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1. INTRODUCTION

The Public Service Commission (PSC) is pleased to release the Pulse of the Public Service covering the period 01 January 2019 to 31 March 2019. The PSC uses this Bulletin as a platform to brief its stakeholders, such as members of the public, public servants and Legislatures, on a quarterly basis about its mandate of overseeing the effectiveness and efficiency of the Public Service. The PSC is of the view that stakeholders would use the Bulletin as a source of information on the state of the Public Service.

The mandate of the PSC is informed, amongst others, by the Constitutional Values and Principles (CVPs) that govern public administration and serve as a framework that can be used by the public to assess the performance of the Public Service. The PSC is responsible for promoting the Constitutional Values and Principles as set out in Section 195 throughout the Public Service. All public servants ought to be aware of the link between their actions, attitude, behavior and the values expressed in the constitution as outlined below:

This edition of the Pulse focuses on governance matters in the Public Service, relating to the ability to connect with citizens, the extent and nature of contract appointments, the professionalisation of the Public Service, Grievances, Complaints and integrity matters.



*Advocate RK Sizani with Heads of Institutions Supporting Democracy at the Military Ombud Symposium held on 26 April 2019
Military Ombud Symposium at the Emperors Palace*

2. THE ABILITY TO CONNECT WITH THE CITIZENS

The PSC has been concerned about how on one hand, public administration has been ‘very busy’ with planning, implementation, compliance with various prescripts, and reporting; yet on the other hand experiencing service delivery protests, dealing with human factor crisis, and investing much resources in curbing corruption. Yet the South African Constitution is clear that quality of service is as important as provision of things. The question is: **How do we inculcate a culture where professionalism and Ubuntu are a major concern of planning and performance management systems?** In other words how can public service make the striving for citizen satisfaction a core performance issue?

The Constitution requires that the PSC provides an evaluation of the extent to which the principles in section 195 are complied with [section 196(4)(e)]. Those principles are the following:



The Constitutional values and principles are not just about compliance only. They are about ensuring that we pride ourselves in connecting community imperatives with work strategies – and in that way create a public service regime that cares. The PSC has designed an indicator-based tool, using the above principles, as a frame that it applies when it conducts evaluations of departments against the public administration principles.

In recent years the PSC evaluated the following departments, amongst others:

- Correctional Services
- Water and Sanitation
- Economy and Enterprise Development, North West
- National Treasury
- Human Settlements
- Social development sector (1 national and 9 provincial departments)



These evaluations led to a State of the Public Service report, which was included in the PSC's last report to Parliament.

The key findings on the State of the Public Service were the following:

The performance of the public service is skewed towards being **more compliance driven than values driven**. Due diligence in adhering to all the rules has become so imperative that responsiveness to the needs of citizens is neglected. For instance, some departments are often found to have demonstrated good use of financial resources with good audit outcomes. However, in reality the use of such resources have little to do with meeting the expectations of the citizens. Therefore, management practices tend to be defined by what is prescribed by the rules and are also limited by the rules. In itself this is not bad, but management that has less clout to innovate situational solutions could be one of the reasons citizens feel the public service does not demonstrate that it cares.

In the case of maintaining a high standard of professional ethics, **ethics is reduced to institutional issues** like following formal disciplinary procedures, disclosure of financial interest/ managing conflict of interest, appointment of ethics officers, approval systems related to Remunerated Work Outside one's Work in the Public Service, existence of policies on sexual harassment, bullying in the workplace and Anti-Fraud; and Corruption measures. The manner in which public servants conduct themselves and the kind of behaviour and responses experienced daily by citizens and clients in their dealings with the public service, hardly gets attention as part of managing professional ethics.

Departments simply implement those measures for complying with the public administration principles that are regulated. This is when, for example, the definition of community participation becomes tantamount to whether a register was signed to prove a meeting was held. The content of the discussions during such meetings and feedback is not featured strongly as part of community participation. What is regulated is a poor representation of the principles and implies little innovation, adaptability and flexibility to resolve different problems through different approaches. A balance between pursuing rules that are created to maintain order and stability, and a values-driven organisational culture that guides professional conduct of all public servants is needed.

With regard to each of the above findings the PSC will further engage with key stakeholders in order to start a discussion on what systemic changes in public administration processes should be brought about to offer solutions to these challenges.

The lessons from the specific departments are deep and they are being discussed with the relevant departments. However, it is important to bring to the attention of top administrators some overarching lessons: Firstly, working in silos still prevails as a major problem in government. Once departments define themselves in terms of specific core expertise, they trivialize other experts who specialize in managing connections with other departments. Monitoring and evaluation, in particular, is reduced to compliance rather than finding solutions to be responsive. Secondly, departments that make policy do not invest enough time to discover how the generic orientation of the policies affects departments differently. So, for example, the audit requirement for evidence that proves that workshops and meetings were held, can be fulfilled even if that 'participation' did not yield much for the community. In any case 'responsiveness' for the Department of Social Development as compared to Water and Sanitation, cannot be defined in the same way even with the best of intentions. Thirdly, when they are being assessed departments do not want to open up about 'things that befall them'. For example

corruption in prisons is difficult to broach when Correctional Services wants to portray being in control of what is happening in prisons. Yet there are reports that some inmates are subjected to bullying and blackmailed into requesting relatives to make electronic transfers of money to the relatives of the bully. The lesson for the PSC is that if assessments are to be effective, scoring 'responsiveness' for example, must be about having systems that identify changing circumstances constantly just as well as looking into the departments' active strategies to respond to those circumstances. Qualitative methods of assessment must be deployed in the Public Service, especially by experts and departments and units doing monitoring and evaluation.

3. THE EXTENT AND NATURE OF CONTRACT APPOINTMENTS IN THE PUBLIC SERVICE

In the execution of its mandate, the PSC observed an increasing number of employees being appointed on contract for extended periods, mostly additional to the establishment in the various government departments. In some instances, the PSC also observed that some of the departments that have employed contract employees additional to their staff establishment also have permanent employees who are placed additional to the staff establishment as a result of restructuring, reorganisation or modernisation for periods longer than 12 months. In view of the aforementioned, the PSC took a decision to conduct a study on the extent and nature of, as well as the rationale **for contract appointments in the Public Service.**

It is important to note that there are various reasons why an employer would opt for fixed term contracts when sourcing certain skills and expertise. Applicable Public Service and labour legislation also makes provision for the use of fixed term contracts and defines the circumstances when this is applicable. In terms of Public Service Regulation (PSR) of 2016 the only exemption is with regards to the filling of posts in the offices of Executive Authorities (EAs). The appointment of officials in EAs' offices is linked to the EAs' term or limited to three years. With regards to the appointment of staff additional to the establishment, Regulation 57 of the PSR requires that contracts should not exceed 12 months, whereas Regulation 60 states that former employees' contracts may not exceed three years which can be extended for a further three years. According to section 198B (3) of the Labour Relations Act 66 of 1995, an employer may employ an employee on a fixed term contract or successive fixed term contracts for longer than three months of employment only if the nature of the work for which the employee is employed is of a limited or definite duration.

The findings show that all departments that participated in the PSC study made use of contract appointments to fill some vacant posts and to appoint employees additional to the approved staff establishment. The rationale for appointing contract employees and for the extension of fixed term contracts additional to establishment was to ensure continuous service delivery and effective management of increased workload with a view for improved organisational performance.

The study also found that there were a significant number of fixed term contracts that had been renewed more than once and in some instances three times or more. It should thus be noted that if the Public Service continues to continuously renew fixed term contracts, it runs the risk of creating reasonable expectation for employment. Case Law reviews on legitimate expectation have revealed that disputes relating to contract appointments end up in the Commission for Conciliation Mediation and Arbitration (CCMA) including Labour Courts. In instances where a fixed term contract has been renewed several times, sometimes the ruling is often in favour of the employee on the basis that a "reasonable expectation" of permanent employment has thus been created.

The study also established that there were (2 out of 15) national departments and (23 out of 42) provincial departments respectively wherein permanent employees were placed, additional to the staff establishment for longer than 12 months after the process of reorganisation, modernisation, and reconfiguration or restructuring.

It is thus recommended that in instances where departments embark on the process of reorganisation, re-configuration or modernisation, departments should manage the processes in such a way that employees who are left **additional to the staff establishment are considered for a developmental programme in order to improve their chances of being placed in other sections or departments.** Therefore departments should manage the transition of placement of employees who are additional to staff establishment with sensitivity, to avoid unnecessary labour relations disputes.

4. OVERALL NUMBER OF GRIEVANCES HANDLED BY THE PSC UP TO 31 MARCH 2019

As part of promoting sound labour relations in the Public Service, the PSC is mandated to investigate grievances of employees in the public service, make recommendations and monitor grievance management by departments. In terms of the grievance rules an employee has 90 days to lodge a grievance from the date of becoming aware of the Act or omission that adversely affects them directly. In addition, aggrieved employees are required in terms of the grievance rules to lodge grievances with their departments, and departments have to deal with those grievances within 30 working days for levels 1-12 and 45 working days for senior managers. If departments fail to resolve grievances within the specified time frames or employees are not satisfied with the outcome of the investigations, the grievances can be referred to the PSC for consideration.

For the period ending March 2019, the PSC handled **560** grievances which were referred to the PSC for consideration, with **361** of these grievances reflected on the database for properly referred grievances and **199** on the database for cases referred outside the provisions of the Grievance Rules. Of the 560 grievances, the **488** (87%) cases included **428** cases for levels 2-12 and **60** cases for members of the Senior Management Service.

Table 1: The number of grievances handled by the PSC during 1st, 2nd, 3rd and 4th quarters of the 2018/19 financial year (Total numbers reflected are cumulative)

Grievances Received	1 st Quarter (1 Apr - 30 Jun)	2nd Quarter Cumulative Totals (1 July - 30 Sept)	3 rd Quarter Cumulative Totals (1 Oct - 31 Dec)	4 th Quarter Cumulative Totals (1 Jan - 31 March 2019)	New Cases received in Q4
Total number of grievances received	203	349	451	560	109
Properly referred grievances	149	233	299	361	62
Grievances referred outside the provisions of the Grievance Rules	54	116	152	199	47

As can be seen in Table 1 above, **560** grievances were handled by the PSC between quarter 1 and quarter 4 of 2018/19. Since the total numbers are cumulative from the previous quarter, this means that a total of **109** new grievances were received in the fourth quarter.

This is an indicator that these grievances could not be resolved from the Departments where they emanated.

Figure 1 shows the location of the 361 properly referred grievances up to March 2019. It illustrates that the highest number (**155**) of these grievances came from national departments and the second highest grievances (**58**) came from Limpopo departments.

Figure 1: Properly referred grievances handled by national and provincial offices

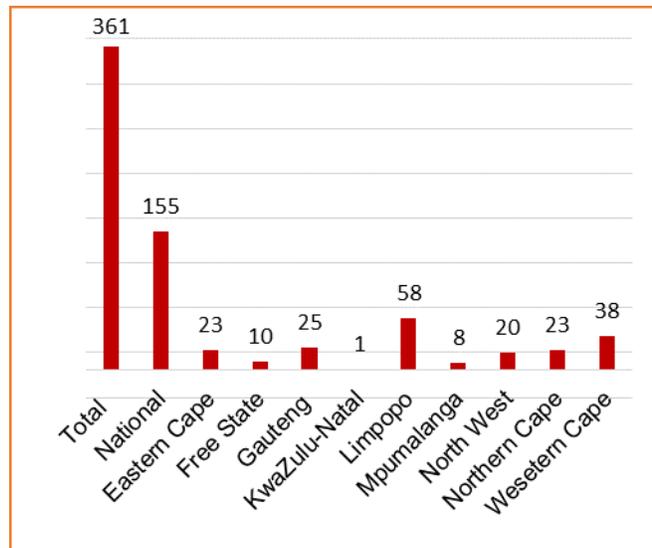


Figure 2 illustrates that of the 361 properly referred grievances for the period ending 31 March 2019, **299** (82, 8%) were concluded and **61** (17,2%) grievances remained pending.

Figure 2: Status of properly referred grievances up to 31 March 2019

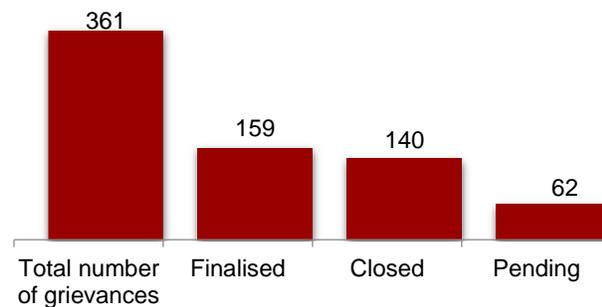
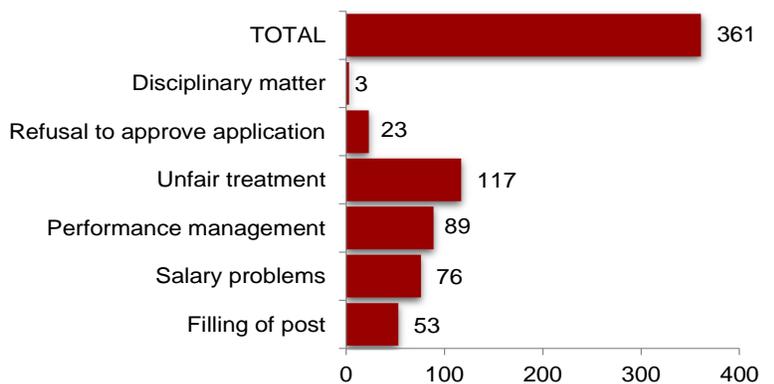


Figure 3 shows that most of the grievances received relate to unfair treatment (**117**). Performance management (**89**) and salary problems (**76**). Unfair treatment grievances relate to ‘unprofessional’ conduct in the form of bullying, victimization, harassment, sexual harassment, etc., whether real or mistakenly perceived to be happening. The PSC has also observed that it is fairly easy to deal with grievances related to salary problems, recruitment and selection, performance management matters because it is fairly easy to identify the cause of the act or omission based on available prescripts. However, unfair treatment grievances are not easy to deal with due to the complexity of the concept and how it manifests itself in practice. This is the reason why the PSC convened a **Roundtable on Understanding the Causes of and Ending Unfair Treatment in the Workplace** and further produced a roundtable report as well as a Communique on Unfair Treatment.

Figure 3: Nature of properly referred grievances



5. BUILDING INTEGRITY IN THE PUBLIC SERVICE

Corruption is a universal problem that undermines growth and development by diverting resources away from development programmes thus increasing poverty, inequality and underdevelopment. It complicates sustainable development and hits the poor very hard. Corruption slows economic progress. In this respect, the PSC developed a research report relating to building Integrity in the Public Service which is as follows:

The existence of anti-corruption whistleblowing hotlines in national and provincial departments

The PSC conducted a study on the existence of whistleblowing hotlines in national and provincial departments. The PSC witnessed that there are some departments that are planning to establish an internal anti-corruption whistleblowing hotline. This is notwithstanding the fact that Cabinet memorandum no 43 of 14 August 2003 provides for the establishment of a single National Anti-Corruption Hotline (NACH) for the Public Service. In 2004, Cabinet introduced a NACH that caters for the public service, public entities and municipalities. The PSC was mandated by Cabinet to manage the NACH. Part of the mandate was to establish a central database where allegations of corruption could be managed. The idea of establishing a single anti-corruption hotline was to prevent the proliferation of hotlines, possible duplication and overlap which in turn could lead to duplication of resources and investigations. The establishment of the NACH was the most visible and collaborative anti-corruption effort post 2004.

In July 2016, the Minister for the Public Service and Administration issued Clause 22 of the PSR that provides that a head of department shall *“establish a system that encourages and allows employees and citizens to report allegations of corruption and other unethical conduct, and such system shall provide for confidentiality of reporting; and the recording of all allegations of corruption and unethical conduct received through the system or systems”*.

This is in spite of the fact that Cabinet Memorandum no.45 of 2003 provides for the establishment of a single anti-corruption hotline in the Public Service which is housed by an oversight body such as the PSC. The rationale behind this was to ensure that all complaints reported in the Public Service are being investigated without fear or favour by the relevant Law Enforcement Agencies.

Further analysis of the anti-corruption hotlines in departments found that, the majority of departments have anti-corruption hotlines that are dysfunctional and no data management (not as effective). The hotlines have problems of different standards, lack of effectiveness and poor resources. Therefore, there is wasteful and fruitless expenditure incurred by departments.

The PSC will engage with the Minister for Public Service and Administration to give guidance on the implementation of clause 22 of the PSR, 2016 as it is in conflict with Cabinet Memorandum no 45 of 14 August 2003 which requires that the Government should establish a single National Anti-Corruption Hotline for the Public Service.

Complaints lodged through the NACH

From the PSC perspective, Hotlines form part of a comprehensive ethics framework by providing a proactive fraud prevention and detection control process. Typically, hotlines are established as an additional mechanism to report fraud, theft and other forms of irregularities without the fear of reprisal. While most organisations will have processes in place to report internally to an individual's supervisor or human resource representative, the availability of a hotline ensures that callers also have access to an anonymous process to submit reports.

The NACH operates 8 hours and 30 minutes per day. During the 2018/2019 financial year, the NACH registered a total of **51 581** incoming calls as reflected in **Table 2** below. Out of **51 581** incoming calls, only **1278** case reports were generated. Of the 1278 reports generated, the PSC closed **202** cases due to lack of details. The remaining **1076** cases were referred to departments for investigation. In terms of the existing protocols, these cases were referred to national and provincial departments and public entities within seven 7 days for investigation. **Table 2** below shows that a total of **734** cases, which constituted **68.21%** of all the cases reported were relating to the public entities of which the bulk of the cases (**727**) were referred to the South African Social Security Agency (SASSA). No feedback was expected from SASSA on these cases. As a result, all of these cases were closed on the CMS of the NACH. This is due to the fact that the PSC has no jurisdiction on SASSA matters. The second highest number of cases reported through the NACH as at 31 March 2019 were in respect of the national departments. This constituted **18.40 % (198)** of all the cases that were reported through the NACH during the period. One hundred and forty four (**144**) cases, which constituted **13.38%** were relating to provinces. Thirty two (**32**) cases in respect of the national and provincial departments were presented to the Complaints and Grievance Panels.

Table 2: Cases reported through the NACH during 2018/2019 financial year and referred for investigation

Referred to	First quarter			Second quarter			Third quarter			Fourth quarter			Total
	April	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
Eastern Cape	0	2	1	1	1	1	3	3	0	4	2	0	18
Free State	1	0	0	3	1	1	1	0	0	0	1	2	10
Gauteng	0	2	1	0	1	5	3	2	4	1	2	3	24
KZN	1	0	0	2	2	4	1	1	1	2	2	3	19
Limpopo	1	2	5	2	5	2	0	2	1	0	2	3	25
Mpumalanga	2	1	0	1	3	3	1	0	3	1	0	0	15
North West	2	0	2	1	0	0	1	1	0	1	2	1	11
Northern Cape	0	0	0	0	0	0	0	0	0	0	0	0	0
Western Cape	2	2	1	3	5	1	2	2	0	1	2	1	22
Public Entities	43	46	32	55	73	54	64	45	46	89	88	99	734
National Departments	12	15	10	15	24	17	20	18	19	16	18	14	198
TOTAL	64	70	52	83	115	88	96	74	74	115	119	126	1076
GRAND TOTAL	186			286			244			360			

As indicated above, the PSC found that there are no cases reported through the NACH against the Northern Cape Province during the 2018/2019 financial year. Furthermore, there was a decline in the reporting of cases in the Free State and Mpumalanga Province.

Public Administration Investigations conducted by the PSC

The PSC has the mandate to investigate either of its own accord or on receipt of any complaint personnel and public administration practices and to report to the relevant Executive Authority (EA). 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.

Complaints received

As reflected in **Figure 4**, as at the end of the fourth quarter (March 2019), **280** complaints were lodged with the PSC. Of the 280 complaints lodged, **173** (62%) were finalised and **107** (38%) were pending. As at the end of the fourth quarter, of the 280 complaints, **27** complaints relating to national departments were referred by the NACH to the Chief Directorate: PAI for investigation. The figures indicated above are an accumulation of the complaints handled by the PSC during the 2018/2019 financial year, including the complaints that were pending from the previous financial years, which is regarded as carried over cases.

The table below provides location of the 280 complaints handled by the PSC up to 31 March 2019, per National and Provincial level.

Figure 4: Progress on complaints received

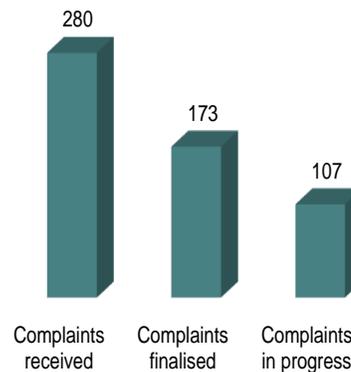


Table 3: Location of the 280 complaints

National/Province	Complaints received	Complaints finalised	Complaints in progress
National	87	56	31
Eastern Cape	41	20	21
Free State	18	12	6
Gauteng	22	12	10
KwaZulu-Natal	20	13	7
Limpopo	38	32	6
Mpumalanga	15	10	5
North West	23	7	16
Northern Cape	11	7	4
Western Cape	5	4	1
TOTAL	280	173	107

In the National departments, the Department of Correctional Services had the highest number of complaints (**12**), followed by the Departments of Public Works, the South African Police Service and Water and Sanitation

that had **7** complaints each. One complaint was received from each of the following departments:

- Agriculture, Forestry and Fisheries.
- Centre for Public Service Innovation.
- Civilian Secretariat for Police.
- Education.
- Government Communication and Information Systems.
- Government Printing Works.
- Health.
- Labour.
- Military Veterans.
- Mineral Resources.
- Public Service and Administration.
- Public Enterprises.
- Science and Technology.
- Social Development.
- Trade and Industry.
- Department of Women.



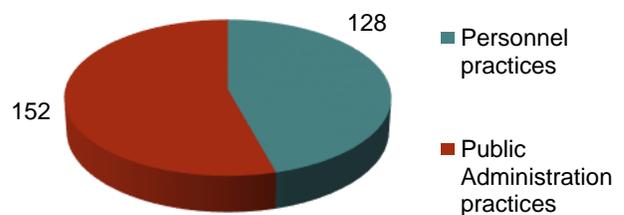
With regard to the provinces, the Eastern Cape had the highest number of complaints (41), followed by Limpopo (38), North West (23), Gauteng (22) and KwaZulu/Natal (20). The lowest number of complaints in the provinces were from the Western Cape (5 complaints), Northern Cape (11) and Mpumalanga (15).

Nature of cases

The complaints referred to in **Table 3** above, relate to adherence to applicable personnel and public administration practices as well as procedures in the public service such as recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the public service.

“Applicable procedures” forms an integral part of personnel and public administration practices and to some extent there is an overlap.

Figure 5: Breakdown of the nature of cases received



For purposes of this exercise the nature of cases of complaints handled by the PSC has been broken down into two categories, that is, personnel practices and public administration practices. **Figure 5** reflects the breakdown of the nature of the **280** complaints handled by the PSC during the period up to 31 March 2019, and indicates that **128** complaints (46%) relate to personnel practices and **152** complaints (54%) relate to public administration practices.

Trend analysis on public administration investigation complaints

The table below compares the fourth quarter of the 2017/18 financial year with the fourth quarter of the 2018/19 financial year:

Table 4: Overview of complaints finalised by the PSC

Financial Year / Quarter	Complaints Received	Complaints Finalized	Complaints Pending	% of complaints finalized VS complaints received
2017/18 - Quarter 4	306	211	95	69%
2018/19 - Quarter 1	127	15	112	12%
2018/19 - Quarter 2	171	35	136	20%
2018/19 - Quarter 3	222	74	148	33%
2018/19 - Quarter 4	280	173	107	62%

From the above it is evident that the complaints finalised in the fourth quarter of the 2018/2019 financial year is 62% when compared to the fourth quarter in the previous financial year (2017/2018) which is **69%**. The decrease in the number of complaints finalised could be ascribed to the reduction of **3** investigators in the third and fourth quarters at the national office due to resignation, transfer and promotion. Furthermore, investigators were also fully involved in investigations in the national Departments of Public Works, Agriculture Forestry and Fisheries and at the Public Service Sector Education and Training Authority (PSETA).

The PSC continues to receive complaints relating to the alleged irregular filling of posts which makes up the majority of the complaints received. The PSC has assisted the national and provincial departments by developing the document "Guidelines to correct irregular appointments", in those instances where the allegations are found to be substantiated.

6. FINANCIAL DISCLOSURE FRAMEWORK

The Financial Disclosure Framework was introduced to the South African Public Service in 1999 as a critical step to maintain the confidence that the public confers on the Public Service. As part of the endeavours to fulfil its constitutional mandate, the PSC monitors the implementation of the Framework. The Framework is contained in Chapter 2 of the PSR, 2016.

6.1. Scrutiny of Financial Disclosure Forms

As at the end of the fourth quarter of the previous financial year, the PSC had scrutinised 100% of the Financial Disclosure Forms of the SMS members in the Public Service. The following issues were identified through the scrutiny process:

- **Non-compliance with the requirement to submit financial disclosure forms**

There are still departments that still do not submit the financial disclosure forms by the due date. EAs must hold the HoDs accountable for non-compliance with the FDF.

- **Actual Conflicts of interest**

The PSC found **11** cases of actual conflicts of interest were found in **11** National Departments and **3** provincial departments. To this end, it is recommended that the respective EAs/HoDs must consider taking immediate disciplinary action and report the matter to National Treasury to restrict the affected companies from doing business with the state.

- **Potential Conflict of Interest**

It was found that there are SMS members whose companies are registered on the Central Supplier Database of the National Treasury (CSD). The EAs/HoDs are advised to consult with the affected SMS members and take appropriate actions.

- **Gifts and Sponsorship**

The PSC has identified cases where SMS members received gifts which exceeded the stipulated threshold of **R350.00** per year. The EAs were advised to consult with officials who received gifts and/or sponsorships other than diplomatic gifts to verify if these were not gratification or gifts received, solicited or accepted in contravention of Regulation 13(a) or (h) of the PSR, 2016. Where contravention of Regulation 13(a) or (h) could be established, the EAs are advised to consider taking disciplinary action against the affected officials in terms of section 16A of the Act.

The Minister for Public Service and Administration should consider issuing a directive to make it compulsory for departments to have gift policies that can properly address the management of gifts in the public service in accordance with Regulation 13(h) of the PSR, 2016. In addition, the MPSA may make it compulsory for departments to keep and maintain gift registers, which will enable the effective scrutiny of gifts and sponsorships by the PSC.

- **Other remunerative work**

Out of 428 SMS members who were engaged in ORW during the period under review only **142 (33%)** obtained the necessary approval. The EAs are advised to take the necessary actions in terms of section 31 of the Public Service Act, 1994 as amended.

- **Feedback on actions taken by executive authorities with regard to identified cases of conflicts of interests**

The PSC received feedback from a total of **72** EAs in respect of the 2016/2017 scrutiny findings, albeit some was received after the Overview Report for the 2016/2017 financial year had been finalised. With regard to national departments, only **8** EAs provided feedback to the PSC in respect of the 2016/2017 financial year. During the 2017/2018 financial year feedback was received from a total of **59** EAs (i.e. **53** from provinces and only **6** from national departments). Parliament must hold EAs who did not provide feedback on actions taken as a result of the PSC's findings, for non-compliance with the FDF.