

Report on Financial Misconduct for the 2009/2010 Financial Year



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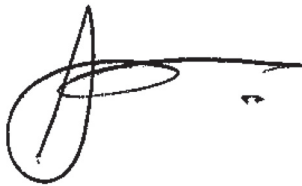
Foreword

The finalisation of cases of financial misconduct is one of the important aspects that contribute to an accountable Public Service. Financial misconduct normally occurs when there is unauthorised, irregular, fruitless and wasteful expenditure of state resources by officials.

Over the years, the PSC has conducted several studies on financial misconduct in the Public Service. The findings of these studies have continued to show that there is still a high number of acts of financial misconduct in the Public Service. Thus accounting officers as top managers in the Public Service should ensure that they act against those involved in financial misconduct as per the Public Finance Management Act of 1999 which states that they should take action in this regard.

The findings of the financial misconduct studies over the years have further shown that there are weaknesses in risk management and control systems in departments. These need to be strengthened to prevent financial misconduct. As this Report shows, the finalised cases for 2009/2010 financial year reflect a drastic increase in the cost of financial misconduct (the highest in the last five years), accompanied by only a marginal increase in the rate of recovery of the money involved. A further worrying trend is the increase in the number of employees who are charged with financial misconduct, but resign before finalisation of their disciplinary hearings. All these important trends should get accounting officers to deepen their efforts to prevent financial misconduct and to deal with it decisively where it has occurred.

I am pleased to present this report on the finalised cases of financial misconduct for 2009/2010 financial year. I remain convinced that if departments implement the recommendations contained in this report, there could be improvement in financial and resource management in the Public Service.

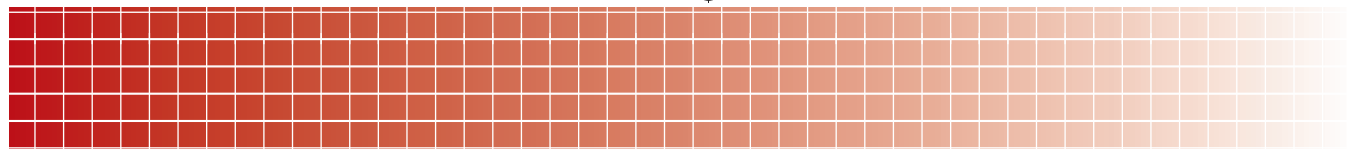


MS PMTENGENI
DEPUTY CHAIRPERSON: PUBLIC SERVICE COMMISSION



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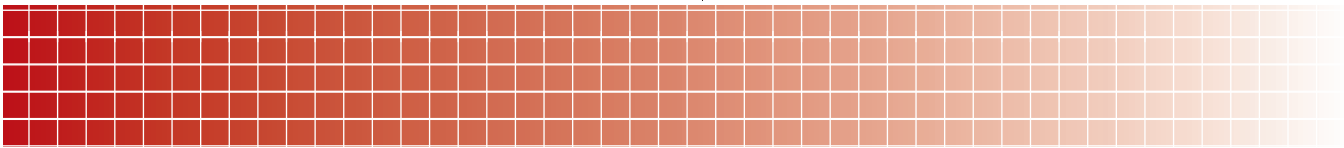
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Glossary

DoJCD	Department of Justice and Constitutional Development
Dti	Department of Trade and Industry
DPSA	Department of Public Service and Administration
GG	Government Garage
GCIS	Government Communication and Information System
CoGTA	Cooperative Governance & Traditional Affairs
HoD	Head of Department
ICD	Independent Complaints Directorate
KZN	KwaZulu-Natal
NACH	National Anti-Corruption Hotline
NMIR	National Minimum Information Requirement
NPA	National Prosecuting Authority
OPSC	Office of the Public Service Commission
PALAMA	Public Administration, Leadership and Management Academy
PFMA	Public Finance Management Act, 1999
PCCA	Prevention and Combating of Corrupt Activities Act, 2004
PSA	Public Service Act 103 of 1994, as amended
PSC	Public Service Commission
SAPS	South African Police Service
SMS	Senior Management Service
SP	Staff personal
SRSA	Sport and Recreation South Africa
STATS SA	Statistics South Africa



Executive Summary

1. INTRODUCTION AND BACKGROUND

Section 196(2) of the Constitution of the Republic South Africa, 1996, inter alia, determines that the Public Service Commission (PSC) must exercise its powers and functions in the interest of the maintenance of effective and efficient administration and a high standard of professional ethics in the Public Service. The PSC is mandated to promote and monitor the efficient, economic and effective use of state resources. The Report on Financial Misconduct serves as a mechanism to enhance oversight in the Public Service.

2. OBJECTIVES OF THE STUDY

The objectives of the Report on Financial Misconduct for the 2009/2010 financial year are to:

- Provide an analysis and statistical overview of the information provided by national and provincial departments on finalised financial misconduct cases for the said financial year; and
- Make recommendations for improvement.

3. METHODOLOGY

3.1 Scope of the study

The study focused on financial misconduct cases finalised in the 2009/2010 financial year, which were reported to the PSC by both national and provincial departments.

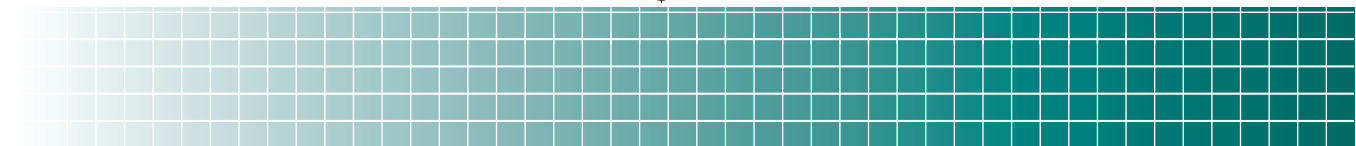
3.2 Data collection process

A circular was sent to all national and provincial departments requesting reports on finalised cases of financial misconduct for the 2009/2010 financial year. In order to ensure that the circular reached the relevant stakeholders it was transmitted per fax and also e-mailed to contact persons within the departments. Furthermore, telephonic follow-ups were made with the departments to confirm receipt of the circular. The format for reporting cases of financial misconduct has been made available to departments since the 2002/2003 financial year and is also available on the PSC's Website. After the expiry of the due date for inputs, reminders were sent to departments which had failed to submit their inputs by the due date. Further follow-ups were made with the departments telephonically, via e-mails and facsimile, reminding them to provide the inputs.

Data verification visits were conducted in sampled departments, at national and provincial spheres of government that submitted nil reports for the financial years 2005/2006, 2006/2007, 2007/2008 and 2008/2009. Data verification was conducted at sampled departments that submitted a **nil return**, in order to verify whether the departments were correct in saying that they did not have any finalised financial misconduct cases. The visits focused on whether the departments had complied with and implemented what the PSC had recommended following its 2008/2009 data verification visits.

3.3 Data analysis

The reports submitted by national and provincial departments were scrutinized in order to ensure that the information provided was accurate. For control purposes a database was compiled for financial misconduct cases reported by both the national and provincial departments.



During the data verification visits, the staff personal (SP) file and/or misconduct files were perused to determine whether the relevant documentation pertaining specifically to financial misconduct was maintained on the SP file, PERSAL, and on an electronic database, and whether the departments had complied with and implemented what the PSC had recommended following its 2008/2009 data verification visits.

3.4 Limitations experienced

The following limitations were experienced during the study:

- Failure by the departments to use the standardised reporting format.
- Inaccurate information furnished by the departments.
- Delays in conducting the data verification visits.

4. FINDINGS

The following are the findings of the study:

4.1 Statistical overview of finalised cases of financial misconduct

4.1.1 Responses from national and provincial departments

All national and provincial departments submitted reports for the 2009/2010 financial year. Of the 39 national departments, 13 submitted a **nil return**. A **nil return** means that the department reported that it did not finalise any financial misconduct cases in the relevant financial year.

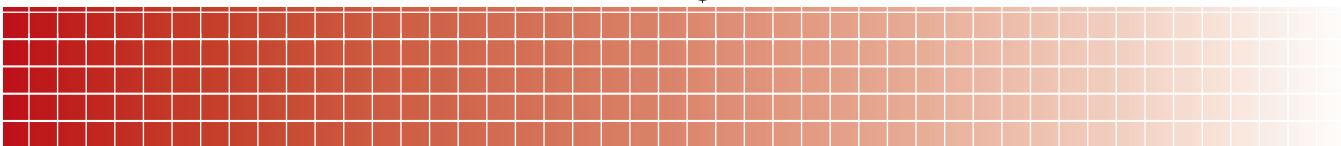
Of the 109 provincial departments, 38 submitted a **nil return**.

4.1.2 Number of cases of financial misconduct reported

A total of **1135** finalised cases of financial misconduct were reported for the 2009/2010 financial year, of which **286** (25%) cases were reported by national departments and 849 (75%) cases were reported by provincial departments.

The Department of Justice and Constitutional Development (DoJCD) reported 93 cases, which represents the highest number of finalised cases reported by national departments for the 2009/2010 financial year. This trend is consistent with the findings made in the 2005/2006, 2006/2007, 2007/2008 and 2008/2009 financial years, where the DoJCD also reported the highest number of finalised cases. The Department of Correctional Services reported the second highest number of finalised cases (48) in comparison to the 13 cases reported in the 2008/2009 financial year.

The KwaZulu-Natal Province reported the highest number of finalised cases i.e. 259 out of the 849 cases reported by the provinces in the 2009/2010 financial year. This represents 30.5% of the total number of cases of financial misconduct reported by the provinces in the 2009/2010 financial year. This trend is consistent with the findings made in the 2007/2008 and 2008/2009 financial years where the KwaZulu-Natal Province reported the highest number of finalised cases. The Western Cape Province reported the second highest number of finalised cases (199), which represented 23.4% of the total number of cases reported by the provinces. Mpumalanga and Northern Cape Provinces reported the least number of finalised cases, namely 24 (2.8%) and 20 (2.3%) respectively.



4.1.3 Types of financial misconduct reported

Cases in the category “fraud” comprise a significant proportion 600 (52.9%) of the overall number of cases reported by the departments in the 2009/2010 financial year. The figure was also high in the 2008/2009 financial year, where this category accounted for 53% of the total number of the reported cases.

4.1.4 Levels of employees charged with financial misconduct

Financial misconduct prevails at all levels in the Public Service. However, the highest number of employees charged with financial misconduct was on salary levels 6 and 7. This finding suggests that employees between salary levels 6 and 7 are prone to commit financial misconduct and tight systems must be put in place in this regard.

4.1.5 Outcome of financial misconduct cases

Of the **1135** finalised financial misconduct cases reported, employees were found guilty of misconduct in 998 (88%) of them. The percentage of employees found guilty compares favourably with the percentage in the 2008/2009 financial year where 1037 officials (86%) charged with financial misconduct were found guilty.

4.1.6 Sanctions imposed in cases of financial misconduct

Final written warnings were issued in 489 cases (43%) of finalised financial misconduct, and this was the most prevalent sanction imposed upon a finding of guilty. It was followed by 214 (19%) cases in which employees were discharged from the Public Service.

4.1.7 Cost of financial misconduct

The total cost reported by national and provincial departments emanating from unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from finalised cases of financial misconduct in respect of the 2009/2010 financial year was **R 346 529 669.39**. Although departments are provided with a format for reporting of finalised financial misconduct cases, departments tend not to adhere to the reporting format and thus the information provided is not always user-friendly. This relates especially to the cost of financial misconduct and the recovery thereof. According to the reports submitted by national and provincial departments, **R 44 384 029.72** (12.8%) was recovered from the employees found guilty of financial misconduct. It should however be noted that this amount includes cases where the financial misconduct did not result in any loss to the State. An example of a case in this regard is whereby the stolen item was subsequently recovered. An amount of **R 302 145 640.12** (87.2%) is reflected as the amount not recovered at the time of reporting to the PSC.

4.1.8 Criminal proceedings instituted against employees charged with financial misconduct

In the 2009/2010 financial year criminal proceedings were instituted against employees in **245** (22%) of the cases. No criminal proceedings were instituted against employees in **651** (57%) of the cases. Furthermore, in **162** (14%) of the cases, departments failed to provide any indication whether criminal or any other proceedings were instituted against employees charged with financial misconduct. In **77** (7%) of the cases, departments indicated that criminal proceedings were not applicable.

4.2. Trend analysis of cases reported since the 2005/2006 financial year

The following findings show the trend in the cases of financial misconduct reported since 2005/2006 financial year:



4.2.1 Decrease in finalised financial misconduct cases for the 2009/2010 financial year

Over the past five financial years, the number of finalised cases has varied from year to year. For example, from a low figure of 771 in 2005/2006 financial year, the number increased to 1135 in the 2009/2010 financial year. The highest number of finalised cases recorded was in the 2008/2009 financial year at 1204.

4.2.2 Increase in finalised cases in the categories "fraud" and "theft"

Finalised financial misconduct cases in the category "fraud" and "theft" have since the 2005/2006 financial year remained the highest. Trends for cases falling in the categories "fraud" and "theft" reported for the past five financial years show that each year these have continued to constitute more than 50% of the cases reported. Cases in the category "misappropriation and abuse", are the second highest.

4.2.3 Consistent increase in the percentage of SMS members charged with financial misconduct

Trends reflect that finalised financial misconduct cases over the past five financial years are most common at salary levels 1 to 8. However, there has been a marginal increase in the number of finalised financial misconduct cases that were committed by SMS members. The total number of finalised financial misconduct cases committed by SMS members have increased from **40** in the 2008/2009 financial year to **43** in the 2009/2010 financial year, representing an increase of 7.5%.

4.2.4 Increase in the percentage of employees found guilty of financial misconduct

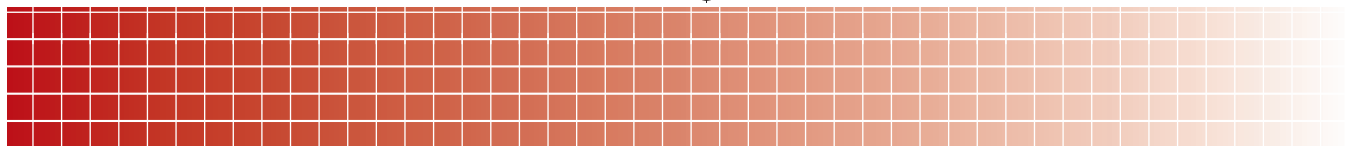
Over the past five financial years, employees have been found guilty in **84.2%** of the cases, following charges of financial misconduct. In the 2009/2010 financial year, employees were found guilty of financial misconduct in **998** (88%) of the cases. The fact that such a large percentage of the perpetrators were found guilty is a clear indication that when the Disciplinary Code and Procedures for the Public Service is applied, it does have a positive impact on the outcome of the disciplinary enquiries.

In the 2009/2010 financial year, in **83** (7.3 %) of the cases, employees were found not guilty and in **27** (2.4%) of the cases, the charges against the employees were withdrawn. There has also been an increase in the number of officials who, subsequent to being charged with financial misconduct, resign before the finalisation of their disciplinary hearing. Such incidents have risen from **17** cases in 2008/2009 financial year to **22** cases in 2009/2010. With such increase (29%) in resignations by officials who have been charged, before the cases are finalised, the PSC hopes that departments always take heed of Section 17 of the Public Service Amendment Act, 2007 which states that:

"(b) If notice of a disciplinary hearing was given to an employee, the relevant executive authority shall not agree to a period of notice of resignation which is shorter than the prescribed period of notice of resignation applicable to that employee".

4.2.5 Cost of financial misconduct highest in five years

There was a 346.1% increase in the cost of financial misconduct in the 2009/2010 financial year i.e. from **R 100 111 076.82** in the 2008/2009 financial year, to **R 346 529 568.20** in the 2009/2010 financial year. The cost of financial misconduct is the highest in five years. Furthermore, the cost is almost equal to the one reported in the 2002/2003 financial year (**R331 213 430.00**). Although the number of finalised cases of financial misconduct went down from **1204** in the 2008/2009 financial year to **1135** in the 2009/2010 financial year, the cost of financial misconduct has increased substantially. The SMS members have the power to disburse large amounts of public funds, hence the cost of financial misconduct has risen despite the reduction in the number of public officials that committed financial



misconduct. This shows a disturbing trend among people who should be custodians of the public purse.

4.2.6 Decline in the rate at which criminal proceedings are taken in cases of financial misconduct

The findings of the study continue to show that not all acts of financial misconduct result in criminal action being taken against offending employees. For instance, cases of gross negligence and financial mismanagement do not necessarily involve criminal conduct. Trends show that criminal proceedings are not instituted against employees in many of the cases. Further, in the 2009/2010 financial year, criminal proceedings were not instituted against **57%** of the employees that had committed financial misconduct. Instead, criminal proceedings were instituted against only **22%** of the employees that had committed financial misconduct. In the remaining **21%** of the cases, departments either indicated that criminal proceedings were not applicable, or they failed to indicate whether or not criminal proceedings were instituted. Over the past five financial years, only **26%** of finalised financial misconduct cases were referred for criminal proceedings to be instituted. Failure by departments to institute criminal action in cases where financial misconduct requires such action to be taken may encourage acts of financial misconduct to continue to be on the rise. If departments ensure compliance with the relevant legislation and institute criminal action against employees that commit financial misconduct, other employees who intend engaging in similar misdemeanors may be deterred from doing so.

4.2.7 Rate of recovery of losses and damages

In terms of section 38(c)(i) of the PFMA, read in conjunction with Treasury Regulations Part 5, paragraph 12.5.1, the Accounting Officer is required to take effective steps to collect all monies due to the department. The PSC therefore requested departments to indicate whether the amounts involved in the financial misconduct were recovered.

In the 2009/2010 financial year both national and provincial departments reported that a total of **R 44 384 028.42** (12.8%) was recovered from the employees found guilty of financial misconduct. This finding suggests that an amount of **R 302 145 539.78** (87.2%) is reflected as not recovered. In comparison to the 2008/2009 financial year, there has been a slight decrease of 0.2% in the amount recovered/no loss to state (i.e. from 13.0% to 12.8%).

In the 2008/2009 financial year, national and provincial departments reported a total cost of **R 100 111 076.82** in respect of financial misconduct, of which only **R 9 946 013.83** (9.9%) was recovered from the employees found guilty of financial misconduct. In order to determine whether further recovery was made, departments were provided with a proforma to report on any further recovery made in respect of cases reported in the 2008/2009 financial year. In most instances, departments did not provide the required information. However, according to the reports submitted by departments, a further amount of **R 483 747.65** (0.48%) was recovered in respect of financial misconduct cases reported in the 2008/2009 financial year.

4.3 Data verification

4.3.1 Scope of the data verification

Data verification is a process whereby the PSC visits departments and interrogates the data provided, in order to verify whether the data provided is accurate or not.

In the execution of the project on the "Overview on Financial Misconduct for the 2008/2009"¹, the PSC included data verification as part of the methodology of the study. At the time data verification visits were conducted in a sample of departments that had submitted nil return reports for the three consecutive financial years of 2005/2006, 2006/2007 and 2007/2008. The outcome of the data verification was then communicated individually to the respective Heads of Department (HoDs), and specific recommendations were made as well. The PSC

¹ Overview on Financial Misconduct for the 2008/2009. Public Service Commission. January 2010.



amongst others, made recommendations relating to the following:

- The management of a misconduct database and accurate record keeping of discipline matters.
- Capturing of misconduct cases onto the PERSAL system.
- Maintaining of proper records of the recovery of monies owed to the State as a result of financial misconduct.
- Compliance with section 34(b) of the Prevention and Combating of Corrupt Activities Act, 2004 (PCCA Act)², by reporting to the SAPS an offence of theft, fraud, extortion, forgery or uttering a forged document, involving an amount of R 100 000,00 or more.

In order to establish whether the sampled departments had complied with and carried out what the PSC had communicated to them during the data verification visits conducted in the 2008/2009 financial year, the PSC, in the 2009/2010 financial year conducted follow-up visits in 19 selected departments. The findings were as follows:

4.3.2 Reporting of finalised financial misconduct cases within the correct financial year

It was found that 9 out of the 19 sampled departments had genuine nil returns and the rest of the departments had reported cases that were finalised in the correct financial year.

4.3.3 Database management of financial misconduct cases

- The Department of Roads and Public Works, Northern Cape, does not keep any form of database for financial misconduct cases.
- The Department of Sport, Arts and Culture, Northern Cape does not keep any form of database for financial misconduct cases.
- The Department of Transport, Safety and Liaison, Northern Cape, maintains a manual database as opposed to an electronic (Excel) database.
- The following departments had an electronic database, in Excel or MS Word format:
 - Public Enterprises
 - Sport, Arts, Culture and Recreation, Free State
 - Cooperative Governance and Traditional Affairs, Free State
 - Office of the Premier, Free State
 - Police, Roads and Transport, Free State
 - Arts and Culture, KwaZulu-Natal
 - Community Safety and Liaison, KwaZulu-Natal
 - Human Settlements, KwaZulu-Natal
 - Office of the Premier, KwaZulu-Natal
 - Provincial Treasury, KwaZulu-Natal
 - Agriculture, Land Reform and Rural Development, Northern Cape
 - Economic Development and Tourism, Northern Cape
 - The Independent Complaints Directorate

However, the information captured on the database by the above-mentioned departments was incomplete. For example, information on the nature of the misconduct, the status of the case, the date the case was finalised, criminal action taken against the employee, etc is not provided for.

- The following departments maintain an Excel electronic database with all the information required:
 - The Department of Cooperative Governance and Traditional Affairs (National)
 - The Department of Environment and Nature Conservation, Northern Cape

2 *Prevention and Combating of Corrupt Activities Act No. 12 of 2004.*

4.3.4 Capturing of misconduct cases onto the PERSAL system

The following departments indicated that they did not capture misconduct cases onto the PERSAL system:

- Public Enterprises
- Cooperative Governance and Traditional Affairs, Free State
- Office of Premier, Free State
- Sport, Art, Culture and Recreation, Free State
- Police, Roads and Transport, Free State
- Arts and Culture, KwaZulu-Natal
- Office of the Premier, KwaZulu-Natal
- Sport, Arts and Culture, Northern Cape
- Economic Development and Tourism, Northern Cape
- Roads and Public Works, Northern Cape

The departments provided various reasons for not capturing financial misconduct cases onto the PERSAL system. The following are the key reasons provided:

- The complexity of the PERSAL system
- Lack of capacity
- Labour Relations Directorate/Section not having access to the PERSAL system
- The Information Technology (IT) Directorate/Section not having installed the PERSAL system in the Labour Relations Directorate/Section
- Labour Relations officials are not trained to capture information onto the PERSAL system

4.3.5 Maintenance of proper records of recovery of monies owed to the State due to financial misconduct

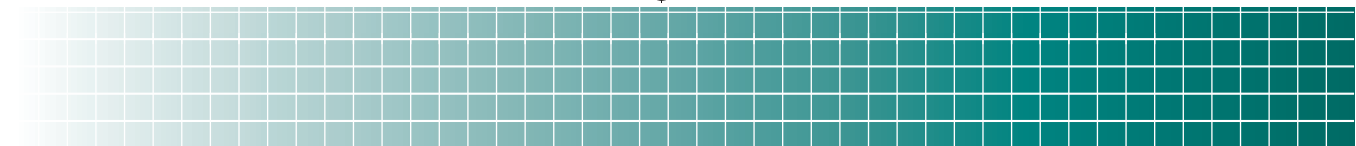
The following departments have proper internal control measures in place in respect of the recovery of monies owed to the State as a result of financial misconduct:

- Cooperative Governance and Traditional Affairs, National
- Public Enterprises
- Arts and Culture, KZN
- Agriculture, Land Reform and Rural Development, Northern Cape
- Economic Development and Tourism, Northern Cape
- Environment and Nature Conservation, Northern Cape
- Roads and Public Works, Northern Cape
- Sport, Arts and Culture, Northern Cape
- Transport, Safety and Liaison, Northern Cape
- The Independent Complaints Directorate

The rest of the sampled departments either did not have proper internal control measures in place or did not have any finalised financial misconduct cases.

4.3.6 Reporting on criminal proceedings instituted against employees

The Prevention and Combating of Corrupt Activities (PCCA) Act, 2004, criminalises any act falling within the broad category of corruption. In terms of subsection 34(1) of the PCCA Act any person who holds a “position of authority” is compelled to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R100 000.00 or more to the SAPS. Section 34(4) of the PCCA Act defines a position of authority to include



a Director-General or head or equivalent officer of a national or provincial department. The PCCA Act therefore criminalizes a failure to report offences such as theft and fraud involving amounts of R100 000.00 and more to the SAPS and such an offence punishable by a fine or imprisonment for a period not exceeding 10 years.

Departments were aware of and complied with the PCCA Act. The following departments indicated that they do report cases of financial misconduct to the SAPS even if the amount involved is less than the one stipulated in the PCCA Act:

- Department of Cooperative Governance and Traditional Affairs (National)
- Department of Economic Development and Tourism, Northern Cape

The rest of the sampled departments indicated they either had no financial misconduct cases finalised in the relevant financial year or the financial misconduct cases involved amounts less than R100 000.00.

5. RECOMMENDATIONS

The PSC makes the following recommendations in relation to the findings pertaining to data collected and the data verification conducted:

5.1 Recommendations with regard to the quality of reports provided by departments in respect of financial misconduct cases finalised in the 2009/2010 financial year

5.1.1 Incomplete reports provided by departments

There are departments that continue to submit incomplete reports.

The PSC therefore recommends that:

- Departments must take cognizance of the information required and ensure that all fields of the reporting format are accurately completed.
- Accounting officers must sign off the information provided to the PSC to ensure accuracy of such information, failing which they must account for failure to provide the PSC with complete reports. Should the accounting officer fail to account, the Executive Authority of such a national or provincial department must take the necessary disciplinary action against the accounting officer for such failure.

5.1.2 Constant increase in the number of financial misconduct cases involving members of the Senior Management Service (SMS)

Trends show that for the past three financial years, there has been a constant increase in the number of finalised financial misconduct cases involving SMS members. Although the increase is marginal, this trend is considered to be alarming, as SMS members are responsible for instituting proper procedures to prevent opportunities for fraud, theft, corruption, mismanagement and other forms of misconduct in their respective departments.

Based on the above, it is recommended that departments must prioritise the training of managers in financial management.

5.1.3 Employees charged with financial misconduct at salary levels 1 to 8

Trends for the past five financial years, show that employees on salary levels 1 to 8 committed the highest number of financial misconduct acts. In the 2009/2010 financial year, employees on salary levels 6 and 7 committed the highest number of financial misconduct acts.



In this light, the PSC recommends tight supervision including random checks on the work of employees that are on salary levels 1 to 8. Furthermore, departments must conduct thorough assessments to determine the cause of this persistent trend.

5.2 Recommendation with regards to the recovery of losses and damages

Section 38 I(c) of the PFMA provides that the Accounting Officer for a department, trading entity and constitutional institution must take effective and appropriate steps to collect all money due to the department, trading entity and constitutional institution.

Treasury Regulation 12.5.1 provides that *“When it appears that the state has suffered losses or damages through criminal acts or possible criminal acts, the matter must be reported, in writing, to the accounting officer and the South African Police Service. In the case of omissions, the matter must be reported, in writing, to the accounting officer. Whether or not the person is still in the employ of the state, the accounting office must recover the value of the loss or damage from the person responsible”*.

In view of the above, the PSC recommends that accounting officers must recover losses and damages to the state in compliance with the above legislation. Accounting officers must account for failure to comply with the above legislation. Should the accounting officer fail to account, the Executive Authority must take the necessary disciplinary action against the accounting officer for such failure.

5.3 Recommendations with regard to data verification

5.3.1 The management of a financial misconduct database

During the visits to the sampled departments, the PSC noted that the management of a database for financial misconduct is still a challenge. There is no consistency in the management of a database for financial misconduct. Some departments maintain an electronic database with sufficient information, whilst other departments either maintain a manual database with insufficient headings to comprehensively capture the information that the PSC requires, or they do not maintain any form of a database for financial misconduct.

Based on the above, it is recommended that departments must maintain accurate, reliable, easy to use electronic financial misconduct database (EXCEL format), with sufficient information to enable it to monitor and track records of a particular financial misconduct case, and to provide accurate reports with the required information on financial misconduct to its management and stakeholders.

5.3.2 Record keeping and maintenance of files

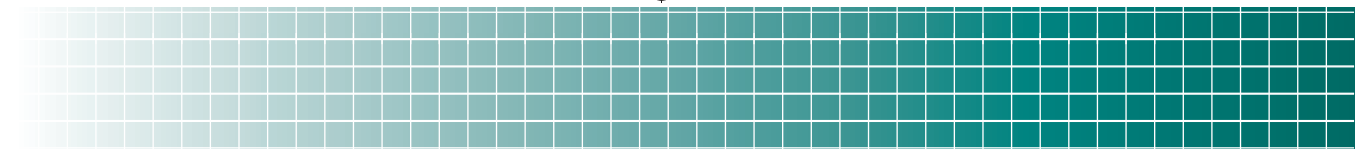
During the visits to the sampled departments, the PSC noted that some of the departments still do not maintain accurate documentary records of financial misconduct cases. The files did not contain the relevant documentation to check the progress or the status of each case.

Based on the above, it is recommended that departments must ensure that accurate and dated documentary records of financial misconduct are maintained on the employee's personal/misconduct file.

5.3.3 Capturing of cases onto the PERSAL system

During follow-up visits at sampled departments, the PSC noted that some departments are not complying with the Department of Public Service and Administration (DPSA) circular 4 of 2001, in respect of the *“National Minimum Information Requirements (NMIR)”*, which amongst others stipulates that information relating to misconduct cases must be maintained on both the personal files and the PERSAL system in order to comply with the NMIR.





It is therefore recommended that accounting officers maintain efficient management of their departments as stipulated in Chapter III, section 7 (3) (b) of the Public Service Act (PSA), 1994, as amended, and ensure compliance with the DPSA circular 4 of 2001, in respect of the NMIR. Furthermore, accounting officers must ensure that the Labour Relations officials receive the necessary training and have access to the appropriate tools necessary for the capturing of misconduct cases onto the PERSAL system.

5.3.4 Reporting on the recovery of monies owed to the State as a result of financial misconduct

The PSC, in its report on “*Financial Misconduct for the 2007/2008 financial year*” recommended that departments must follow up on payments made by employees and ensure that the monies recovered in respect of financial misconduct are reported to the PSC in the relevant financial year. However, this area still remains a challenge as most departments do not provide information regarding the amount recovered.

It is therefore recommended that accounting officers must ensure compliance with section 38 (1) (c)(i) of the PFMA and Treasury Regulations 11.2.1, which stipulates that an Accounting Officer of an institution must take effective and appropriate steps to collect all monies due to the institution including amounts received in part payment, and maintain proper accounts and records for all debtors.

Accounting officers must account for failure to comply with the above legislation. Should the accounting officer fail to account, the Executive Authority must take the necessary disciplinary action against the accounting officer for such failure.

5.3.5 Criminal action taken in terms of subsection 34 (1) of the PCCA Act

It was a challenge for the PSC to determine whether departments are complying with subsection 34(1) of the PCCA Act. Most of the sampled departments at which follow-up visits were conducted, indicated that they did not have financial misconduct cases finalised in the relevant financial year and the financial misconduct cases involving amounts lesser than R 100 000.00. However, trends of the studies show that over the past five financial years, only 26% of the finalised financial misconduct cases were referred for criminal proceedings to be instituted.

It is therefore recommended that the Director-General or head or equivalent officer of a national or provincial department must account for failure to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R 100 000.00 or more to the SAPS. Should the Director-General or head or equivalent officer of a national or provincial department fail to account, then the Executive Authority of such a national or provincial department must take cognisance of the consequences for non-compliance and also take the necessary disciplinary action against the Director-General or head or equivalent officer of a national or provincial department for failure to comply with the requirements of subsection 34(1) of the PCCA Act.

6. CONCLUSION

Overall, the findings show that, there is a need for departments to put in place effective systems that would enable them to finalise all cases of financial misconduct effectively. Failure to put such systems in place would continue to undermine government’s efforts to deal effectively with acts of corruption. Heads of department as accounting officers must be hands-on in dealing with cases of financial misconduct as they contribute towards the audit opinion issued by the Auditor-General on an annual basis. Executive Authorities must sternly take action against Accounting Officers who fail to comply with prescripts.

Chapter One

Introduction

1.1 BACKGROUND OF THE STUDY

Governments all over the world are entrusted to manage public funds in an effective, efficient, transparent and accountable manner in order to improve service delivery to its citizens. In South Africa, as the custodian of good governance, the Public Service Commission (PSC) plays an active role in the promotion and monitoring of, amongst other things, the efficient, effective and accountable use of resources by the Public Service. The Constitution, 1996³, furthermore mandates the PSC to investigate and evaluate the organization and administration, and personnel practices of the Public Service.

The PSC is thus empowered to monitor and evaluate financial misconduct as determined by the Public Finance Management Act, 1999 (PFMA)⁴, read with the Treasury Regulations⁵. In this regard, sections 85(1)(a) and (e) of the PFMA, read with Treasury Regulation 4.3, determine that the Accounting Officer must, as soon as the disciplinary proceedings are completed, report to, amongst others, the executing authority and the PSC on the outcome, including-

- (a) the name and rank of the official against whom the proceedings were instituted;
- (b) the charges, indicating the financial misconduct the official is alleged to have committed;
- (c) the findings;
- (d) any sanction imposed on the official; and
- (e) any further action to be taken against the official, including criminal charges or civil proceedings.

This report covers the 2009/2010 financial year and provides a comprehensive analysis of financial misconduct cases reported to the PSC by national and provincial departments. The report further makes reference to information emanating from previous financial years, in order to draw comparisons, enhance the statistical overview and establish trends.

In order to enable the PSC to present a comprehensive report on Financial Misconduct, it is essential to ensure that national and provincial departments submit a report on finalised financial misconduct cases for every financial year. Departments are required to submit a nil return in instances where no financial misconduct cases were finalised during the relevant reporting year. A nil return means that the department reported that it did not finalise any financial misconduct cases in the relevant financial year.

1.2 MANDATE OF THE PUBLIC SERVICE COMMISSION

The PSC's mandate to report on financial misconduct is contained in the Constitution of the Republic of South Africa, 1996, as well as the Public Service Commission Act, 1997 and provides as follows:

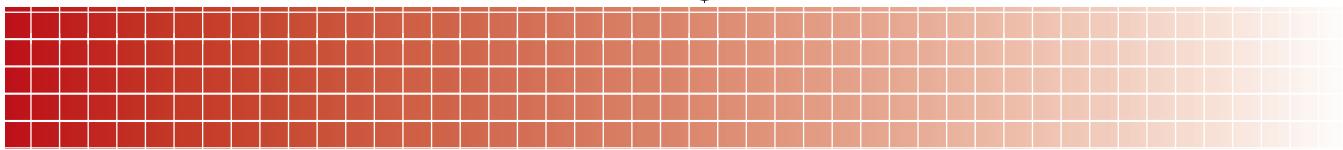
LEGISLATION	DESCRIPTION
Constitution of the Republic of South Africa, 1996 ⁶	<p>Section 196(2): The PSC must exercise its powers and functions in the interest of the maintenance of effective and efficient administration and a high standard of professional ethics in the Public Service.</p> <p>Section 196(4): the PSC is empowered – “(a) (b) to investigate, monitor and evaluate the organization and administration, and the personnel practices, of the public service;</p>

³ Republic of South. The Constitution of the Republic of South Africa, Act 108 of 1996.

⁴ Republic of South Africa. The Public Finance Management Act 1 of 1999.

⁵ Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No.23463 dated 25 May 2002.

⁶ Republic of South Africa. The Constitution of the Republic of South Africa, Act 108 of 1996.



LEGISLATION	DESCRIPTION
	<ul style="list-style-type: none"> (c) (d) to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in section 195; (e) (f) either of its own accord or on receipt of any complaint – <ul style="list-style-type: none"> (i) to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executive authority and legislature; (ii) (iii) to monitor and investigate adherence to applicable procedures in the public service; and (iv) advise national and provincial organs of state regarding personnel practices in the public service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the public service”.
Public Service Commission Act, 1997 ⁷	<p><i>Section 9:</i> The PSC is empowered to inspect departments and other organizational components in the Public Service, and to have access to such official documents or obtain such information from the Heads of Department or organizational components as may be necessary for the performance of the functions of the PSC under the Constitution.</p> <p><i>Section 10:</i> The PSC is empowered to conduct an inquiry into any matter in respect of which it is authorized by the Constitution or the Public Service Act, 1994⁸.</p> <p><i>Section 13(1):</i> The delegation of the PSC’s power to conduct an investigation to (an) officer(s).</p>

1.3 REGULATORY FRAMEWORK RELATING TO FINANCIAL MISCONDUCT

The management of the financial resources of the State occurs within a number of statutes and regulations. Thus, in discharging their respective mandates, departments must ensure adherence to the prevailing prescripts. The regulatory framework relating to financial misconduct is contained in the following statutes and regulations:

LEGISLATION	DESCRIPTION
Section 81 of the PFMA ⁹ determines that-	<p>“(1) An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently-</p> <ul style="list-style-type: none"> (a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or (b) makes or permits an unauthorized expenditure, an irregular expenditure or a fruitless and wasteful expenditure.

⁷ Republic of South Africa. Public Service Commission Act 46 of 1997.

⁸ Republic of South Africa. Public Service Act 103 of 1994 (as amended).

⁹ Republic of South Africa. The Public Finance Management Act 1 of 1999.

LEGISLATION	DESCRIPTION
	(2) An official of a department, a trading entity or a constitutional institution to whom a power or duty is assigned in terms of section 44 commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty".
Section 85 of the PFMA, determines that –	“(1) The Minister must make regulations prescribing – (a) the manner, form and circumstances in which allegations and disciplinary and criminal charges of financial misconduct must be reported to the National Treasury, the relevant provincial treasury and the Auditor-General, including– (i) particulars of the alleged financial misconduct; and (ii) the steps taken in connection with such financial misconduct; (b); (c); (d); (e) the circumstances in which the findings of a disciplinary board and any sanctions imposed by the board must be reported to the National Treasury, the relevant provincial treasury and the Auditor-General; and...”.
Treasury Regulation 4.3 ¹⁰ , read with section 85(1)(a) and (e) of the PFMA ¹¹ , determines that-	“4.3.1 The accounting officer must, as soon as the disciplinary proceedings are completed, report to the executive authority, the Department of Public Service and Administration and the Public Service Commission on the outcome, including- (a) the name and rank of the official against whom the proceedings were instituted; (b) the charges, indicating the financial misconduct the official is alleged to have committed; (c) the findings; (d) any sanction imposed on the official; and (e) any further action to be taken against the official, including criminal charges or civil proceedings. 4.3.2 The institution must inform the executive authority, the relevant treasury, the Department of Public Service and Administration and the Public Service Commission of the outcome of any criminal and civil proceedings instituted against any person for financial misconduct in terms of section 86 of the Act”.

1.4 OBJECTIVES OF THE STUDY

The objectives of the Report on Financial Misconduct for the 2009/2010 financial year are to:

- Provide an in-depth analysis and statistical overview of the information provided by national and provincial departments on finalised financial misconduct cases for the said financial year; and
- Make recommendations for improvement.

¹⁰ Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No. 23463 dated 25 May 2002.

¹¹ Republic of South Africa. The Public Finance Management Act 1 of 1999.



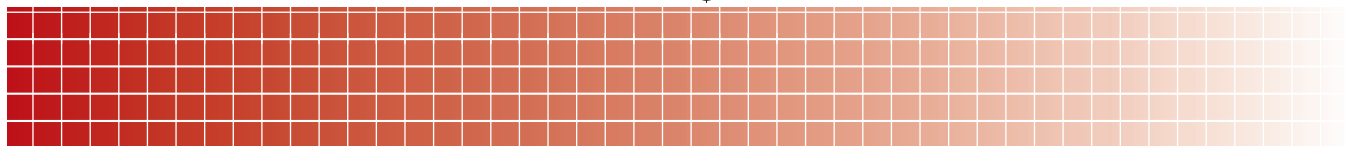
1.5 OUTLINE OF THE REPORT

The report is structured as follows:

- Chapter 1:** Background of the study
- Chapter 2:** Methodology applied in the study
- Chapter 3:** Statistical overview of finalised cases of financial misconduct
- Chapter 4:** Trend analysis of cases reported since the 2005/2006 financial year
- Chapter 5:** Data verification
- Chapter 6:** Recommendations

Chapter Two

Methodology



2.1 INTRODUCTION

This Chapter presents the scope of the study and the methodology applied during the study. The chapter also presents the limitations of the study.

2.2 SCOPE OF THE STUDY

The study focused on financial misconduct cases finalised in the 2009/2010 financial year, which were reported to the PSC by both national and provincial departments.

2.3 DATA COLLECTION PROCESS

2.3.1 Reports from national and provincial departments on finalised financial misconduct cases

A circular was sent to all national and provincial departments requesting reports on finalised cases of financial misconduct for the 2009/2010 financial year. In order to ensure that the circular reached the relevant stakeholders it was transmitted per fax and also e-mailed to contact persons within the departments. Furthermore, telephonic follow-ups were made with the departments to confirm receipt of the circular. The format for reporting cases of financial misconduct has been made available to departments since the 2002/2003 financial year and is also available on the PSC's Website. After the expiry of the due date for inputs, reminders were sent to departments which had failed to submit their inputs by the due date. Further follow-ups were made with the departments telephonically, via e-mails and facsimile, reminding them to provide the inputs.

2.3.1 Data verification conducted at sampled departments

Data verification visits were conducted in sampled departments, both at national and provincial levels that submitted nil reports for the financial years 2005/2006, 2006/2007, 2007/2008 and 2008/2009. The visits focused on whether the departments had complied with and carried out what the PSC had communicated to them during the data verification visits conducted in the 2008/2009 financial year. In the 2009/2010 financial year, the PSC conducted follow-up visits in the following selected departments:

National Departments

- Independent Complaints Directorate
- Cooperative Governance and Traditional Affairs
- Public Enterprise

Free State

- Sport, Arts, Culture and Recreation
- Office of the Premier
- Cooperative Governance and Traditional Affairs
- Human Settlement
- Police, Roads and Transport

KwaZulu-Natal

- Arts and Culture
- Community Safety and Liaison
- Human Settlements
- Office of the Premier
- Provincial Treasury



Northern Cape

- Agriculture, Land Reform and Rural Development
- Economic Development and Tourism
- Environment and Nature Conservation
- Roads and Public Works
- Sport, Arts and Culture
- Transport, Safety and Liaison

2.3.2 Data analysis

The reports submitted by national and provincial departments were scrutinised in order to ensure that the information provided was accurate. For control purposes, a database was compiled for financial misconduct cases reported by both the national and provincial departments.

During the data verification visits, the staff personal (SP) file and/or misconduct files were perused to determine whether the relevant documentation pertaining specifically to financial misconduct was maintained on the SP file, PERSAL, and on an electronic database, and focused on whether the departments had complied with and implemented what the PSC had recommended following its 2008/2009 data verification visits.

2.4 REPORTING FORMAT AND ESTABLISHMENT OF A DATABASE

The PSC developed a reporting format in line with the provisions of Treasury Regulations 4.3¹², read with sections 85(1)(a) and (e) of the PFMA¹³. The aim of the format is to assist departments to submit comprehensive details of finalised cases of financial misconduct.

Departments were also requested to submit comprehensive details of finalised cases of financial misconduct involving members of the Senior Management Service (SMS) to the PSC, including information on the specific charges brought against each employee. In the instances where departments elected not to institute criminal proceedings against the relevant employee, the department was requested to provide reasons for such a decision.

The PSC placed the reporting format on its Website (www.psc.gov.za) in the 2009/2010 financial year. Departments are free to retrieve the reporting format from the website in order to improve data integrity.

A database of finalised financial misconduct cases has been established and maintained since the 2001/2002 financial year. This database has been expanded to reflect the additional information requested from departments for the 2009/2010 financial year.

2.5 LIMITATIONS EXPERIENCED

In the drafting of the Financial Misconduct report for the 2009/2010 financial year, the PSC experienced the following limitations:

LIMITATION	
Failure by departments to use the standardised reporting format	Despite having availed a copy of the reporting format as an annexure to the circular and the reporting format being available on the Website of the PSC, some departments still failed to utilize the format and/or did not complete all fields provided for in the format.

¹² Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No. 23463 dated 25 May 2002.

¹³ Republic of South Africa. The Public Finance Management, Act 1 of 1999.



LIMITATION	
Inaccurate information furnished by departments.	Some of the departments submitted reports with inaccurate information and this resulted in poor quality reporting. As a result, telephonic follow-ups had to be made to clarify the information provided.
Delays in completing the data verification.	Letters informing the Heads of Departments (HoDs) of the data verification process were forwarded to them to inform them of the data verification visits. However, it was difficult to secure appointments with delegated officials due to amongst others, their busy schedules and the national strike.



Chapter Three

Statistical Overview of Finalised Cases of Financial Misconduct

3.1 INTRODUCTION

This Chapter presents a statistical overview of the information reported by the national and provincial departments for the 2009/2010 financial year. The statistical overview is presented according to the following themes derived from the objective of the study:

- Responses from national and provincial departments
- Number of cases of financial misconduct reported
- Types of financial misconduct reported
- Levels and gender of employees charged with misconduct
- Outcome and sanctions imposed in cases of financial misconduct
- Cost of financial misconduct
- Whether or not criminal action had been taken against employees charged with financial misconduct

3.2 FINDINGS

3.2.1 Responses from national and provincial departments

Tables 1 and **2** below reflect those national and provincial departments which have reported finalised financial misconduct cases and those departments which submitted a **nil return**.

3.2.1.1 National departments

All national departments submitted reports for the 2009/2010 financial year. Of the 39 national departments, 13 submitted a **nil return**.

Table 1: Reports received from national departments

DEPARTMENT	CASES REPORTED	NIL REPORT
Agriculture, Forestry and Fisheries	X	
Arts and Culture	X	
Basic Education		X
Communications	X	
Cooperative Governance & Traditional Affairs (CoGTA)	X	
Correctional Services	X	
Defence & Military Veterans	X	
Economic Development		X
Energy	X	
Environmental Affairs		X
Government Communication and Information System (GCIS)	X	
Health	X	
Higher Education and Training		X
Home Affairs	X	
Human Settlements	X	

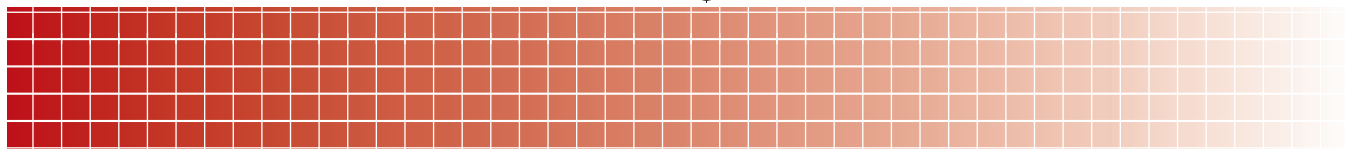
DEPARTMENT	CASES REPORTED	NIL REPORT
Independent Complaints Directorate (ICD)	X	
International Relations and Cooperation	X	
Justice and Constitutional Development (DoJCD)	X	
Labour	X	
Mineral Resources	X	
National Prosecuting Authority (NPA)	X	
National Treasury	X	
Office of the Public Service Commission (OPSC)		X
Presidency		X
Public Administration, Leadership and Management Academy (PALAMA)		X
Public Enterprises		X
Public Service and Administration (DPSA)		X
Public Works	X	
Rural Development and Land Reform	X	
Science and Technology		X
Social Development		X
South African Police Service (SAPS)	X	
Sport and Recreation South Africa (SRSA)	X	
Statistics South Africa (Stats SA)	X	
Tourism		X
Trade and Industry (the dti)	X	
Transport	X	
Water Affairs	X	
Women, Children and People with Disabilities		X

3.2.1.2 Provincial administrations

The responses of Provincial Administrations are reflected in **Table 2** below. Of the 109 provincial departments, 38 submitted a **nil return**.

Table 2: Reports received from provincial administrations

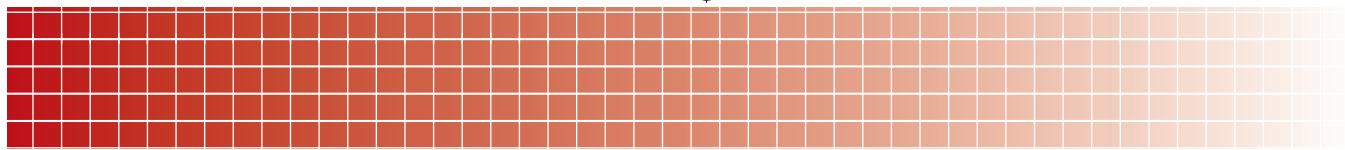
PROVINCE	DEPARTMENT	CASES REPORTED	NIL REPORT
Eastern Cape	Agriculture & Rural Development	X	
	Economic Affairs, Environment & Tourism	X	
	Education	X	



PROVINCE	DEPARTMENT	CASES REPORTED	NIL REPORT
	Provincial Treasury		×
	Health	×	
	Human Settlement	×	
	Local Government & Traditional Affairs		×
	Office of the Premier		×
	Roads and Public Works	×	
	Safety & Liaison		×
	Social Development	×	
	Sport, Recreation, Arts & Culture	×	
	Transport		×
Free State	Agriculture		×
	Cooperative Governance & Traditional Affairs	×	
	Economic Development, Tourism & Environmental Affairs	×	
	Education	×	
	Health	×	
	Human Settlement		×
	Office of the Premier		×
	Provincial Treasury		×
	Police, Roads & Transport	×	
	Public Works & Rural Development	×	
	Social Development		×
Sport, Arts & Culture	×		
Gauteng	Agriculture & Rural Development		×
	Community Safety		×
	Economic Development		×
	Education	×	
	Finance	×	
	Health & Social Development	×	
	Infrastructure Development		×
	Local Government & Housing	×	
	Office of the Premier		×
	Roads and Transport	×	
	Sports, Arts, Culture & Recreation	×	



PROVINCE	DEPARTMENT	CASES REPORTED	NIL REPORT
KwaZulu-Natal	Agriculture, Environmental Affairs & Rural Development	X	
	Arts & Culture	X	
	Community Safety and Liaison		X
	Co-operative Governance & Traditional Affairs	X	
	Economic Development & Tourism		X
	Education	X	
	Health	X	
	Human Settlements		X
	Office of the Premier		X
	Provincial Treasury		X
	Public Works		X
	Social Development	X	
	Sports and Recreation		X
	Transport	X	
Limpopo	Agriculture		X
	Economic Development, Environment & Tourism	X	
	Education	X	
	Health & Social Development	X	
	Local Government & Housing	X	
	Office of the Premier	X	
	Public Works	X	
	Roads & Transport	X	
	Safety, Security & Liaison		X
	Sport, Arts & Culture		X
	Treasury	X	
Mpumalanga	Agriculture, Rural Development & Land Administration	X	
	Co-operative Governance & Traditional Affairs		X
	Culture, Sport & Recreation	X	
	Economic Development, Environment & Tourism	X	
	Education		X
	Finance		X
	Health	X	
	Human Settlement	X	



PROVINCE	DEPARTMENT	CASES REPORTED	NIL REPORT
	Office of the Premier	X	
	Public Works, Roads & Transport		X
	Safety, Security & Liaison	X	
	Social Development		X
North West	Agriculture, Conservation, Environmental & Rural Development		X
	Local Government & Traditional Affairs		X
	Economic Development & Tourism		X
	Education	X	
	Health	X	
	Human Settlements		X
	Office of the Premier	X	
	Provincial Treasury	X	
	Public Works, Roads & Transport	X	
	Public Safety	X	
	Social Development	X	
	Sport, Arts & Culture	X	
	Northern Cape	Agriculture, Land Reform & Rural Development	X
Co-operative Governance, Human Settlement & Traditional Affairs		X	
Economic Development & Tourism		X	
Environment & Nature Conservation			X
Education		X	
Health		X	
Office of the Premier		X	
Provincial Treasury			X
Roads & Public Works		X	
Transport, Safety & Liaison		X	
Social Services & Population Development		X	
Sport, Arts & Culture			X
Western Cape	Agriculture	X	
	Community Safety	X	
	Cultural Affairs & Sport	X	
	Economic Development & Tourism		X
	Education	X	



PROVINCE	DEPARTMENT	CASES REPORTED	NIL REPORT
	Environmental Affairs & Development Planning	X	
	Health	X	
	Local Government & Housing	X	
	Office of the Premier	X	
	Provincial Treasury	X	
	Social Development	X	
	Transport & Public Works	X	

3.2.2 Number of cases of financial misconduct reported

A total of **1135** finalised cases of financial misconduct were reported for the 2009/2010 financial year, of which **286** (25%) were reported by national departments and **849** (75%) were reported by provincial departments. **Figure 1** below reflects the finalised financial misconduct cases which were reported by national and provincial departments.

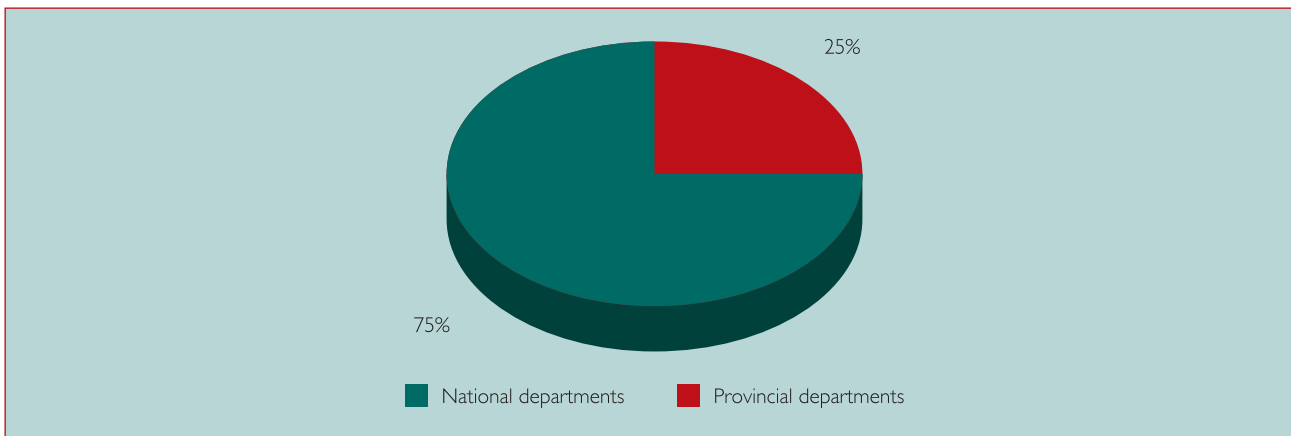


Figure 1: Number of cases at national level and provincial level

A breakdown of the **1135** financial misconduct cases is provided below.

3.2.2.1 National departments

Figure 2 on the following page provides an overview of the **286** cases reported by national departments for the 2009/2010 financial year. Departments that indicated that they did not have any finalised misconduct cases for the 2009/2010 financial year are not included in the figure. The figure shows that the DoJCD reported 93 cases, which represents the highest number of finalised cases reported by national departments for the 2009/2010 financial year. This trend is consistent with the findings made in the 2005/2006, 2006/2007, 2007/2008 and 2008/2009 financial years, where the DoJCD also reported the highest number of finalised cases.

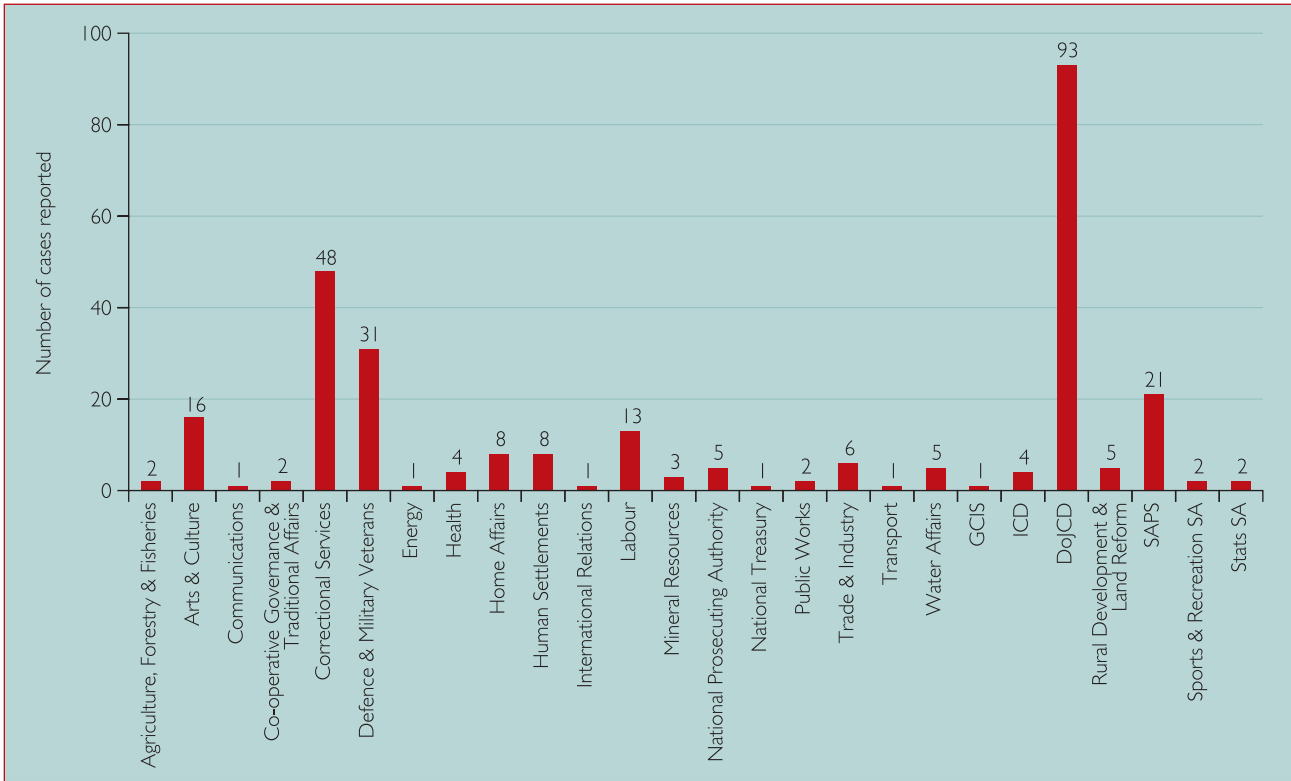
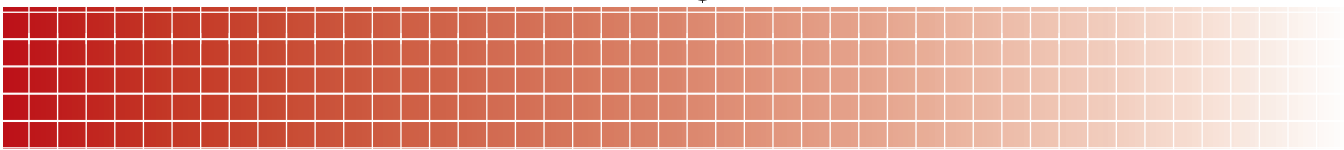


Figure 2: Number of cases at national level

In the 2009/2010 financial year, the Department of Correctional Services reported the second highest number of cases (48) in comparison to the 13 reported during the 2008/2009 financial year. As indicated in previous reports, the reporting of a high number of cases is not necessarily negative, as it may be indicative that such departments have tight control measures and have put risk management systems in place to detect acts of misconduct. It also reflects the capacity of departments to process cases of financial misconduct to finality.

3.2.2.2 Provincial administrations

3.2.2.2.1 Overview of cases reported by provincial administrations

Figure 3 below provides an overview of the **849** cases reported by provincial departments for the 2009/2010 financial year.

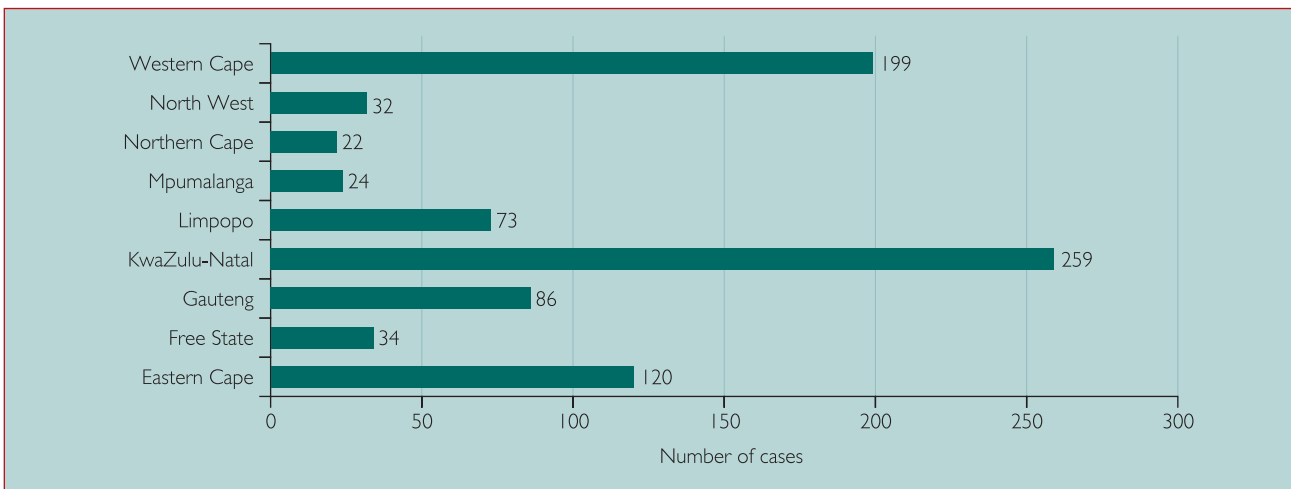


Figure 3: Number of cases reported at provincial level



The KwaZulu-Natal Province reported the highest number of finalised cases (259), representing 30.5% of the total number of finalised cases reported by the provinces in the 2009/2010 financial year. This trend is consistent with the findings made in the 2007/2008 and 2008/2009 financial years where KwaZulu-Natal Province reported the highest number of cases. The Western Cape Province reported the second highest number of finalised cases 199 which represented 23.4% of the total number of cases reported by the provinces. Mpumalanga and Northern Cape Provinces reported the least number of cases, namely 24 (2.8%) and 22 (2.6%) respectively.

3.2.2.2 KwaZulu-Natal Province

The KwaZulu-Natal Province reported **259** cases, which constitutes 30.5% of the total number of cases reported by the provinces. The Departments of Community Safety and Liaison, Economic Development and Tourism, Human Settlements, Office of the Premier, Provincial Treasury, Public Works, and Sport and Recreation submitted a nil return indicating that they had no finalised cases of financial misconduct. They were thus not included in the figure.

Figure 4 below provides an overview of the 7 departments that reported finalised cases.

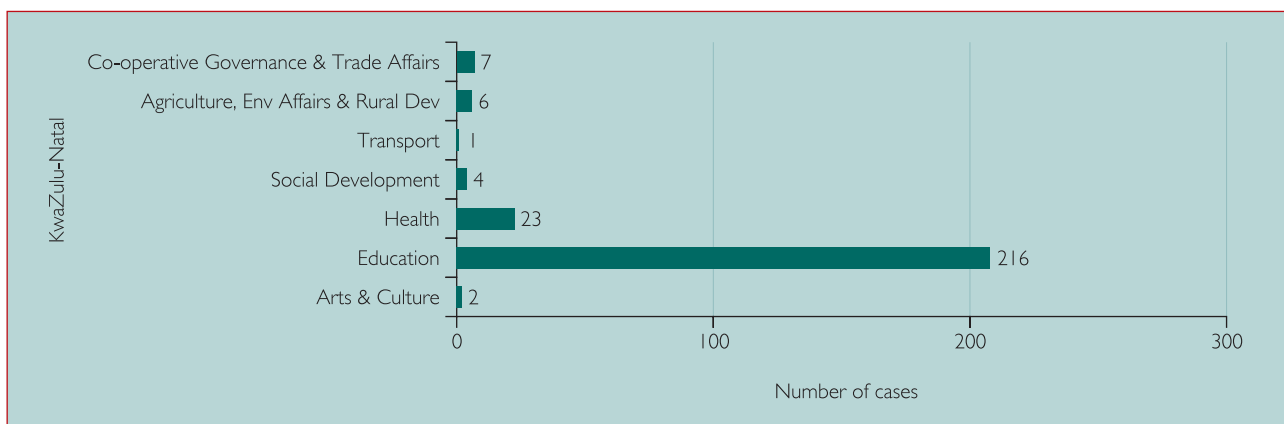


Figure 4: Number of cases reported by KwaZulu-Natal Province

The Department of Education reported 216 (83.3%) of the total number of cases reported by the KwaZulu-Natal Province. This represents the highest number of finalised financial misconduct cases for the 2009/2010 financial year. The most prevalent type of financial misconduct cases reported by the KwaZulu-Natal Department of Education was social grant fraud.

3.2.2.3 Western Cape Province

The Western Cape Province reported **199** cases, which represents 23.4% of the total number of cases reported by the provinces. The Department of Economic Development and Tourism submitted a **nil return** indicating that they had no finalised financial misconduct cases for the 2009/2010 financial year, and is thus excluded from the figure. **Figure 5** on the following page provides an overview of the 11 departments that reported finalised cases.



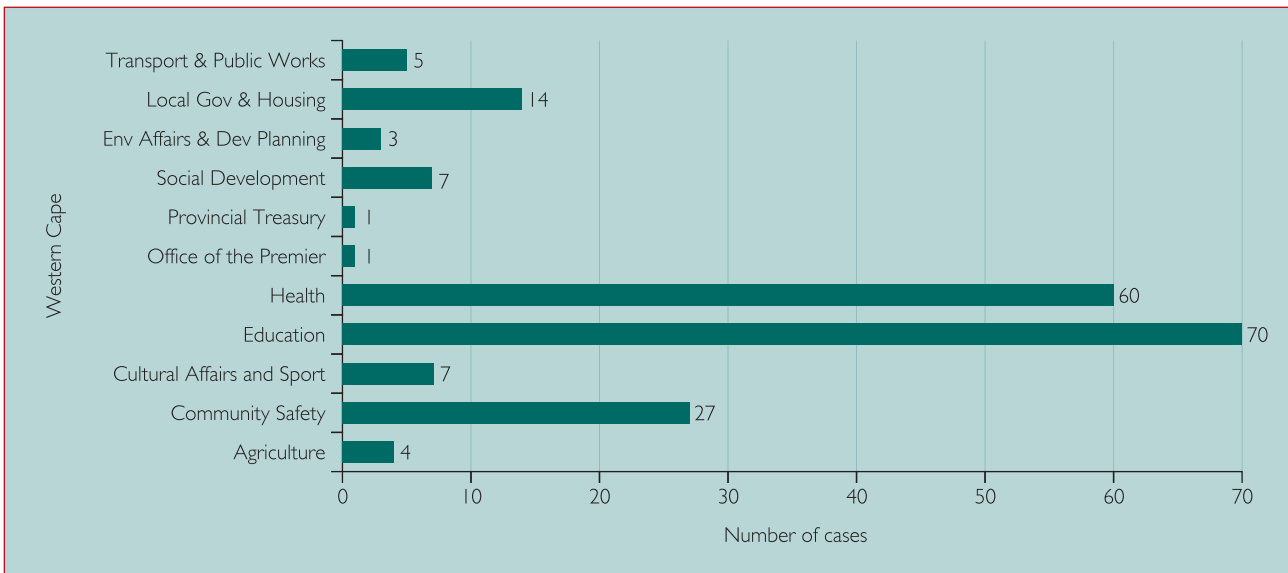


Figure 5: Number of cases reported by the Western Cape Province

The Department of Education reported 70 cases, which represents 23.4% of the total number of cases reported by the Western Cape Province. This is closely followed by the Department of Health which reported 60 (30.5%) cases. The Office of the Premier and the Provincial Treasury reported the least number of cases, (1) case each.

3.2.2.2.4 Eastern Cape Province

The Eastern Cape Province reported **120** cases, which represents 14.1% of the total number of cases reported by the provinces. The Departments of Local Government and Traditional Affairs, Office of the Premier, Provincial Treasury, Safety and Liaison, and Transport submitted a **nil return** indicating that they had no finalised cases of financial misconduct, and have thus not been included in the figure. **Figure 6** below provides an illustration of the 8 departments in the Eastern Cape Province that reported finalised cases.

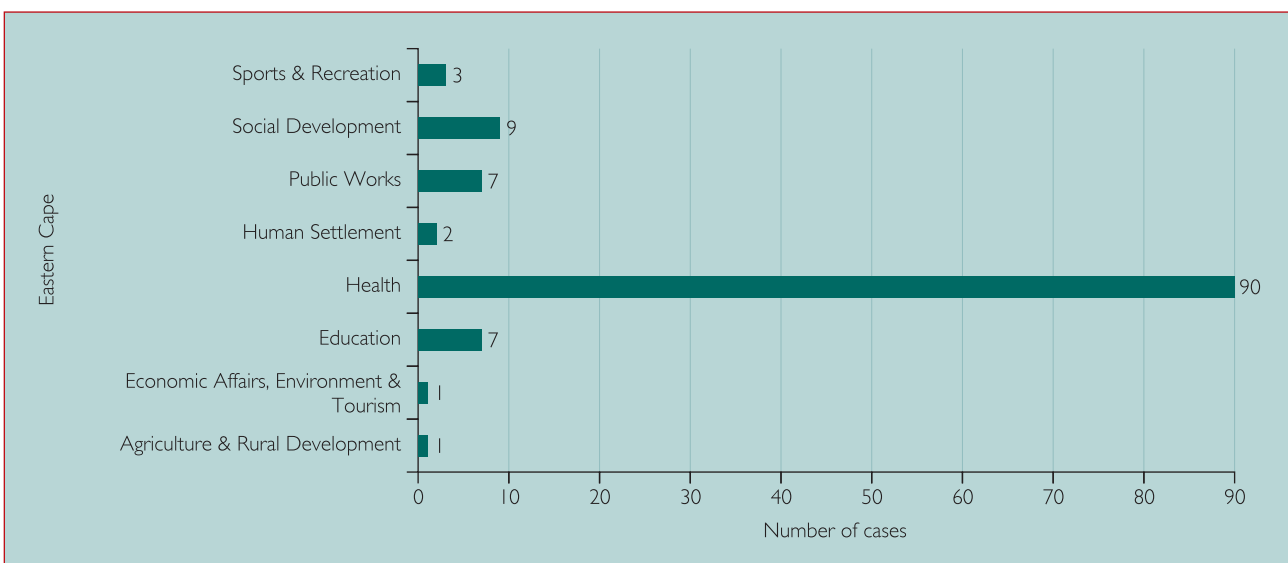


Figure 6: Number of cases reported by the Eastern Cape Province

The Department of Health reported 90 cases, which represents 75% of the total number of cases reported by the Province. The second highest number of finalised cases of financial misconduct were reported by the Department of Social Development (9 cases). These cases make up 7.5% of the total number of cases reported by the Province.



3.2.2.2.5 Gauteng Province

The Gauteng Province reported **86** cases. **Figure 7** below provides an overview of the 6 departments that reported finalised cases. The Departments of Agriculture and Development, Community Safety, Economic Development, Infrastructure Development, and the Office of the Premier submitted a **nil return** indicating that they had no finalised cases of financial misconduct, and have thus not been included in the figure.

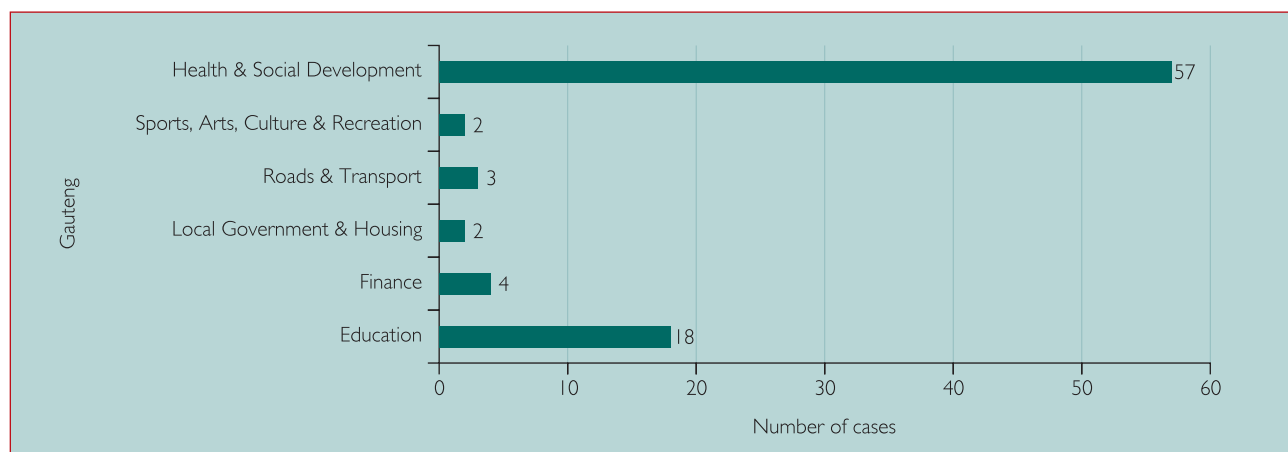


Figure 7: Number of cases reported by the Gauteng Province

The Department of Health and Social Development reported the highest number of cases 57 (66.2%), followed by the Department of Education, which reported 18 (20%) cases.

3.2.2.2.6 Limpopo Province

Limpopo Province reported **73** cases, which represents 8.6% of the total number of cases reported by the provinces. This is the third highest number of cases reported by the provinces. The Departments of Agriculture, Safety, Security and Liaison, and the Department of Sports, Arts and Culture submitted a **nil return** indicating that they had no finalised cases of financial misconduct, and have thus not been included in the figure. **Figure 8** below provides an overview of the 8 departments that reported finalised cases.

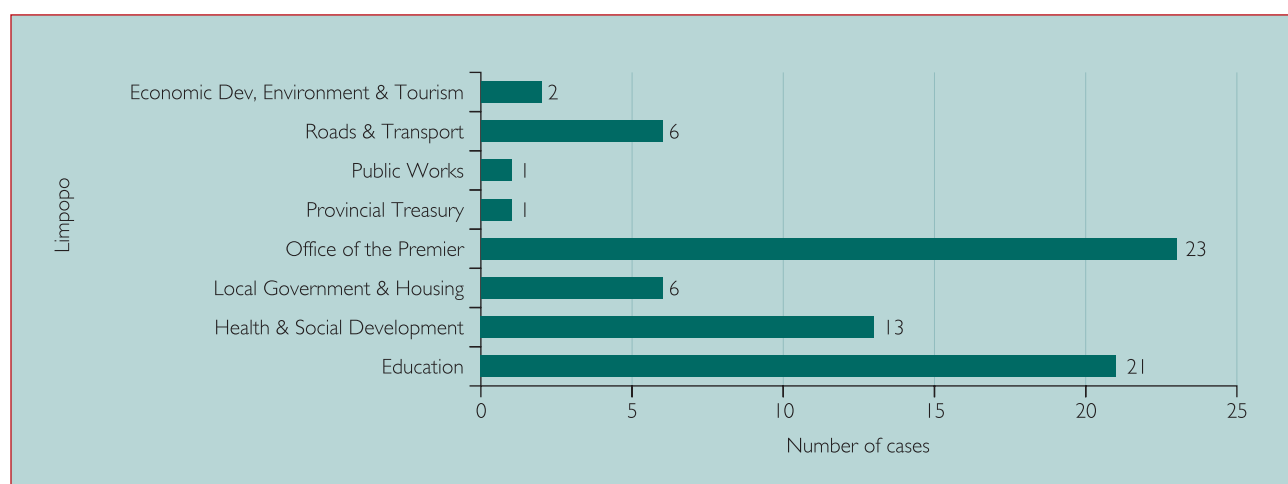
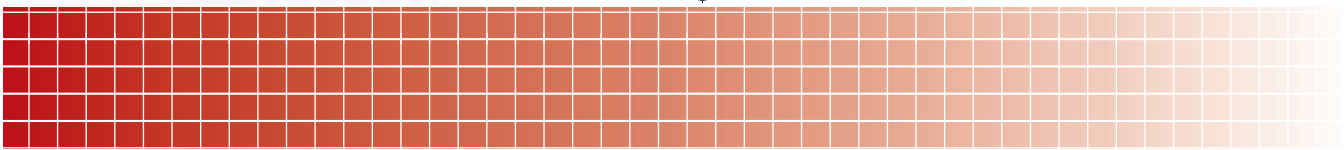


Figure 8: Number of cases reported by the Limpopo Province

The Office of the Premier reported 23 cases, which represents 31.5% of the total number of cases reported by the Limpopo Province. This is the highest number of finalised misconduct cases reported in the Province. This was followed by the Department of Education which reported 21 cases of finalised financial misconduct, which





represents 28.7% of the total number of cases reported by the Limpopo Province. The Departments of Public Works and Provincial Treasury reported one case each, which was the least number of finalised cases reported by departments within Limpopo Province.

3.2.2.2.7 Free State Province

The Free State Province reported **34** cases, which represents 4% of the total number of cases reported by the provinces. **Figure 9** below provides an overview of the 7 departments that reported finalised cases.

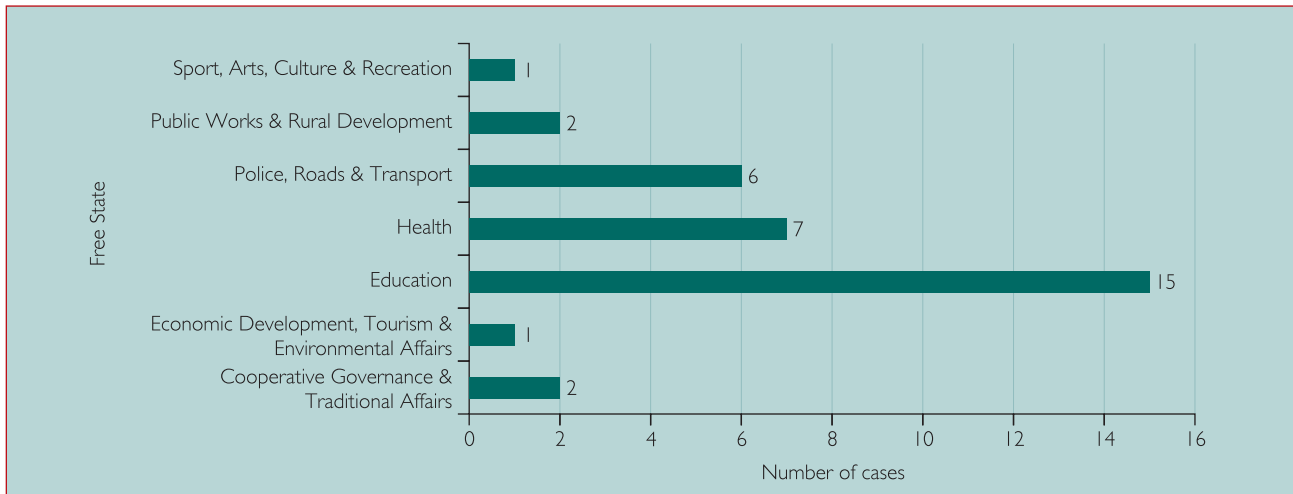


Figure 9: Number of cases reported by the Free State Province

The Department of Education reported the highest number of cases (15) in the Free Province, followed by the Department of Health. The Departments of Agriculture, Human Settlements, Provincial Treasury, Social Development and the Office of the Premier submitted a **nil return** indicating that they had no finalised cases of financial misconduct, and have thus not been included in the figure.

3.2.2.2.8 North West Province

The North West Province reported **32** cases. **Figure 10** provides an overview of the 8 departments that reported finalised cases.

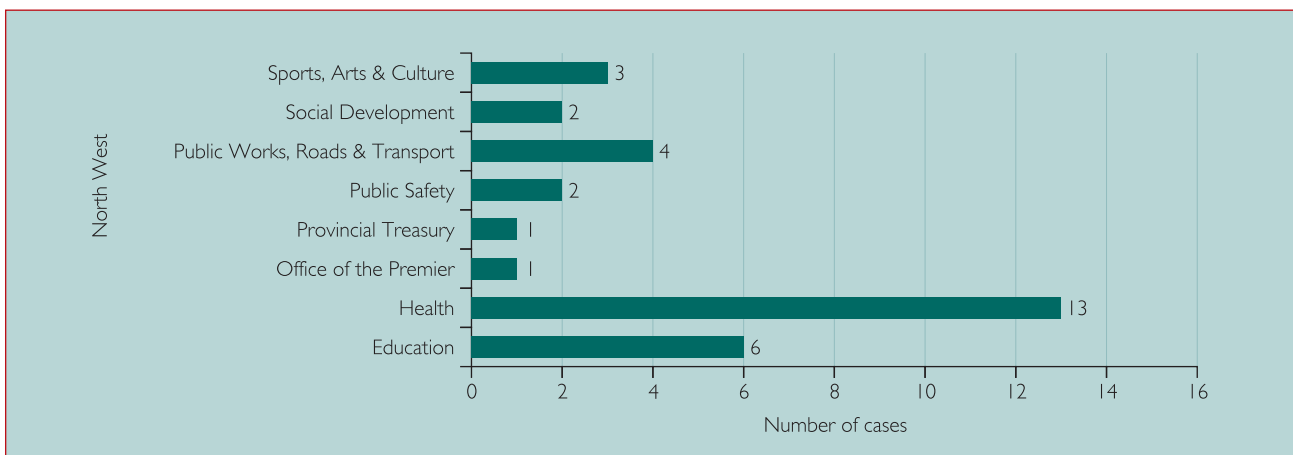


Figure 10: Number of cases reported by the North West Province

Figure 10 above illustrates that the Department of Health reported the highest number of cases (13), followed by the Department of Public Works, Roads and Transport with 4 cases. The Department of Agriculture, Con-



servation, Environment and Rural Development, Economic Development and Tourism, Human Settlements, and Local Government and Traditional Affairs submitted a **nil return** indicating that they had no finalised cases of financial misconduct, and have thus not been included in the figure.

3.2.2.2.9 Mpumalanga Province

Mpumalanga Province reported **24** cases, which represents 2.8% of the total number of cases reported by the provinces. **Figure 11** below provides an overview of the 8 departments that reported finalised cases.

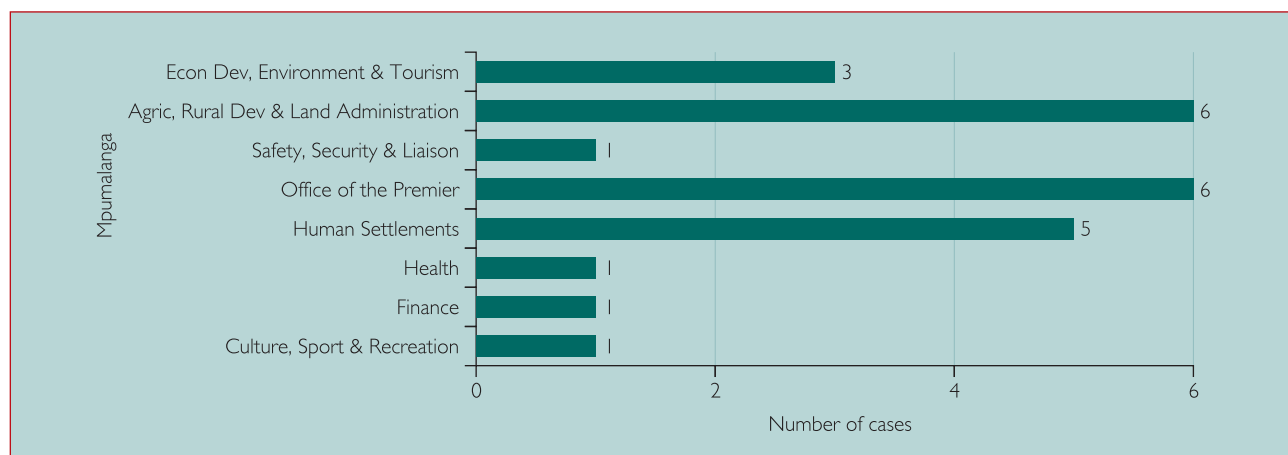


Figure 11: Number of cases reported by the Mpumalanga Province

The Department of Agriculture, Rural Development and Land Administration as well as the Office of the Premier reported 6 cases each, followed by the Department of Human Settlements which reported 5 cases.

The Departments of Co-operative Governance & Traditional Affairs, Education, Public Works, Roads and Transport, and Social Development submitted a **nil return** indicating that they had no finalised cases of financial misconduct, and have thus not been included in the figure.

3.2.2.2.10 Northern Cape Province

The Northern Cape reported **22** cases, which represents 2.6% of the total number of cases reported by the provinces. This is the lowest number of cases reported by the provinces. **Figure 12** below provides an overview of the 10 departments that reported finalised cases.

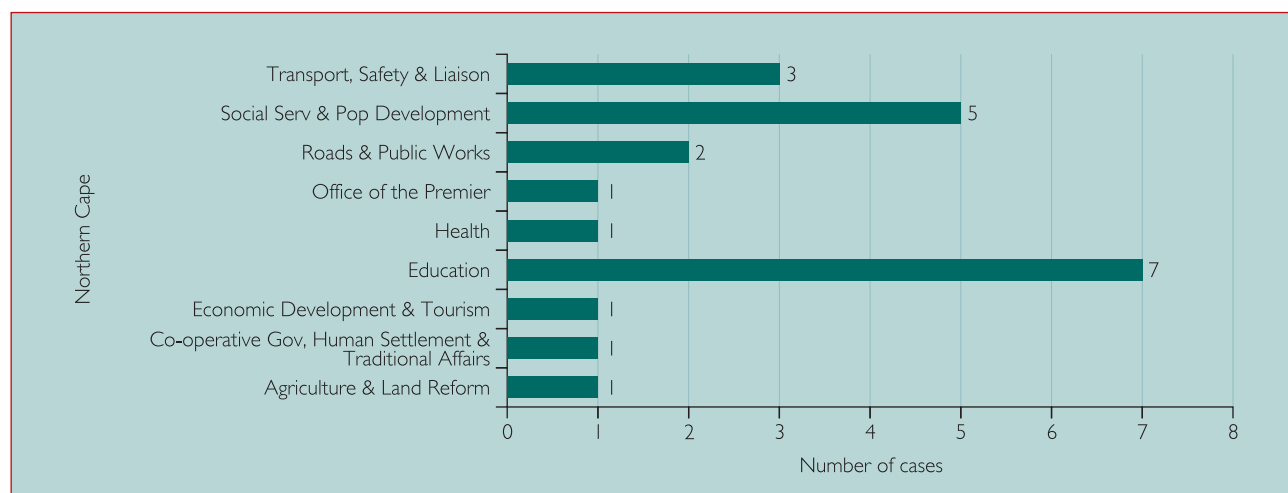


Figure 12: Number of cases reported by the Northern Cape Province



The Department of Education in the Northern Cape province reported the highest number of cases (7), followed by the Department of Social Services and Population Development (5) cases. The Departments of Environment and Nature Conservation, Provincial Treasury, and Sports, Arts and Culture submitted a nil return indicating that they had no finalised cases of financial misconduct, and have thus not been included in the figure.

3.2.3 Types of financial misconduct reported

In terms of the Treasury Regulations 4.3.1¹⁴, departments are required to report on the charges preferred against employees, indicating amongst other things, the financial misconduct the official is alleged to have committed. For statistical purposes, the types of financial misconduct reported by departments were categorized as reflected in **Table 3** below. The table also reflects examples of reported cases that fall into these categories.

Table 3: Types of financial misconduct reported

TYPE OF FINANCIAL MISCONDUCT	DESCRIPTION	EXAMPLES OF REPORTED CASES
Corruption	Defined in the Prevention and Combating of Corrupt Activities Act, 2004.	<ul style="list-style-type: none"> • Bribery
Financial Mismanagement	Expenditure other than unauthorised expenditure, incurred in contravention of, or that is not in accordance with a requirement of any applicable legislation.	<ul style="list-style-type: none"> • Wasteful & fruitless expenditure • Failure to follow procurement procedures • Payments to service providers without receiving goods
Gross Negligence	Any act or omission without considering the consequences thereof.	<ul style="list-style-type: none"> • Loss of State property/funds • Not authorised to approve expenditure
Theft	The unlawful taking of a thing with the intention to steal.	<ul style="list-style-type: none"> • Theft of – <ul style="list-style-type: none"> ◦ State funds ◦ laptops ◦ petrol ◦ petty cash ◦ State property
Misappropriation & Abuse	The wrongful, improper or excessive use of public funds and/or assets in a person's care.	<ul style="list-style-type: none"> • Abuse of State vehicles • Damage to State vehicles • Petrol card abuse • Abuse of telephone
Fraud	The unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another.	<ul style="list-style-type: none"> • Travel & subsistence claim fraud • Social grant fraud • Capturing fraudulent transactions • Petty cash fraud

Figure 13 on the following page illustrates the types of financial misconduct reported by departments during the 2009/2010 financial year.

¹⁴ Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No. dated 25 May 2002.

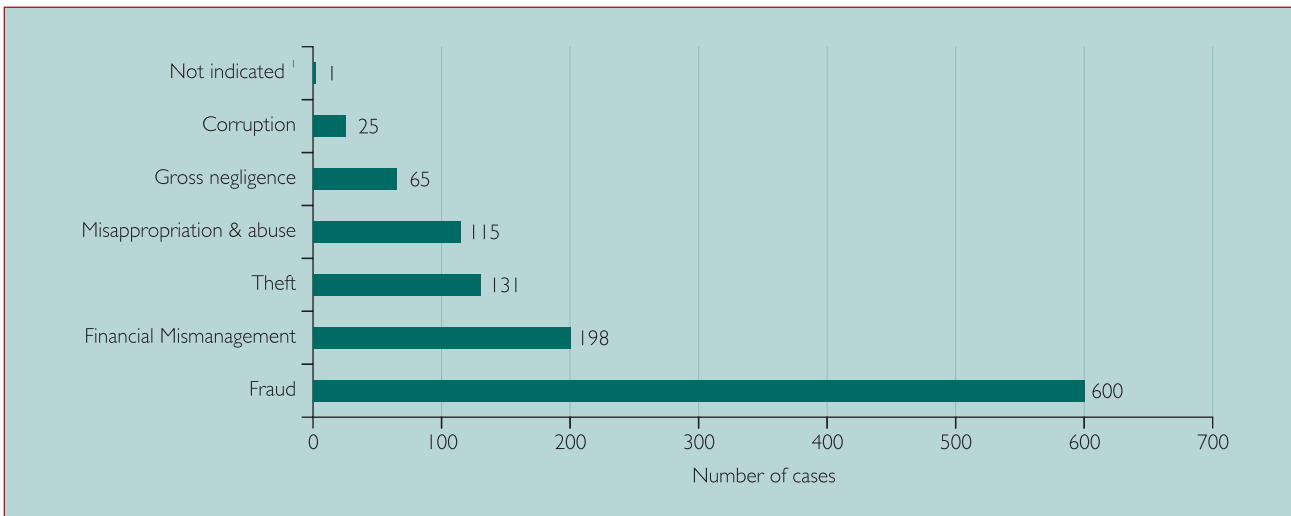


Figure 13: The types of financial misconduct reported by departments for the 2009/2010 financial year

Note: ¹ Not indicated depicts the number of instances whereby departments failed to indicate the type of offence committed.

3.2.3.1 Fraud cases reported

Figure 14 below provides a breakdown of the cases in the category “fraud” at national and provincial level.

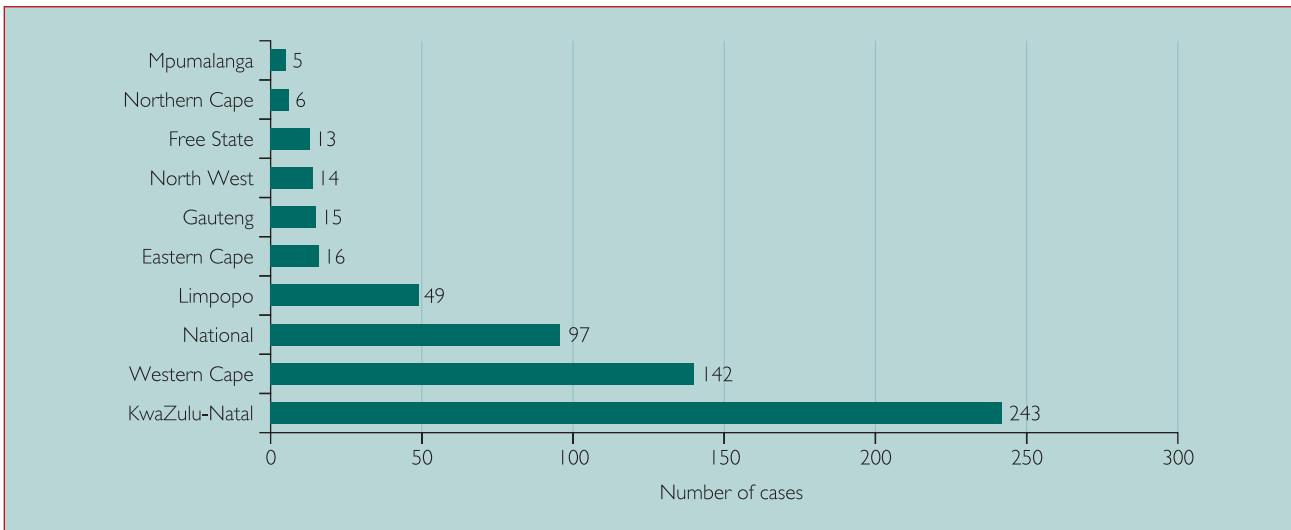


Figure 14: Breakdown of fraud cases at national and provincial level

Cases in the category “fraud” comprise a significant portion (600), which represents 52.9% of the overall number of cases reported by departments in the 2009/2010 financial year.

3.2.4 Levels of employees charged with financial misconduct

As required by Treasury Regulations 4.3.1¹⁵, departments are required to indicate the ranks of the employees that have been charged with financial misconduct. Due to the use of different rank designations by departments, the PSC requested the departments to rather indicate the salary levels of employees. However, the departments failed to indicate the salary levels of employees charged with financial misconduct in 237 of the reported cases, which represents 20.8% of the overall number of cases reported for the 2009/2010 financial year. The fact that departments have not submitted this information is also a reflection of the incompleteness of the information provided.

¹⁵ Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No 23463 dated 25 May 2002.

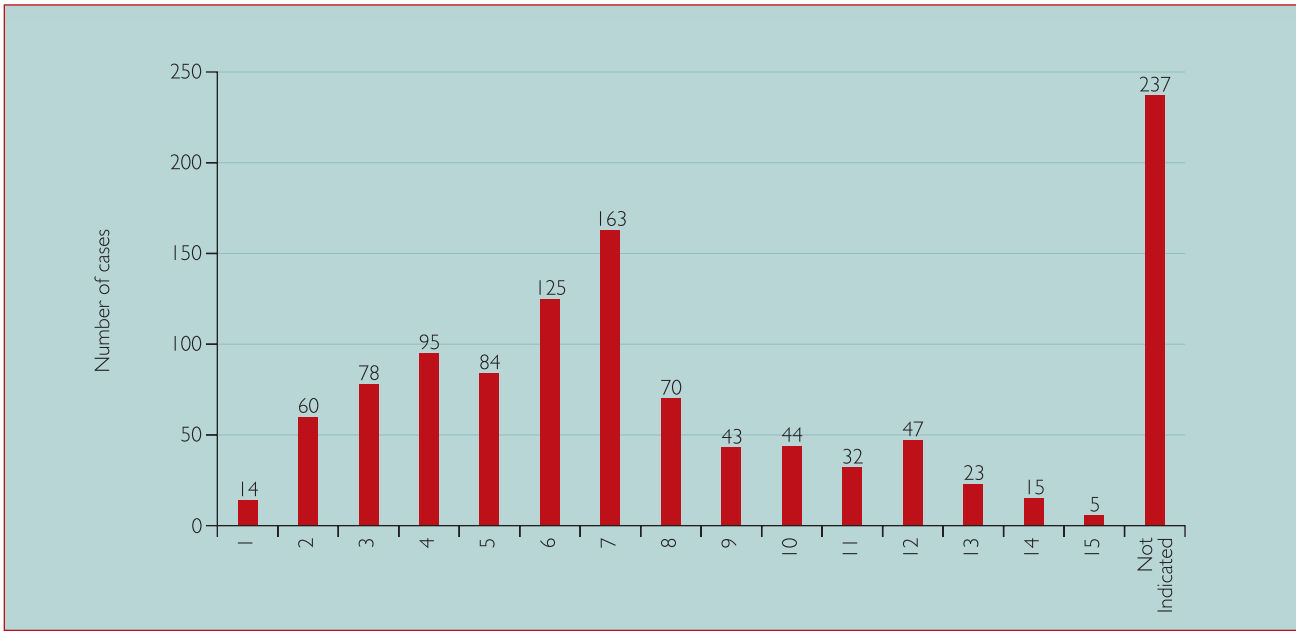
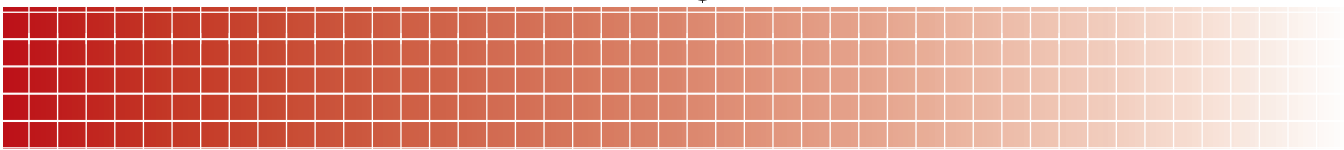


Figure 15: Salary levels of employees charged with financial misconduct

Figure 15 above indicates that financial misconduct prevails at all levels in the Public Service. However, employees on salary levels 6 and 7 committed the highest number of financial misconduct acts. It should however, be noted that employees at levels 8 and below constitute the biggest percentage (82.5%) of public service employees.

A comparison of the percentage of the total number of employees per salary category (as at 30 May 2010¹⁶) and the percentage of the total number of finalised financial misconduct cases reported for the 2009/2010 financial year is reflected in **Figure 16** below.



Figure 16: Comparison of the percentage of the total number of employees per salary category and the percentage of the total number of finalised financial misconduct cases reported

Figure 16 above shows that the percentage of the total number of employees employed at salary levels 1 to 8 was 82,5% as at 31 March 2010¹⁷ and further that 60.7% of the total number of financial misconduct cases were reported on this level.

¹⁶ Information provided by the Department of Public Service and Administration.

¹⁷ Information provided by the Department of Public Service and Administration.



3.2.5 Outcome of financial misconduct cases

The Treasury Regulations provides for departments to report on the outcome of disciplinary proceedings. The outcome of a case is the decision made by the chairperson of the disciplinary hearing at the conclusion of the hearing.

Figure 17 below illustrates the outcome of financial misconduct cases reported to the PSC during the 2009/2010 financial year.

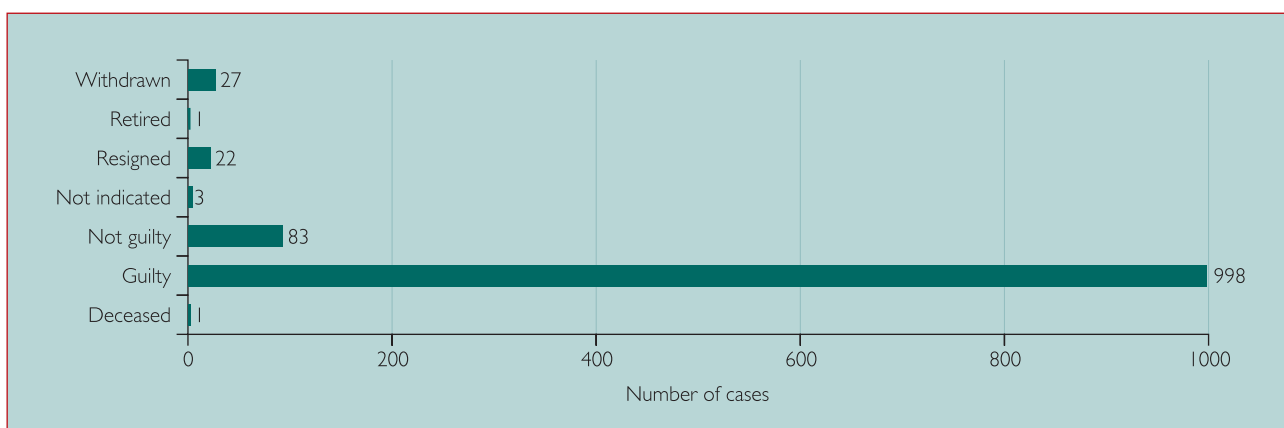


Figure 17: Outcome of financial misconduct cases for the 2009/2010 financial year

Figure 17 above reflects that of the **1135** finalised financial misconduct cases reported, employees were found guilty of misconduct in 998 of the cases, which represents 88% of the cases reported. This points to the fact that in many instances once an employee is charged with misconduct, departments are able to successfully prove the allegations made against such an employee.

3.2.6 Sanctions imposed in cases of financial misconduct

In terms of section 38 of the PFMA¹⁸, the Accounting Officer of a department must take effective and appropriate disciplinary steps against an employee who contravenes or fails to comply with the provisions of the PFMA and/or who undermines the financial management and internal control system of the department. This is put into effect by various procedures pertaining to disciplinary action that are applicable in the Public Service, depending on the legislation in terms of which an employee is employed, e.g. the Public Service Act, 1994¹⁹, the South African Police Service Act²⁰, 1995 and the Defence Act, 1957²¹.

The figure on the following page indicates the type of sanctions imposed by the departments for the financial year 2009/2010.

¹⁸ Republic of South Africa. The Public Finance Management Act 1 of 1999.
¹⁹ Republic of South Africa. The Public Service Act 103 of 1994 (as amended).
²⁰ Republic of South Africa. The South African Police Service Act 68 of 1995.
²¹ Republic of South Africa. The Defence Act 44 of 1957.

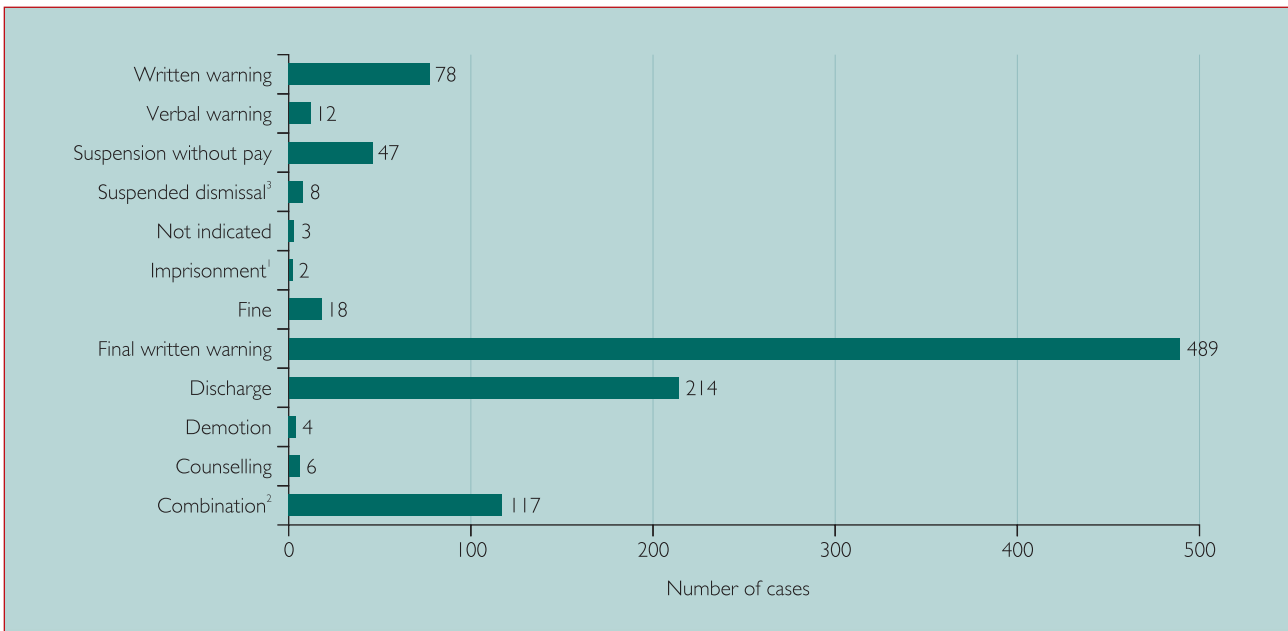
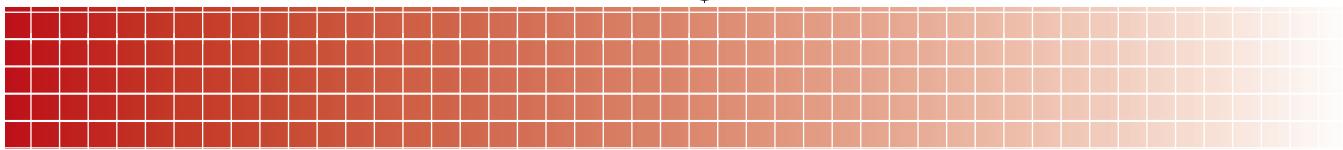


Figure 18: Sanctions imposed in financial misconduct cases

Note: ¹ Sanction imposed in terms of the Defence Act, 1957.

² "Combination" means those cases where the chair of the disciplinary hearing pronounced a combination of sanctions as provided for in clause 7.4(a)(v) of the Disciplinary Code and Procedures, e.g. a final written warning and suspension without pay.

³ Sanction imposed in terms of the South African Police Service Discipline Regulations, 2006. Suspended dismissal means, should the employee commit a similar or related act of misconduct before the expiry of the six months' period, the sanction of dismissal will be implemented.

Figure 18 above shows that final written warnings were issued in 489 (43%) cases, and this was the most prevalent sanction imposed upon a finding of guilty. It was followed by 214 (19%) cases in which employees were discharged from the Public Service.

3.2.7 Cost of financial misconduct

As financial misconduct cases involving fraud, theft, misappropriation and abuse, and gross negligence are often detected prior to a loss being suffered by departments, not all cases of financial misconduct will ultimately result in a loss to the State. The total cost reported by national and provincial departments emanating from unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from finalised cases of financial misconduct reported in respect of the 2009/2010 financial year was **R 346 529 669.39**. Although departments are provided with a format for reporting of finalised financial misconduct cases, departments tend not to adhere to the reporting format and thus the information provided is not always user-friendly. This relates especially to the costs of financial misconduct and the recovery thereof. According to the reports submitted by national and provincial departments, **R 44 384 029.72** (12.8%) was recovered from the employees found guilty of financial misconduct or the financial misconduct did not result in any loss to the State. An amount of **R 302 145 640.12** (87.2%) is reflected as the amount not recovered at the time of reporting to the PSC.

3.2.7.1 Cost of financial misconduct reported at national level

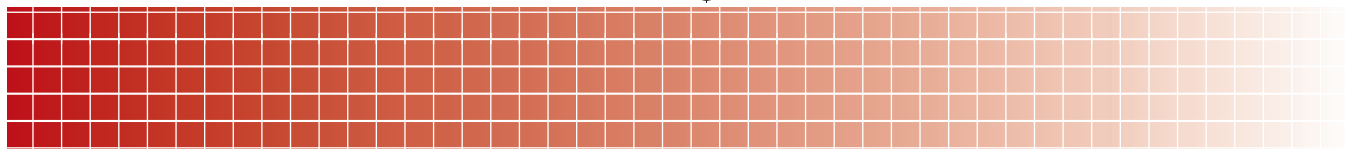
Table 4 below reflects the cost of financial misconduct as reported by the national departments for the 2009/2010 financial year. The total cost of financial misconduct reported by national departments for the 2009/2010 financial year was **R 265 355 471.63**.



Table 4 below further reflects that the national departments only recovered an amount of **R 3 335 757.67** (1.3%) of the total cost of financial misconduct from the employees found guilty of financial misconduct or the financial misconduct did not result in any loss to the State. Furthermore, an amount of **R 262 019 713.96** (98.7%) was not recovered at the time departments reported the outcome of the cases to the PSC.

Table 4: Cost of financial misconduct reported at national level

DEPARTMENT	AMOUNT	AMOUNT PHYSICALLY RECOVERED	AMOUNT CONSIDERED AS RECOVERED DUE TO "NO LOSS TO STATE"	AMOUNT NOT RECOVERED
Agriculture, Forestry and Fisheries	R 482 857.51	R 0.00	R 0.00	R 482 857.51
Arts and Culture	R 131 886 616.60	R 6 133.20	R 250 000.00	R 131 630 483.40
Communications	R 3 832 234.91	R 0.00	R 0.00	R 3 832 234.91
Cooperative Governance and Traditional Affairs	R 2 133 388.56	R 0.00	R 2 050 561.66	R 82 826.90
Correctional Services	R 1 396 522.34	R 1 945.70	R 578 149.54	R 816 427.10
Defence and Military Veterans	R 291 621.51	R 63 531.23	R 5 000.00	R 223 090.28
DoJCD	R 2 191 935.32	R 189 685.99	R 8 710.00	R 1 993 539.33
Energy	R 91 803 000.00	R 0.00	R 0.00	R 91 803 000.00
GCIS	R 350.00	R 350.00	R 0.00	R 0.00
Health	R 16 752.76	R 0.00	R 850.00	R 15 902.76
Home Affairs	R 49 574.74	R 13 680.00	R 15 902.74	R 19 992.00
Human Settlements	R 0.00	R 0.00	R 0.00	R 0.00
ICD	R 62 091.51	R 439.16	R 48 504.47	R 13 147.88
International Relations and Cooperation	R 49 600.87	R 0.00	R 0.00	R 49 600.87
Labour	R 1 114 424.62	R 5 187.64	R 31 700.00	R 1 077 536.98
Mineral Resources	R 6 059 000.00	R 0.00	R 21 000.00	R 6 038 000.00
National Prosecuting Authority	R 49 482.57	R 0.00	R 0.00	R 49 482.57
National Treasury	R 39 186.63	R 0.00	R 0.00	R 39 186.63
Public Works	R 2 579.62	R 0.00	R 0.00	R 2 579.62
Rural Development and Land Reform	R 24 989.53	R 16 006.53	R 0.00	R 8 983.00
SAPS	R 702 735.99	R 142.37	R 207.44	R 702 386.18
Sport and Recreation SA	R 17 469.62	R 0.00	R 0.00	R 17 469.62
Statistics SA	R 4 890.84	R 0.00	R 0.00	R 4 890.84



DEPARTMENT	AMOUNT	AMOUNT PHYSICALLY RECOVERED	AMOUNT CONSIDERED AS RECOVERED DUE TO "NO LOSS TO STATE"	AMOUNT NOT RECOVERED
Trade and Industry	R 113 516.73	R 0.00	R 0.00	R 113 516.73
Transport	R 23 000 000.00	R 0.00	R 0.00	R 23 000 000.00
Water Affairs	R 30 648.85	R 28 070.00	R 0.00	R 2 578.85
TOTAL	R 265 355 471.63	R 325 171.82	R 3 010 585.85	R 262 019 713.96

The cost of financial misconduct was the highest in the Department of Arts and Culture with a total cost of **R 131 886 616.60**, which represents 49.7%, of the total cost reported by national departments. The costs relate to cases involving fraud, processing of unlawful payments, misuse of a State vehicle, contravention of the PFMA, and failure to monitor projects. The Department of Energy reported that the cost of financial misconduct was **R 91 803 000.00** (34.6%), which is the second highest amount reported by national departments. The Department of GCIS reported the lowest cost **R 350.00** (1.3 %) in respect of finalised cases of financial misconduct. The Department of Human Settlements reported eight cases of financial misconduct which did not result in any loss to the State as the State resources were recovered.

Table 5 below reflects that the following national departments had not made any recovery in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from cases of financial misconduct that was finalised in the 2009/2010 financial year.

Table 5: Departments that reported that they had not made any recovery

DEPARTMENT	AMOUNT
Agriculture, Forestry & Fisheries	R 482 857.51
Communications	R 3 832 234.91
Energy	R 91 803 000.00
International Relations Cooperation	R 49 600.87
National Prosecuting Authority	R 49 482.57
National Treasury	R 39 186.63
Public Works	R 2 579.62
Sport and Recreation SA	R 17 469.62
Statistics SA	R 4 890.84
Trade and Industry	R 113 516.73
Transport	R 23 000 000.00

3.2.7.2 Cost of financial misconduct reported at provincial level

3.2.7.2.1 Overall cost of financial misconduct in Provinces

An amount of **R 81 174 197.76** was reported by the provinces in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 21** on page 31 reflects the cost of financial misconduct as reported by the provinces for the 2009/2010 financial year. **Appendix B** provides



a breakdown of the cost of financial misconduct, the amount physically recovered, the amount considered as recovered due to no loss to the State and the amount not recovered, per department and per province. Only an amount of **R 41 048 271.60** (50.6% of the total cost of financial misconduct reported by the nine provinces) was recovered from the employees found guilty of financial misconduct or the financial misconduct did not result in any loss to the State. A total of **R40 125 926.16** (49.4%) was not recovered at the time departments reported the outcome of the cases to the PSC.

It is disturbing to note that the rate of recovery reported by provinces was **R 41 048 271.60** (50.6%) whilst national departments reported that **R 3 335 757.67** (1.3%) was recovered from the employees found guilty of financial misconduct or the financial misconduct did not result in any loss to the State.

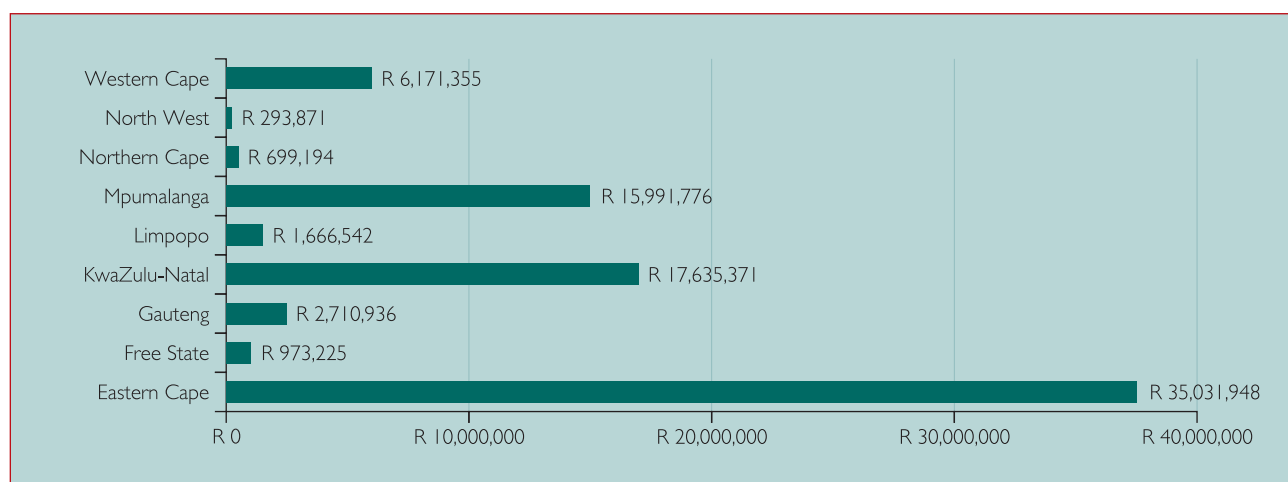


Figure 19 shows that the cost of financial misconduct has been the highest in the Eastern Cape Province with a total cost of **R 35 031 948.01** (43.2% of the total cost of financial misconduct reported by all nine provinces), followed by KwaZulu-Natal Province with **R 17 635 371.27** (22.7% of the total cost of financial misconduct reported by all nine provinces). Of the nine provinces, North West Province reported the lowest cost **R 293 871.08** (0.36%) in respect of financial misconduct.

3.2.7.2.2 Cost of financial misconduct reported by departments in the Eastern Cape Province

An amount of **R 35 031 948.01** was reported by departments in the Eastern Cape Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 20** on the following page reflects the cost of financial misconduct as reported by departments in the Eastern Cape Province for the 2009/2010 financial year.

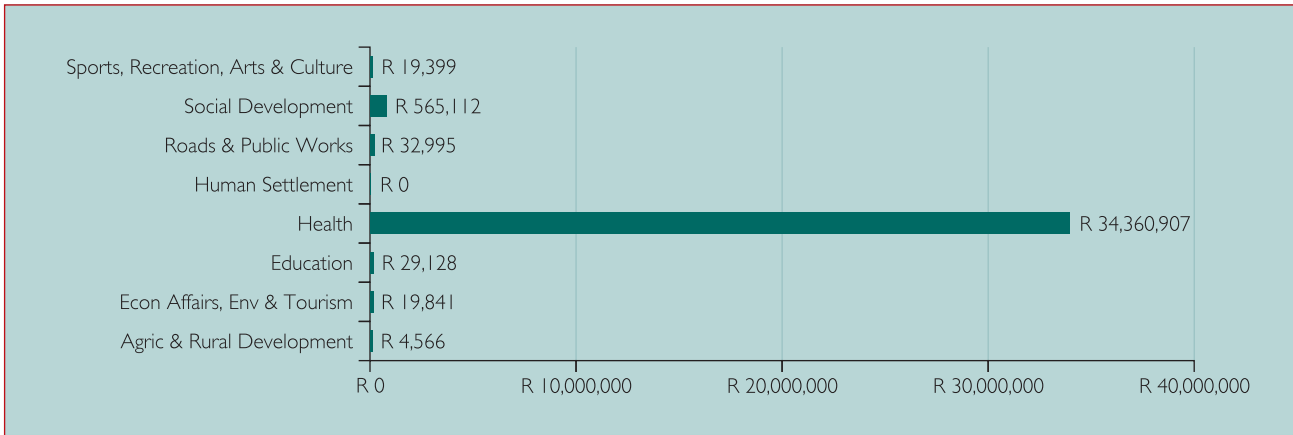


Figure 20: Cost of financial misconduct reported by departments in the Eastern Cape Province

Figure 20 above reflects that the Department of Health in the Province reported the highest cost, **R 34 360 907.42** (98.1%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Social Development with a cost of **R 565 111.61** (1.6%). The Department of Agriculture and Rural Development reported the lowest cost, **R 4 566.00** (0.01%) in respect of financial misconduct. The Department of Human Settlements reported two cases of financial misconduct, of which it indicated that there was no loss to the State.

3.2.7.2.3 Cost of financial misconduct reported by departments in the KwaZulu-Natal Province

An amount of **R 17 635 371.27** was reported by departments in the KwaZulu-Natal Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. Figure 21 below reflects the cost of financial misconduct as reported by departments in the KwaZulu-Natal Province for the 2009/2010 financial year.

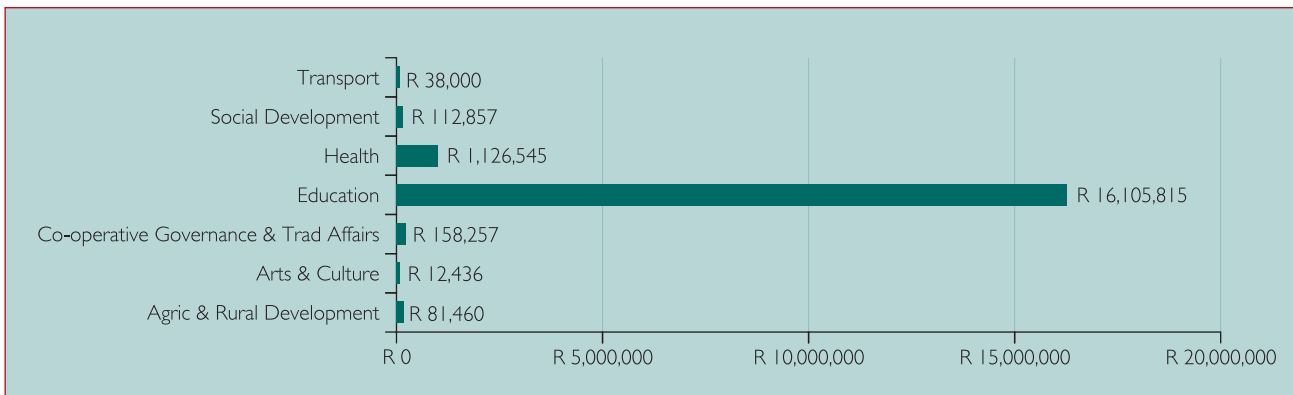


Figure 21: Cost of financial misconduct reported by departments in the KwaZulu-Natal Province

Figure 21 above reflects that the Department of Education in the Province reported the highest cost, namely **R 16 105 815.02** (91.3%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Health with a cost of **R 1 126 545.35** (6.4%). The Department of Arts and Culture reported the lowest cost, **R 12 436.00** (0.07%) in respect of financial misconduct.

3.2.7.2.4 Cost of financial misconduct reported by departments in the Mpumalanga Province

An amount of **R 15 991 775.83** was reported by departments in the Mpumalanga Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct.



Figure 22 below reflects the cost of financial misconduct as reported by departments in Mpumalanga Province for the 2009/2010 financial year.

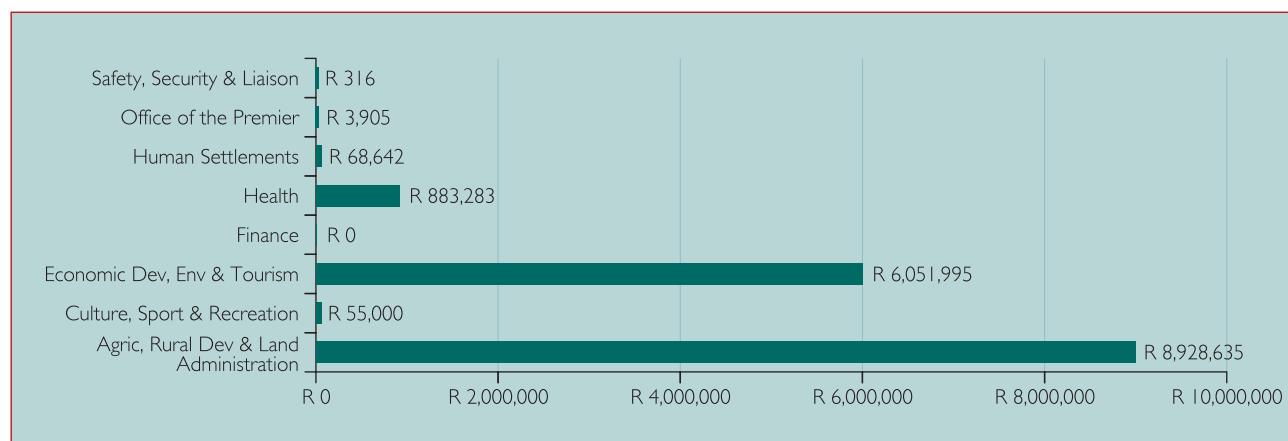


Figure 22: Cost of financial misconduct reported by departments in the Mpumalanga Province

Figure 22 above reflects that the Department of Agriculture, Rural Development and Land Administration in the Province reported the highest cost, namely **R 8 928 635.06** (55.8%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Economic Development, Environment and Tourism with a cost of **R 6 051 995.00** (37.8%). The Department of Safety, Security and Liaison reported the lowest cost, namely **R 315.92** (0.002%) in respect of financial misconduct. The Department of Finance reported one case of financial misconduct, of which the financial implications were not indicated.

3.2.7.2.5 Cost of financial misconduct reported by departments in the Western Cape Province

An amount of **R 6 171 334.76** was reported by departments in the Western Cape Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 23** below reflects the cost of financial misconduct as reported by departments in the Western Cape Province for the 2009/2010 financial year.

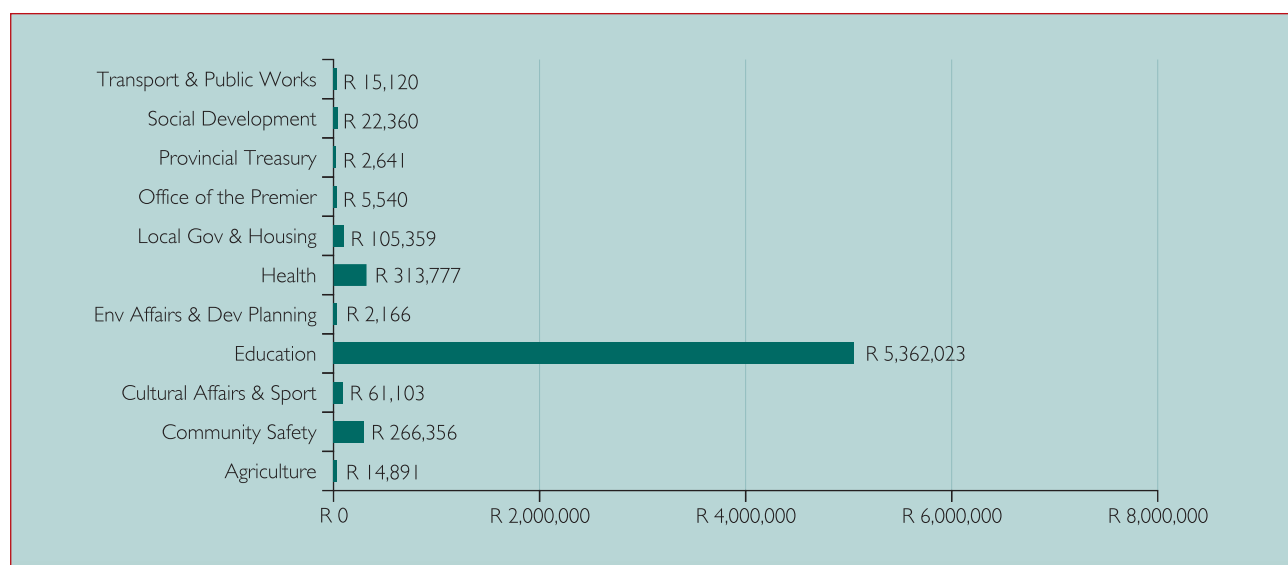
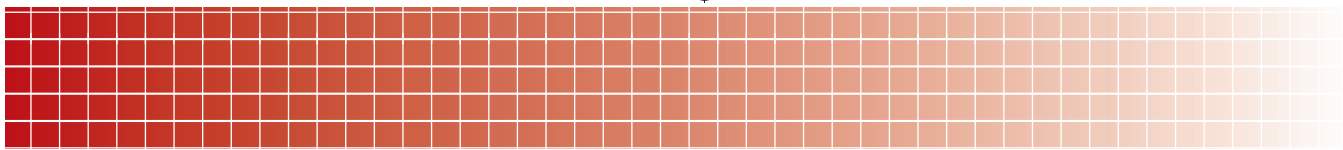


Figure 23: Cost of financial misconduct reported by departments in the Western Cape Province

Figure 23 above reflects that the Department of Education in the Province reported the highest cost, namely **R 5 362 022.64** (86.9%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial



year. This was followed by the Department of Health with a cost of **R 313 776.44** (5.1%). The Department of Environmental Affairs and Developmental Planning reported the lowest cost, namely **R 2 166.29** (0.04%), in respect of financial misconduct.

3.2.7.2.6 Cost of financial misconduct reported by departments in the Gauteng Province

An amount of **R 2 710 936.22** was reported by departments in the Gauteng Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 24** below reflects the cost of financial misconduct as reported by departments in the Gauteng Province for the 2009/2010 financial year.

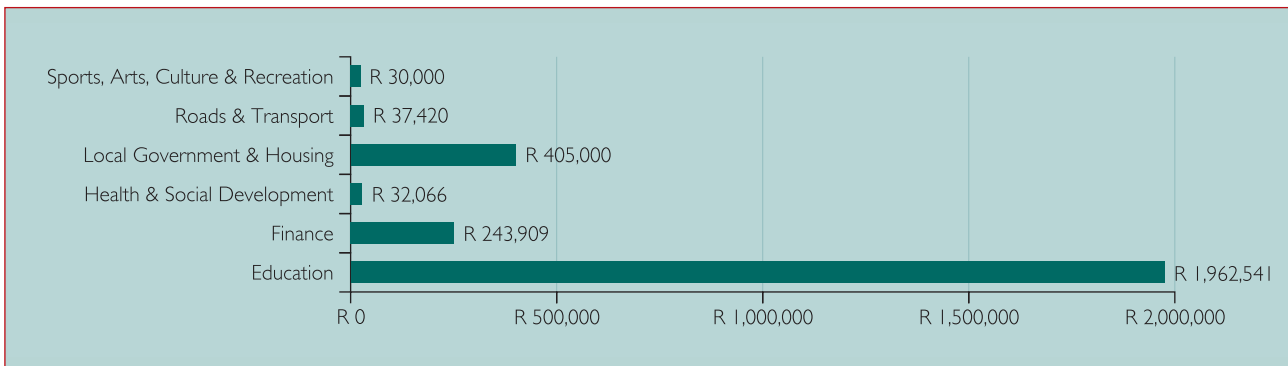


Figure 24: Cost of financial misconduct reported by departments in the Gauteng Province

Figure 24 above reflects that the Department of Education in the Province reported the highest cost, namely **R 1 962 541** (72.4%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Local Government and Housing with a cost of **R 405 000.00** (14.9%). The Department of Sport, Arts, Culture and Recreation reported the lowest cost, namely **R 30 000.00** (1.1%) in respect of financial misconduct.

3.2.7.2.7 Cost of financial misconduct reported by departments in the Limpopo Province

An amount of **R 1 666 541.56** was reported by departments in Limpopo Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 25** below reflects the cost of financial misconduct as reported by departments in Limpopo Province for the 2009/2010 financial year.

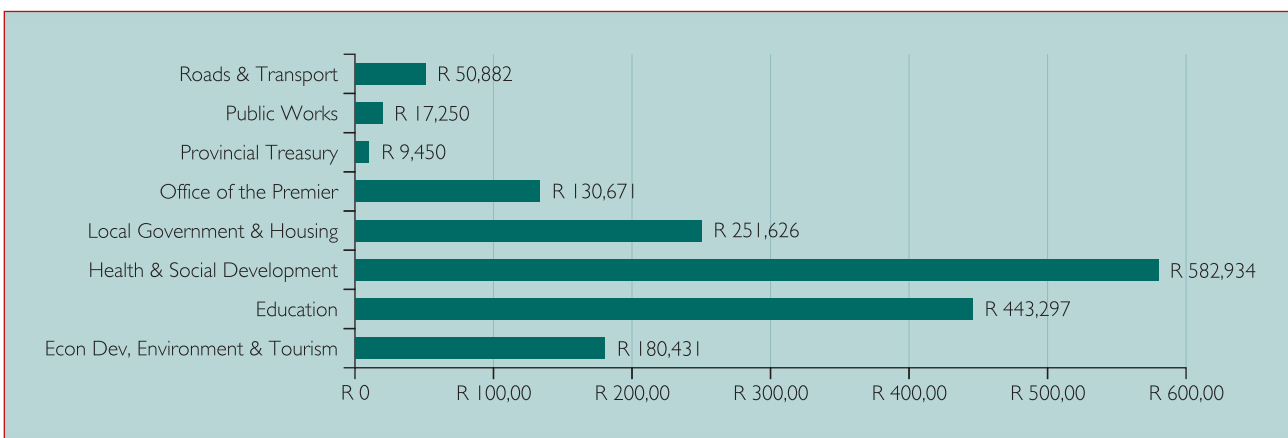


Figure 25: Cost of financial misconduct reported by departments in the Limpopo Province



Figure 25 on the previous page reflects that the Department of Health and Social Development in the Province reported the highest cost, namely **R 582 934.30** (35%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Education with a cost of **R 443 297.00** (26.6%). The Department of Provincial Treasury reported the lowest cost, namely **R 9 450.00** (0.57%) in respect of financial misconduct.

3.2.7.2.8 Cost of financial misconduct reported by departments in the Free State Province

An amount of **R 973 224.73** was reported by departments in the Free State Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 26** below reflects the cost of financial misconduct as reported by departments in the Free State Province for the 2009/2010 financial year.

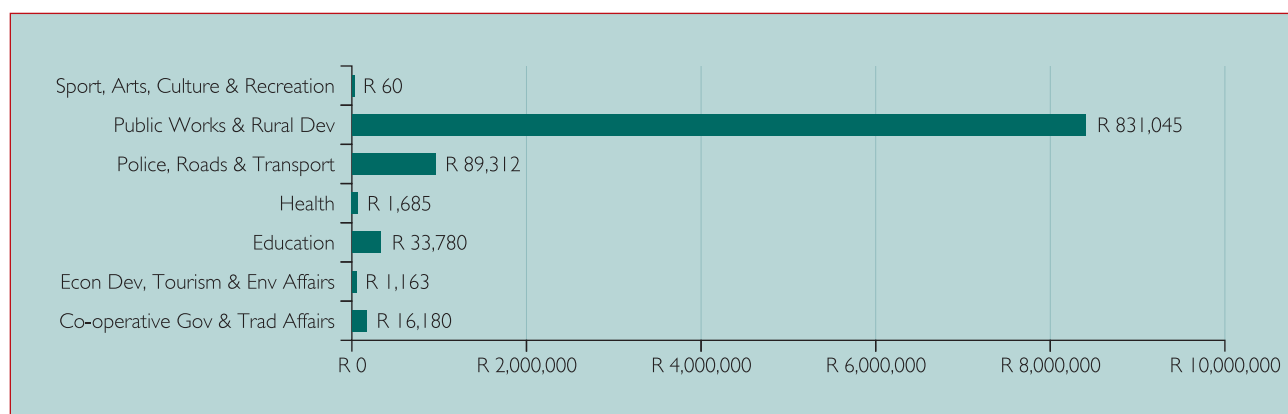


Figure 26: Cost of financial misconduct reported by departments in the Free State Province

Figure 26 above reflects that the Department of Public Works and Rural Development in the Province reported the highest cost, namely **R 831 045.00** (85.4%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Police, Roads and Transport with a cost of **R 89 311.60** (9.2%). The Department of Sport, Arts, Culture and Recreation reported the lowest cost, namely **R 60.00** (0.01%) in respect of financial misconduct.

3.2.7.2.9 Cost of financial misconduct reported by departments in the Northern Cape Province

An amount of **R 699 194.30** was reported by departments in the Northern Cape Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 27** below reflects the cost of financial misconduct as reported by departments in the Northern Cape Province for the 2009/2010 financial year.

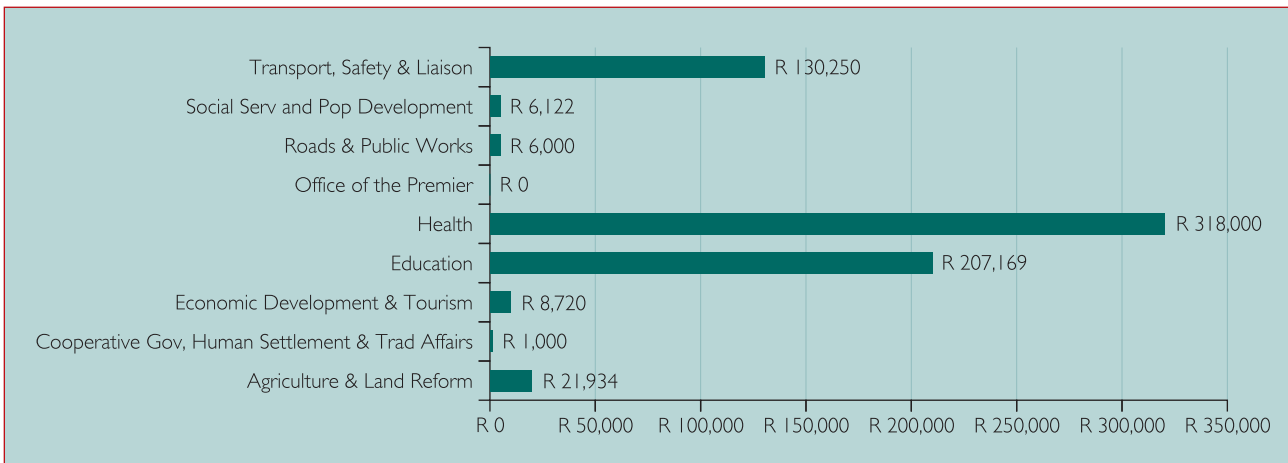
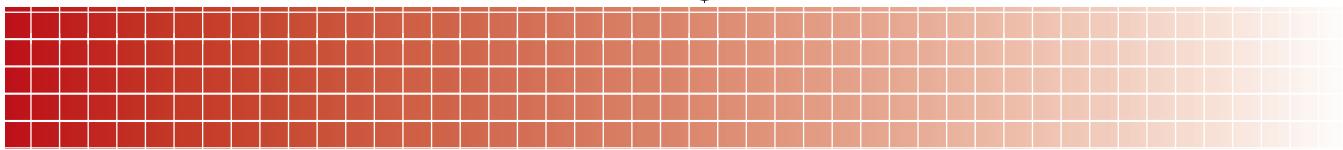


Figure 27: Cost of financial misconduct reported by departments in the Northern Cape Province

Figure 27 above reflects that the Department of Health in the Province reported the highest cost, namely **R 318 000.00** (45.5%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Education with a cost of **R 207 168.72** (29.6%). The Department of Cooperative Governance, Human Settlements and Traditional Affairs reported the lowest cost, namely **R 1 000.00** (0.14%), in respect of financial misconduct. The Office of the Premier reported one case of financial misconduct, of which it indicated that there was no loss to the State.

3.2.7.2.10 Cost of financial misconduct reported by departments in the North West Province

An amount of **R 293 871.08** was reported by departments in the North West Province in respect of unauthorized, irregular, fruitless and wasteful expenditure, as well as losses resulting from criminal conduct. **Figure 28** below reflects the cost of financial misconduct as reported by departments in the North West Province for the 2009/2010 financial year.

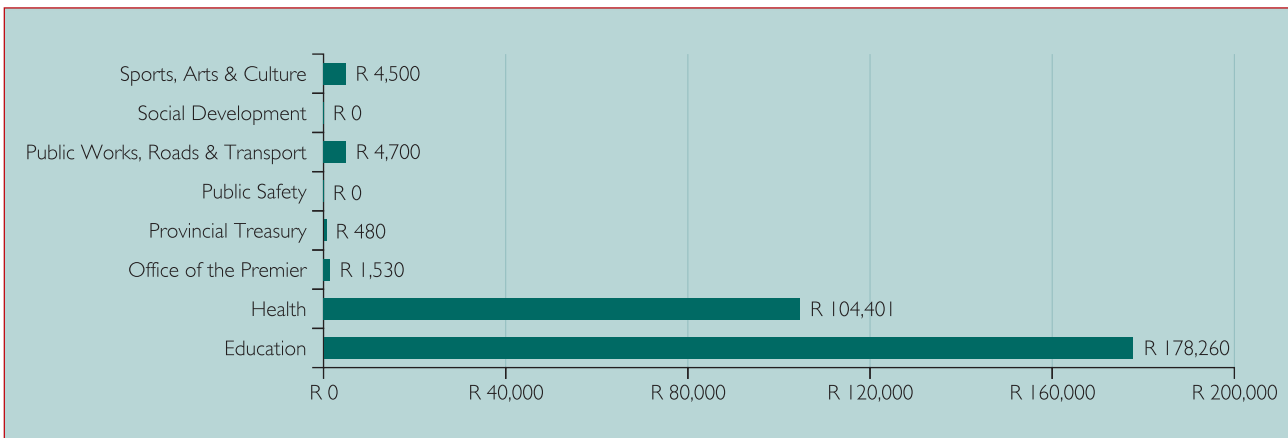


Figure 28: Cost of financial misconduct reported by departments in the North West Province

Figure 28 above reflects that the Department of Education in the Province reported the highest cost, namely **R 178 260.00** (60.7%) in respect of financial misconduct reported by the entire province for the 2009/2010 financial year. This was followed by the Department of Health with a cost of **R 104 401.08** (35.5%). The Department of Provincial Treasury reported the lowest cost, namely **R 480.00** (0.16%), in respect of financial misconduct. The departments of Public Safety and Social Development reported cases of financial misconduct, however, these two departments did not indicate the costs involved.



3.2.8 Criminal proceedings instituted against employees charged with financial misconduct

Figure 29 below provides a breakdown of the responses by departments in regard to the institution of criminal proceedings against employees found guilty of financial misconduct.

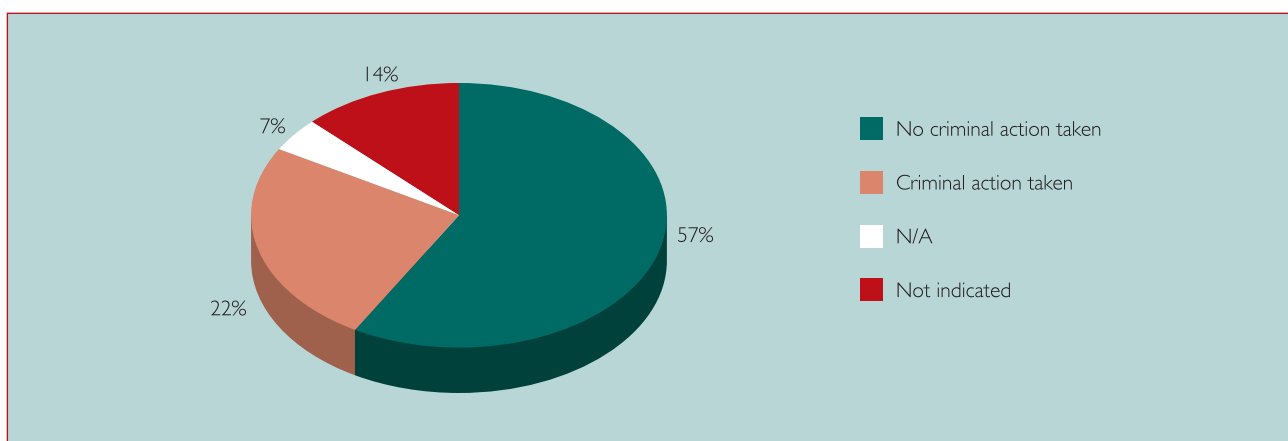


Figure 29: Breakdown of the responses by departments in regard to further action taken against employees

There are clear prescripts detailing how employees that make themselves guilty of criminal acts or possible criminal acts or omissions should be dealt with in the Public Service. Time and again departments have failed to demonstrate commitment in instituting criminal charges where appropriate. In this regard the following two prescripts provide for mandatory reporting requirements:

- Treasury Regulation 12.5²² determines that when it appears that the State has suffered losses or damages through criminal acts or possible criminal acts or omissions, the matter must be reported, in writing, to the Accounting Officer and the SAPS.

Treasury Regulation 4.3.1 determines that the Accounting Officer of the department must advise, amongst others, the PSC of any further action taken against an official, including criminal charges or civil proceedings.

- The Prevention and Combating of Corrupt Activities (PCCA) Act, 2004²³, criminalises any act falling within the broad category of corruption. In terms of subsection 34(1) of the PCCA Act any person who holds a "position of authority" is compelled to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R 100 000.00 or more to the SAPS. Section 34(4) of the PCCA Act defines a position of authority to include a Director-General or head or equivalent officer of a national or provincial department. The PCCA Act therefore criminalizes failure to report offences such as theft and fraud involving amounts of R 100 000.00 and more to the SAPS and such an offence punishable by a fine or imprisonment for a period not exceeding 10 years.

Although the above prescripts provide for mandatory reporting requirements, the level of reporting on the institution of criminal proceedings remains dismal. In the 2009/2010 financial year criminal proceedings were instituted against employees in **245** (22%) of the cases. No criminal proceedings were instituted against employees in **651** (57%) of the cases. Furthermore, in **162** (14%) of the cases, departments failed to provide any indication whether criminal or any other proceedings were instituted against employees charged with financial misconduct. In **77** (7%) of the cases, departments indicated that criminal proceedings were not applicable.

Departments were requested to ensure that if no criminal action was taken against an employee that was found

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

23 Prevention and Combating of Corrupt Activities Act No. 12 of 2004.



guilty of financial misconduct, the reasons for such a decision should be provided. However, departments failed to provide such information in **636** (98%) out of **651** of the cases. The reasons for not instituting criminal action against employees that were found guilty of financial misconduct can therefore not be determined.

In assessing compliance with subsection 34(1) of the PCCA Act²⁴, it was found that of the **152** cases involving amounts of R 100 000.00 and more, criminal action was taken in **29** cases. In the remaining 123 cases the following emerged:

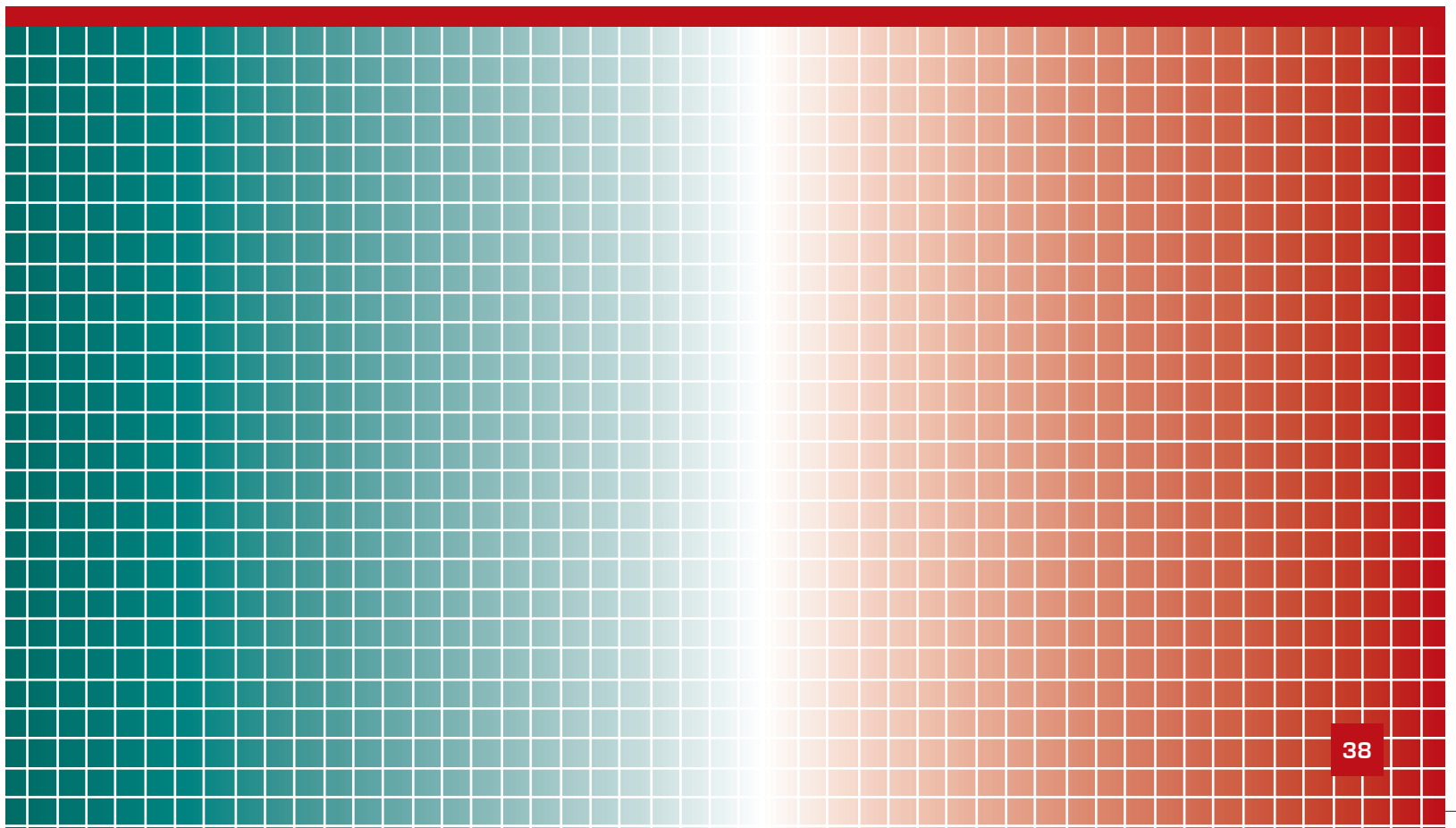
- In **113** cases departments indicated that no criminal action was instituted against the employees charged with financial misconduct. Of the **113** cases the departments failed to indicate the reasons for such a decision in **111** cases.
- In **4** cases of fraud in the departments of Arts and Culture (R 250 000.00), Health and Social Development in the Limpopo Province (R 292 639.67 and R 121 867.79) and Health in the Northern Cape Province (R 318 000.00), the departments failed to indicate whether or not criminal action was instituted against the employees charged with financial misconduct.
- In **1** case involving financial mismanagement (R 455 925.00), the Department of Economic Development, Environment and Tourism in the Mpumalanga Province failed to indicate whether or not criminal action was instituted against the employee charged with financial misconduct.
- In **1** case involving misappropriation and abuse in the Department of Co-operative Governance and Traditional Affairs, KZN Province (R 127 522.00), the Department indicated that criminal action was not applicable.
- In **1** case of fraud in the Department of Health, KZN Province (R 860 522.42), the Department indicated that criminal action was not applicable.
- In **1** case involving gross negligence in the Department of Economic Development, Environment and Traditional Affairs in the Mpumalanga Province (R 5 095 070.00), the Department indicated that criminal action was not applicable.
- In **2** cases involving financial mismanagement in the Department of Transport (R 23 000 000.00) and the Department Economic Development, Environment and Traditional Affairs in the Mpumalanga Province (R 501 000.00), the departments indicated that criminal action was not applicable.

Following an analysis of cases in the categories “fraud”, “theft” and “corruption” (refer to paragraph 3.3 above in relation to the types of financial misconduct), it was found that of the 77 cases in this category, departments indicated in **62** cases that criminal proceedings were not instituted against employees who had committed financial misconduct in excess of R 100, 000.00. In **1** case the department indicated that criminal action is not applicable. Furthermore, in **4** cases, departments did not indicate whether or not criminal action was instituted. Although the reporting format of the PSC provides for departments to indicate the reasons why criminal action was not instituted against an employee, departments did not provide any reasons in **64** instances mentioned in **Appendix B**.

²⁴ Prevention and Combating of Corrupt Activities Act No. 12 of 2004.

Chapter Four

Trend Analysis of Cases Reported Since the 2005/2006 Financial Year



4.1 INTRODUCTION

This Chapter presents a trend analysis of the information reported by national and provincial departments for the period 01 April 2009 until 31 March 2010, and compares it against information contained in the PSC's reports on financial misconduct for the past four financial years.

4.2 DECREASE IN FINALISED FINANCIAL MISCONDUCT CASES FOR THE 2009/2010 FINANCIAL YEAR

Figure 30 below reflects the number of finalised financial misconduct cases reported during the past five financial years. It also contains a trend line reflecting the general direction in which finalised financial misconduct cases are heading over a five year period.

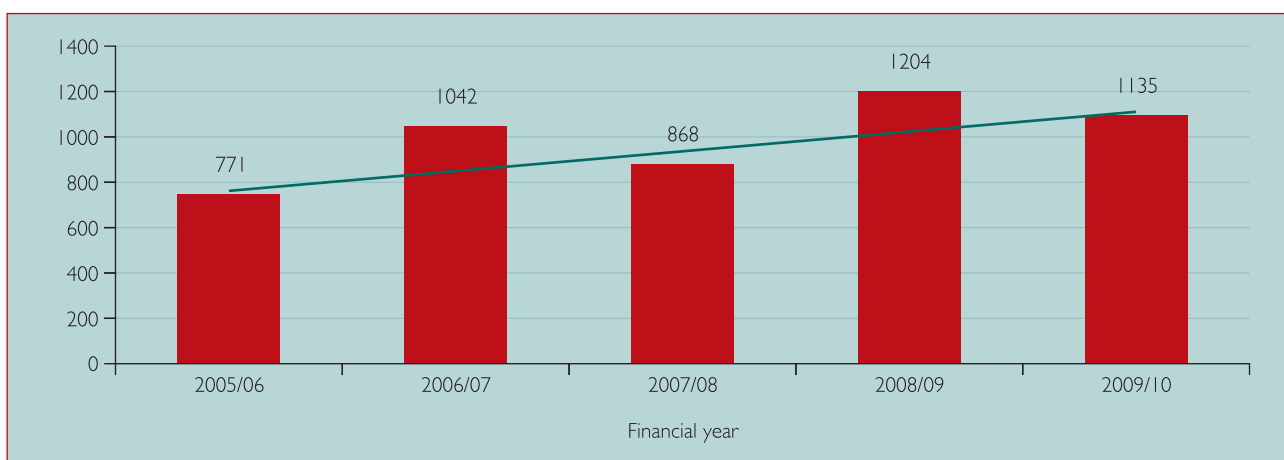


Figure 30: Number of reported cases for the financial years 2005/2006 until 2009/2010

Figure 30 above shows that over the past five financial years, the number of finalised cases has varied from year to year. For example, from a low figure of 771 in 2005/2006 financial year, the number increased to 1135 in the 2009/2010 financial year. The highest number of finalised cases recorded was in the 2008/2009 financial year at 1204.

A breakdown of the total number of cases at national and provincial level for the past five financial years is reflected in **Figure 31** on the following page.

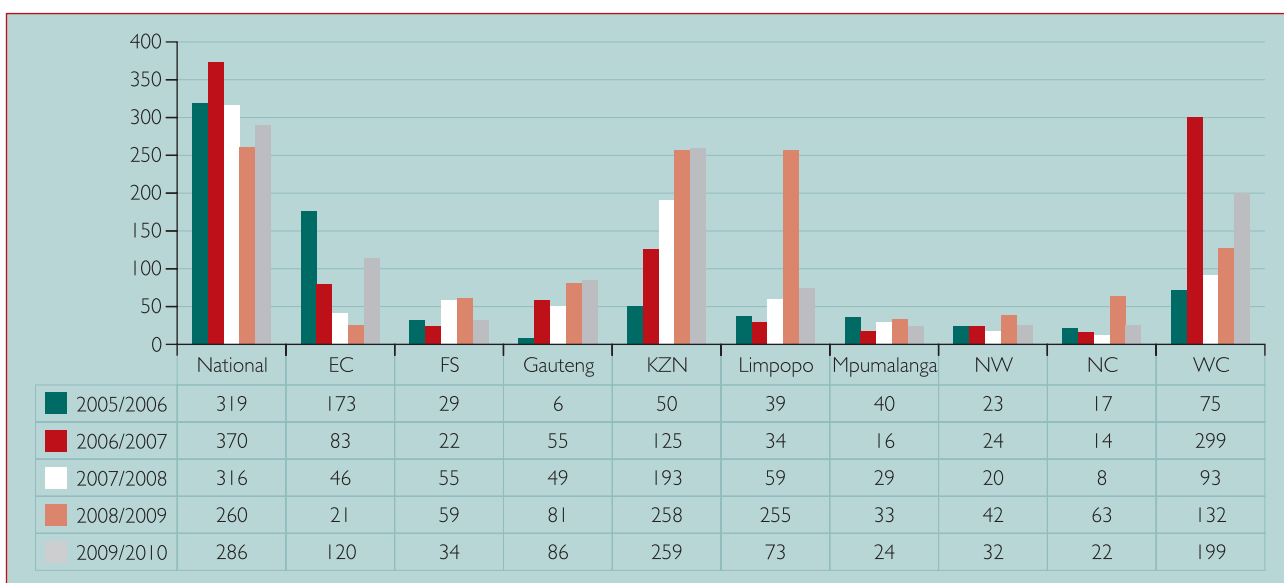


Figure 31: Number of cases on national and provincial level over the past five financial years

Figure 31 on the previous page reflects that the number of finalised cases reported by national departments for the 2009/2010 financial year indicates an increase in comparison to the number of cases reported in the 2008/2009 financial year i.e. **260** to **286**. This represents an overall increase of 26 cases (**10%**). The figure also shows that the following provincial administrations have had an increase in the number of cases in comparison to the 2008/2009 financial year:

Table 6: Provincial administrations that had an increase in the number of cases in comparison to the 2008/2009 financial year

PROVINCIAL ADMINISTRATION	INCREASE IN THE NUMBER OF CASES REPORTED
Eastern Cape	99 (471%)
Gauteng	5 (6%)
KwaZulu- Natal	1 (0.39%)
Western Cape	67 (51%)

The Eastern Cape, Gauteng, KwaZulu-Natal and Western Cape Provinces had an increase in the number of cases reported in the 2009/2010 financial year in comparison to that reported in the 2008/2009 financial year. The Eastern Cape Province reported the highest increase in the number of cases i.e. from 21 to 120 (an increase of **99** [471%] cases). This was followed by the Western Cape Province with an increase from **132** to **199** cases (an increase of **67** [50.8%] cases). The KwaZulu-Natal Province had the lowest increase (**1**) [0.39%] in the number of cases reported in the 2009/2010 financial year in comparison to that reported in the 2008/2009 financial year.

Furthermore, **Figure 31** above also reflects that in comparison to the 2008/2009 financial year, the following provincial administrations have had a decrease in the number of cases reported in comparison to the 2008/2009 financial year:

Table 7: Provincial administrations that had a decrease in the number of cases in comparison to the 2008/2009 financial year

PROVINCIAL ADMINISTRATION	DECREASE IN THE NUMBER OF CASES
Free State	25 (42%)
Limpopo	182 (71%)
Mpumalanga	9 (27%)
North West	10 (24%)
Northern Cape	41 (65%)

In comparison to the number of cases reported in the 2008/2009 financial year, the Free State, Limpopo, Mpumalanga, North West and Northern Cape provinces reported a decrease in the number of cases for the 2009/2010 financial year. The highest decrease in the number of cases was reported by the Limpopo Province i.e. a decrease of 182 (71%) cases. The Mpumalanga Province reported the lowest decrease of 9 (27%) cases.

4.3 TREND IN CASES IN THE CATEGORIES “FRAUD” AND “THEFT”

The PSC has grouped the cases of financial misconduct reported by departments in accordance with the various categories (*vide* paragraph 3.2.3 above). Finalised financial misconduct cases in the category “fraud” and “theft” have since the 2005/2006 financial year remained the highest. Cases in the category “misappropriation and abuse”, are the second highest.

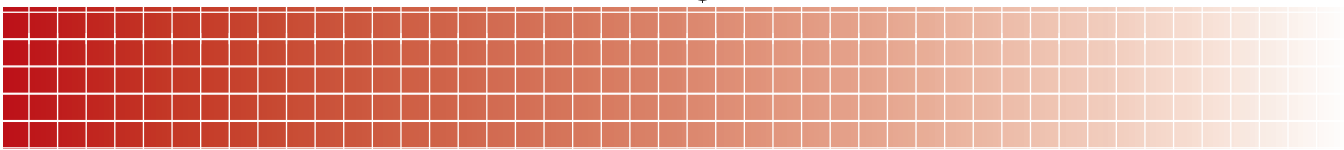


Figure 32 below illustrates trends for cases falling in the categories “fraud” and “theft” reported for the past five financial years. It shows that each year these have continued to constitute more than 50% of the cases reported.

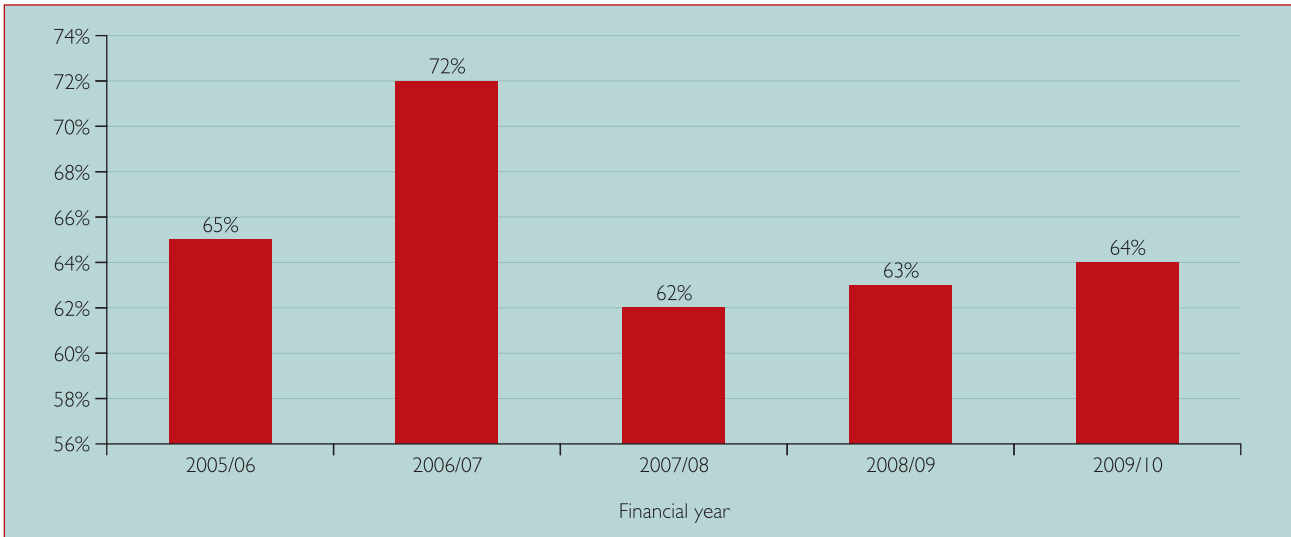


Figure 32: Fraud and theft cases reported for the financial years 2005/2006 until 2009/2010

4.4 CONSISTENT INCREASE IN THE PERCENTAGE OF SMS MEMBERS CHARGED WITH FINANCIAL MISCONDUCT

SMS members are more susceptible to circumstances that may lead to transgressions of the PFMA, due to their constant involvement in financial management. Financial management is one of the compulsory competencies that are required of a Senior Manager in order to ensure the achievement of strategic organisational objectives. This competency deals with the SMS member’s ability to:

- Compile and manage budgets
- Control cash flow
- Institute risk management
- Administer tender procurement processes in accordance with generally recognised financial practices.

Figure 33 below provides a comparison of the number of finalised misconduct cases per salary category for the past five financial years (2005/2006 until 2009/2010).

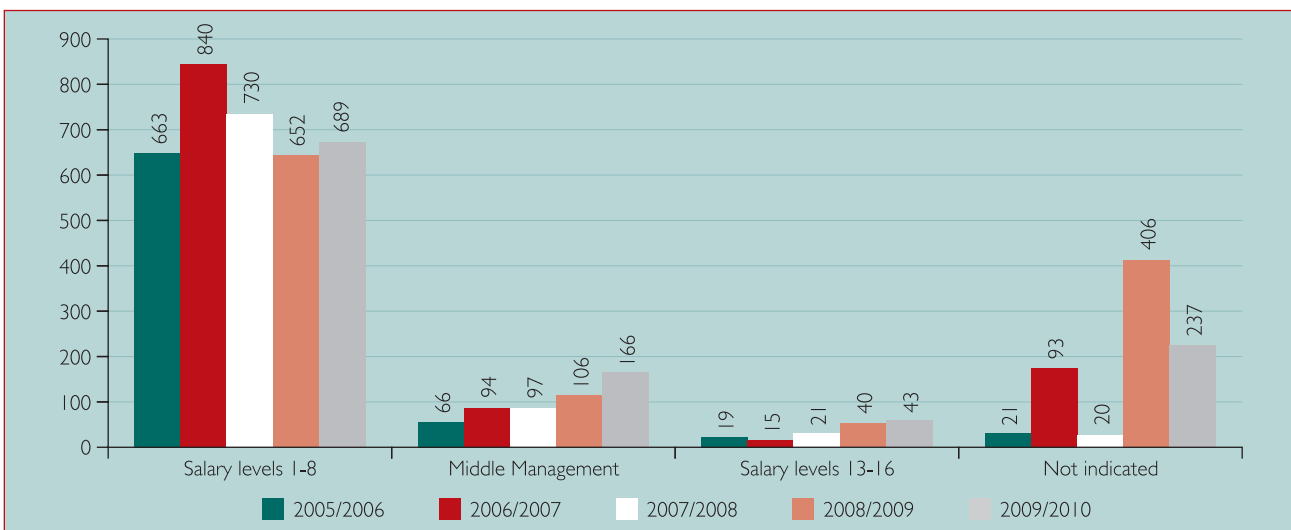


Figure 33: Number of cases per salary category over the past five financial years



In terms of **Figure 33**, finalised financial misconduct cases over the past five financial years were most common at salary levels 1 to 8. However, there has been a marginal increase in the number of finalised financial misconduct cases that were committed by SMS members. The total number of finalised financial misconduct cases committed by SMS members have increased from **40** in the 2008/2009 financial year to **43** in the 2009/2010 financial year, representing an increase of 7.5%.

4.5 INCREASE IN THE PERCENTAGE OF EMPLOYEES FOUND GUILTY OF FINANCIAL MISCONDUCT

Figure 34 provides an overview of the percentage of employees found guilty of financial misconduct over the past five financial years.

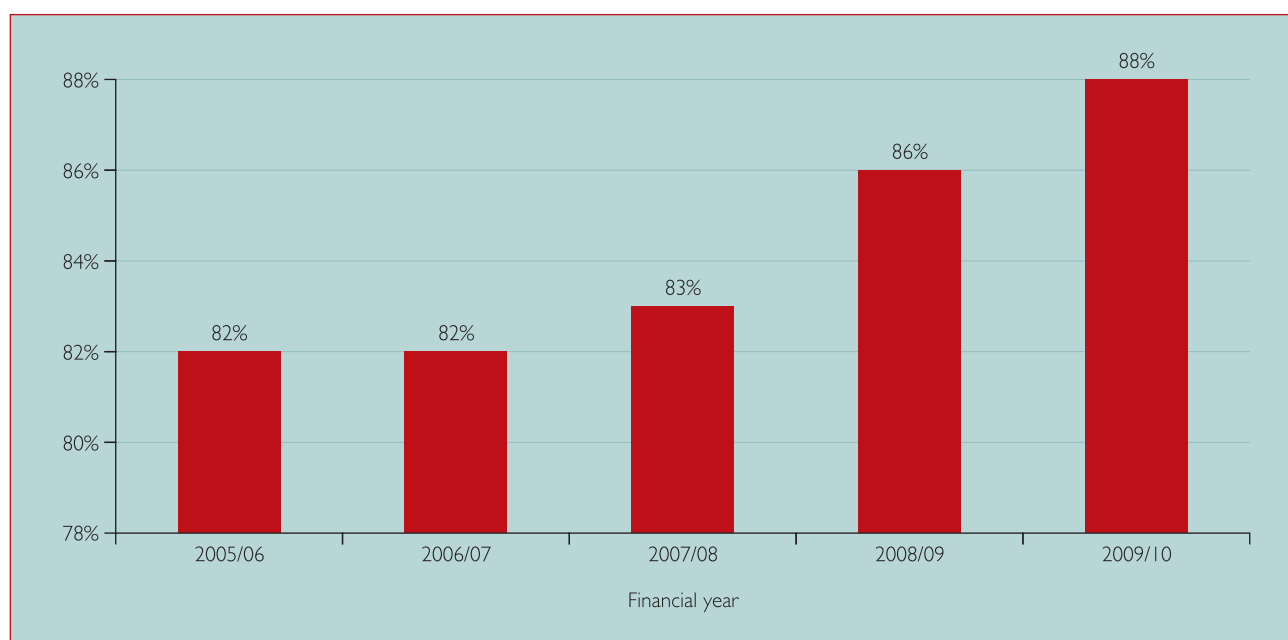


Figure 34: Overall percentage of findings of guilty over the past five financial years

Figure 34 reflects that over the past five financial years, employees have been found guilty in 84.2% of the cases, following charges of financial misconduct. In the 2009/2010 financial year employees were found guilty of financial misconduct in **998** (88%) of the cases. The fact that such a large percentage of the perpetrators are found guilty is an indication that the application of the Disciplinary Code and Procedures for the Public Service does have a positive impact on the outcome of the disciplinary enquiry. In the 2009/2010 financial year, in **83** (7.3 %) of the cases, employees were found not guilty and in **27** (2.4%) of the cases, the charges against the employees were withdrawn.

In respect of resignations by employees who are charged with financial misconduct, the number of employees that resigned prior to the finalisation of the disciplinary hearing has increased by **5** cases (29%) i.e. from **17** cases in the 2008/2009 financial year to **22** cases in the 2009/2010 financial year. With such increase in resignations by charged officials before the cases are finalised, the PSC hopes that departments will always take heed of Section 17 of the Public Service Amendment Act, 2007²⁵ which states that:

“(6) If notice of a disciplinary hearing was given to an employee, the relevant executive authority shall not agree to a period of notice of resignation which is shorter than the prescribed period of notice of resignation applicable to that employee”.

²⁵ Republic of South Africa. Public Service Amendment Act, Act no 30 of 2007, gazetted on 17 January 2008.

4.6 TREND IN DISCHARGE FROM THE PUBLIC SERVICE AS AN APPROPRIATE SANCTION

Figure 35 provides an exposition of the outcome of finalised financial misconduct cases for the past five financial years.



Figure 35: Outcome of financial misconduct cases for the past five financial years

Figure 35 reflects that over the past five financial years, final written warnings have remained the most prevalent sanction imposed. During the 2009/2010 financial year, of the 998 cases that employees were found guilty, a sanction of final written warning was imposed in 489 (49%) of the cases. This was followed by discharge from the Public Service at 214 (21.4%). A combination of sanctions were imposed in 117 (11.7%) of the cases. In comparison to the 2008/2009 financial year, the rate of discharge from the Public Service due to financial misconduct has increased from 11% to 21%. It should be noted that it is the prerogative of the Presiding Officer to impose the sanction according to his/her discretion after he/she has taken into consideration the aggravating and mitigating circumstances of the employee. Departments should therefore make sure that the Presiding Officers they appoint are capable and credible. However, it is pleasing to note that the sanction of discharge has increased by 10% since the 2008/2009 financial year. This is indicative that government is now serious of ridding the Public Service of employees that squander government funds.

4.7 COST OF FINANCIAL MISCONDUCT HIGHEST IN FIVE YEARS

Figure 36 on the following page provides an overview of the cost of financial misconduct for the past five financial years.

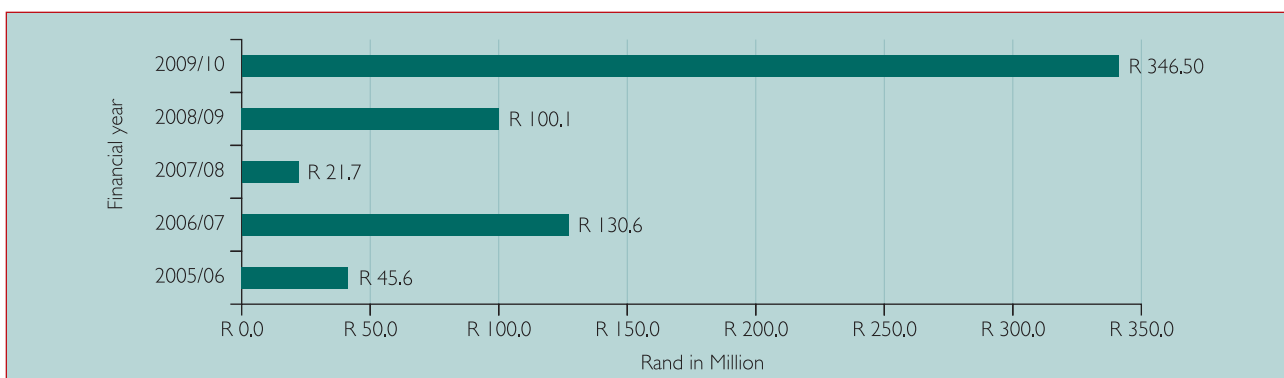


Figure 36: Total cost of financial misconduct for the past five financial years

Figure 36 shows a significant increase of **346.1%** in the cost of financial misconduct in the 2009/2010 financial year i.e. from **R 100 111 076.82** in the 2008/2009 financial year to **R 346 529 669.39** in the 2009/2010 financial year. Thus, the cost of financial misconduct is the highest five years. Furthermore, the cost is almost equal to the one reported in the 2002/2003 financial year (**R 333 213 430.00**). Although the number of finalised cases of financial misconduct went down from **1204** in the 2008/2009 financial year to **1135** in the 2009/2010 financial year, the cost of financial misconduct has increased substantially. The SMS members have the power to disburse large amounts of public funds, hence the cost of financial misconduct has risen despite the reduction in the number of public officials that committed financial misconduct. This shows a disturbing trend among people who should be custodians of the public purse.

4.8 TREND IN THE RATE AT WHICH CRIMINAL PROCEEDINGS ARE TAKEN IN CASES OF FINANCIAL MISCONDUCT

Figure 37 below depicts those cases where criminal proceedings were instituted against employees charged with financial misconduct for the financial years 2005/2006 to 2009/2010. It should, again, be noted that not all acts of financial misconduct will result in criminal or civil action being taken against an employee. For instance, cases of gross negligence and financial mismanagement may not necessarily involve criminal conduct.

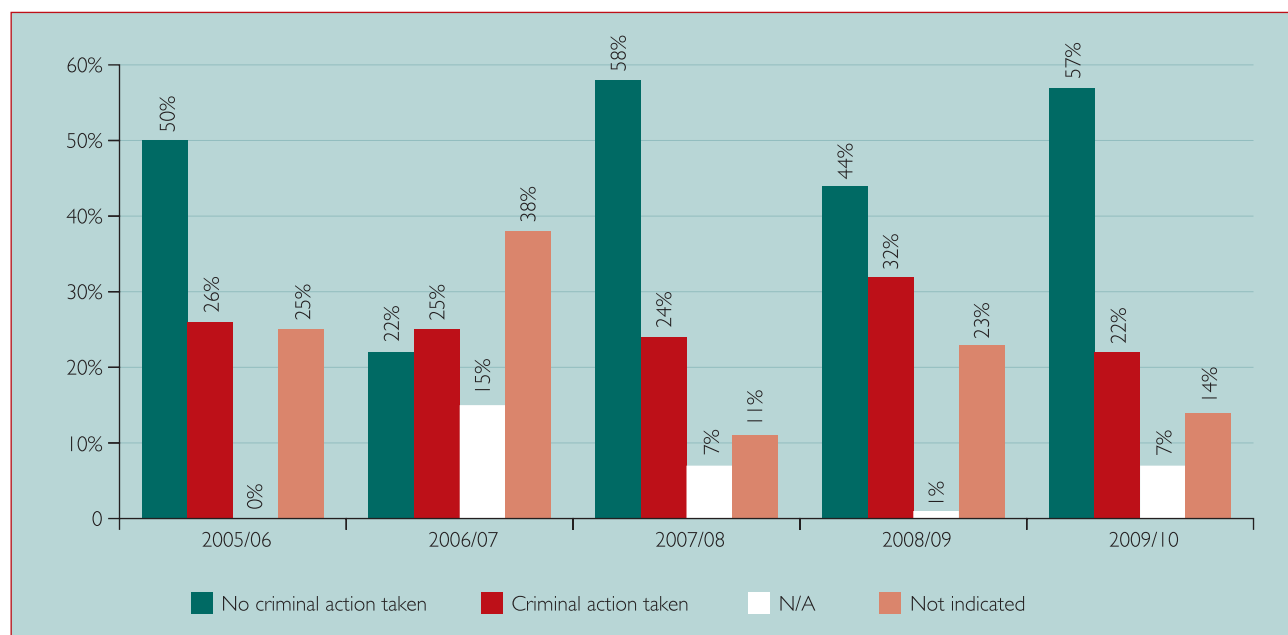


Figure 37: Criminal proceedings instituted against employees charged with financial misconduct

Figure 37 indicates that criminal proceedings are not instituted against a large number of employees. Over the past five financial years, only **26%** of finalised financial misconduct cases were referred for criminal proceedings to be instituted. Failure by departments to institute criminal action in cases where financial misconduct requires such action to be taken may encourage acts of financial misconduct to continue to be on the rise. If departments ensure compliance with the relevant legislation and institute criminal action against employees that commit financial misconduct, other employees who intend engaging in similar misdemeanors may be deterred from doing so.

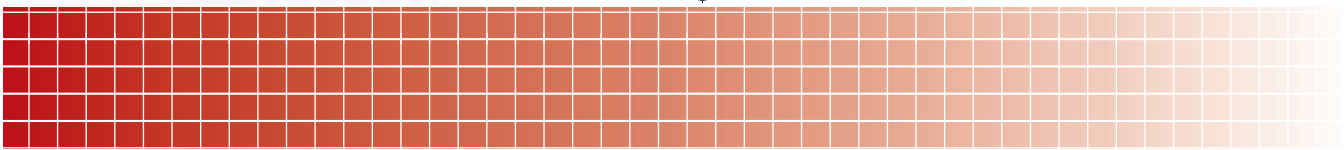
Figure 37 above also reflects that in the 2005/2006, 2007/2008 and 2008/2009 financial year, no criminal action was taken against employees in approximately 50% of the cases.

4.9 RATE OF RECOVERY OF LOSSES AND DAMAGES

In terms of section 38(c)(i) of the PFMA²⁶, read in conjunction with Treasury Regulations Part 5, paragraph 12.5.1²⁷, the Accounting Officer is required to take effective steps to collect all monies due to the department. The PSC

²⁶ Republic of South Africa. The Public Finance Management Act 1 of 1999.

²⁷ Republic of South Africa. Treasury Regulations, 2002 published in Government Gazette No. 23463 dated 25 May 2002.



therefore requested departments to indicate whether the amounts involved in the financial misconduct were recovered.

Figure 38 below shows the percentage of the amounts recovered by departments versus the amounts not recovered over the past five financial years.

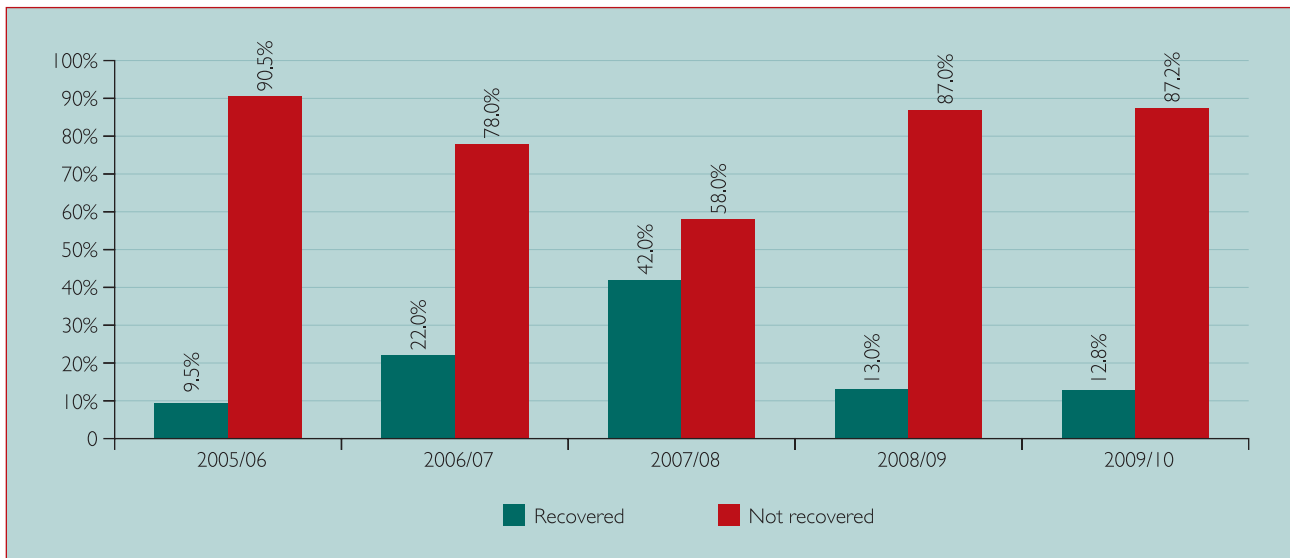


Figure 38: Percentage of the amounts recovered by departments vs the amounts not recovered over the past five financial years

In the 2009/2010 financial year both national and provincial departments reported that a total of R 44 384 029.27 (12.8%) was recovered from the employees found guilty of financial misconduct or the financial misconduct did not result in any loss to the State. An amount of R 302 145 640.12 (87.2%) is reflected as not recovered. In comparison to the 2008/2009 financial year, there has been a slight decrease of 0.2% in the amount recovered/no loss to State (i.e. from 13.0% to 12.8%).

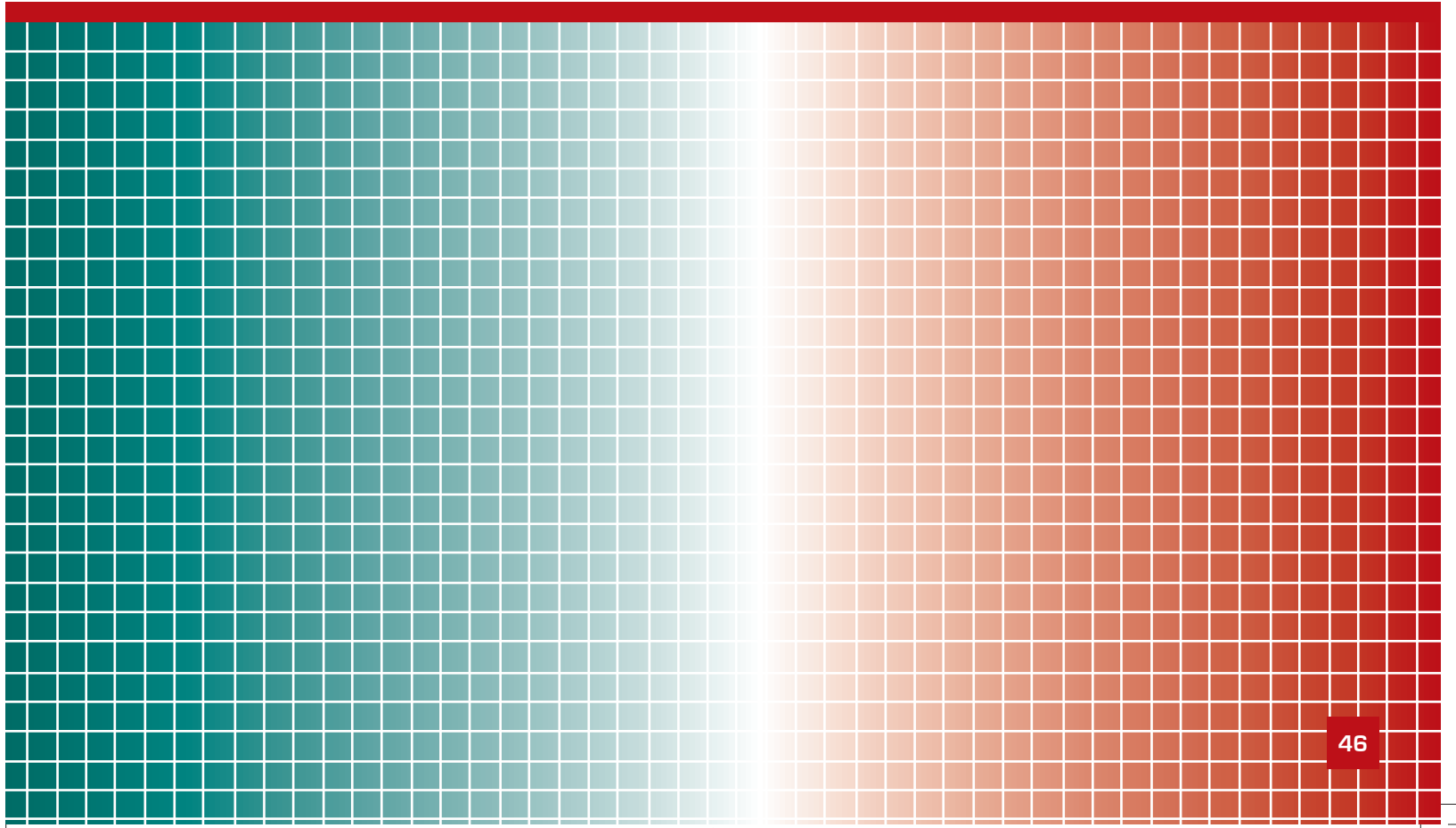
The above-mentioned figures may not be accurate. At the time departments are required to report to the PSC on the outcome of the disciplinary process, the monies owed by the employee in respect of the financial misconduct may not have been recovered. The monies could have only been recovered in the months following the reporting period and, as such the recovery would form part of a different reporting period. It is important that departments accelerate the rate of recovery of money owed to them to show their commitment to service delivery and that they take effective and appropriate steps to collect all monies due to the department in accordance with the applicable legislation.

In the 2008/2009 financial year national and provincial departments reported a total cost of R 100 111 076.82 in respect of financial misconduct, of which R 9 946 013.83 (9.9%) was recovered from the employees found guilty of financial misconduct or the financial misconduct did not result in any loss to the State. In order to determine whether further recovery was made, departments were provided with a proforma to report on any further recovery made in respect of cases reported in the 2008/2009 financial year. In most instances departments did not provide the required information. However, according to the reports submitted by the departments, a further amount of R 483 747.65 (0.48%) was recovered in respect of financial misconduct cases reported in the 2008/2009 financial year.



Chapter Five

Data Verification



5.1 INTRODUCTION

This Chapter presents the findings of the study on the data verification process.

In order to improve data integrity and verify whether the data provided by departments was reliable and accurate, the PSC, in the 2007/2008 financial year included data verification as part of the methodology for its project on financial misconduct for the 2007/2008 financial year. Data verification was conducted at sampled departments that submitted a **nil return**, in order to verify whether the departments were correct in saying that they did not have any finalised financial misconduct cases. Data verification is a process whereby the PSC visits departments and interrogates the data provided by departments, in order to verify whether the data provided by departments is accurate or not. Data verification was also conducted to provide guidance to those officials responsible for the completion of the PSC's reporting format on financial misconduct cases. On finalisation of the data verification at the sampled departments, the PSC found that there were common challenges that existed at these departments with regards to the collation of data on financial misconduct. These challenges were reported on in the PSC's Report on Financial Misconduct for the 2007/2008 financial year²⁸.

In the execution of the project on the "Overview on Financial Misconduct for the 2008/2009 financial year"²⁹, the PSC included data verification as part of the methodology of the study. At the time data verification visits were conducted in a sample of departments that had submitted nil return reports for the three consecutive financial years of 2005/2006, 2006/2007 and 2007/2008. The outcome of the data verification was then communicated individually to the respective Heads of Department (HoDs), and specific recommendations were made as well. The PSC amongst others, made recommendations relating to the following:

- The management of a misconduct database and accurate record keeping of disciplinary matters.
- Capturing of misconduct cases onto the PERSAL system.
- Maintaining of proper records of the recovery of monies owed to the State as a result of financial misconduct.
- Compliance with section 34(b) of the Prevention and Combating of Corrupt Activities Act, 2004 (PCCA Act)³⁰, by reporting an offence of theft, fraud, extortion, forgery or uttering a forged document, involving an amount of R 100 000.00 or more.

In order to establish whether the sampled departments had complied with and carried out what the PSC had communicated to them during the data verification visits conducted in the 2008/2009 financial year, the PSC, conducted follow-up visits at the following departments:

National Departments

- Independent Complaints Directorate
- Cooperative Governance and Traditional Affairs
- Public Enterprise

Free State

- Sport, Arts, Culture and Recreation
- Office of the Premier
- Cooperative Governance and Traditional Affairs
- Human Settlement
- Police, Roads and Transport

KwaZulu-Natal

- Arts and Culture
- Community Safety and Liaison

28 Report on Financial Misconduct for the 2007/2008 financial year, Public Service Commission. March 2009.

29 Overview on Financial Misconduct for the 2008/2009. Public Service Commission. January 2010.

30 Prevention and Combating of Corrupt Activities Act No. 12 of 2004.

- Human Settlements
- Office of the Premier
- Provincial Treasury

Northern Cape

- Agriculture, Land Reform and Rural Development
- Economic Development and Tourism
- Environment and Nature Conservation
- Roads and Public Works
- Sport, Arts and Culture
- Transport, Safety and Liaison

5.2 SCOPE OF THE DATA VERIFICATION

During the visits, the staff personal (SP) file and/or misconduct files were perused to determine whether the relevant documentation pertaining specifically to financial misconduct was maintained on the SP file, PERSAL and on an electronic database. The visits focused on whether the departments had complied with and implemented what the PSC had recommended following its 2008/2009 data verification visits. More specifically, through these follow up visits, the PSC sought to establish:

- Whether cases that had been finalised were being reported to the PSC in the correct financial year.
- Whether the departments' database reflected all the information required for accurate record keeping purposes in respect of discipline management.
- Whether the departments were maintaining an electronic database of misconduct cases as opposed to just a manual database.
- Whether departments were capturing the misconduct cases onto the PERSAL system.
- Whether departments were maintaining proper records of the recovery of monies owing to the State due to financial misconduct.
- Whether departments were complying with section 34(b) of the Prevention and Combating of Corrupt Activities Act, 2004 (PCCA Act)³¹, by reporting an offence of theft, fraud, extortion, forgery or uttering a forged document, involving an amount of R 100 000.00 or more, to the SAPS.
- Whether the departments were complying with regulation 12.5 of the Treasury Regulations, 2004³², which stipulates that "When it appears that the state has suffered losses or damages through criminal acts or possible criminal acts, the matter must be reported, in writing, to the accounting officer and the South African Police Service. In the case of omissions, the matter must be reported, in writing, to the accounting officer. Whether or not the person is still in the employ of the state, the accounting officer must recover the value of the loss or damage from the person responsible".
- Whether there was coordination between the department's Loss Control section (Finance section) and the Human Resource or Labour Relations section for the recovery of the monies owed to the departments as a result of the outcome of misconduct cases.

5.3 FINDINGS

5.3.1 Reporting of finalised financial misconduct cases within the correct financial year

It was found that 9 out of the 19 sampled departments had genuine **nil returns** and the rest of the departments had reported cases that were finalised in the correct financial year:

31 *Prevention and Combating of Corrupt Activities Act No. 12 of 2004.*

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

5.3.2 Database management of financial misconduct cases

The PSC found that one department still maintained a manual database with insufficient headings to comprehensively capture the information the PSC requires. What is worse is that two departments did not even maintain any form of database at all for financial misconduct cases. This is despite the guidance the PSC provided to departments during the data verification visits conducted in 2008/2009 financial year which spells-out how to maintain a basic electronic database on EXCEL. The following are the highlights of the findings on the database management of financial misconduct cases:

- The Department of Roads and Public Works, Northern Cape, does not keep any form of database for financial misconduct cases.
- The Department of Sport, Arts and Culture, Northern Cape does not keep any form of database for financial misconduct cases.
- The Department of Transport, Safety and Liaison, Northern Cape, maintains a manual database as opposed to an electronic (EXCEL) database.
- The following departments had an electronic database, in EXCEL or MS Word format, but the information captured on the database was incomplete. For example, the information on the nature of the misconduct, the status of the case, the date the case was finalised, criminal action taken against the employee, etc is not provided for:
 - Public Enterprises
 - Sport, Arts, Culture and Recreation, Free State
 - Cooperative Governance and Traditional Affairs, Free State
 - Office of the Premier; Free State
 - Police, Roads and Transport, Free State
 - Arts and Culture, KwaZulu-Natal
 - Community Safety and Liaison, KwaZulu-Natal
 - Human Settlements, KwaZulu-Natal
 - Office of the Premier, KwaZulu-Natal
 - Provincial Treasury, KwaZulu-Natal
 - Agriculture, Land Reform and Rural Development, Northern Cape
 - Economic Development and Tourism, Northern Cape
 - Independent Complaints Directorate
- The following departments maintain an EXCEL electronic database with all the information required:
 - The Department of Cooperative Governance and Traditional Affairs (National)
 - The Department of Environment and Nature Conservation, Northern Cape

5.3.3 Capturing of financial misconduct cases onto the PERSAL system

The Department of Public Service and Administration (DPSA) circular 4 of 2001, in respect of the “National Minimum Information Requirements (NMIR)”³³, amongst others stipulates that information relating to misconduct cases must be maintained on both the personal files and the PERSAL system in order to comply with the NMIR. During the follow-up visits, the following departments indicated that they did not capture disciplinary matters onto the PERSAL system:

- Public Enterprises
- Cooperative Governance and Traditional Affairs, Free State
- Office of Premier, Free State
- Sport, Arts, Culture and Recreation, Free State

33 Republic of South Africa. The Department of Public Service and Administration. Circular 4 of 2001, National Minimum Information Requirements. 2001.

- Police, Roads and Transport, Free State
- Arts and Culture, KwaZulu-Natal
- Office of the Premier, KwaZulu-Natal
- Sport, Arts and Culture, Northern Cape
- Economic Development and Tourism, Northern Cape
- Roads and Public Works, Northern Cape

The departments provided various reasons for not capturing financial misconduct cases onto the PERSAL system. The following are the key reasons provided:

- The complexity of the PERSAL system
- Lack of capacity
- Labour Relations Directorate/Section not having access to the PERSAL system
- The Information Technology (IT) Directorate/Section not having installed the PERSAL system in the Labour Relations Directorate/Section
- Labour Relations officials are not trained to capture information onto the PERSAL system

5.3.4 Maintenance of proper records of recovery of monies owed to the State due to financial misconduct

In terms of the PSC's reporting format, departments are required to report on the recovery of monies owing to the State in respect of finalised financial misconduct cases. In the previous financial years the PSC found that departments did not have this information readily available and thus the reporting on the recovery of monies owing was not accurate. During data verification visits conducted in the 2007/2008 and 2008/2009 financial years, the PSC established that the disciplinary process is dealt with by the Labour Relations Component and on finalization thereof, the relevant section such as the Debt Control Section, Loss Control Section, Finance Section etc. is informed of the debt and is requested to recover the monies owing. The segregation of functions and a lack of communication between the two components thus affected the accurate completion of the report with regards to the recovery of monies owing in respect of finalised cases of financial misconduct. The PSC, in its "*Report on Financial Misconduct for the 2007/2008 financial year*"³⁴ recommended that departments must follow up on payments made by employees and ensure that the monies recovered as a result of financial misconduct are reported to the PSC in the relevant financial year.

The findings of data verification show that the following departments have proper internal control measures in place in respect of the recovery of monies owed to the State as a result of financial misconduct:

- The Independent Complaints Directorate
- Cooperative Governance and Traditional Affairs
- Public Enterprises
- Arts and Culture, KZN
- Agriculture, Land Reform and Rural Development, Northern Cape
- Economic Development and Tourism, Northern Cape
- Environment and Nature Conservation, Northern Cape
- Roads and Public Works, Northern Cape
- Sport, Arts and Culture, Northern Cape
- Transport, Safety and Liaison, Northern Cape

The other sampled departments either did not have proper internal control measures in place or did not have any finalised financial misconduct cases.

34 *Report on Financial Misconduct for the 2007/2008 financial year, Public Service Commission. March 2009.*

5.3.5 Reporting on criminal proceedings instituted against employees

In terms of subsection 34(1) of the PCCA Act³⁵ any person who holds a “position of authority” is compelled to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R 100 000.00 or more to the SAPS. Section 34(4) of the PCCA Act defines a position of authority to include a Director-General or head or equivalent officer of a national or provincial department. The PCCA Act therefore criminalises failure to report offences such as theft and fraud involving amounts of R100 000.00 and more to the SAPS, and such an offence is punishable by a fine or imprisonment for a period not exceeding 10 years.

During the visits it was established that departments were aware of and complied with the above prescripts. The following departments indicated that they report cases of financial misconduct to the SAPS even if the amount involved is less than the one stipulated in the PCCA Act:

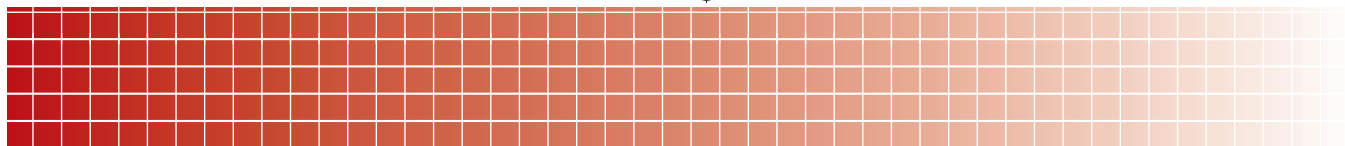
- Department of Cooperative Governance and Traditional Affairs (National)
- Department of Economic Development and Tourism, Northern Cape

The rest of the sampled departments indicated they either had no financial misconduct cases finalised in the relevant financial year or the financial misconduct cases involved amounts less than R 100 000.00.

³⁵ Prevention and Combating of Corrupt Activities Act No. 12 of 2004.

Chapter Six

Recommendations and Conclusion



6.1 INTRODUCTION

The Chapter presents the recommendations in relation to data collected from national and provincial departments and the data verification conducted at sampled departments. The recommendations are presented according to the findings on the financial misconduct cases finalised in the 2009/2010 financial year and data verification. The Chapter also presents the conclusion of the study.

6.2 RECOMMENDATIONS WITH REGARD TO THE QUALITY OF THE DATA COLLECTED IN RESPECT OF FINANCIAL MISCONDUCT CASES FINALISED IN THE 2009/2010 FINANCIAL YEAR

6.2.1 Incomplete reports provided by departments

Departments are, in terms of Treasury Regulations 4.3.1³⁶, required to provide specific information on finalised cases of financial misconduct and for this reason the PSC has provided departments with a reporting format. The reporting format is available on the PSC's Website and is forwarded to the departments annually through a circular. Despite this, there are departments that continue to submit incomplete reports. An example of incomplete reports is whereby departments failed to indicate the salary levels of 237 employees charged with financial misconduct. In the case of inaccurate reporting an example is whereby departments reported on cases that were not finalised or the cases were reported as finalised in the previous financial years.

The PSC therefore recommends that:

- Departments must take cognizance of the information required and ensure that all fields of the reporting format are accurately completed.
- Accounting officers must sign off the information provided to the PSC to ensure accuracy of such information, failing which they must account for failure to provide the PSC with complete reports. Should the accounting officer fail to account, the Executive Authority of such a national or provincial department must take the necessary disciplinary action against the accounting officer for such failure.

6.2.2 Constant increase in the number of financial misconduct cases involving SMS members

Trends show that for the past three financial years, there has been a constant increase in the number of finalised financial misconduct cases involving SMS members. Although the increase is marginal, this trend is considered to be alarming, as SMS managers are officials that are responsible for instituting proper procedures to prevent opportunities for fraud, theft, corruption, mismanagement and other forms of misconduct in their respective departments.

Based on the above, it is recommended that departments must conduct a risk assessment in the areas that SMS members are susceptible to, put measures in place to overcome these risks, and monitor and evaluate these risks on a regular basis.

6.2.3 Employees charged with financial misconduct at salary levels 1 to 8

Trends for the past five financial years, show that employees on salary levels 1 to 8 committed the highest number of financial misconduct acts. In the 2009/2010 financial year, employees on salary levels 6 and 7 committed the highest number of financial misconduct acts.

In this light, the PSC recommends tight supervision including random checks on the work of employees that are on salary levels 1 to 8. Furthermore, departments must conduct thorough assessments to determine the cause of this persistent trend.

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



6.3 RECOMMENDATION WITH REGARDS TO THE RECOVERY OF LOSSES AND DAMAGES

Section 38 I(c) of the PFMA provides that the Accounting Officer for a department, trading entity and constitutional institution must take effective and appropriate steps to collect all money due to the department, trading entity and constitutional institution.

Treasury Regulation 12.5.1 provides that “When it appears that the state has suffered losses or damages through criminal acts or possible criminal acts, the matter must be reported, in writing, to the accounting officer and the South African Police Service. In the case of omissions, the matter must be reported, in writing, to the accounting officer. Whether or not the person is still in the employ of the state, the accounting office must recover the value of the loss or damage from the person responsible”.

In view of the above, the PSC recommends that accounting officers must recover losses and damages to the state in compliance with the above legislation. Accounting officers must account for failure to comply with the above legislation. Should the accounting officer fail to account, the Executive Authority must take the necessary disciplinary action against the accounting officer for such failure.

6.4 RECOMMENDATIONS WITH REGARD TO DATA VERIFICATION

6.4.1 The management of a financial misconduct database

During the visits to the sampled departments, the PSC noted that the management of a database for financial misconduct is still a challenge. There is no consistency in the management of a database for financial misconduct. Some departments maintain an electronic database with sufficient information, whilst other departments either maintain a manual database with insufficient information to comprehensively capture the information that the PSC requires, or they do not maintain any form of a database for financial misconduct.

Based on the above, it is recommended that departments must maintain an accurate, reliable, easy to use electronic misconduct database (EXCEL format), with sufficient information to enable it to monitor and track records of a particular financial misconduct case, and to provide accurate reports with the required information on financial misconduct to its management and stakeholders.

6.4.2 Record keeping and maintenance of files

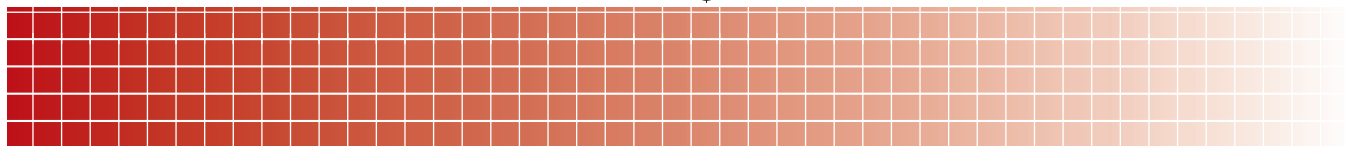
During the visits to the sampled departments, the PSC noted that some of the departments still do not maintain an accurate document record of financial misconduct cases. The files did not contain the relevant documentation to check the progress or the status of each case.

Based on the above, it is recommended that departments must ensure that accurate and dated documentary records of financial misconduct are maintained on the employee's personal/misconduct file.

6.4.3 Capturing of cases onto the PERSAL system

During the visits at sampled departments, the PSC noted that some departments are not complying with the DPSA circular 4 of 2001, in respect of the “National Minimum Information Requirements (NMIR)”³⁷, which amongst others stipulates that information relating to misconduct cases must be maintained on both the personal files and the PERSAL system in order to comply with the NMIR. Departments have provided reasons such as, lack of capacity, Labour Relations Directorate/Section not having access to the PERSAL system, the Information

37 Republic of South Africa. The Department of Public Service and Administration. Circular 4 of 2001, National Minimum Information Requirements. 2001.



Technology (IT) Directorate/Section not having installed the PERSAL system in the Labour Relations Directorate/Section, Labour Relations officials are not trained to capture information onto the PERSAL system.

Chapter III, section 7 (3) (b) of the Public Service Act, 1994³⁸, as amended (PSA), states that "... a head of department shall be responsible for the efficient management and administration of his or her department, including the effective utilization and training of staff...".

It is therefore recommended that accounting officers must carry out their responsibilities stipulated in Chapter III, section 7 (3) (b) of the PSA, and ensure compliance with the DPSA circular 4 of 2001, in respect of the "National Minimum Information Requirements". Furthermore, accounting officers must ensure that the Labour Relations officials receive the necessary training and have access to the appropriate tools necessary for the capturing of misconduct cases onto the PERSAL system.

6.4.4 Reporting on the recovery of monies owed to the State as a result of financial misconduct

The PSC, in its report on "Financial Misconduct for the 2007/2008 financial year"³⁹ recommended that departments must follow up on payments made by employees and ensure that the monies recovered in respect of financial misconduct are reported to the PSC in the relevant financial year. However, this area still remains a challenge as most departments do not provide information regarding the amount recovered. This then distorts the information provided in the PSC's report with regards to monies recovered by the State.

It is therefore recommended that accounting officers must ensure compliance with section 38 (1) (c)(i) of the PFMA⁴⁰ and Treasury Regulations 11.2.1⁴¹, which stipulates that an Accounting Officer of an institution must take effective and appropriate steps to collect all monies due to the institution including amounts received in part payment, and maintain proper accounts and records for all debtors.

Accounting officers must account for failure to comply with the above legislation. Should the accounting officer fail to account, the Executive Authority must take the necessary disciplinary action against the accounting officer for such failure.

6.4.5 Criminal action taken in terms of subsection 34 (1) of the PCCA Act

In terms of subsection 34(1) of the PCCA Act⁴² any person who holds a "position of authority" is compelled to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R 100 000.00 or more to the SAPS. Section 34(4) of the PCCA Act defines a position of authority to include a Director-General or head or equivalent officer of a national or provincial department. The PCCA Act, therefore criminalises failure to report offences such as theft and fraud involving amounts of R 100 000.00 and more to the SAPS, and such an offence is punishable by a fine or imprisonment for a period not exceeding 10 years.

It was a challenge for the PSC to determine whether departments are complying with subsection 34(1) of the PCCA Act. Most of the sampled departments at which follow-up visits were conducted, indicated that they did not have financial misconduct cases finalised in the relevant financial year and the financial misconduct cases involving amounts lesser than R 100 000.00. However, trends of the studies show that over the past five financial years, only 26% of the finalised financial misconduct cases were referred for criminal proceedings to be instituted.

It is therefore recommended that the Director-General or head or equivalent officer of a national or provincial department must account for failure to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R 100 000.00 or more to the SAPS. Should the Director-General or head or

38 Republic of South Africa. Public Service Amendment Act, Act no 30 of 2007, gazetted on 17 January 2008.

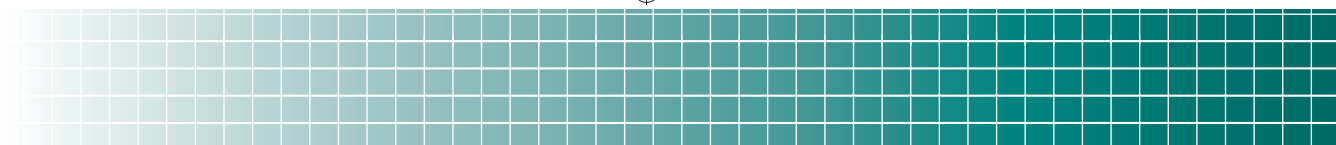
39 Report on Financial Misconduct for the 2007/2008 financial year, Public Service Commission. March 2009.

40 Republic of South Africa. The Public Finance Management Act 1 of 1999.

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

42 Prevention and Combating of Corrupt Activities Act No. 12 of 2004.





equivalent officer of a national or provincial department fail to account, then the Executive Authority of such a national or provincial department must take cognisance of the consequences for non-compliance and also take the necessary disciplinary action against the Director-General or head or equivalent officer of a national or provincial department for failure to comply with the requirements of subsection 34(1) of the PCCA Act.

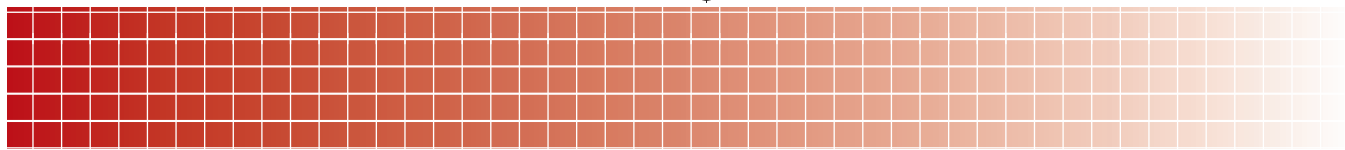
6.5 CONCLUSION

Overall, the findings show that, there is a need for departments to put in place effective systems that would enable them to finalise all cases of financial misconduct effectively. Failure to put such systems in place would continue to undermine government's efforts to deal effectively with acts of corruption. Heads of department as accounting officers must be hands-on on dealing with cases of financial misconduct as they contribute towards the audit opinion issued by the Auditor-General on an annual basis.

APPENDIX A: BREAKDOWN OF FINANCIAL MISCONDUCT CASES REPORTED BY DEPARTMENTS IN PROVINCES

Province	Department	Amount	Amount Physically recovered	Amount considered as recovered due to "no loss to state"	Amount not recovered
Eastern Cape	Agriculture and Rural Development	R 4 566.00	R 0.00	R 0.00	R 4 566.00
	Economic Affairs, Environment and Tourism	R 19 840.78	R 0.00	R 0.00	R 19 840.78
	Education	R 29 128.10	R 0.00	R 0.00	R 29 128.10
	Health	R 34 360 907.42	R 0.00	R 34 360 907.42	R 0.00
	Human Settlement	R 0.00	R 0.00	R 0.00	R 0.00
	Roads and Public Works	R 32 995.10	R 0.00	R 800.00	R 32 195.10
	Social Development	R 565 111.61	R 493 111.61	R 0.00	R 72 000.00
	Sport, Recreation, Arts and Culture	R 19 399.00	R 0.00	R 0.00	R 19 399.00
Eastern Cape Total		R 35 031 948.01	R 493 111.61	R 34 361 707.42	R 177 128.98
Free State	Cooperative Governance and Traditional Affairs	R 16 180.00	R 3 000.00	R 0.00	R 13 180.00
	Economic Development, Tourism and Environmental Affairs	R 1 163.00	R 1 163.00	R 0.00	R 0.00
	Education	R 33 780.00	R 0.00	R 0.00	R 33 780.00
	Health	R 1 685.13	R 0.00	R 0.00	R 1 685.13
	Police, Roads and Transport	R 89 311.60	R 0.00	R 0.00	R 89 311.60
	Public Works and Rural Development	R 831 045.00	R 0.00	R 0.00	R 831 045.00
	Sport, Arts, Culture and Recreation	R 60.00	R 0.00	R 0.00	R 60.00
Free State Total		R 973 224.73	R 4 163.00	R 0.00	R 969 061.73
Gauteng	Education	R 1 962 540.70	R 54 257.99	R 1 816 892.00	R 91 390.71
	Finance	R 243 909.16	R 295.96	R 0.00	R 243 613.20
	Health and Social Development	R 32 066.36	R 13 955.95	R 0.00	R 18 110.41
	Local Government and Housing	R 405 000.00	R 0.00	R 0.00	R 405 000.00
	Roads and Transport	R 37 420.00	R 0.00	R 0.00	R 37 420.00
	Sports, Arts, Culture and Recreation	R 30 000.00	R 0.00	R 0.00	R 30 000.00
Gauteng Total		R 2 710 936.22	R 68 509.90	R 1 816 892.00	R 825 534.32

Province	Department	Amount	Amount Physically recovered	Amount considered as recovered due to "no loss to state"	Amount not recovered
KZN	Agriculture, Environmental Affairs and Rural Development	R 81 460.00	R 53 500.00	R 0.00	R 27 960.00
	Arts and Culture	R 12 436.80	R 12 436.80	R 0.00	R 0.00
	Co-operative Governance and Traditional Affairs	R 158 256.89	R 11 241.33	R 0.00	R 147 015.56
	Education	R 16 105 815.02	R 754 684.49	R 0.00	R 15 351 130.53
	Health	R 1 126 545.35	R 46 619.13	R 0.00	R 1 079 926.22
	Social Development	R 112 857.21	R 644.22	R 0.00	R 112 212.99
	Transport	R 38 000.00	R 0.00	R 0.00	R 38 000.00
KZN Total		R 17 635 371.27	R 879 125.97	R 0.00	R 16 756 245.30
Limpopo	Economic Development, Environment and Tourism	R 180 430.82	R 0.00	R 0.00	R 180 430.82
	Education	R 443 297.00	R 63 370.00	R 0.00	R 379 927.00
	Health and Social Development	R 582 934.30	R 0.00	R 0.00	R 582 934.30
	Local Government and Housing	R 251 626.44	R 0.00	R 0.00	R 251 626.44
	Office of the Premier	R 130 671.26	R 20 940.61	R 0.00	R 109 730.65
	Provincial Treasury	R 9 450.00	R 0.00	R 9 450.00	R 0.00
	Public Works	R 17 250.00	R 0.00	R 0.00	R 17 250.00
	Roads and Transport	R 50 881.74	R 0.00	R 0.00	R 50 881.74
Limpopo Total		R 1 666 541.56	R 84 310.61	R 9 450.00	R 1 572 780.95
Mpumalanga	Agriculture, Rural Development and Land Administration	R 8 928 635.06	R 3 120 042.96	R 0.00	R 5 808 592.10
	Culture, Sport and Recreation	R 55 000.00	R 0.00	R 0.00	R 55 000.00
	Economic Development, Environment and Tourism	R 6 051 995.00	R 0.00	R 0.00	R 6 051 995.00
	Finance	R 0.00	R 0.00	R 0.00	R 0.00
	Health	R 883 283.24	R 0.00	R 0.00	R 883 283.24
	Human Settlements	R 68 641.61	R 15 992.00	R 0.00	R 52 649.61
	Office of the Premier	R 3 905.00	R 3 905.00	R 0.00	R 0.00
	Safety, Security and Liaison	R 315.92	R 315.92	R 0.00	R 0.00
Mpumalanga Total		R 15 991 775.83	R 3 140 255.88	R 0.00	R 12 851 519.95



Province	Department	Amount	Amount Physically recovered	Amount considered as recovered due to "no loss to state"	Amount not recovered
North West	Education	R 178 260.00	R 25 260.00	R 0.00	R 153 000.00
	Health	R 104 401.08	R 897.00	R 0.00	R 103 504.08
	Office of the Premier	R 1 530.00	R 1 530.00	R 0.00	R 0.00
	Provincial Treasury	R 480.00	R 480.00	R 0.00	R 0.00
	Public Safety	R 0.00	R 0.00	R 0.00	R 0.00
	Public Works, Roads and Transport	R 4 700.00	R 0.00	R 0.00	R 4 700.00
	Social Development	R 0.00	R 0.00	R 0.00	R 0.00
	Sports, Arts, and Culture	R 4 500.00	R 0.00	R 0.00	R 4 500.00
North West Total		R 293 871.08	R 28 167.00	R 0.00	R 265 704.08
Northern Cape	Agriculture and Land Reform	R 21 933.79	R 21 933.79	R 0.00	R 0.00
	Cooperative Governance, Human Settlement and Traditional Affairs	R 1 000.00	R 0.00	R 0.00	R 1 000.00
	Economic Development and Tourism	R 8 720.00	R 0.00	R 0.00	R 8 720.00
	Education	R 207 168.72	R 0.00	R 3 000.00	R 204 168.72
	Health	R 318 000.00	R 0.00	R 0.00	R 318 000.00
	Office of the Premier	R 0.00	R 0.00	R 0.00	R 0.00
	Roads and Public Works	R 6 000.00	R 6 000.00	R 0.00	R 0.00
	Social Service and Population Development	R 6 122.10	R 6 122.10	R 0.00	R 0.00
	Transport, Safety and Liaison	R 130 249.69	R 4 000.00	R 0.00	R 126 249.69
Northern Cape Total		R 699 194.30	R 38 055.89	R 3 000.00	R 658 138.41
Western Cape	Agriculture	R 14 890.62	R 14 890.62	R 0.00	R 0.00
	Community Safety	R 266 355.79	R 0.00	R 0.00	R 266 355.79
	Cultural Affairs and Sport	R 61 103.28	R 6 260.28	R 0.00	R 54 843.00
	Education	R 5 362 022.64	R 13 580.00	R 0.00	R 5 348 442.64
	Environmental Affairs and Developmental Planning	R 2 166.29	R 2 166.29	R 0.00	R 0.00

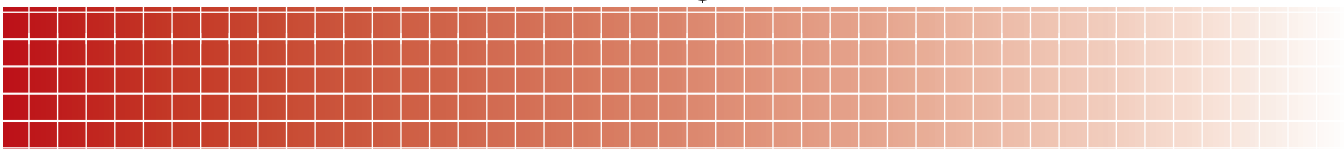


Province	Department	Amount	Amount Physically recovered	Amount considered as recovered due to "no loss to state"	Amount not recovered
	Health	R 313 776.44	R 62 714.44	R 0.00	R 251 062.00
	Local Government and Housing	R 105 359.00	R 0.00	R 0.00	R 105 359.00
	Office of the Premier	R 5 540.00	R 5 540.00	R 0.00	R 0.00
	Provincial Treasury	R 2 640.69	R 2 640.69	R 0.00	R 0.00
	Social Development	R 22 360.00	R 13 730.00	R 0.00	R 8 630.00
	Transport and Public Works	R 15 120.01	R 0.00	R 0.00	R 15 120.01
Western Cape Total		R 6 171 334.76	R 121 522.32	R 0.00	R 6 049 812.44
Grand Total		R 81 174 197.76	R 4 857 222.18	R 36 191 049.42	R 40 125 926.16

APPENDIX B: INDIVIDUAL AMOUNTS EXCEEDING R100 000.00 NOT REPORTED TO THE SAPS AND OF WHICH NO REASONS WERE PROVIDED

National/ Province	Department	Description of charges)	Amount	Amount Physically recovered	Amount considered as recovered due to "no loss to state"	Amount not recovered
KwaZulu-Natal	Education	Fake qualification	R 145 195.25	R 0.00	R 0.00	R 145 195.25
		Fake qualification	R 187 527.50	R 0.00	R 0.00	R 187 527.50
		Fake qualification	R 151 372.75	R 0.00	R 0.00	R 151 372.75
		Fake qualification	R 286 131.50	R 0.00	R 0.00	R 286 131.50
		Fake qualification	R 158 581.55	R 0.00	R 0.00	R 158 581.55
		Fake qualification	R 401 306.50	R 0.00	R 0.00	R 401 306.50
		Fake qualification	R 282 639.75	R 0.00	R 0.00	R 282 639.75
		Fake qualification	R 245 117.25	R 0.00	R 0.00	R 245 117.25
		Fake qualification	R 216 875.00	R 0.00	R 0.00	R 216 875.00
		Fake qualification	R 420 792.75	R 0.00	R 0.00	R 420 792.75
		Fake qualification	R 262 403.00	R 0.00	R 0.00	R 262 403.00
		Fake qualification	R 275 555.75	R 0.00	R 0.00	R 275 555.75
		Fake qualification	R 118 297.00	R 0.00	R 0.00	R 118 297.00
		Fake qualification	R 277 098.25	R 0.00	R 0.00	R 277 098.25
		Fake qualification	R 183 272.26	R 0.00	R 0.00	R 183 272.26
		Fake qualification	R 260 140.75	R 0.00	R 0.00	R 260 140.75
		Fake qualification	R 249 987.00	R 0.00	R 0.00	R 249 987.00
		Fake qualification	R 105 741.75	R 0.00	R 0.00	R 105 741.75
		Fake qualification	R 283 603.25	R 0.00	R 0.00	R 283 603.25
		Fake qualification	R 441 759.50	R 0.00	R 0.00	R 441 759.50
		Fake qualification	R 293 800.50	R 0.00	R 0.00	R 293 800.50
		Fake qualification	R 236 556.25	R 0.00	R 0.00	R 236 556.25
		Fake qualification	R 232 407.25	R 0.00	R 0.00	R 232 407.25
		Fake qualification	R 112 719.50	R 0.00	R 0.00	R 112 719.50
		Fake qualification	R 451 931.45	R 0.00	R 0.00	R 451 931.45
		Fake qualification	R 265 178.75	R 0.00	R 0.00	R 265 178.75
		Fake qualification	R 160 864.60	R 0.00	R 0.00	R 160 864.60
		Fake qualification	R 353 248.75	R 0.00	R 0.00	R 353 248.75
		Fake qualification	R 176 404.75	R 0.00	R 0.00	R 176 404.75
		Fake qualification	R 273 122.25	R 0.00	R 0.00	R 273 122.25
		Fake qualification	R 239 040.50	R 0.00	R 0.00	R 239 040.50
		Fake qualification	R 252 135.00	R 0.00	R 0.00	R 252 135.00
Fake qualification	R 397 470.00	R 0.00	R 0.00	R 397 470.00		
Fake qualification	R 194 033.25	R 0.00	R 0.00	R 194 033.25		
Fake qualification	R 196 654.75	R 0.00	R 0.00	R 196 654.75		

National/ Province	Department	Description of charges)	Amount	Amount Physically recovered	Amount considered as recovered due to “no loss to state”	Amount not recovered
		Fake qualification	R 385 833.91	R 0.00	R 0.00	R 385 833.91
		Fake qualification	R 183 033.25	R 0.00	R 0.00	R 183 033.25
		Fake qualification	R 142 952.50	R 0.00	R 0.00	R 142 952.50
		Fake qualification	R 177 111.25	R 0.00	R 0.00	R 177 111.25
		Fake qualification	R 225 885.25	R 0.00	R 0.00	R 225 885.25
		Fake qualification	R 359 799.25	R 0.00	R 0.00	R 359 799.25
		Fake qualification	R 420 443.25	R 0.00	R 0.00	R 420 443.25
		Fake qualification	R 432 571.75	R 0.00	R 0.00	R 432 571.75
		Fake qualification	R 258 638.44	R 0.00	R 0.00	R 258 638.44
		Fake qualification	R 198 750.55	R 0.00	R 0.00	R 198 750.55
		Fake qualification	R 120 188.38	R 0.00	R 0.00	R 120 188.38
		Fake qualification	R 156 581.78	R 0.00	R 0.00	R 156 581.78
		Fake qualification	R 226 347.75	R 0.00	R 0.00	R 226 347.75
		Fake qualification	R 166 855.25	R 0.00	R 0.00	R 166 855.25
		Fake qualification	R 219 990.23	R 0.00	R 0.00	R 219 990.23
		Fake qualification	R 123 725.00	R 0.00	R 0.00	R 123 725.00
		Fraud	R 157 000.00	R 0.00	R 0.00	R 157 000.00
		Fraud	R 101 250.00	R 0.00	R 0.00	R 101 250.00
		Fake qualification	R 110 000.00	R 0.00	R 0.00	R 110 000.00
		Social grant fraud	R 400 577.29	R 0.00	R 0.00	R 400 577.29
		Fake qualification	R 370 504.25	R 0.00	R 0.00	R 370 504.25
		Fraud	R 440 911.00	R 0.00	R 0.00	R 440 911.00
	Health	Fraudulent matric certificate for financial gain	R 860 522.42	R 0.00	R 0.00	R 860 522.42
Limpopo	Health and Social Development	Fraud	R 292 639.67	R 0.00	R 0.00	R 292 639.67
National	Arts and Culture	Fraud and processing unlawful payment	R 250 000.00	R 0.00	R 250 000.00	R 0.00
	Correctional Services	Fraud, Theft, Corruption and Bribery	R 430 000.00	R 0.00	R 430 000.00	R 0.00
	SAPS	Unauthorised expenditure (Fraud)	R 121 660.95	R 0.00	R 0.00	R 121 660.95
		Unauthorised expenditure (Fraud)	R 505 058.60	R 0.00	R 0.00	R 505 058.60



Notes:

A series of horizontal red lines for taking notes.

