrid modes of working should not just focus on the needs and rights of employees or the powers of the employer, it should be guided by what is feasible and in the best interest of the public.*

How does a manager get to know if the team or individuals in a team are actually doing their work? Or put differently, how should services be provided to the public in a hybrid system? There are no easy answers to these questions, but it is undisputed that new methods and technologies of working should be considered and applied. Meetings through virtual platforms such as Teams, Zoom and WhatsApp can be used with small or larger groups of employees. Electronic submissions of completed work or work in progress can also help managers and employees to exchange information and working documents. Furthermore, new ways of engaging with the public should be put in place. This places a challenge and/or an opportunity for departments to reskill and upskill their managers and employees to use various technologies optimally for purposes of engaging or managing performance internally, and for purposes of interacting with and delivering services to the public. Traditional methods such as phone calls and group email exchanges may still remain useful while considering opportunities for all to learn how available technologies can help to make work and service delivery more effective and efficient.

There are advantages and disadvantages to hybrid working arrangements and these range from increased or decreased employee productivity depending on the availability and effectiveness of supporting systems, abuse of remote working arrangements especially when productivity measurement tools are weak or non-existent, reduced operating costs for the employer and reduced commuting costs and time for employees. Therefore, *a blanket approach to hybrid work arrangements is not feasible and hybrid or remote work arrangements cannot be reduced to a right, entitlement or desert.*

Assuming that systems and tools of trade are provided by the employer, hybrid working arrangements, especially remote working, calls for self-discipline and accountability on the part of employees. Self-discipline and accountability are important and can still be managed by the employer in terms of the existing prescripts to the extent that employees can still be dismissed for any of the following, in terms of the Public Service Act, 1994: operational requirements of the department as provided for in the Labour Relations Act; incapacity due to poor work performance; misconduct; and absenteeism from official duties without permission.

Hybrid working arrangements create an opportunity for departments to change their way of working and to invest in appropriate technologies, skills and new ways of thinking in order to capitalise on lessons from COVID-19 over the medium to long term. Departments should consider the benefits of less office space, less commuting, fewer business trips, shorter breaks and greater focus on employee productivity as well as convenience and responsiveness to the public. Hybrid working arrangements and remote reporting offers departments the flexibility to deal with unexpected events in the future and when managed effectively and efficiently, hybrid working arrangements can give a renewed boost to cooperation and cohesion.

Investing in mixed mode working will have far-reaching consequences on the way people work after the crisis. Hybrid modes of working and reporting are here to stay and will more than ever become an integral part of the way the Public Service works. Though it is too early to determine the right mix for different sectors and services, public service administration leaders should reflect on the lessons from the past 12 months and potential impact of investing in hybrid working arrangements.

3. RECOVER BETTER WITH INTEGRITY

As a premise, it is an undisputed fact that corruption is a hindrance to development in society and as such it places much of responsibilities on governments of the world to ensure that initiatives are put in place to prevent and combat it. One of the initiatives is the commemoration of the **International Anti-Corruption Day** which is celebrated annually on 09 December in recognition of the United Nations Convention against Corruption (UNCAC) which was signed in Mexico in 2003. South Africa is a signatory to the Convention and has ratified it in 2004.

In practice, it means that all our anti-corruption legislation must fall in line with UNCAC. The Public Service Commission (PSC), together with the South African government, University of South Africa (UNISA), United Nations Development Programme (UNDP), and the United Nations Office on Drugs and Crime (UNODC) commemorated International Anti-Corruption Day virtually on 09 December 2021 under the theme: ***“Recover better with integrity”***. The theme in itself was amongst other things prescribing the need to have robust systems for accountability, transparency and integrity. The theme is more relevant today in light of the various allegations of corruption laid bare at the Commission of Inquiry into State Capture. The Covid-19 has not made matters easy as some people have used the pandemic as a scapegoat to commit acts of wrongdoing. Seemingly this is not a case only in South Africa, but a matter that has affected many countries.

In his keynote address, the Minister for Public Service and Administration (MPSA), Mr Senzo Mchunu emphasized the lack of ethical leadership as one of the disheartening issues for concern. He further flagged the significance of the National Development Plan 2030 (NDP) goal which envisages a corruption-free South Africa, including a government that is accountable to its people.

Fighting corruption is one of government’s key priorities as evidenced by Cabinet’s approval of the National Anti-Corruption Strategy (NACS), which serves as a blueprint in the fight against corruption and provides a nationwide intervention framework. The NACS reference group comprising academia, civil society, business and government representatives supported the compilation of the NACS. The fight against corruption will require the support of all the citizens of South Africa.

One of the major challenge flagged during the International Anti-Corruption Day is uncertainty amongst the senior administrative leadership in the public service, local government and in majority of State Owned Enterprises (SoEs) regarding their tenure of Office. This is because the appointment to these positions is dependent on the political leadership or the Executive Authority. The previous administration changed Cabinet often and the changes affected the top administrative leadership of the Public Service. For example, there was a total of 172 high turn-over of Directors-General in 38 departments who were affected by the changes in the old administration. This means that on average there were 4.5 Directors-General per department over the 8 years, which showed that DGs only served 22 months on average.

International Anti-Corruption Day commemoration should continue to be held annually in order to share what various sectors of the society is doing in the fight against corruption. More importantly, the National Anti-Corruption Forum (NACF) should be revived since the Forum was a symbol of hope in the fight against corruption.

4. NON-PAYMENT OF GOVERNMENT SUPPLIERS

Government departments as custodians of the public purse must ensure that funds are used specifically for the purposes they were voted for, which is to deliver public services, and within the provided prescripts. This is clearly articulated in section 195 of the Constitution through the principle on **efficient, economic and effective use of resources must be promoted (EEE)**. It is through the embedding of this principle in the Public Service operations that the risk of public funds being diverted away from the priorities of Government can be avoided. The principle contributes to improved service delivery and improving peoples' livelihoods through quality education, better health services, and ensuring universal access to services. It emphasises the provision of services that are of an acceptable level and quality, not costing too much and reflects the needs of and priorities of citizens and the wider community.

This principle on EEE should not be read in isolation given the intertwined and interdependent nature of the constitutional principles. For example, inextricably linked to the principle on EEE are the principles of being i) **responsive** to the needs of citizens, ii) **accountable**, which goes hand and in hand with ensuring appropriate consequences, and iii) **transparent**, which promotes fair administration procedures and proper recourse for citizens.

Public procurement is a crucial mechanism in government's service delivery system for contracting goods and services to ensure efficiencies, effectiveness and value for money to address the country's socio-economic challenges. This underscores public procurement as being inherently developmental and transformative in terms of uplifting the livelihoods of the citizenry as envisioned in section 217 of the Constitution. However, over the years the system has been punctuated by pre-existing challenges. Amongst others was the general lack of transparency in Supply Chain Management (SCM) processes with reports of irregularities pointing to the involvement of senior officials who collude with service providers to defraud the State.

Media reports have also highlighted the huge impact of the non-payment of invoices on the operations of small businesses, including the inability to pay staff salaries and ultimately closing down¹. This includes the opportunities created for corruption relating to COVID-19 procurement as highlighted by the Auditor-General's First and Second Special reports².

To ensure accountability in public procurement and timeous payment of invoices of suppliers, the Public Finance Management Act (PFMA) bestowed this responsibility on the Accounting Officers (AOs) of departments. Section 38(1)(f) of the PFMA stipulates that AOs are required to settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed and agreed period³. Consequently, the NT published regulations to specify the prescribed period. These regulations specified in regulation 8.2.3 that the prescribed period for the payment of suppliers is 30-days from receipt of a legitimate (undisputed) invoice by an AO. Furthermore, section 38(1)(h)(i) empowers the AO to take disciplinary steps against any official who fails to comply with the provision of the PFMA. Section 81(1)(a) stipulates that AOs commit an act of financial misconduct if that AO wilfully or negligently fails to comply with the requirement of section 38. In terms of section 81(20) of the PFMA, an official of a department, trading entity or a constitutional institution commits an act of financial misconduct if that official wilfully or negligently fails to exercise the power of duty assigned to him/her in writing in terms of section 44 of the PFMA. Section 86(1) of the PFMA provides that an AO is guilty of an offence if that AO wilfully or in a grossly negligent way fails to comply with the provisions of section 38. Despite having these regulations, there is no consequent management and accountability in departments.

1. 91% of SMES in SA impacted by late payments – survey, accessed from <https://www.news24.com/fin24/entrepreneurs/91-of-smes-in-sa-impacted-by-late-payments-survey-20191206>, dated 7 December 2019.

2. Auditor-General of South Africa. First and Second Reports on the financial management of Government's COVID-19 Initiatives, dated 2 September and 9 December 2020, respectively.

3. Public Finance Management Act 1 of 1999.

The National Treasury in 2015, highlighted the need to professionalise the system to ensure that those entrusted with the process have “*the right skills, experience, social awareness, ethical standards and dedication; and a regulatory and organisational environment that supports and monitors their work in the public interest*”⁴. Yet the PSC continues to be inundated with complaints from service providers regarding non-payment of their invoices, which points to persistent shortcomings in the SCM processes and a lack of accountability. Unless a more rigorous review of the SCM system is prioritised, the intended aim of the public procurement of ensuring cost-effectiveness and being developmental and transformative as envisaged in section 217 of the Constitution will ring hollow.

The PSC Virtual Roundtable; ***Efficient, Economic and Effective use of resources in the procurement environment*** held 28 October 2020, provided an opportunity to tackle the challenge related to the continued failure of government departments to pay suppliers on time. The key issues emerging were (but not limited too):

- (i) Public procurement should be viewed as a system built on a “chain” of strategic decisions and actions where failure in one area of the chain creates a negative reaction in other areas;
- (ii) SCM is characterised by dysfunctionality, which manifests itself in non-payment of suppliers, irregular expenditure, lack of skilled personnel, financial misconduct, lack of consequence management and prolonged system’s downtime;
- (iii) There is a need to ensure that SCM practitioners are properly skilled; and
- (iv) Procuring goods that were not budgeted is breaking the law and must be dealt with as such.

To keep abreast with developments, to propose measures to ensure effective and efficient performance, and report to Parliamentary Committees, the PSC consistently monitors the payment of suppliers within 30 days. **Tables 1 and 2** depicts the latest information on the non-payment of suppliers, as at the end of quarter 3 of the 2020/21 financial year, as submitted to National Treasury by national departments and provinces:

Table 1: Non-payment of Suppliers by National Departments

National Department	October 2020		November 2020		December 2020	
	No. of invoices	Value of invoices	No. of invoices	Value of invoices	No. of invoices	Value of invoices
Cooperative Governance	0	R 0	2	R 94 825	2	R 17 850
Home Affairs	10	R 104 297	5	R 21 758	8	R 636 813
International Relations	0	R 2 665 623	1	R 2 665 623	0	R 0
Public Works and Infrastructure (DPW&I)	12	R 8 226	6	R 6 011	6	R 184 729
DPWI’s PMTE	90	R 63 793 851	74	R 45 060 314	110	R 51 489 200
Statistics South Africa	2	R 5 702	4	R 61 536	39	R 832 404
Women, Youth and Persons with Disabilities	1	R 1 712 016	1	R 1,712,016	1	R 1,712,016
Civilian Secretariat for the Police Service	0	R0	0	R0		
Defence	0	R0	0	R0		
IPID	0	R0	1	R 1 245 558	0	R0

4. National Treasury. 2015 Public Sector Supply Chain Management Review.

National Department	October 2020		November 2020		December 2020	
	No. of invoices	Value of invoices	No. of invoices	Value of invoices	No. of invoices	Value of invoices
Military Veterans	0	R 0				
Office of the Chief Justice	20	R 360 130	0	R0	0	R 0
South African Police Service	1	R 512	5	R 19 698	17	R 71 674
Agriculture, Land Reform and Rural Dev	36	R 1 180 228				
Environment, Forestry and Fisheries						
Mineral Resources and Energy	12	R 1 532 072	0	R0	15	R 4 311 452
Water and Sanitation (DWS)	142	R 469 202 760	138	R 519 345 613	138	R 356 833 575
DWS Trading Entity	355	R 2 194 540	180	R 757 021	342	R 802 929

Source: National Treasury, Office of the Accountant-General. Exception Reports October-December 2020

■ Denotes non-submission of the relevant report by the relevant department for the month.

Note: Departments that are not reflecting have no invoice outstanding

Table 1 shows that departments continue to experience challenges with paying suppliers on time. Noteworthy is departments of Public Works and Infrastructure (including PMTE) and Water and Sanitation (including Trading Entity).

As at the end of quarter 3 (December 2020), Public Works and Infrastructure (including PMTE) reported an increase in the related cost owed to suppliers from R 40 476 552 for 128 invoices at the end of quarter 2 (September 2020) to R 51 673 929 for 116 invoices in quarter 3. Although Water and Sanitation (including the Trading Entity) report a decline in the related cost, from R 544 838 250 for 641 invoices to R 357 636 504 for 480 invoices during the same period, it is still one of the Departments that should be monitored closely. This includes the South African Police Service which for this quarter reported a notable increase from October to December 2020; R 512 for 1 invoice (end October) to R 71 674 for 17 invoices (end December).

Further to this, Mineral Resources and Energy reflects a significant increase in the amount owed to suppliers, from R 876 202 for 2 invoices at end of quarter 2 (September 2020) to R 4 311 452 for 15 invoices at end of quarter 3 (December 2020). Similarly, Home Affairs owed R 90 604 for 8 invoices at the end of quarter 2 (September 2020) to R 636 813 for the same number of invoices at the end of quarter 3 (December 2020).

In the case of Women, Youth and Persons with Disabilities, there is still no follow through on consequence management regarding its invoice of R 1 712 016, which has become a staring feature of the Department, starting from quarter 1 of the 2020/2021 financial year. The Department must realise the importance of paying suppliers on time as this impacts on their business operations. This might be as a result of gross negligence on the part of the Department and thus shows a lack of consequence management or accountability.

Even more concerning for the PSC is departments such as (a) Civilian Secretariat for the Police Service, (b) Agriculture, Land Reform and Rural Development, (c) Environment, Forestry and Fisheries, and (d) Mineral Resources and Energy, despite the regulatory requirements, are still not submitting the required information to the National Treasury on time. **In the case of Environment, Forestry and Fisheries, the Department has not submitted any reports as per Treasury regulations for the 2020/21 financial year.** The information from National Treasury indicates that the Civilian Secretariat for the Police Service submitted reports for October and November 2020, however, reports for quarter 1 and 2 were not submitted. Similarly, Land Reform and Rural Development only submitted reports for April 2020 (quarter 1) and October 2020 (quarter 3) with no reports submitted for quarter 2 (July, August and Sept 2020). This overall shows a flagrant disregard of the PFMA and the Instruction Note 34 of the National Treasury regarding timeous reporting. Furthermore, this shows that accountability and consequence management within these departments are non-existent, especially since the PSC raised this concern on numerous occasions. It is important to note that the PSC presents its report to Parliament and Provincial Legislatures whose responsibility is to hold departments accountable.

Table 2 reflects the provincial status, which shows that the Eastern Cape, Free State, Gauteng, KwaZulu-Natal and North West were the major contributors of invoices older than 30 days not paid, as at the end of quarter 3 for the 2020/21 financial year.

Table 2: Non-payment of Suppliers by Provincial Government

Provinces	October 2020		November 2020		December 2020	
	No of invoices	Amount of invoices	No of invoices	Amount of invoices	No of invoices	Amount of invoices
Eastern Cape	9 008	R 1 952 340 183	13 940	R 2 340 911 968	10 502	R 2 114 327 450
Free State	1 139	R 211 720 636	6 942	R 298 608 346	1 205	R 112 778 551
Gauteng	3 403	R 941 788 782	1 747	R 480 799 014	1 072	R 389 973 533
KwaZulu-Natal	1 159	R 71 929 037	830	R 37 217 997	1 149	R 104 363 510
Limpopo	179	R 12 821 998	161	R 10 720 520	213	R 28 471 372
Mpumalanga	156	R 62 101 068				
North West	2 473	R 277 806 273	2 497	R 293 495 202	3 223	R 351 858 302
Northern Cape	9 711	R 409 585 559	8 471	R 385 222 054	7	R 517 636
Western Cape	1	R 3 079	1	R 6 016	4	R 600 546

Source: National Treasury, Office of the Accountant-General. Exception Reports October-December 2020

 **Denotes non-submission of the relevant report by the relevant provincial department for the month.**

Table 2 shows that there has not been any major improvement in the payment of suppliers for quarter 3 (December 2020) in comparison with quarter 2 (September 2020) of the 2020/21 financial year. Of noteworthy is Mpumalanga, that seems to have reverted to non-submission of reports similar to quarter 1 of 2020/21. This situation needs to be monitored as the CVPs stipulate that accountability must be upheld in the Public Service at all times and where there is lack of adherence, consequence steps must be taken in line with the PFMA.

5. OVERALL NUMBER OF GRIEVANCES HANDLED BY THE PSC UP TO 31 DECEMBER 2020

Up to the end of December 2020, the PSC had **521** registered grievances. As reflected in **Table 3** below, the total number of grievances handled by the PSC up to the end of December 2020 increased by 168 (48%), as compared to 353 reported cases during the second quarter.

Table 3: The number of grievances handled by the PSC during the first and second quarter (Total numbers reflected are cumulative)

Grievances Received	1st Quarter (1 Apr - 30 Jun)	2nd Quarter (1 Jul -30 Sept)	3rd Quarter (1 Oct -31 Dec)	Increase: number and %
Total number of grievances received	271	353	521	168 (48%)
Properly referred cases	213	283	387	104 (37%)
No jurisdiction/Not properly referred	58	70	134	64 (91%)

Of the **521** grievances, **134 (26%)** were not properly referred and **387 (74%)** were properly referred. The grievances which were not properly referred are those that were either being dealt with elsewhere, such as bargaining councils, and those that were still not finalized in the departments. The PSC is concerned about the continued referral of grievances outside the provisions of the Grievance Rules, 2003 as a result it calls upon Labour Relations Officers within departments to ensure that on an annual basis employees are workshopped on these Rules. Unions are also called upon to play an active role in assisting their members in lodging grievances, and where the time-frame for lodging grievances has lapsed, to advise them accordingly.

Of the **387** cases referred to the PSC about **95%** are referred by employees and **5%** are referred by EAs. Referral of grievances by employees is an indication that departments have failed to resolve these grievances internally within the prescribed timeframes.

The **387** properly referred grievances are dealt with through investigation and mediation and their location is provided in in *Figure 1* below. -

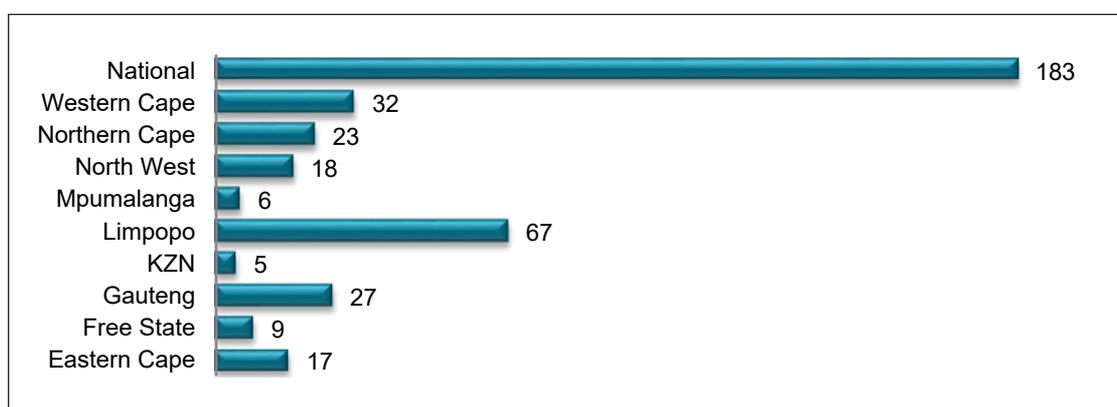


Figure 1: Location of properly referred cases

The majority of the properly referred grievance cases are referred by national departments, hence they are located at the national PSC office, while 99 cases are located at the Limpopo and Western Cape provincial offices. *Figure 2* below provides an overview of the status of properly referred grievances.

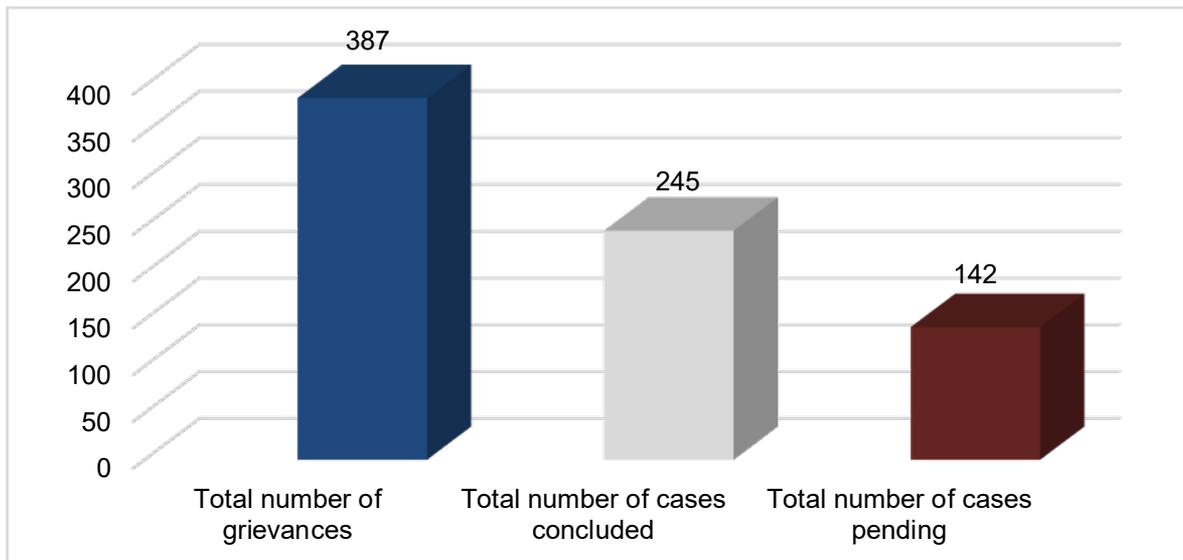


Figure 2: Status of properly referred grievances up to 31 December 2020

While **245** of the **387** properly referred cases were concluded by the end of December 2020, **154** of the concluded cases form part of the **181** grievances carried over from the 2019/2020 financial year. Delays in the finalization of cases can be attributed to the lack of information from the departments and aggrieved employees, due to lockdown, especially during May to July 2020. However, the PSC has noted some improvement in the accessibility of information from departments and aggrieved employees since July 2020. It was anticipated that many cases would be concluded following the easing of the lockdown restrictions but now that we have reverted to level 3 some challenges may be experienced, where employees who are to provide information are not accessible from the landline numbers of their departments; and where investigators have cellphone numbers of officials involved they indicate that the information is at the office and they are not able to access it.

As indicated in *Figure 3* below, the majority of the properly referred cases relates to unfair treatment, salary problems, performance assessments and filling of posts.

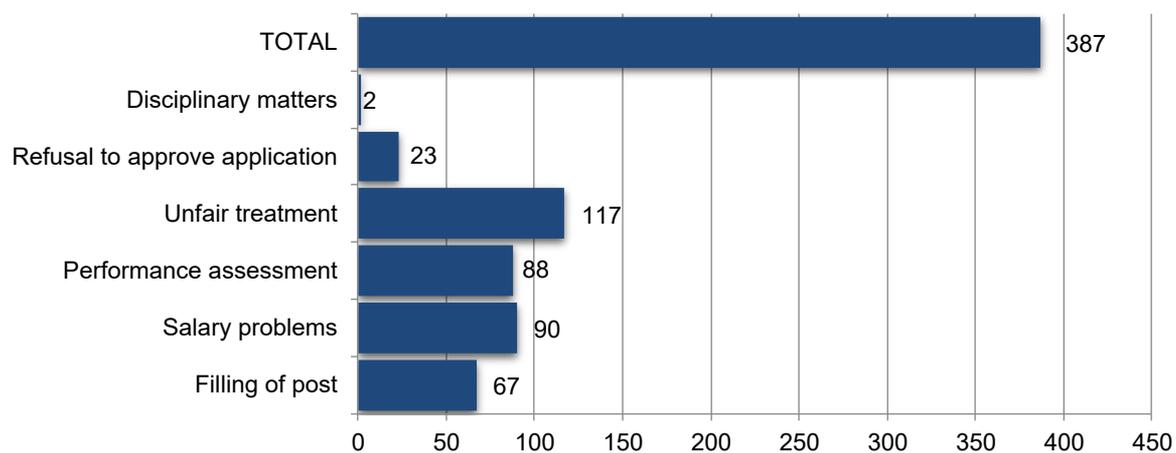


Figure 3: Types of properly referred grievances

Of the **117 unfair treatment** grievances, **17** were from national departments, EC=3; FS=1,GP=2;KZN=0, LMP=1,MP=0, NC=2,NW=4; WC=7. Unfair treatment cases mostly emanate from strained relations between supervisor and supervisee, resulting in the supervisee perceiving any action by the supervisor as victimization or bullying. For instance, when the supervisor queries failure by the employee to meet the deadline for work issued, non-attendance of work by the employee. Other cases emanate from employees not understanding that they may be assigned to do certain ad hoc functions or that they were not appointed to positions in which they were acting.

Of the **117** unfair **39** were finalized by the PSC, of which only **8** were substantiated, **26** unsubstantiated and **5** partially substantiated. Where it is clear that the grievance is caused by strained relations the PSC usually recommends that employees should be subjected to conflict management training. Regarding assignment of functions the PSC explains the provisions of section 32 of the Public Service Act, and that where necessary that people should be appointed in acting positions this should be done in writing in order to comply with the acting policy.

GRIEVANCES REPORTED BY DEPARTMENTS IN TERMS OF THE GRIEVANCE RULES, 2003

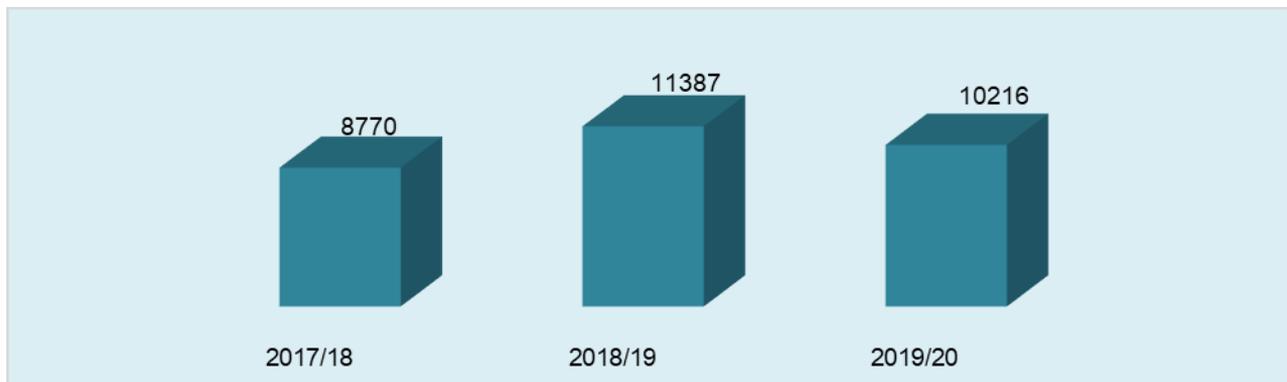


Figure 6: Total number of grievances reported by departments

As depicted in *Figure 6* above, national and provincial departments reported a total of **10216** grievances for the 2019/20 financial year, which reflects an increase of **16.5%** over the **8770** grievances reported for the 2017/18 financial year.

Figure 7 below provides a breakdown in respect of the total number of grievances reported by national and provincial departments for the financial years 2017/18 to 2019/20.

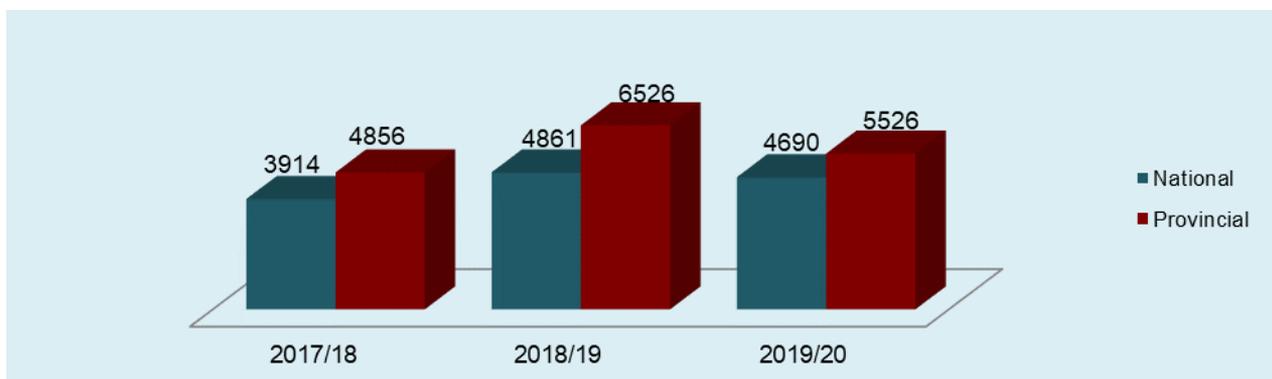


Figure 7: Number of grievances reported by national and provincial departments

As can be seen from the figure above, in comparison with the 2017/18 financial year, the number of grievances lodged at national departments in 2019/20 increased by **19.8%**. The reporting by provincial departments indicates an increase of **13.8%** for the 2019/20 financial year in comparison with the reporting for the 2017/18 financial year. The majority of grievances at provincial level emanate from the education and health sectors which contributes to **52.6%** of grievances reported by provincial departments. Due to the their establishment the South African Police Service and Correctional Services also tend to have a high number of grievances reported at national level.

Of the 10216 cases reported during the 2019/20 financial year, **5886 (57.6%)** were finalised, **46 (0.5%)** were withdrawn by the aggrieved employees, 3 (0.03%) employees resigned/retired before their grievances could be finalised and the remaining **4281 (41.9%)** were still under consideration.

6. OVERALL NUMBER OF COMPLAINTS HANDLED BY THE PSC UP TO 31 DECEMBER 2020

The PSC has the mandate to investigate, either of its own accord or on receipt of any complaint, personnel and public administration practices to report to the relevant EAs and Legislature. Personnel practices relate to for example, irregular appointments, transfers, qualifications and compensation related allegations, and public administration practices relate to, for example, procurement irregularities and poor service delivery. The own accord investigations undertaken are identified through an analysis of the trends of the complaints handled previously and through media reports.

It is important to note that when reporting a complaint to the PSC, the following information must be included:

- Who committed the wrongdoing (Department, person, organization, description, etc.)?
- What exactly did the individual or entity do?
- Where did the alleged activity take place (address)?
- When did the alleged activity take place?
- The extent of the involvement of the individuals and how were the individuals able to perform the alleged activity?
- Do you know why the person committed the wrongdoing?
- Witnesses, if any, who can verify the allegations?

Without sufficient information, the PSC may be unable to act on the allegation. In order to investigate the complaints properly, complainants are required to provide as much information as possible.

Generally, complaints of maladministration etc, maybe reported through the following mechanisms:

- Telephonically with the National Anti-Corruption Hotline (NACH) Call Centre at 0800 701 701.
- Verbally in person at any of the National or Provincial Offices of the PSC – the physical addresses are available on the PSC’s website at www.psc.gov.za.
- Via the PSC’s website (www.psc.gov.za) – the contact details of the National Office / Provincial Offices are also available on the PSC’s website.
- Via social media platforms, namely Facebook - [@OPSCSA https://www.facebook.com/OPSCSA/](https://www.facebook.com/OPSCSA/) or Twitter - [@OPSC_SA https://twitter.com/OPSC_SA](https://twitter.com/OPSC_SA)

6.1 Cases of alleged corruption received by the PSC through the NACH

A cumulative number of **23 198** cases of alleged corruption were reported by callers and whistle-blowers as at 31 December 2020 since the inception of the NACH in September 2004.

During the third quarter of 2020/2021 financial year, the PSC received 678 cases. These cases are far less than **1154** cases received during the third quarter of 2019/2020 financial year. The reduction in the number of cases received is as a result of the National Lockdown due to COVID-19. In line with the existing protocols, all the cases were referred to the national and provincial departments and public entities for investigation.

One of the key obstacles observed by the PSC in the fight against corruption is the fact that individuals are often intimidated to speak out or “blow the whistle” on corrupt and unlawful activities that they observe in the workplace, despite being obliged to do so in terms of their conditions of employment as well as the Code of Conduct for the Public Service. Often those who report corruption are victimized and intimidated, and have little recourse. However, callers to the NACH are guaranteed anonymity.

In South Africa the Protected Disclosures Act of 2000 makes provision for procedures in terms of which employees in both the public and private sector who disclose information of unlawful or corrupt conduct by their employers or fellow employees, are protected from occupational detriment. The purpose of the Act is to encourage honest employees to raise their concerns and report wrongdoing within the workplace without fear.

6.1.1 Complaints received in the first, second and third quarter of the 2020/21 financial year

A total of 678 cases of alleged corruption were reported through the NACH during the third quarter of 2020/2021 financial year and were subsequently referred to the national and provincial departments as well as public entities for investigation. Most of these cases related to SASSA’s R350 social relief of distress grant fraud. According to SASSA, all the cases referred to the institution were closed after conducting the process of appeal. In this respect, some cases were approved and others were rejected with valid reasons.

6.1.2 Feedback on action taken by departments on cases referred for investigation

During the course of the 2020/2021 financial year, 18 feedback of alleged corruption relating to national departments were received by the NACH. Out of 18 cases, a total of 12 cases were closed as reflected below.

- The Department of Home Affairs received six cases relating to amongst others, alleged unethical behaviour, bribery, fraud and illegal immigration. These matters were referred to the Employee Relations for disciplinary actions against the officials.
- The South African Police Services received eight cases relating to alleged unethical behaviour. Of the eight cases, five were unproven whilst two cases were referred for disciplinary actions.
- The Department of Correctional Services received two cases for alleged smuggling of illegal substances and unethical behaviour. Of the two cases, one was unproven while the other has been referred to the Code Enforcement to institute disciplinary actions against the implicated official.
- The Department of Justice and Constitutional Development received two cases for alleged non-payment of housing allowance and fraud. Of the two cases, one was unproven while the other has been recommended for disciplinary actions against the official for contravening section 45 of the PFMA and also for recovery of the amount involved (R3 440.10).

The PSC observed that departments are taking an extended period of time in providing feedback to the Organisation despite the fact that whistle-blowers are requesting feedback on progress made with investigations. The effectiveness of an investigation is influenced by the time it takes to conclude the investigation without unwarranted delays. If the delay is unreasonably long and cannot be explained, it is likely to cause prejudice to the complainant who reported the allegations in good faith.

6.1.3 Trends analysis of cases received during the 2017/2018 to 2020/2021 financial years

Figure 8 below shows the trends analysis of cases of alleged corruption reported to the NACH on a quarterly basis in the 2017/18 to 2020/21 financial years.

It can be noted that in the 3rd quarter of the 2020/21 FY, 297 cases of alleged corruption were received which was a decrease when compared to the 354 cases received in the preceding year (2019/20 FY). The decline is attributed to the COVID-19 pandemic lockdown.

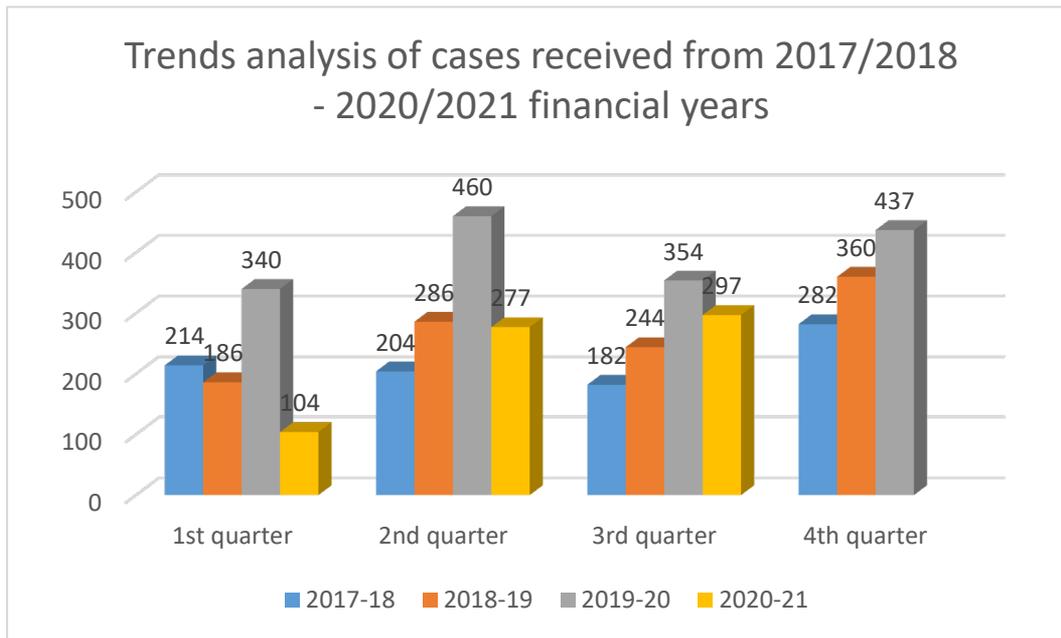


Figure 8: Trends analysis of cases received from 2017/2018 to 2020/2021 financial years

6.1.4 Types of complaints received in the 2020/2021 financial year

As reflected in Figure 9 (in the next page), the majority of cases (66%) were referred to SASSA for investigation. The rest of the cases were referred to national and provincial departments for investigation. The PSC is concerned that departments are taking an extended period of time in providing feedback despite the fact that whistle-blowers are requesting feedback on progress made with investigations. Generally many investigations are prolonged due to variety of factors like complexity and retrieval of supporting information. As a result, the PSC developed a complaints handling mechanisms that would assist in the management of cases received by the PSC.

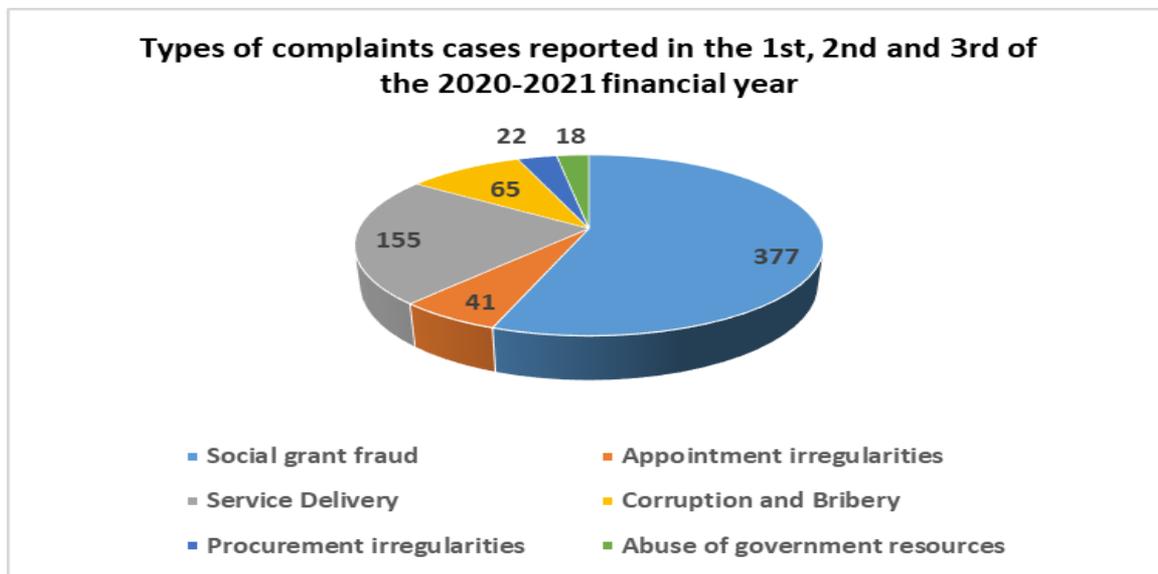


Figure 9: Types of complaints received in the 2020/2021 financial year

The efficiency with which the departments investigate allegations of corrupt activities reported to them contribute towards the effectiveness of the NACH.

6.1.5 Comparative analysis of the number of calls received by the NACH in the 2017/2018, 2018/2019 and 2020/2021 financial years

Figure 10 below shows the number of calls received since 2017/2018-2020/2021 financial years when the NACH is managed in-house. The analysis of the calls revealed that the NACH has registered a total of **66 986** incoming calls during the 2017/2018 financial year. Out of **66 986**, eight hundred and eight two (**882**) case reports were generated and referred to the relevant law enforcement agencies for investigation.

In the subsequent financial year (i.e. 2018/2019), the NACH has registered a total of **51 581** incoming calls. Out of **51 581** incoming calls⁵, **1076** case reports were generated. In 2019/2020 financial year, the NACH has registered a total of **70 500** incoming calls, of which **1591** cases were generated. This number is slightly higher as compared to 2017/2018 and 2018/2019 financial years.

As at 30 December 2020, the NACH has received a total of **22 000** incoming calls of which **678** cases were generated as at 31 December 2020. The number is slightly lower due to COVID 19 Lockdown and that the NACH was operating in-house five (5) days per week and eight (8) hours per day. Despite this, most of the complaints received were tip-offs related to disaster management funds which were directed to the relevant law enforcement agencies.

5. Incoming calls are considered inbound calls in the call centre (they include answered calls, unanswered calls and drop calls. A dropped-call is the telephone call which, due to technical reasons, was cut off before the caller had finished the conversation and before the caller had hung up.

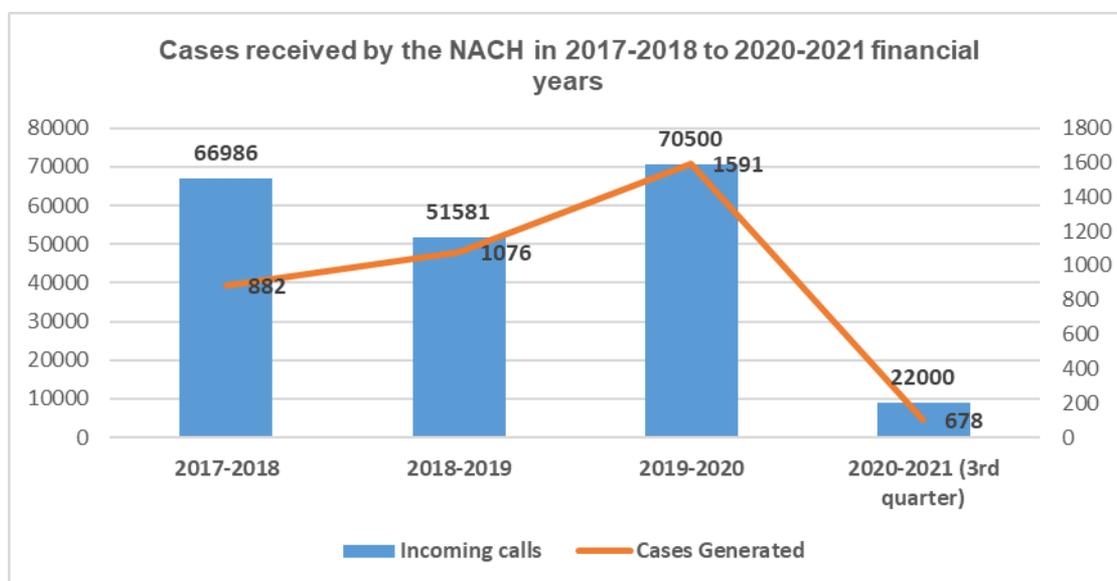


Figure 10: Comparative analysis of number of calls reported to the NACH in the 2017/2018 to 2020/2021 financial years

The arrangement for the operation of the NACH from 08h00 to 16h30 (8 hours per day) has created a severe challenge on the effectiveness of the NACH as the facility is limiting members of the public to report corruption after hours in the presence of the call centre agents. The PSC took the decision for the NACH to operate 8 hours due to lack of adequate funding. As the NACH is a designated single hotline through which corruption in the public service should be reported anonymously, it remains significant that it must be adequately resourced to enable people to report 24/7. In this regards, a comprehensive strategy for the improvement of the NACH has been developed and submitted to the Minister for the Public Service and Administration for consideration.

6.2 Other methods of addressing unethical conduct in the Public Service

Apart from the NACH system, there are various other methods of reporting complaints relating to personnel and public administration practices. These methods include completing Annexure A of the PSC Rules on Conducting Investigations, written complaints / statement which may be posted, e-mailed or faxed to the PSC, complaints lodged verbally in person (i.e. walk-ins), and matters referred to the PSC by other institutions (e.g. the Public Protector or Auditor-General).

Furthermore, the Constitution also mandates the PSC to conduct own accord investigations. Own accord investigations may emanate from an environmental analysis, media / social media reports, request by the PSC, matters of public interests and trends analyses falling within the mandate of the PSC.

6.2.1 Complaints received in the 3rd quarter of the 2020/21 financial year

All complaints received were within the jurisdiction of the PSC and were concurrently investigated as indicated in **Table 5** below

National/Provincial	Number Received	Closed	In Progress
National	63	29	34
Provinces	190	121	69
Grand Total	253	150	103

Table 5: Complaints received in the 3rd quarter 1 October to 31 December 2020

For the period 1 October to 31 December 2020, the PSC dealt with a total of **253** complaints. Of these, **70** complaints were received from the NACH system and **183** were walk-ins reported at the PSC National and Provincial level. Despite the challenges encountered due to the Covid-19 pandemic, as at 31 December 2020, **150 (59%)** of the **253** complaints were finalised and **103 (41%)** were in progress.

6.2.2 Trends Analysis of cases handled by the PSC

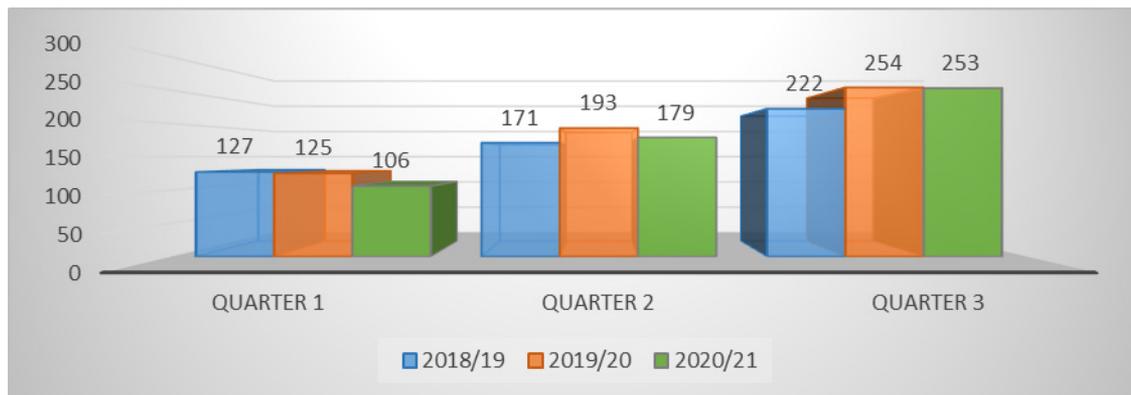


Figure 11: Trends Analysis of cases handled by the PSC

The number of complaints received in the third quarter of the 2020/2021 financial year has increased (**253**) when compared with the (**179**) of the second quarter of the current financial year. However, the complaints received in the third quarter has slightly decreased when compared to complaints received during the same period in the year 2019/2020. The increase in reporting in the third quarter can be ascribed to the easing of the lockdown regulations.

Of the **253** complaints reported during the third quarter of 2020/2021 financial year, **138** relate to alleged irregularities in personnel practices such as appointments, transfers and other career management in departments. The remaining **115** relate to alleged irregularities relating to Public Administration Practices such as financial management, personnel provisioning and administration, supply chain management processes and non-service delivery.

6.2.3 Outcome of complaints handled by the PSC

Emanating from the finalized investigations, complaints are found to be either substantiated (**true**) or unsubstantiated (**false**). In instances where allegations were found to be substantiated, the PSC issued recommendations, advice or directives to EAs to take action on the areas identified. These recommendations mainly relate to the institution of disciplinary action, or that EA's should approach the court to correct irregular appointments.

In the event where information is reported timeously, the PSC can intervene and act swiftly to stop irregularities even before the processes are completed. For example, in the Limpopo Provincial Office, the PSC submitted a report to the Departments of Social Development that the process of filling a post was irregular. The Department agreed with the finding of the PSC and the recruitment process was nullified and the post was re-advertised. In another two investigations at the Limpopo Department of Health, the PSC found that the post was filled irregular and recommended that the Department implement corrective measures against implicated officials. The Limpopo Department of Health were in agreement with the findings of the PSC and is in the process of implementing the recommendations. Further examples of the outcome of complaints handled by the PSC are as follows:

- In KwaZulu-Natal, the PSC found that at the Department of Arts & Culture, Transport as well as Public Works, the allegations relating to irregular appointments and HR related matters were substantiated. The PSC recommended that the Departments implement corrective measures against implicated officials.
- The Mpumalanga Provincial office received a complaint that one of the schools in the Province refused to allow a learner back in the classroom since he returned to school after a long period of being absent after schools reopened during Covid-19. The PSC communicated with the Mpumalanga Department of Education and the specific school and the learner was allowed back to attend class.
- An investigation relating to irregular appointments were conducted at the Department of Environmental Affairs and allegations were found to be substantiated. The PSC recommended that disciplinary action be taken and that the irregular secondment of support staff be corrected by the court.
- Irregular appointments were also investigated at the Department of Correctional Services and the PSC proposed corrective measures in instances where the allegations were found to be substantiated.

The PSC intervention and proposed corrective measures are essential in promoting good governance in public administration.

The PSC also noted that due to the nature of certain recommendations and the number of the people implicated, where disciplinary action is recommended, it may take longer for departments to conclude the implementations thereof. For instance, in the case of the Department of Public Works and Infrastructure (DPWI), the PSC concluded its investigation and delivered its report to the Department in February 2019. However the Department is still in the process of implementing recommendations and disciplinary proceedings are not yet finalised.

The PSC also resolve complaints in terms of Early Resolution where members of the public or officials need assistance in resolving their issues with Departments. For example, the PSC assisted a government official who resigned from Department of Defence and waited more than one year for his pension payout. The PSC contacted the GEPP and based on their intervention the complainant received his pension payout.

The PSC noted that most of its investigations has yielded positive results on improving good governance and accountability in the public service.

The impact of cases handled that emanated from the PSC's findings and recommendations, departments / employees were -

- sensitized of the importance of adhering to the regulatory framework; and
- that non-adherence to prescripts, as well as unethical conduct, have negative consequences.

7. IMPLEMENTATION OF THE FINANCIAL DISCLOSURE FRAMEWORK

The PSC monitors the implementation of the Financial Disclosure Framework in the Public Service as part of the promotion of a high standard of professional ethics in the Public Service. The Framework requires all members of the Senior Management Service (SMS members) in the Public Service to declare particulars of their financial interests, on a yearly basis, to their respective Heads of Department (HoDs). The HoDs on the other hand, must disclose their financial interests to the relevant Executive Authorities (EAs). The HoDs and EAs, as the case may be, must submit copies of the forms on which the SMS members or the HoDs have disclosed their financial interests to the PSC by no later than 31 May of each year.

Upon receipt of the financial disclosure forms, the PSC scrutinised the forms and apprised the EAs of the scrutiny findings relating to their respective departments.

The scrutiny findings in respect of all national and provincial departments were consolidated into a Report on the Overview of the Implementation of the Financial Disclosure Framework for the 2019/20 financial year, the report which was already tabled in Parliament on the 17 February 2021.

As at the due date of 31 May 2020, the PSC received **9792 (98%)** financial disclosure forms out of a total of **10032** that was expected in respect of the 2019/2020 financial year. This was a 1 percentage point increase in the submission rate as compared to the **97%** submission rate of the preceding financial year (2018/2019). This improvement in the submission rate was noted despite the challenges that were posed by the country's lockdown as a result of the Covid-19 Pandemic.

Brief summary of the scrutiny findings is shown below:

i. Compliance with the Financial Disclosure Framework

- The PSC has noted the slight improvement of 1 percentage point in compliance with the requirement to submit financial disclosure forms by the SMS members in the Public Service recording **98%** submission rate as at the due date of 31 May 2020. It is encouraging to note that there are departments that were able to achieve **100%** submission rate by the respective due dates despite the challenges that were posed by the country's lockdown as a result of the COVID-19 pandemic.
- There are, however, **169** SMS members who did not submit their financial disclosure forms by the due date of 30 April 2020, thus, contravening the Financial Disclosure Framework. Some of the financial disclosure forms, although submitted on time internally, were only released to the PSC after the due date of 31 May 2020. This is non-compliance with Financial Disclosure Framework on the part of the affected HoDs and EAs.
- There are SMS members who submitted their financial disclosure forms, but did not make full disclosure of their registrable interests. A total of **3048** SMS members in the Public Service were found to have interests in companies. From this total **638 (21%)** of the SMS members did not disclose their interests in companies. A further total of **814 (8%)** SMS members in the Public Service did not disclose their ownership of motor vehicles, and **361 (4%)** did not disclose their ownership of immovable properties. This includes HoDs in both the national and provincial departments. The relevant EAs are advised to act decisively against these HoDs/Director-General, in order to engender the culture of compliance from the top.
- Some of the SMS members who did not disclose their interests are repeat offenders. They have failed to disclose their interests for more than one year in a row. As repeat offenders, they ought to be dealt with more harshly when actions are taken against them.

It is, however, disconcerting that full disclosure of the registrable interests still persists. This poses a serious challenge in the ability to manage conflicts of interest in the Public Service. The challenge is compounded by the involvement of some of the HoDs in the perpetuation of non-compliance with the regulatory frameworks. The EAs need to strengthen their resolve in enforcing full compliance with the regulatory provisions under all circumstances, and to dealing decisively with defaulting HoDs. This would help in setting the tone from the top.

ii. Potential Conflict of Interest

The PSC found that 1508 (15%) of all the SMS members in the Public Service are engaged in activities that can be construed as posing potential conflicts of interest. It is, therefore, incumbent upon the HoDs and EAs to enforce the provisions of Regulation 13(c) of the PSR, 2016 within their respective departments. To this end, the Ethics Officers of the respective departments are required to periodically consult the Central Supplier Database (CSD) of the National Treasury, to check if these companies do not appear thereon.

Registration of companies on the CSD presupposes the intention to conduct business with organs of state, and this must be discouraged at all costs.

iii. Actual Conflicts of interest

Eleven (11) cases of actual conflicts of interest were identified in one national department and three (3) provinces. Two (2) HoDs from Gauteng and Northern Cape were among the affected SMS members. The relevant EAs must initiate investigations, for purposes of disciplinary enquiry in terms of the Directive on Conducting Business with an Organ of State, which was issued by the Minister for Public Service and Administration in January 2017. Disciplinary action should also be taken if it can be established that SMS members intentionally ignored the call by the Minister for the Public Service and Administration, to cease conducting business with organs of state; or to resign as director of companies that are conducting business with organs of state. Particular focus should also be placed on determining how companies that are linked to public servants were able to conduct business with organs of state. This should assist in identifying gaps that are there in the system and measures to addressing them.

iv. Other remunerative work outside the employees work in the Public Service

The scrutiny revealed that 382 (4%) of the SMS members in the Public Service were engaged in their remunerative work. Only 52% (199) of these SMS members provided proof that they obtained prior permission to do so in terms of section 30 of the Act. The EAs were advised, on their discretion, to recoup from the officials who contravened section 30 of the Act, the amounts generated through unapproved work done outside the Public Service or to ratify such in terms of section 31 of the Act.

v. Gifts and Sponsorship

The SMS members in the Public Service received gifts to the combined value of R4 631 314,21 during the 2019/2020 financial year. Some of the sponsorships that were disclosed are departmental sponsorships such as payment for travelling and accommodation, which benefit the officials, but not the departments. The PSC is of the view that the Minister for the Public Service and Administration must issue guidelines, detailing which of the sponsorships may not be disclosed for purposes of the Financial Disclosure Framework.

vi. Feedback on actions taken by EAs with regard to identified cases of conflicts of interests

The PSC expected feedback on actions taken from 147 EAs in both the national and provincial departments as a result of the scrutiny findings. Only 31 of these EAs provided feedback as required by the law. From the feedback that was provided, the PSC found that the EAs were satisfied with the responses given by some (375) of the SMS members during the consultation process. A total of 290 SMS members who did not disclose all of their financial interests and those with potential conflicts of interest were sensitised of the need to comply with the Regulations and to avoid actual conflicts of interest.

Disciplinary actions were taken against 128 SMS members who contravened the provisions of the Framework.

The EAs are struggling to comply with the 30-day provision of providing the PSC with feedback on actions taken against defaulting SMS members. The PSC is of the view that the Minister for Public Service and Administration must issue a directive, extending the 30-day provision to 60 days. The directive must incorporate time frames to guide the EAs on procedures to be followed and the duration thereof.