

# COVID-19 TERS CORRUPTION AT WORK





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## INTRODUCTION

The Temporary Employer / Employee Relief Scheme (TERS) was introduced as one of a range of economic stimulus measures after a national lockdown was instituted in response to the Covid-19 pandemic. The purpose of TERS was to support employees whose services would not be used during lockdown because of the disaster regulations that designated only certain industry sectors and workers as essential. Following the lifting of hard lockdown, TERS benefits continued to support those employees who were having to work less than they would like to and whose income was diminished because of pandemic-related adaptations such as staggering of work hours and shorter hours to implement social distancing in the workplace.

TERS has supported many people since its introduction in March 2020. By 31 July 2020<sup>1</sup> R37.1-billion in Unemployment Insurance Fund (UIF) funds had been disbursed through the TERS benefit – but its administration has not been without complications. Very soon after the announcement of TERS, it became apparent that the UIF system was faced with administrative issues that were hampering it from being able to process the applications at a pace that kept up with the realities of employees' circumstances. Issues of corruption also began to emerge.

The Covid-19 pandemic has exposed many pre-existing weaknesses in internal control environments. Auditor-general Tsakani Maluleke acknowledged in her briefing on her office's second special Covid audit report that it was important to recognise that the TERS had to be delivered rapidly. However, she also pointed out that administering the TERS benefit was made more challenging because it was taking place in a compromised control environment.<sup>2</sup>

<sup>1</sup> Auditor General of South Africa. 2020. Second Covid special report. Available at: [https://www.agsa.co.za/Portals/0/Reports/Special%20Reports/Covid-19%20Special%20report/Second%20special%20report%20on%20financial%20management%20of%20government's%20Covid19%20inititives%20-%20FINAL%20PDF%20\(interactive\).pdf](https://www.agsa.co.za/Portals/0/Reports/Special%20Reports/Covid-19%20Special%20report/Second%20special%20report%20on%20financial%20management%20of%20government's%20Covid19%20inititives%20-%20FINAL%20PDF%20(interactive).pdf)

<sup>2</sup> Auditor General of South Africa. 2020. Briefing on Second Special Covid Audit report. Available at: <https://www.pscp.tv/w/1DXxyRzlyRZKM>



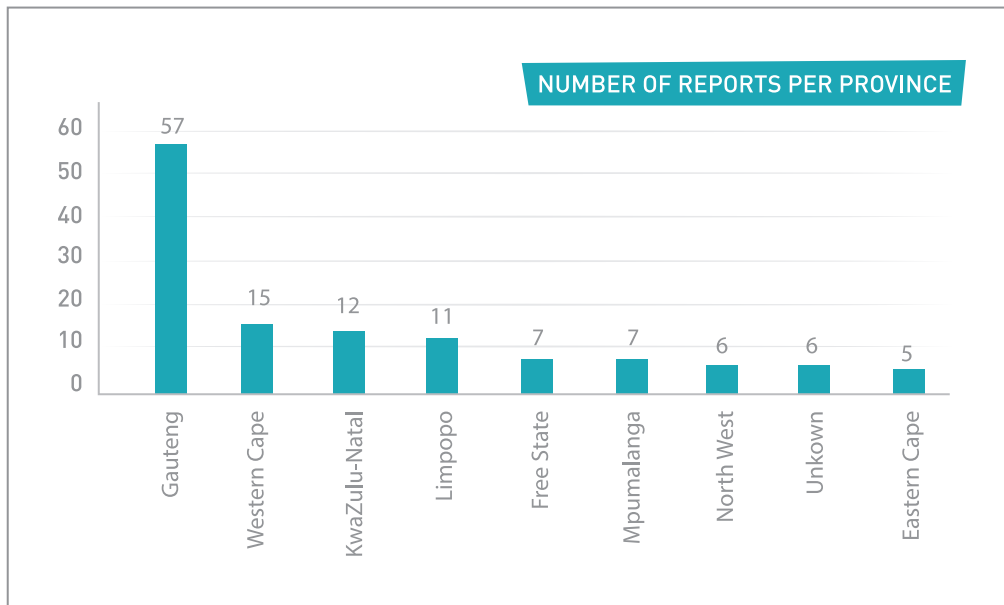
TERS is not intended to be an ongoing benefit, but was rather designed as a temporary form of social and economic relief to employees who could not work and had been made vulnerable by the pandemic. It will come to an end in January 2021.

In this report we highlight the trends contained in 126 whistle-blower reports that relate to TERS, and make observations based on those reports. Our recommendations are aimed at ensuring that these issues are dealt with as the TERS benefit period draws to a close, and at strengthening the operations of the UIF going forward.



## THE MOST AFFECTED AREAS

### TERS CORRUPTION REPORTS PER PROVINCE



## MUNICIPAL AREAS WITH THE HIGHEST REPORT VOLUMES

NO.	MUNICIPAL AREA	NO. OF REPORTS
1	City of Johannesburg	30
2	City of Tshwane (Pretoria)	18
3	City of Cape Town	14
4	eThekwin Metropolitan Municipality (Durban)	9
5	Ekurhuleni	5

## INDUSTRY SECTORS WITH THE MOST REPORTS

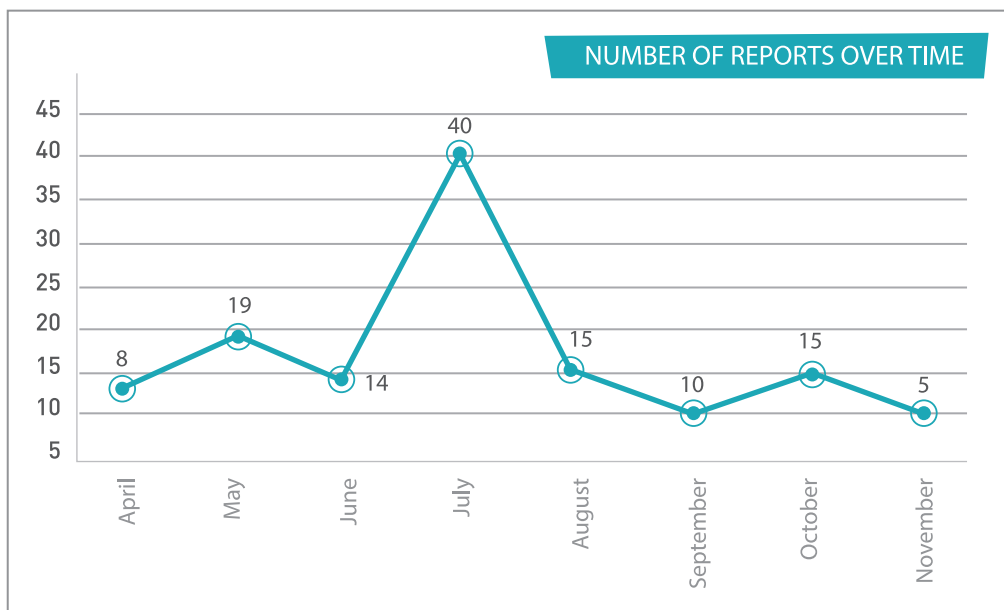
NO.	INDUSTRY TYPE	NO. OF REPORTS
1	Private Security Services	8
2	Food and Beverage Services	6
3	Fuel Sales (Petrol Stations)	6
4	Transport and Logistics	6
5	Construction	5

**CORRUPTION WATCH  
REPORT ON **COVID-19**  
TEMPORARY  
EMPLOYER/EMPLOYEE  
RELIEF SCHEME  
(TERS)**



## THE CORRUPTION TRENDS

### REPORTS PER MONTH



## IMPLICATED PERSONS

**The players most commonly implicated in corrupt acts related to TERS are:**

- ▶ Payroll officers, finance personnel and managers at employers
- ▶ Inspectors who take bribes to ignore labour rights breaches
- ▶ Third parties who offer support to access benefits

## MOST FREQUENT TYPE OF ALLEGATIONS

NO.	NATURE OF ALLEGATION	NO. OF ALLEGATIONS
1	Employer has received TERS but hasn't paid over TERS to employee	77
2	Employer claimed for employees who are working	11
3	Employer paid employees less TERS than received	9
4	Employer says they have returned TERS payout to Department of Employment and Labour	7
5	Employer put in false claims	6
6	Employer didn't claim TERS for employees who aren't working	6
7	Wages treated as loan until TERS paid	4
8	Employer does not deduct UIF or pay it to Department of Employment and Labour	4
9	TERS hasn't been paid out yet to the employer	3
10	Employer deducted UIF from employee but did not pay it over to Department of Employment and Labour	3

By far the most reports (88%) that we received were from employees. In most cases their income had dried up or been drastically reduced and they were desperately trying to follow up about when their TERS claims would be paid out. Many employees (77) suspected that their employers had pocketed the TERS money instead of paying it over to them. A number of employees checked the Department of Labour's website and, determining that the money had been paid out, confronted their employers about it. In seven such cases, the employer said that they had paid the money back to the Department of Labour (DoL).

In nine instances, the employer paid employees less TERS than received from the Department of Labour. Several employers claimed TERS for employees who were actually working, and some claimed for employees who had left their employ and who then could not access UIF benefits.



A number of reports detailed how, when employees could not work during lockdown as they were not essential services, the employer treated the continued payment of their salary/wages as a loan while waiting for TERS payouts.

Various employees detailed how their employer does not provide payslips or IRP5s, and/or pays wages in cash. A number alleged that this was because their employer was engaging in tax evasion by not paying the tax due to the South African Revenue Service (SARS). In four cases the reporters outlined how their employer would not claim TERS for them and once they made enquiries, it emerged that this was because the employer had never deducted or paid UIF on their behalf. In a further three cases, the employer was deducting UIF but not paying it over.

In some instances, the reporter was not making allegations of corruption, but was growing desperate while waiting for the TERS payout.

## CORRUPT ACTS INVESTIGATED

In many instances administrative justice was the crux of the matter. There were delays in the time from application to receiving the TERS benefit. This meant that when the employee was in crisis, the benefit was not available to them. Many of the reporters explained their sense of urgency that was arising from being unable to pay their expenses such as rent, purchase food, buy airtime, or pay for transport.

The Promotion of Access to Administrative Justice Act (PAJA) promotes efficient administration and good governance. It was enacted to “create a culture of accountability, openness and transparency in the public administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action”<sup>3</sup>. In too many of the reports that Corruption Watch receives, it is evident that maladministration has become an entrenched culture. We noted repeated TERS reports that documented the frustrations of individuals who did not experience just administrative action in the processing of their claims.

<sup>3</sup> Promotion of Access to Administrative Justice Act. Available at: <https://justice.gov.za/legislation/acts/2000-003.pdf>

In numerous instances there were significant delays on the part of the DoL. How a department interfaces with citizens can result in a person's dignity being enhanced, or the person is left increasingly frustrated because officials neglect to ensure they carry out their duties efficiently. The more common complaint that related to officials was a frustration at failures to ensure matters were dealt with in a timely manner. It was evident that processes and systems that were put in place were insufficient, given the scale of the task.

In the TERS reports we received which contained allegations of corruption, it is evident once more that both the public and private sector is involved in corruption. In most cases, the allegation was that the employer (private sector) had been the initiator of the corrupt act, for example, bribing an official (public sector).

Corruption Watch investigated reports where there was sufficient evidence of criminal wrongdoing to enable further action. In selected cases there were allegations of employers bribing officials. In several reports there were allegations of false TERS claims for employees who had long since left the company, claims made for ID numbers of persons not even working for the company, and for employees who were in fact working during lockdown.

The cases that Corruption Watch investigated further were clearly not mere administrative errors, rather they were deliberate acts amounting to fraud and misappropriation of resources. There were also several allegations of employers failing to pay UIF deducted from employees to DoL, as well as their failure to pay employees tax payable to SARS - this is illegal and amounts to tax evasion.

These reports are being referred to the Special Investigating Unit (SIU) for the Fusion Centre to investigate. The Fusion Centre is a collaborative effort by South Africa's leading law enforcement agencies to share information and work on investigations jointly. It has brought together numerous agencies, including the Directorate for Priority Crime Investigations (Hawks), the Financial Intelligence Centre, the National Prosecuting Authority and the SIU.



**LOST  
MY JOB  
DUE TO COVID-19**

LAYOFF  
NOTICE

## CONTRAVENTIONS OF LAW

Corruption Watch received a range of reports that highlighted violations of South Africa's labour and employment law. While the Covid-19 pandemic and the lockdown in response to it brought about tough economic circumstances for many businesses, it is also clear that some employers abused the circumstances to ignore employees' labour rights or had been habitually ignoring labour law prior to lockdown too.

NO.	BAD LABOUR PRACTICES DURING LOCKDOWN	NO. OF REPORTS
1	Employer reduced pay	12
2	Employer not paying employees	10
3	Employer paid/deducted days not worked as leave	4
4	Wages below minimum wage	3
5	Employee has to make up lockdown days not worked	2
6	Employer does not provide payslips	2
7	Wage payments made in cash to enable non-payment of employee tax	2
8	Underpaying/exploiting foreign nationals	2
9	Use of undocumented labour	2
10	Employer trying to force employee to resign	2

## SAFETY NET FAILS

"Our head office they just tell us many stories, this is so painful because other shops for this company they have been payed. We are hungry, we have no money for taxis. I have to walk from location at 6:30am and it is still dark. Please assist us to get our money from UIF."

"Our employers collected the income for April, May and June. Till today we waiting. We need help. We hungry, we need to pay rent and the Depart of Labour is not helping."

"We have a problem with our employer. They didn't apply for us our UIF TERS as government announced because of this COVID-19 problem. We have been trying to get assistance online, but we failing because we don't know why they can't apply on our behalf as government said and we also don't get pay from them. They only gave us 50% on our salaries for April and for May we will be only getting pay for 3 days only they say. What is even worse, that 50% they gave was taken by our debit in our bank account. We stay at home. Our families and kids are hungry. We are going to die of hunger before COVID-19 kill us."

"Our employer received the Covid-19 payments but did not pay the employees. So yesterday he had to be at the meeting with the workers to tell them when to receive their UIF relief payment, but he failed to do so. The workers got very angry which at the end, one of the workers got shot with the rubber bullet when private security company open fire on them."



## RECOMMENDATIONS

**Based on the trends that we observed, our key recommendations are:**

### **Law enforcement**

- ▶ Fusion Centre to look into practices of employers who are not paying over employees' UIF contributions and engaging in other forms of tax evasion.
- ▶ Fusion Centre to investigate cases of bribery of inspectors and Department of Employment and Labour officials by employers, as it undermines labour rights.
- ▶ Law enforcement to continue to recover TERS amounts paid erroneously or due to misrepresentation.

### **Use of technology to improve responsiveness**

- ▶ Improve integration of IT systems at Department of Labour and across different government departments.
- ▶ Department of Labour to ensure that there are an adequate number of officials employed in parts of the system where bottlenecks occur and that officials are equipped with skills for a changing ICT paradigm.

### **Improved processes**

- ▶ Department of Labour to ensure that technological interfaces for UIF administration and claims are user-friendly.
- ▶ Department of Labour must improve responsiveness to ensure that UIF claims are processed timeously. Performance targets related to acceptable turnaround times must be included in officials' performance agreements.
- ▶ If a claim is not successful, Department of Labour must ensure that there are clear mechanisms for the claimant to appeal the outcome.

### **Improved controls**

- ▶ Department of Home Affairs must set a timeframe within which to eradicate duplicate Identity documents.
- ▶ Department of Labour to put safeguards and preventative controls in place to ensure that going forward, UIF claims are assessed more rigorously in order to prevent corruption before it happens.

## CONCLUSION

This report is intended to document the trends in UIF TERS-related corruption allegations we received from whistle-blowers. We hope that it can be used by relevant organs of state including the Department of Labour, the Fusion Centre and the Auditor-General of South Africa. And that ultimately some of the employees who have been contributing to UIF, but were denied benefits because of corruption may still receive the benefits withheld from them.

**VISIT** 

**[WWW.CORRUPTIONWATCH.ORG.ZA](http://WWW.CORRUPTIONWATCH.ORG.ZA)**



# REPORT CORRUPTION!



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our website now.  
The communication is secured  
and your information will be  
treated with utmost care  
and security.

[www.corruptionwatch.org.za](http://www.corruptionwatch.org.za)



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**011 242 3900**

**REPORT VIA WHATSAPP**

**072 013 5569**



## THE CORRUPTION WATCH OFFICE

**CORRUPTION WATCH (RF) NPC**  
8th Floor South Point Corner  
87 De Korte Street  
Braamfontein 2001 Johannesburg  
PO Box 30630 Braamfontein 2017

[info@corruptionwatch.org.za](mailto:info@corruptionwatch.org.za)  
T: 011 242 39100 / F: 011 403 2392