**Report of the Portfolio Committee on Justice and Correctional Services on the Annual Performance Plans 2023/24 of the Department of Justice and Constitutional Development, National Prosecuting Authority, Legal Aid South Africa, Special Investigating Unit, Public Protector South Africa, South African Human Rights Commission and Information Regulator, and Budget Vote 25: Justice and Constitutional Development for the 2023 MTEF, dated 2 June 2023**

The Portfolio Committee on Justice and Correctional Services, having considered the Annual Performance Plans 2023/24 of the Department of Justice and Constitutional Development, National Prosecuting Authority, Legal Aid South Africa, Special Investigating Unit, Public Protector South Africa, South African Human Rights Commission and Information Regulator, and Budget Vote 25: Justice and Constitutional Development for the 2023 MTEF, referred to it, reports as follows:

1. **Introduction**
   1. The Budget Vote 25: Justice and Constitutional Development consists of five programmes, as well as a direct charge for Magistrates’ salaries:
      1. The Department of Justice and Constitutional Development (the Department) is responsible for the Administration, Court Services, State Legal Services and National Prosecuting Authority (NPA) programmes, as well as for the Justice Modernisation subprogramme under Programme 5: Auxiliary and Associated Services, which funds the implementation of Information Technology (IT) infrastructure for the Department and distributes earmarked funds for Justice, Crime Prevention and Security (JCPS) Cluster projects as part of the Integrated Justice System (IJS).
      2. In addition to the allocation to the Justice Modernisation sub-programme, Programme 5 Auxiliary and Associated Services contains transfer payments to Legal Aid South Africa, the Special Investigating Unit (SIU), the Information Regulator, the South African Human Rights Commission (SAHRC) and the Public Protector South Africa (PPSA).
2. **Method**
   1. On 2 May 2023, the Minister of Justice and Correctional Services presented an overview of the political priorities for the Department of Justice and Constitutional Development.
   2. The Department, NPA, Information Regulator, Legal Aid South Africa, the SIU, the SAHRC, the Public Protector SA, and the Information Regulator, each presented their annual performance plans for 2023/24 and budgets for the 2023 MTEF, as follows:

* The Department of Justice and Constitutional Development – 3 May 2023 and 10 May 2023.
* Public Protector South Africa – 3 May 2022.
* Special Investigating Unit – 10 May 2023.
* Information Regulator – 10 May 2023.
* South African Human Rights Commission – 10 May 2023.
* National Prosecuting Authority – 12 May 2023.
* Legal Aid South Africa – 12 May 2023.
  1. All presentations are available from the Committee Secretariat.

1. **Budgetary Review and Recommendation Report (BRRR) October 2022 and Minister of Finance’s response to Parliament**
   1. The Minister of Finance replied to the Committee’s observations concerning budget cuts made in its 2022 Budgetary Review and Recommendation Report, as follows:

“*The National Treasury notes the Committee’s concern. Since the 2022 Budget, no reductions have been made to the baselines of the department, its entities and related Chapter 9 institutions. Instead, the department has received additional allocations totalling R3.7 billion, the majority of which is allocated to the National Prosecuting Authority to strengthen capacity and advance the recommendations of the State Capture Commission. In addition, funds are provided to Legal Aid South Africa to appoint legal practitioners to serve in the specialised commercial crime courts, the Information Regulator to grow its establishment and effectively discharge its legal mandate, the Public Protector and South African Human Rights Commission to increase capacity and to finance once off information and communication technology, the Special Investigating Unit to initiate civil litigation in the special tribunal flowing from proclamations that tie into the recommendations of the State Capture Commission for investigation*”.

1. **Medium Term Strategic Framework 2019 -2024**
   1. The National Development Plan (NDP) requires, among others, that we build safer communities; promote accountability and fight corruption; and strengthen judicial governance and the rule of law.
   2. The Medium Term Strategic Framework (MTSF) 2019-2024 identifies seven priorities and related interventions of the Sixth Administration. Justice has responsibilities in respect of two priorities: namely Priority 1 ‘A capable, ethical and developmental state’ and Priority 6 ‘Social cohesion and safe communities’.
   3. In addition, the lack of access to resources and lack of opportunity for Women, Youth and People with Disabilities are identified as cross-cutting, requiring a variety of interventions, including legislative amendments.
   4. In respect of the revised MTSF, the Department has made the following commitments:

| **MTSF INDICATORS** | **JUSTICE DEPARTMENT**  **MTSF TARGETS**  **2023/24** |
| --- | --- |
| Coordinating engagements between the leadership of the executive, legislature, and judiciary to develop a social compact by 2021 and implement the compact by 2024. | A social compact document will be submitted to the President for adoption by the three branches of Government. |
| Developing a system to ensure consistent barrier-free access to justice for persons with disabilities across the justice value chain. | 65 courts will be made compliant with the strategy on universal access for persons with disabilities in 2023/24. |
| Coordinating the Implementation of the National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. | A framework for the virtual repository of disaggregated statistical data for the measurements of racism, racial discrimination, xenophobia and related intolerance to be developed by 31 March 2024. |
| Establishing and capacitating Specialised Commercial Crime Courts (SCCC’s) by 2024. | The Department will ensure that the capacity and efficacy of the SCCCs is enhanced and optimised. Two specialised Commercial Crimes Courts will be capacitated in 2023/24. |

* 1. *National Strategic Plan on Gender-Based Violence and Femicide (NSP on GBVF)*. Pillar 3 of the NSP-GBVF provides for Justice, Safety and Protection and seeks to address the systemic challenges that have resulted in an inadequate response to the management of GBVF cases, particularly domestic violence, sexual offences, child homicide, human trafficking, and other related matters. Departments are required to integrate related NSP-GBVF outcomes in their five-year strategic plans and annual performance plans, that is:
* Infrastructural alterations to court buildings to ensure that they are victim-friendly, disability friendly and child friendly.
* Court-based victim support services and witness protection are made available, particularly in rural areas.
* Quality legal aid support is readily accessible for women and LGBTQIA+ persons who cannot afford litigation.
* Information on GBV laws and policies and how these can assist is made widely available.
* E-services are available to survivors to ensure quick access to justice.
* Information on cases is readily available for victims to access and track.
* The backlog of GBVF cases is cleared.
* The effective implementation of GBV legislation with adequate resourcing and budget.
* The ongoing vetting of officials providing services to children and mentally disabled persons.
  1. State of the Nation Address (2023) priorities:
* Improving the capacity of the NPA and courts to ensure perpetrators of crime and corruption are brought to justice.
* Increasing funding for the NPA and the Special Investigating Unit.
* Establishing the Independent Directorate as an independent agency in the NPA in 2023.
* Overhauling the institutional architecture for combatting corruption through the National Anti-Corruption Advisory Council, which will also advise on suitable mechanisms to stem corruption.
* Implementing the recommendations of the Judicial Commission of Inquiry into State Capture.
* Acting against companies and individuals alleged to have been involved in state capture.
* Assisting in the fight against economic sabotage and organised crime through effective prosecutions.
* Introducing amendments to the Protected Disclosures Act and Witness Protection Act to strengthen protections for whistle-blowers.
* Capacitating the Witness Protection Unit.
* Improving access to the witness protection programme for public servants that expose corruption and unethical conduct.
* Continuing to improve the accessibility and functioning of Sexual Offences Courts and expand the network of Thuthuzela Care Centres.
  1. On 3 May 2023, the Minister of Justice and Correctional Services presented an overview of political priorities for 2023/24. Regarding Justice, the Minister referred, among others, to the following focus areas:
* Modernized and digitised Justice Services’ platforms.
* Increased access to justice services.
* Transformed State Legal Services.
* Transformed legal profession.
* Improved and transformed Masters’ Services.
* Advanced constitutionalism, human rights and the rule of law.
* Fight against gender-based violence and femicide.
  1. The Minister also addressed the progress of the Policy on Court Administration and Judicial Governance, which is now ready for stakeholder engagement.

1. **Fiscal policy** 
   1. Overview
      1. The 2023 Budget adopts the theme ‘Navigating economic recovery’, acknowledging that budgeting takes place in a challenging global and domestic environment.
      2. Medium‐term fiscal policy aims to achieve a balance between stimulating the economy, maintaining fiscal sustainability, and strengthening welfare for vulnerable citizens through the protection of the social wage.
      3. However, the economy has weakened since the 2022 MTBPS. Although revenue performance was better than estimated in the 2022 Budget, at a domestic level, finances are severely constrained. Additional allocations are funded from ‘drawdowns’ from provisional allocations in the 2022 MTBPS, resources provided by the fiscal framework and technical corrections and budget reprioritisations.
      4. Spending is targeted towards specific priorities, namely infrastructure and to support the social wage (health, education, housing, social protection, transport, employment and local amenities), rather than baseline allocations. Baseline allocations across departments largely target spending on the social wage and infrastructure projects and to fund initiatives towards strengthening the criminal justice system.
      5. A further priority is to reduce fiscal and economic risks through conditional in-year support to key public entities and to debt relief to Eskom to promote the security of energy supply.
      6. The Peace and Security function, of which Law Courts and Prisons are a part, accounts for approximately 12.1% of government’s consolidated expenditure. The function is allocated R227.3 billion in 2023/23 (compared with an adjusted budget of R227.8 billion in 2022/23); R236.3 billion in 2024/25; and R247.4 billion in 2025/26.

**Peace and Security function budget allocation 2023 MTEF**

| **Function**  **(R’ million)** | **2022/23** | **2023/24** | **2024/25** | **2025/26** | **%**  **Total MTEF allocation** |
| --- | --- | --- | --- | --- | --- |
| Defence and State Security | 52 418 | 52 726 | 52 812 | 52 838 | 22.7% |
| Police Services | 112 512 | 112 066 | 119 244 | 125 358 | 50.2% |
| Law Courts and Prisons | 51 472 | 51 437 | 53 726 | 56 081 | 22.7% |
| Home Affairs | 11 398 | 11 110 | 10 485 | 11 129 | 15.9% |
| **Total** | **227 800** | **227 340** | **236 267** | **247 406** | **100%** |
| Compensation of employees | 157 049 | 157 379 | 163 820 | 172 169 | 69.1% |
| Goods and Services | 49 938 | 50 992 | 52 918 | 54 634 | 22.3% |
| Transfer and Subsidies | 12 806 | 12 877 | 11 986 | 12 120 | 5.2% |
| Buildings and other fixed structures | 2 774 | 2 903 | 2 795 | 4 529 | 1.2% |
| Machinery and equipment | 4 979 | 4 925 | 4 529 | 5 411 | 2.1% |

* + 1. The function’s baseline is increased by R29.1 billion over the MTEF period, from R678 billion to R707 billion. The net increase includes R12.4 billion for improvement of conditions of service; R4.2 billion for the establishment of a Border Management Authority; and R3.1 billion to enhance border security.
    2. Approximately 23% of the overall allocation for Peace and Security goes to ‘Law courts and prisons. Specifically, the Justice and Constitutional Development Vote receives 10.20% of the overall allocation to the function (including magistrates’ salaries).
    3. The NPA is allocated R1.3 billion over the medium term to support implementation of the recommendations of the Judicial Commission of Inquiry into State Capture and the outcomes of the Financial Action Task Force’s evaluation of South Africa’s framework for combatting money laundering and terror financing. Among others, the funding will be used to appoint 120 new employees to the National Prosecutions Service and the Independent Directorate, procure specialist prosecution services for complex matters, commission contracted forensic auditors and accountants to deal with high priority asset forfeiture matters, establish a digital forensic data centre, provide close protection services and integrated security systems, and finance increased witness protection costs.

1. **Overview of Vote 25: Justice and Constitutional Development**
   1. The overall allocation to the Justice and Constitutional Development Vote (Vote 25) for 2023/24, including the Direct Transfer for Magistrate’s salaries, is R23.2 billion (compared with the adjusted budget of R22.9 billion in 2022/23). In real terms, the Vote allocation decreases by -3.37% compared with 2022/23.
   2. In 2023/24, the total allocated in 2023/23 for programmes is R20.8 billion (compared with R20.5 billion in 2022/23), while R2.4 billion is allocated to Magistrate’s salaries.
   3. The three Justice administered programmes (Administration, Court Services and State Legal Services), as well as the Justice Modernisation subprogramme under Programme 5, are together allocated R12 billion for 2023/24, compared with an adjusted appropriation of R11.8 billion in 2022/23.

**Vote 25 - Justice and Constitutional Development – Allocation for the 2023 MTEF per programme**

| **Programme**  **(R ‘million)** | **Budget**  **2023 MTEF** | | | | **Average % Total Expenditure**  **2022/23-2025/26** | **Real % change** |
| --- | --- | --- | --- | --- | --- | --- |
| **2022/23** | **2023/24** | **2024/25** | **2025/26** |
| Administration | 3 049.8 | 3 088.0 | 3 229.8 | 3 374.0 | 13.4% | -3.48% |
| Court Services | 6 680.2 | 6 760.8 | 7 058.1 | 7 367.9 | 29.6% | -8.18% |
| State Legal Services | 1 303.8 | 1 347.1 | 1 404.3 | 1 464.4 | 5.9% | -8.80% |
| National Prosecuting Authority | 4 690.9 | 5 407.1 | 5 552.9 | 5 796.9 | 22.8% | 3.98% |
| Auxiliary and Associated Services | 3 670.6 | 4 191.1 | 4 354.4 | 4 537.9 | 18% | -1.29% |
| **TOTAL** | 20 482 | 20 793.9 | 21 599.6 | 22 541.1 | 89.6% | -3.22% |
| Magistrates’ Salaries | 2 398.5 | 2 398.7 | 2 505.9 | 2 617.7 | 10.4% | -4.66% |
| **Total** | 22 880.5 | 23 192.7 | 24 105.5 | 25 158.8 | 100% | -3.37% |
| Change to 2022 Budget estimate | 460.1 | 981.7 | 896.2 | - |  |  |

**Vote 25 - Justice and Constitutional Development – Allocation for the 2023 MTEF per economic classification**

| **Programme**  **(R ‘million)** | **Budget**  **2022 MTEF** | | | | **Average:**  **Expenditure/**  **Total**  **(%)** |
| --- | --- | --- | --- | --- | --- |
| **2022/23** | **2023/24** | **2024/25** | **2025/26** | **2022/23-2025/26** |
| Compensation of employees | 13 161.7 | 12 939.3 | 13 516.3 | 14 115.5 | 56.4% |
| Goods and services | 5 529.2 | 6 051.3 | 6 235.5 | 6 492.6 | 25.5% |
| Transfers and subsidies | 3 365.4 | 3 413.3 | 3 545.5 | 3 692.6 | 14.7% |
| Payments for capital assets | 823.9 | 788.8 | 808.4 | 855.6 | 3.49% |
| Payments for financial assets | 0.2 | - | - | - | 0% |
| **Total** | 22 880.5 | 23 192.7 | 24 105.5 | 25 158.8 | 100% |

* 1. The key cost drivers for the Vote remain unchanged from 2022/23, namely:
* *Compensation of employees*. A total of R12.93 billion is allocated to compensation of employees, at 56.4% of the total allocation to the Vote. Notably, the amount allocated decreases in real terms by -6.3% when compared to 2022/23 (R13.16 billion). It is projected that the number of personnel in the Department will decrease from 24 172 in 2022/23 to 23 860 in 2023/24.
* *Goods and services*. Budgeted expenditure for *Goods and Services* accounts for 25.5% of the allocation to the Vote at R6.05 billion, of which:
* R1.405 billion is for property payments. (This is a real decrease of -0.08% when compared to 2022/23).
* R1.25 billion is for operating leases. (This is a real increase of 22.5% when compared to 2022/23).
* R1.31 billion is for computer services. (This is a real increase of 6.67% when compared to 2022/23).
* R313.4 million for travel and subsistence. (This is a real increase of 10.39% when compared to 2022/23).
* R246.4 million for Agency and support/outsourced services. (A real increase of 15.36% when compared to 2022/23).
  1. **Additional funding**
     1. An additional R2.78 billion is allocated to the Vote baseline over the MTEF period, to cover improved conditions of service in the compensation of employees’ budget, as follows:

**Additions to the Vote baseline 2023 MTEF**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **R’million** | **2023/24** | **2024/25** | **2025/26** | **MTEF Total** |
| **Compensation of employees** | 417.0 | 430.2 | 443.1 | 1290.3 |
| **Goods and Services** | 406.7 | 343.4 | 350.4 | 1 100.5 |
| **Legal Aid SA (Land Justice)** | 76.6 | 80.1 | 83.7 | 240.4 |
| **Agencies and accounts** | 48.7 | 28.8 | 18.8 | 96.3 |
| **Machinery and equipment** | 40.9 | 22.5 | 23.5 | 87.0 |
| **Buildings and other fixed structures** | 1.7 | 2.3 | 2.3 | 6.3 |
| **Households** | -10.0 | -11.0 | -12.0 | -33.1 |
| **Total** | **981.7** | **896.2** | **909.8** | **2 787.7** |

1. **Department of Justice and Constitutional Development**
   1. The Department has identified the following strategic focus areas:

* Constitutionalism, respect for human rights and the rule of law.
* Compliance with international and regional treaty obligations.
* Extradition and Mutual Legal Assistance
* Programme for Legal Empowerment and Access to Justice (PLEAJ).
* Implementation of the National Action Plan (NAP) to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.
* Review of justice-related colonial and apartheid legislation.
* Budget Prioritisation Framework:
* Gender-Based Violence and Femicide (GBVF.
* Modernisation and digitalisation to increase access to justice services.
* Strengthening the fight against fraud and corruption.
* Convictionrate in cable theft.
* Transformation of State Legal Services and the legal profession.
* Improved and transformed Masters’ Services
* Improved performance and audit outcomes.
* Procurement from designated groups.
* Trafficking in Persons
* Increase access to justice services.
* Strengthening the civil law.
* Addressing case backlogs.
* Social compact.
  1. The Department has developed the following departmental outcomes:
* Improved organizational capabilities and good governance.
* Improved awareness of justice services and constitutionalism.
* Increased access to justice services.
* Improved Masters’ Services.
* Transformed Colonial/Apartheid era justice-related legislation.
* Transformed State legal services.
* Transformed legal profession.
* Advanced constitutionalism, human rights and the rule of law.
* Crime and corruption reduced through effective prosecution.

1. **Department of Justice and Constitutional Development: Administration** 
   1. The purpose of this programme is to provide strategic leadership, management and support services to the Department.
   2. The programme contributes to Outcome 1: Modernising and increasing access to justice services; Outcome 2: Improved organisational capability and good governance; and Outcome 3: Improved awareness of justice services and constitutionalism.
   3. The Administration programme is allocated R3.08 billion in 2023/24, compared with an adjusted budget of R3.05 billion in 2022/23.
   4. Overall, the allocation to Administration decreases by -3.5% in real terms. The largest real decreases are found in the Financial Management and Corporate Services sub-programmes, at -24.6% and 24.4% respectively. This is the third consecutive year in which the allocation to Corporate Services has decreased significantly in real terms (Corporate Services provides strategic support to the Department and integrated business solutions in Human Resource Management, information and communication technology (ICT), public education and communications, and capacity building of the Department’s personnel). The allocation to the Management sub-programme increases by 242.1% in real terms.

**Administration: Budget 2023 MTEF, including real percent change**

| Sub-programme | Budget  R’million | | | | Real %  2023/24 |
| --- | --- | --- | --- | --- | --- |
| 2022/23 | 2023/24 | 2024/25 | 2025/26 |
| Ministry | 39.8 | 39.1 | 40.8 | 42.6 | -6,35 % |
| Management | 63.7 | 228.6 | 238.2 | 247.0 | 242,11 % |
| Corporate Services | 1 077.9 | 854.8 | 897.0 | 938.1 | -24,40 % |
| Financial Administration | 235.4 | 186.2 | 194.7 | 204.2 | -24,60 % |
| Internal Audit | 104.9 | 107.5 | 112.2 | 117.1 | -2,31 % |
| Office Accommodation | 1 528.2 | 1 671.7 | 1 746.8 | 1 825.1 | 4,28 % |
| TOTAL | **3 049.8** | **3088.0** | **3 229.8** | **3 374.0** | **-3,48 %** |
| Change to 2022 Budget estimate | 61.0 | 28.6 | 29.3 | **-** | - |

* 1. The spending focus for the programme remains mainly on operating leases (R1.11 billion), personnel (R653.3 million), property payments (R540.1 million), and computer services (R563.9 million).
  2. *Personnel.* As of 1 January 2023, the Administration programme had 1 156 posts, of which 136 are currently vacant (with a vacancy rate of 11.8%).

1. **Programme 2: Court Services**

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* 1. The Court Services programme facilitates the resolution of criminal and civil cases, and family law disputes, by providing accessible, efficient and quality administrative support to the courts and to manage court facilities.
  2. The Court Services programme is focused on two key outcomes: ‘Increased access to justice services’; and ‘Crime and corruption reduced through effective prosecution’.
  3. Court Services is allocated R6.8 billion in 2023/24, compared with an adjusted budget of R7.0 billion in 2022/23.
  4. Overall, the allocation to this programme decreases in real terms by -8.2% from 2022/23. The most significant real decrease of -9.6% is found in the Lower Courts sub-programme, which funds the activities and operations of the 2 147 regional and courts in South Africa.

**Court Services: Budget 2023 MTEF, including real percent change**

| Sub-programme | Budget  R’million | | | | Real % change 2023/24 |
| --- | --- | --- | --- | --- | --- |
| 2022/23 | 2023/24 | 2024/25 | 2024/25 |
| Lower Courts | 5 446.5 | 5 163.2 | 5 382.6 | 5 619.2 | -9.63 % |
| Family Advocate | 293.7 | 282.0 | 294.3 | 307.1 | -8.47 % |
| Magistrates Commission | 15.7 | 19.2 | 20.1 | 21.0 | 16.58 % |
| Facilities Management | 635.6 | 657.9 | 694.1 | 725.2 | -1.33 % |
| Administration of Lower Courts | 628 | 638.6 | 667.0 | 695.4 | -3.06 % |
| TOTAL | **7 019.4** | **6 760.8** | **7 058.1** | **7 367.9** | -8.18 % |
| Change to 2022 Budget estimate | 209.4 | 244.8 | 250.1 | **-** | - |

* 1. Funding for selected indicators is as follows:

| OUTPUT | INDICATOR | ADDITIONAL BUDGET SUPPORT |
| --- | --- | --- |
| Increased access to justice services.  (The NSP-GBVF requires an infusion of adequate resources (human and capital) in sexual offences courts and TCCs) | Number of sexual offences courts established at designated courts. | R15 million over the medium term to support the establishment of sexual offences courts. This is funded from the Criminal Assets Recovery Account. |

* 1. The spending focus for the programme remains mainly on personnel (R4.48 billion), property payments (R738.2 million), buildings and fixed structures (R589.3 million) and travel and subsistence (R173.1 million).
  2. *Personnel*: As of 1 January 2023, the programme had 13 349 posts of which 689 posts are vacant. This represents a vacancy rate of 5.2%, which is an improvement from 2022/23 when the vacancy rate was 7%.

1. **Programme 3: State Legal Services**
   1. The programme provides legal and legislative services to government; supervises the administration of deceased and insolvent estates and estates undergoing liquidation; manages the Guardian’s Fund; facilitates constitutional development; and undertakes research.

*Budget*

* 1. The State Legal Services programme is allocated R1.35 billion for 2023/24, compared with an adjusted budget of R1.4 billion in 2022/23. The allocation to the programme decreases in real terms by -8.8% from 2022/23.

**State Legal Services: Budget 2023 MTEF, including real percent change**

| Sub-programme | Budget  R’million | | | | Real % change 2023/24 |
| --- | --- | --- | --- | --- | --- |
| 2022/23 | 2023/24 | 2024/25 | 2025/26 |
| State Law Advisors | 85.9 | 83.3 | 86.9 | 90.7 | -7.56% |
| Litigation and Legal Services | 544.0 | 496.0 | 516.7 | 539.4 | -13.08% |
| Legislative Development  and Law Reform | 95.8 | 99.5 | 104.7 | 108.9 | -0.99% |
| Master of the High Court | 584.9 | 572.1 | 596.2 | 621.1 | -6.76 % |
| Constitutional Development | 97.5 | 96.2 | 99.9 | 104.3 | -5.94% |
| TOTAL | **1 408.1** | **1 3471.1** | **1 404.3** | **1 464.4** | **-8.80%** |
| Change to 2022 Budget estimate | 85.4 | 43.8 | 42.3 | - | - |

* 1. The spending focus for the programme remains mainly on personnel (R1.18 billion), and Legal Services (R42.5 million).
  2. *Additional budget support for APP indicators in the State Legal Services programme*: For the Department to continue to carry out its work of co-ordinating and contributing to the implementation of the National Action Plan for Combating Racism, Racial Discrimination, Xenophobia and Related Intolerances, R5.1 million is allocated over the medium term. A virtual repository is to be developed in 2023/24 to provide disaggregated statistical data for the measurement of racism, racial discrimination xenophobia and related intolerance is to be developed by 31 March 2024.
  3. *Personnel.* As of 1 January 2023, the programme had 2 349 posts, of which 270 posts are currently vacant. This represents a vacancy rate of 11.5% which is a slight increase from the previous financial year at 11.4%.

1. **Programme 4: National Prosecuting Authority**
   1. The NPA provides a co-ordinated prosecuting service that ensures that justice is delivered to the victims of crime through general and specialized prosecutions; removes the profit from crime; and protects certain witnesses. The NPA also forms part of the Anti-Corruption Task Team (ACTT).
   2. The programme has the following sub-programmes:

* National Prosecutions Service: Primarily responsible for general and specialised prosecutions and the appeals that might follow, which include resolving criminal matters outside of the formal trial process through alternative dispute resolution mechanisms, settling admissions of guilt for minor offences and considering dockets brought by the police where persons have not been charged. This sub-programme further deals with priority crimes litigation, sexual offences, and community affairs and specialised commercial crimes.
* Investigating Directorate provides for the Investigating Directorate, established in the Office of the National Director of Public Prosecutions, to deal with offences or criminal or unlawful activities involving serious, high‐ profile and complex corruption, including allegations of corruption arising from commissions of inquiry.
* Assets Forfeiture Unit: Seizes assets that are the proceeds of crime or have been part of the offence through a criminal or civil process.
* Office of Witness Protection: Provides for protection, support and related services to vulnerable, intimidated witnesses and related persons in judicial proceedings in terms of the Witness Protection Act (1998).
* Support Services provides corporate support services to the NPA in terms of finance, human resources, ICT, strategy support, integrity, security, communication and risk management.
  1. *Planning* 
     1. The APP 2023/24 intends to build on recent successes relating to high-level and complex corruption and includes work relating to the permanent establishment of the Investigating Directorate with the requisite criminal investigative powers.
  2. The Plan outlines four strategic priorities as part of efforts to future-proof the NPA, including:
* Prioritisation Practice and Policy: To prosecute more smartly and strategically, targeting repeat offenders and crime syndicate leaders together with their assets, as well as crimes which disproportionately undermine public safety.
* Community Prosecutions Initiative: To strengthen partnerships between prosecutors, communities, police, and local authorities to develop joint solutions to ongoing forms of public safety concerns, including serious and violent crime.
* Service Delivery Improvement through the implementation of client satisfaction surveys; the expansion of victim-centric support measures, including improved engagement on whistle-blower protection.
* Amplifying the NPA’s influence/voice within the broader JCPS strategic matters by developing an NPA strategy on organised crime that will guide the NPA’s interventions and enhance relevant collaboration with key JCPS partners, especially the DPCI.
  1. Outputs, indicators, and targets for 2023/24 are as follows:

**NPA – Outcome, outputs, output indicators and targets**

| **Output** | **Output Indicators** | **Target** | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **2022/23**  **Estimate** | **2023/24** | | **2024/25** | | **2025/26** |
| **OUTCOME: Crime and corruption reduced through effective prosecution** | | | | | | | |
| Effective prosecutions conducted | Conviction rate in High Court | 87% | | 87% | | 87% | 87% |
| Conviction rate in Regional Court | 74% | | 74% | | 74% | 74% |
| Conviction rate in District Court | 88% | | 88% | | 88% | 88% |
| Conviction rate in cable theft cases | 80% | | 80% | | 80% | 80% |
| Number of witnesses and related persons threatened, harmed or killed while on the witness protection programme | 0 | | 0 | | 0 | 0 |
| Fraud and corruption dealt with | Conviction rate in complex commercial crime | 90% | | 90% | | 90% | 90% |
| Number of persons convicted of corruption and/or offences related to corruption | 334 | | 334 | | 334 | 334 |
| Number of investigations authorised (ID) | 11 | | 11 | | 16 | 21 |
| Number of state capture and complex corruption matters enrolled | 9 | | 12 | | 15 | 18 |
| Number of prosecutions involving money laundering NEW | NA | | Baseline | | Baseline | Baseline |
| Freezing of money and assets that are the proceeds of crime | Value of completed forfeiture cases | R550 million | | R550 million | | R550 million | R550 million |
| Value of freezing orders obtained for corruption or offences relating to corruption | R2.4  billion | | R2.4 billion | | R2.2 billion | R2.2 billion |
| Recovery of money and assets that are the proceeds of crime | Value of recoveries relating to corruption or related offences | R1.4  billion | | R1.4 billion | | R1.4 billion | R1.4 billion |
| **OUTCOME: Increased access to justice services** | | | | | | | |
| Victim-centric services enhanced | Number of new TCCs established | 62 | | 2 | | 2 | 2 |
| Conviction rate in sexual offences | 70% | | 70% | | 70% | 70% |

*Budget*

* 1. The NPA is allocated R5.4 billion for 2023/24, compared with an adjusted budget of 4.9 billion for 2022/23.
  2. In 2023/24, the NPA’s overall budget increases by 3.98% in real terms. In terms of sub-programmes, the Investigating Directorate’s budget increases by 43.4%, followed by the Office of Witness Protection, whose budget increases by 11.2%.

**NPA: Allocation for 2023 MTEF**

| **Sub-programme**  **R’000** | **Budget**  **R’million** | | | | **Real % Change** |
| --- | --- | --- | --- | --- | --- |
| **2022/23**  **Adjusted** | **2023/24** | **2024/25** | **2025/26** |
| National Prosecutions Service | 3 707.1 | 3 971.4 | 4 147.1 | 4 328.8 | 1.0% |
| Investigating Directorate | 243.6 | **361.1** | 296.7 | 302.7 | 43.4% |
| Asset Forfeiture Unit | 212.4 | **225.2** | 234.7 | 249.5 | 1.1% |
| Office of Witness Protection | 219.9 | **256.5** | 268.4 | 280.5 | 11.2% |
| Support Services | 528.0 | **592.8** | 606.0 | 635.0 | 5.8% |
| **Total** | **4 911.0** | **5 407.0** | **5 552.9** | **5 896.9** | **4.0%** |
| Change to 2022 Budget estimate | 0.7 | **536.1** | 463.3 | - | - |

* 1. In the 2023 MTEF, the NPA is allocated the following additional funds:
* R1.3 billion is allocated over the MTEF to support the implementation of the State Capture Commission and Financial Action Task Force’s recommendations.
* In addition, reprioritised funds have been made available to reduce GBVF from within the NPA’s National Prosecution Services salaries budget.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **R’000** | **2023/24** | **2024/25** | **2025/26** | **Total** |
| National Prosecutions Service | 264 000 | 275000 | 285 000 | 824 000 |
| Investigating Directorate | 12 500 | 50 000 | 45 000 | 220 000 |
| Asset Forfeiture Unit | 15 000 | 15000 | 20 000 | 50 000 |
| Office for Witness Protection | 35 000 | 37000 | 39000 | 111 000 |
| Strategy Operations and Compliance | 50 000 | 38 500 | 41 700 | 130 200 |
| **Total** | **489 000** | **415 500** | **430 700** | **1 335 200** |

* 1. *Personnel.* On 1 January 2023, the NPA had a staff establishment of 6 432 posts, of which 5 203 are filled and 1 229 are vacant with a vacancy rate of 19%. The NPA has embarked on mass recruitment to address shortages of capacity and necessary skills needed to investigate and prosecute complex matters within the NPA environment. This includes the capacitation of the Investigating Directorate.

1. **Programme 5: Auxiliary and Associated Services**
   1. The programme provides a variety of auxiliary services associated with the Department’s aims and funds transfer payment to the South Africa Human Rights Commission, the Public Protector SA, Legal Aid South Africa, the Special Investigation Unit, and the Information Regulator.
   2. The spending focus of this programme is the modernisation of the justice system and transfers to public entities and constitutional and statutory independent institutions.
   3. **Justice Modernisation** 
      1. The Justice Modernisation sub-programme contains funds for the modernisation of IT systems and for the Integrated Justice System (IJS) project on behalf of Justice Crime Prevention and Security (JCPS) Cluster departments and entities.
      2. Justice Modernisation has identified the following outcome: ‘Modernised and digitised justice services platforms’ with the following related output indicators and targets:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Output Indicator** | **Target** | | | |
| **Est performance 2022/23** | **2023/24** | **2024/25** | **2025/26** |
| No of KPIs completed on the Integrated Justice System dashboard | 1 | 1 | - | - |
| No of IJS Governance intervention sessions held (Output: Effective IJS governance systems) | 14 | 14 | 14 | 14 |
| No of IJS operational sites assessed for vulnerability to cyberattacks. | - | 2 | 1 | - |
| No of police station at which PIVA is deployed (Output: CJS digitised and integrated) | 40 | 20 | - | - |

* + 1. Justice Modernisation is allocated R813.7 million for 2023/24, compared with an adjusted budget of R736.2 million in 2022/23, increasing by 5.4% in real terms.

**Justice Modernisation: Budget 2023 MTEF, including real % change**

| Sub-  Programme | Budget  R’million | | | | Real %  CHange |
| --- | --- | --- | --- | --- | --- |
| 2022/23  (Adjusted) | 2023/24 | 2024/25 | 2025/26 |
| Justice Modernisation | 736.2 | 813.7 | 846.2 | 884.1 | 19.74 % |

1. **Legal Aid South Africa**
   1. The main objective of Legal Aid SA is to render or make available legal representation to indigent persons at state expense as contemplated in the Constitution, ensuring the rights of citizens to access to justice.
   2. Land Rights Management Unit: On 1 January 2022, Legal Aid SA took over the management of the legal component of the Land Rights Management Facility in the Department of Agriculture, Land Reform and Rural Development (DALRRD). As a result, Legal Aid SA legislative mandate has expanded to include the following legislation:

* Restitution of Land Rights Act 22 of 1994 .
* Land Reform (Labour Tenants Act 3 of 1996.
* The Extension of Security of Tenure Act 62 of 1997.
  1. The Strategic Plan 2020-2025 sets out the policy priorities, programmes and project plans for that period, as well as the related outcomes, outcome indicators and five-year targets. Legal Aid SA’s plans are aligned with the MTSF priority ‘Social cohesion and safer communities’.
  2. The overall strategic shift for the 2020-2025 period that Legal Aid SA is seeking to achieve is ‘Ensure equal access to justice for all to build a just society’.
  3. Legal Aid SA’s strategic outcomes for 2020-2025 are to provide quality justice for all, especially, the poor and vulnerable, and to be a respected, high performance, sustainable and accessible public entity that will have a positive impact on society, the economy and the environment.
  4. Legal Aid SA has the following objectives:

|  |
| --- |
| Objective 1: Empowered clients and communities making informed choices about their legal matters, rights and responsibilities. |
| Objective 2: All indigent and vulnerable members of society have equal access to public funded legal services to protect and defend their rights. |
| Objective 3: A fair, efficient and effective justice system that ensures equal access to justice for all. |
| Objective 4: Delivering on our constitutional and statutory mandate thereby ensuring equal access to justice for all, in an independent, accountable and sustainable manner. |
| Objective 5: An organisation re-inventing and embedding sustainable and agile practices in every segment to positively impact on society, the economy and the environment. |
| Objective 6: Sustaining good governance, best practices and maintaining high ethical standards and integrity, high performance and accountability. |
| Objective 7: Legal Aid South Africa's regulatory framework is responsive to the changing legal, social and economic environment. |
| Objective 8: An effective, efficient, economic and environmentally responsive supply chain management system supporting client services delivery and internal business processes. |
| Objective 9: An appropriately resourced national footprint that is adaptable to changing technological and environmental factors to ensure improved access to our clients, communities, stakeholders and employees. |
| Objective 10: Knowledgeable, informed, self-directed, and committed employees competently delivering the organisation’s constitutional mandate and strategies in a sustainable manner. |
| Objective 11: Embracing emerging technologies including the Fourth Industrial Revolution to optimise its impact on business and the provision of client services through a responsive and adaptive IT environment. |

* 1. Legal Aid SA intends the following organisational outcomes:

| **Balanced scorecard component** | **Outcomes** |
| --- | --- |
| **Client, Community, Stakeholder and Shareholder** | Outcome 1: Quality client-focused legal aid in criminal matters, particularly for indigent and vulnerable persons. |
| Outcome 2: Quality client-focused legal aid, including to indigent and vulnerable persons, in civil matters with a priority focus on land and other constitutional rights matters. |
| Outcome 3: Quality client-focused legal advice services. |
| Outcome 4: Client-focused strategic litigation services to give content to constitutional rights, as well as to increase access to justice for indigent and vulnerable persons. |
| Outcome 5: Contribute to the effective functioning of the justice and legal sector thereby promoting the rule of law and increasing access to justice. |
| Outcome 6: Account to the Executive Authority (the Minister of Justice and Correctional Services) and Parliament on delivery of mandate, governance and sustainability |
| **Finance and Sustainability** | Outcome 7: Improve financial sustainability and manage the reductions to the budget. |
| Outcome 8: Maintain and enhance good governance. |
| **Internal Business Processes** | Outcome 9: Maintain a regulatory framework that incorporates best practices and is responsive to changes in the overall environment. |
| Outcome 10: Sustain strong financial management, supply chain and asset management practices informed by best practice. |
| **Employee and Organisational Capacity and Innovation and Learning** | Outcome 11: Consolidate and review the resourcing of our national footprint to ensure adequate staffing, as well as safe and secure facilities for clients and staff, within available resources. |
| Outcome 12: Strengthen and continuously improve the quality and expertise for each segment of the national footprint. |
| Outcome 13: Enhance and maintain an integrated and service and client-oriented and secured Information Technology system with capacity to integrate stakeholders |

* 1. Key Performance Indicators seek to measure performance on the programmes to achieve objectives and outputs, while targets are to be achieved for each objective in five years, and the baseline level of performance, against timeframes.

| **Performance Indicator** | **Programme/ objective/activity** | **Audited Outcome** | **Estimated Performance/Target** | |
| --- | --- | --- | --- | --- |
| **2022/23** | **2023/24** | **2024/25** |
| **New legal matters approved:**  **Criminal**  **Civil** | Legal Aid Services | 321 870  43 891 | 337 963  46 984 | 354 861  48 390 |
| **Finalised legal matters:**  **Criminal**  **Civil** | Legal Aid Services | 344 622  46 994 | 361 863  49 344 | 379 946  51 810 |
| **Percentage of annual coverage of legal practitioner per district court per year** | Legal Aid Services | 85% | 85% | 85% |
| **Percentage of annual coverage of legal practitioner per DC** | Legal Aid Services | 90% | 90% | 90% |
| **Percentage of annual coverage of legal practitioner per DC** | Legal Aid Services | 80% | 80% | 80% |
| **Percentage of annual coverage of legal practitioner per HC** | Legal Aid Services | All courts | All courts | All courts |
| **Number of clients assisted in land related matters** | Legal Aid Services | 800 | 200 | 200 |
| **Strategic litigation addressing social justice.** | Legal Aid Services | **16 new matters** | **16 new matters** | **16 new matters** |

*Budget*

* 1. Legal Aid SA is allocated R2.21 billion in 2023/24 compared to a revised estimate of R2.22 billion in 2022/23. Despite its expanded mandate, in real terms, the allocation to Legal Aid SA for 2023/24 decreases by -0.2% compared with 2022/23.
  2. The allocation to programmes is as follows:

**Legal Aid SA programme budget for the 2023 MTEF**

| **Subprogramme**  **(R’million)** | **Revised estimate**  **2022/23** | **2023/24** | **2024/25** | **2025/26** |
| --- | --- | --- | --- | --- |
| Legal Aid Services | 572.6 | 587.9 | 598.1 | 628.8 |
| Administration | 1 590.1 | 1 552. 8 | 1 639.5 | 1 708.2 |
| Special projects | 66.7 | 69.7 | 71.1 | 74.3 |
| **TOTAL** | **2 229.5** | **2 210.4** | **2 308.4** | **2 308.8** |

* 1. Salaries and related costs continue to be the largest driver of spending accounting for 79% of the allocation. The operating budget is the second highest driver accounting for 12% of the allocation. Other direct expenditure relates to expenditure that is directly linked to the provision of Legal services. The remaining 2% is for the replacement of capital assets.
  2. The 2021 MTEF cut Legal Aid SA’s baseline by R534 million over the MTEF period, affecting the compensation of employees’ budget. In 2023/24, Legal Aid SA’s baseline is reduced by –R121.8 million in 2023/24, which is from its compensation of employees’ budget. The reductions have had a negative impact on service delivery as 80% of the budget is spent on employee costs and legal practitioners make up 79% of the total staff component. The deficit is compounded by the PSBC wage settlement over the next two years.
  3. The 2023/24 budget allocation does not include the funding for the contingent liability for land matters estimated at R144 million.

**Budget Reductions and additional allocations:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Financial Year** | **2022/23**  **R’000** | **2023/24**  **R’000** | **2024/25**  **R’000** | **2025/26**  **R’000** |
| Original baseline | 2 313 817 | 2 222 563 | 2 195 852 | 2 294 213 |
| Baseline reduction | -230 835 | -121 808 | - | - |
| **Baseline allocation after reduction** | **2 082 982** | **2 100 755** | **2 195 852** | **2 294 213** |
| Specialised Commercial Crimes Courts allocation | 11 165 | 11 332 | 11 842 | 12 372 |
| Land Rights allocation | 89 603 | 76 625 | 80 073 | 83 676 |
| **Allocation as per allocation letter** | **2 189 449** | **2 188 712** | **2 287 767** | **2 390 261** |

* 1. *Personne*l: On 31 March 2023, Legal Aid SA had 2 468 staff members, staff recruitment being at 91.8%. The staff turnover rate excluding Candidate Attorneys was 5.2%.

1. **Special Investigating Unit**
   1. The SIU’s principal function is to investigate serious malpractices, maladministration, and corruption in connection with the administration of state institutions, state assets and public money, as well as any conduct that may seriously harm the interests of the public. The SIU also:

* Institutes and conducts civil proceedings in any court of law or special tribunal, in its own name or on behalf of state institutions.
* Brings potential disciplinary matters to the attention of state institutions.
  1. Although the SIU does not have the power to arrest or prosecute offenders for criminal conduct, it reports matters to the Directorate for Priority Crime Investigation (DPCI/the Hawks), the South African Police Service (SAPS) and the National Prosecuting Authority (NPA). The SIU works closely with the Asset Forfeiture Unit (AFU) in the NPA, where its powers are more appropriate or effective in recovering the proceeds of crime. The MTSF also identifies the investigative reports of the Financial Intelligence Centre as key in the identification of high priority cases. The SIU is part of the Anti-Corruption Task Team (ACTT), which was established to fast–track investigations and prosecutions of serious corruption cases.
  2. The SIU locates its role under the MTSF priorities: ‘Social Cohesion and Safe Communities’ and ‘A capable, ethical and developmental state’. The MTSF envisages an improvement in corruption perception by the end of the five-year period. The SIU is to contribute by reducing levels of fraud and corruption in the private and public sectors; freezing money and assets; establishing and strengthening the capacity of the Special Tribunal for civil recoveries; and increasing the use of Financial Intelligence Reports in identifying high priority cases.
  3. In 2023/23, the SIU retains the following strategic focus areas:
* Improving investigation turnaround times.
* Monitoring implementation of the SIU referrals and consequence management.
* Implementing measures to accelerate civil litigation.
* Reviewing and strengthening the SIU funding model.
* Implementing targeted prevention and awareness campaigns.
* Making systematic recommendations to state institutions to prevent a recurrence of corruption, maladministration, and malpractice.
* Improving communication and stakeholder relations.
* Implementing corruption, maladministration, and malpractice data analytics.
* Improving the SIU governance framework.
* Improving all the SIU operations enablement functions.
* Introducing a new organisational and individual performance management system.
* Re-introducing an E-PMO.
* Accelerating implementation of Data Analytics capability.
* Business Development (Provincial Offices).
* Strengthening of Employee Value Proposition (EVP).
  1. The SIU has identified the following as key risks:

| **KEY RISK** | **CONTRIBUTING FACTORS** | **MITIGATION** |
| --- | --- | --- |
| Inability to provide adequate protection of investigators and whistle blowers against intimidation and threats emanating from SIU investigations. | * Protracted process to conduct and complete Threat Risk Assessments (TRAs) by SAPS. * Inadequate internal capacity to respond immediately to threats. * Inadequate whistle blowing protection advocacy and awareness programme. * Occupational detriment and/or victimisation arising from blowing the whistle on corruption. * Failure to keep whistle-blowers’ identity anonymous due to unsecured reporting channels. | * Continuous follow up with SAPS on the progress made regarding conclusion of TRAs. * Appoint the Panel of Security Experts to provide protection for SIU investigators who are intimidated and threatened. * Continuous engagement with whistle blowers that are being victimised to advise them of whistle blowing protection measures. * Continuous engagement with accounting officers bringing the victimisation of whistle-blowers in the state departments to their attention. * Whistle-blowers are continuously encouraged to report allegations via the SIU’s whistle-blowing hotline that is managed by an independent service provider. * Identify whistle-blowers and witnesses involved in sensitive investigations and conduct one-on-one awareness training with them on whistleblowing and witness protection. |

* 1. The SIU continues to have three programmes:

|  |  |
| --- | --- |
| **Programme** | **Responsibility** |
| Administration | Responsible for the provision of business oversight and enablement services to the core business units of the SIU. |
| Investigations and Legal Counsel Programme | Responsible for ensuring the adequate execution of the mandated service delivery of the SIU. |
| Market Data Analytics and Prevention | Responsible for the implementation of relevant and proactive initiatives to prevent the reoccurrence of fraud and corruption cases because of systemic weaknesses in the public sector and to positively influence the behaviour of South African citizens |

* 1. Administration has five sub-programmes; Financial Management; Human Resource Management; Information Communication and Technology (ICT); Enablement Services; and Assurance.
     1. The programme is allocated R411.7 million in 2023/24, increasing in real terms by 29.14 % (R88.6 million) when compared to the previous financial year. The increase in capital expenditure over the MTEF is mainly due to the planned acquisition of ICT systems, in line with the SIU’s business strategy. This investment is made with the aim to achieve organisational efficiency after the rollout of ICT enterprise architecture and supporting ICT systems, including an automated case management solution.
     2. In 2023/24, the Administration programme has retained the indicator: ‘Maintaining an unqualified audit’; removed the indicator ‘Implementation of Data Analytics milestones (Phase 2)’; revised an indicator addressing stakeholder engagements to include stakeholder engagements and the conducting of public awareness campaigns. (The target has been increased from 5 in 2022/23 to 8 in 2023/24 and over the medium term); and introduced a new indicator: ‘Employee turnover rate’ (the institution has set a target of 4% over the medium term)
  2. Investigations and Legal Counsel programme.
     1. There are no new indicators for the Investigations and Legal Counsel sub-programme. However, provision is made for year-on-year increases in the targets. Selected indicators are as follows:

| **OUTPUT INDICATORS** | **TARGETS** | | |
| --- | --- | --- | --- |
| **2022/23** | **2023/24** | **2024/25** |
| Rand value of potential cash and/or assets to be recovered | R350 million | R400 million | R450 million |
| Rand value of actual cash and/or assets recovered | R275 million | R300 million | R325 million |
| Number of referrals for disciplinary action against officials and or executives | 180 | 185 | 190 |
| Number of referrals made for administrative action | 120 | 125 | 130 |
| Number of referrals made to the NPA | 250 | 260 | 270 |
| Number of investigations closed out under a published proclamation | 250 | 260 | 270 |
| Rand value of matters in respect of which evidence was referred for the institution or defence/opposition of civil proceedings | 1 450 | 1 550 | 1 600 |
| Number of cases in the Special Tribunal | R2 billion | R2.3 billion | R2.6 billion |
| Rand value of contract and or administrative decisions and or actions set aside or deemed invalid | R1.6 billion | R1.9 billion | R2.2 billion |

* + 1. The SIU reports that to speed up the investigation of referrals from SIU to the NPA, it has signed a combined MOU with the NPA, the Directorate for Priority Crime Investigation (DPCI) and the SAPS. The purpose of the MOU is to:
* Establish a working methodology in connection with the cases referred by the SIU to the NPA, which are in turn referred by the NPA to the SAPS/ DPCI.
* Adopt and implement reporting mechanisms in respect of the cases.
* Ensure that the cases referred by the SIU to the NPA, and further referred by the NPA to the SAPS/ DPCI, are investigated.
* Require the development of a common database in respect of all SIU matters, and include the status of each matter, progress in respect of its investigations and the outcome in respect of its finalisation.
  + 1. The programme is allocated R706.3 million in 2023/24, which represents 69% of the total budget allocation to the SIU. The allocation experiences a real increase of 23.86% from the previous financial year.
  1. Market Data Analytics and Prevention
     1. This programme receives the smallest allocation of all the programmes, at R48.6 million, with a real increase of 93% (or R22 million when compared to the previous financial year. The cost driver is that this is a new programme which needs to be capacitated to ensure that it meets its objectives. The compensation of employee’s budget jumps from R9 million in 2022/23 to R32.5 million in 2023/24.
     2. In 2023/24, Market Data Analytics and Prevention has three new indicators:
* Number of anti-corruption forum meetings convened for vulnerable sectors (six to be convened by 31 March 2024).
* Lifestyle audits conducted as per request received from state institutions.
* Implementation of the data analytics capability phases (Implementation of Phase 3 of the data analytics milestones planned).

*Budget*

* 1. The SIU has a mixed funding model that derives income from a National Treasury grant and from work done for state departments.
  2. The SIU is allocated an additional R100 million over the MTEF (R50 million in 2023/24, R30 million in 2024/25 and R20 million in 2025/2).
  3. The SIU has a budget for 2023/24 of R1.08 billion, which consists of a projected R504.8 million from the national fiscus and R576.1 million in revenue from fees charged. Overall, the budget increases in real terms compared with 2022/23. In addition, the SIU reports a surplus amount of R85.7 million rolled over from previous years, which brings the total budget for 2023/23 to R1.16 billion. The rolled over funds are for projects that include procuring an office building for its Pretoria/ Head-Office Region.

**SIU revenue 2023 MTEF**

| **Revenue**  **R’thousand** | **2022/23** | **2023/24** | **2024/25** | **2025/26** |
| --- | --- | --- | --- | --- |
| Administration | 303 903 | 411 692 | 452 985 | 516 118 |
| Investigations and Legal Counsel | 543 579 | 706 290 | 823 565 | 944 972 |
| Market Data Analytics and Prevention | 24 000 | 48 846 | 52 686 | 57 167 |
| **Total revenue** | **871 481** | **1 166 628** | **1 329 235** | **1 518 256** |

* 1. The SIU’s key cost driver is compensation of employees, which is allocated R815.9 million (69% of the total budget allocation). The SIU intends to increase its number of personnel to 800 in 2023/24.
  2. Personnel. As of 31 March 2023, the SIU had a headcount of 601 employees, with a vacancy rate of 7.5%.

1. **Public Protector SA**
   1. The Public Protector SA is an independent constitutional institution whose mandate, broadly, is to support and strengthen constitutional democracy by investigating maladministration or improper conduct in state affairs or the public administration in any sphere of government and to take appropriate remedial action. The Constitution also states that the Public Protector must be accessible to all persons and communities.

*Performance planning*

* 1. The PPSA has the following impact statement: ‘Empower everyone at all levels of society to effectively engage organs of state about any injustice, service delivery failure or improper conduct and assist organs of state to establish and maintain efficient and effective governance and administration’.
  2. The PPSA has identified the following as its intended outcomes:
* Clean audit achieved and maintained.
* Implementation of ICT systems to optimally support business objectives.
* Maintenance of the Business Continuity Plan.
* Resolution of complaints.
* Accessible PPSA services.
  1. The PPSA continues to have three programmes: Administration, Investigations and Stakeholder Engagement.
  2. Administration: The programme has identified four indicators: ‘A clean audit achieved annually’; ‘Implementation of ICT infrastructure’; ‘Development of the ICT system’; and ‘Number of business continuity plan monitoring reports finalised’.
* The indicator ‘Development of ICT system’ is new, providing for the development of the ERP system by 2023/24 and implementation in 2024/25. This will ensure automated Finance, SCM and HRM business processes, with a view to managing all daily functions, and be able to produce accurate real time tracking, tracking and reporting.
* The other new indicator is ‘Number of Business Continuity Plan Monitoring Reports finalised’. The PPSA intends to monitor the implementation of the Business Continuity Plans quarterly to ensure that, should there be a disaster, PPSA services will continue with minimal disruption.
  1. Investigations: The programme four indicators: ‘Number of cases finalised through investigation’; ‘Number of cases finalised by means of advice given and or assistance rendered’; ‘Percentage of adherence to turnaround times in finalisation of cases’; and ‘Number of systemic investigations/ interventions finalised’.

| OUTPUT INDICATOR | 2023/24 APP  TARGETS |
| --- | --- |
| Number of cases finalised through investigation | Finalise 2000 cases through investigation by 31 March 2024 |
| Number of cases finalised by means of advice given and or assistance rendered | Finalise 500 cases by means of advice given and / or assistance rendered by 31 March 2024 |
| Percentage of adherence to turnaround times in finalisation of cases | Finalise 80% of cases within the following turnaround times:  ER: 6 months  SD: 12 months GGI: 24 months  GGI (Very complex): 36 months  by 31 March 2024 |
| Number of systemic investigations finalised | Finalise two systemic investigations and/or interventions by 31 March 2024 |

* + 1. Stakeholder Engagement. The performance indicator remains the same: ‘Number of activities executed in the implementation of an Integrated Access and Stakeholder Management Strategy’ but the target of 117 activities for 2022/23 is increased to 348 for 2023/24.

*Budget*

* 1. The PPSA is allocated R357.3 million for the 2023/24 financial year by way of government grant. Interest and other income increase the PPSA’s budget to R360.4 million. The allocation experiences a real decrease of -4.80% when compared to 2022/23.

**Public Protector SA Budget 2023 MTEF**

| **Programme** | **2023/24** | **2024/25** | **2025/26** |
| --- | --- | --- | --- |
| Administration | 144 301 281 | 153 301 997 | 160 169 927 |
| Investigations | 201 120 462 | 208 470 588 | 217 810 070 |
| Stakeholder engagement | 14 964 256 | 15 516 256 | 16 211 385 |
| **Total** | 360 386 000 | 377 288 842 | 394 191 383 |

* 1. Spending on personnel costs in the 2023/24 financial year will amount to R276.1 million, which represents 75% of the entire allocation. Spending on Goods and services amounts to R90.7 million (22%).
  2. The 2022 MTEF provided for additional funding over the medium term of R15.2 million in 2023/24 and R16.6 million in 2024/25, and funds were also allocated for the institution to invest in information and communication technology.
  3. The PPSA reports the following funding needs:

| **Description** | **Budget 2023/24** | **Budget 2024/25** | **Budget 2025/26** |
| --- | --- | --- | --- |
| Funding of critical positions | 15 153 073 | 15 153 073 | 15 833 446 |
| Subject Matter Expects | 2 000 000 | 1 000 000 | 1 000 000 |
| Learning and Development | 2 000 000 | 2 090 000 | 2 184 050 |
| Digitisation: E-library, CSM enhancement and Practise Management System | 3 000 000 | 3 135 000 | 3 276 075 |
| **Total** | **22 153 073** | **21 378 073** | **22 293 571** |

* + 1. *Funding of critical positions*: The Work study and skills audit has been finalised. The recommendation based on the administrative workload analysis, is to appoint more administrative staff proportionate to the investigation workload. 22 positions were prioritised for filling over the MTEF to the value of R15.1 million but could not be filled due to budget cuts. The posts would have been funded by PPSA over the MTEF had the baseline not been reduced in 2019/20.
    2. *Subject Matter Experts*: The skills audit outcome revealed critical competency and skills shortages on specialised knowledge areas, such as finance, management accounting, supply chain and procurement as well as project management. Due to the lack of funding, the PPSA is unable to source skills in the following specialist areas: forensic investigation; forensic accounting; forensic and investigative auditing; public procurement and supply chain practices; and technical skills in the built environment.
    3. *Learning and Development*: There is a need to upskill and capacitate the current staff to respond to the current and emerging technological developments in the field of investigations.
    4. Digitisation: The move towards digitisation of processes and procedures to standardise, improve efficiency and to deploy a simple and clear process for the benefit of all stakeholders.

1. **South African Human Rights Commission (SAHRC)**
   1. The SAHRC’s constitutional mandate is extremely wide, encompassing every aspect of civil, political, and economic rights. It must promote respect for human rights; promote the protection, development, and attainment of human rights; and monitor how well human rights are observed. The Constitution also provides that each year the Commission must require relevant organs of state to provide it with information on measures taken towards the realisation of the socio-economic rights contained in the Constitution.
   2. The Commission has other mandates, including:

* The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA).
* The Promotion of Access to Information Act, 2000 (PAIA).
* Preventing torture through the National Preventive Mechanism (NPM), established in terms of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Commission is designated as coordinator and functionary of a multi-body National Preventive Mechanism (NPM).
* Monitoring and Reporting on the Convention on the Rights of People with Disabilities (CRPD). The CRPD was ratified by South Africa in 2007. In September 2018, the United Nations recommended that South Africa should expedite the designation of an Independent Monitoring Mechanism (IMM). The Commission has been designated as the IMM under the CRPD. This places obligations on the Commission to fully establish and ensure the functionality of the IMM and monitor and report on compliance with the requirements of the CRPD to the United Nations Committee on the Rights of Persons with Disabilities.
* Convention on the Rights of the Child (CRC) and International Covenant on Economic, Social and Cultural Rights (ICESCR).
  1. The MTSF focuses strongly on mainstreaming crosscutting focus areas, specifically the empowerment and access to resources and opportunities women, the youth, and people with disabilities.
  2. The MTSF also highlights the need for social cohesion and a key outcome under the priority ‘Social Cohesion and Safe Communities’ is the implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.
  3. In addition, the MTSF identifies the Commission as contributing to:
* The promotion of the Constitution and its values in schools, awareness campaigns, public engagements, and dialogues.
* The development of a system to ensure consistent barrier free access for persons with disabilities to justice across the justice value chain.
* Strengthening and expanding protection measures for children and for adults with disabilities in institutionalised settings, such as special school boarding facilities, mental health care facilities and residential facilities.

*Performance planning*

* 1. The SAHRC’s Strategic Plan 2020-25 provides for mandate-linked strategies:
* Promotion - Enhancing human rights advocacy, visibility, and awareness programmes by conducting high impact engagements to influence policy, legislation and its application; establishing strategic partnerships for capacity and collaboration; empowering communities and the public to proactively engage with human rights issues; and utilising media platforms to raise awareness and increase visibility.
* Protection – Increasingly using redress mechanisms to minimise human rights violations by instituting strategic impact litigation and proactively conducting investigative inquiries and hearings.
* Monitoring – Comprehensive human rights monitoring and impact evaluation by strengthening and applying a comprehensive monitoring system to assess the state of human rights.
  1. The Commission’s planning for 2023/24 considered the following:
* Lessons learnt from previous years’ planning. A lesson has been that while the targets progressively increased in successive versions of APPs, the achievement of related targets has declined. At the same time, there was no concurrent increase in the resources of the Commission to enable the achievement of increased targets.
* The Commission encountered external challenges which included the onset of Covid-19 early in 2020 and unrest of July 2021 (mainly in KwaZulu-Natal (KZN) and Gauteng provinces). This was followed by the devastating floods in KZN, the Eastern Cape, the North-West provinces as well as in parts of the Western Cape.
* Five of nine Provincial Managers were lost to the Commission, four through resignations and one because of long Covid-19.
* The end of term of the Commissioners (five Commissioners) and the resignation of one Commissioner will impact the performance of the Commission during the 2023/24 financial year. This factor has been included in determining the number of indicators and targets.
  1. The Commission has four programmes: Administration; Monitoring the observance of human rights; Promotion of human rights; and Protection of human rights.
  2. The *Administration* programme has five sub-programmes: Finance; Corporate services; Internal audit; Strategic support; and Office of the Chief Executive Officer.
     1. Under the Administration programme, the Commission has the following indicators and targets:

| **OUTCOME: *Effective and efficient delivery on the mandate*** | |
| --- | --- |
| **INDICATOR** | **ANNUAL TARGET** |
| Percentage implementation of Strategic Risks Treatment Plan | 100% |
| Percentage implementation of Human Capital Management Plan | 90% |
| Percentage implementation of Information Management Plans | 100% |
| Percentage implementation of Internal Audit Plan | 100% |

* 1. The *Promotion of human rights* programme is responsible for the promotional aspects of the Commission’s work and seeks to:
* Conduct high impact engagements to influence policy, legislation, and its application.
* Establish strategic partnerships for capacity and collaboration.
* Empower communities and the public to proactively engage with human rights issues.
* Utilise media platforms to raise awareness and increase visibility.
  + 1. The programme has three sub-programmes: Commissioners programme; Advocacy and Communications; and Provincial Offices.
    2. Under this programme, the Commission has the following indicators:

| **OUTCOME: *Increased reach and visibility of the Commission through promotional mechanisms*** | |
| --- | --- |
| **Indicator** | **Annual Target** |
| Number of Strategic Stakeholder engagements conducted | 264 |
| Number of human rights initiatives completed | 37 |
| Number of Human Rights Educational material developed | 2 |
| Percentage implementation of Annual Media and Communication Plan | 100% |
| Number of National Schools Moot Court Programme hosted | 1 |
| Percentage implementation of Annual SHiNE plan | 80% |

* 1. The *Protection of Human Rights* Programme is responsible for carrying out the protective component of the Commission’s constitutional mandate and contains the Legal Services Unit and Office of the Chief Operations Officer sub-programmes.
     1. Through its Protection programme the Commission seeks to:
* Institute strategic impact litigation.
* Proactively conduct investigative inquiries and hearings.
* Utilise alternative dispute resolution and mediation.
  + 1. Under this programme, the Commission has the following targets:

| **OUTCOME: *Redress mechanisms provided where human rights have been violated or threatened*** | |
| --- | --- |
| **INDICATOR** | **ANNUAL TARGET** |
| Number of complaints and enquiries finalised | 6803 |
| Number of initiatives undertaken to address systemic human rights violations | 120 |
| Number of High court matters instituted | 15 |

* 1. The *Monitoring the observance of human rights* programme is responsible for the Commission’s constitutional monitoring and reporting mandate and contains one sub-programme - research.

| **OUTCOME: *Recommendations and directives made to improve the state of human rights in the country*** | |
| --- | --- |
| **INDICATOR** | **ANNUAL TARGET** |
| Number of State of human rights in South Africa report completed | 1 |
| Number of International and Regional Human Rights Reports completed | 1 |
| Percentage submission of identified NHRI reports | 100% |
| Percentage submissions on identified legislation | 100% |

*Budget*

* 1. The Commission is allocated R209.8 million for 2023/24, decreasing in real terms by -7.8% from 2022/23.

**SAHRC – Budget 2023 MTEF**

| **Programme**  **(R’million)** | **2022/23**  **Revised** | **2023/24** | **Real % change** |
| --- | --- | --- | --- |
| Administration | 72.5 | **70.7** | -7.04 % |
| Monitoring observance of human rights | 17.5 | **10.2** | -44.44 % |
| Promotion of human rights | 114.1 | **117.7** | -1.66 % |
| Protection of human rights | 12.8 | **11.3** | -15.84 % |
| **Total** | 216.9 | **209.8** | -7.79 % |

* 1. Compensation of employees remains the largest cost driver, accounting for 66% of the budget.
  2. In previous budgets, the Commission has been affected by baseline reductions. However, in 2022/23, the Commission received additional funding, as follows:
* A one‐off allocation of R5 million in 2022/23 for ICT infrastructure. (R36 million is reprioritised in 2022/23 to invest in information and communication technology in the Office of the Chief Justice, Investigating Directorate, Public Protector of South Africa, South African Human Rights Commission and Financial Intelligence Centre.)
* Additional allocations amounting to R17 million over the MTEF (R8 million in 2022/23, R4 million in 2023/23 and R5 million in 2024/25) to fulfil the Commission’s commitments to the United Nations Optional Protocol to the Convention Against Torture.
  1. No additional funding is allocated in 2023/24. The Commission reports that the Department of Public Works and Infrastructure ended payment of office rental for three (3) provincial offices: Western Cape, Kwa Zulu Natal, and Northern Cape. This will cost the Commission an additional R1.8 million in rental costs for the three (3) provincial offices and will affect the Commission’s operational budget. The Public Sector Coordinating Bargaining Council agreement of a 7.5% increase was also not budgeted for.
  2. Rationalisation measures impact as follows:

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| --- | --- | --- |
| **Administration** | Capital expenditure to procure motor vehicles for R3 200 000 to be delayed. | Impacts on advocacy work to be undertaken by provincial offices |
| Impact Evaluation Study reduced by R 650,000. | Impacts on ability to improve institutional efficiency |
| **Promotion** | A hosted conference by Advocacy reduced by R200 000. | Impacts on mandate to advance human rights |
| **Monitoring** | NPM international engagements reduced by R200 000. | Impacts on ability to fulfil international obligations |
| **Personnel** | Contract of Research Associate not extended R 800,000. The contract of PAIA | Impacts on monitoring of rights of persons with disabilities. |
| Information Officer not renewed for R 800,000. | Impacts on legislative mandate in terms of the Promotion of Access to Information Act. |
| Human Resources Internship project proposal costing R1 900 000 not able to be implemented. | Impacts on the Commission’s contribution to Government’s plan to support youth development. |

* 1. *Personnel*. The Commission has 183 staff members, of which 140 are permanent employees and 40 are employed on contract.

1. **Information Regulator**
   1. The Protection of Personal Information Act, 2013 (POPIA), regulates the processing of personal information by providing a framework that sets out the minimum standards that responsible parties must comply with when processing personal information. The Act applies to public and private bodies, including juristic persons, and aims to achieve a balance between the free flow of information and the right to privacy.
   2. The Information Regulator is established in terms of section 39 of POPIA and has wide range of powers and functions relating to promoting and enforcing the right to privacy. POPIA also transfers certain key responsibilities concerning the Promotion of Access to Information Act, 2000, (PAIA) to the Information Regulator. These include the handling of complaints, conducting investigations, and making assessments about compliance by public and private bodies.

*Performance planning*

* 1. The Information Regulator has updated its strategic vision for the period 2022/23-2026/27, adding new outcomes and output indicators in the 2023/24 Annual Performance Plan.
  2. Key risks and mitigation actions identified by the Regulator in its strategic planning documents include:

|  |  |
| --- | --- |
| **RISKS** | **MITIGATION** |
| Inadequate enforcement powers | Full establishment of an enforcement committee and approval of rules of procedure relating to the way a complaint may be referred to the enforcement committee. |
| Backlog of complaints | Funding from Treasury to fill prioritised positions. |
| Ineffective education and awareness | Conclusion of partnership agreements with other public agencies and training service providers on the delivery of education awareness programmes. |
| Inadequate processes and Standard Operating Procedures | Processes and Standard Operating Procedure Manuals to be developed for each Division |
| Inadequate compliance with the communication protocol (when imparting Information to the public) | Implementation of approved Standard Operating Procedures |
| Governance failures | To develop and approve the governance guides. |

* 1. *Programmes.*The Regulator has five programmes, namely ‘Protection of Personal Information’; ‘Promotion of Access to Information’; ‘Education and Communication’; Legal, Policy, Research and Information Technology Analysis’ and ‘Administration’.
     1. The *Protection of Personal Information* programme seeks to ensure the promotion and protection of personal information processed by public and private bodies. It has three subprogrammes: ‘Compliance and Monitoring’ and ‘Complaints and Investigations’ and ‘Security Compromises’, which is a new sub-programme that aims to monitor and enforce compliance; assess security compromise notifications; and oversee and conduct its own initiative assessments because of security compromises.
     2. Under this programme, the following indicators are removed:
* POPIA compliance monitoring and enforcement framework approved.
* Application for codes of conduct finalised within the prescribed timeframe.
* Percentage of applications for exemptions from POPIA processed.
* Percentage of Information Officers and Deputy Information Officers registered as prescribed.
* Approved and implemented the rules of procedure relating to the way any POPIA matters or complaints must be referred and handled by the enforcement committee.
  + 1. The following new indicators with associated targets are introduced:

|  |  |
| --- | --- |
| **OUTPUT INDICATORS** | **2023/24 TARGETS** |
| Percentage of responsible parties assessed upon request within the prescribed period | 50% |
| Number of Guidance Notes on Direct Marketing developed and approved. | 1 |

* 1. The *Promotion of Access to Information* programme seeks to ensure the effective promotion, protection, monitoring, and implementation of the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. It has two subprogrammes: ‘Compliance and Monitoring’ and ‘Complaints and Investigations’.
  2. Under this programme, the following indicator was removed: ‘Approved and implemented the rules of procedure relating to the manner in which any POPIA matters or complaints must be referred and handled by the enforcement committee’.
     1. The 2023/24 APP introduces the following new indicator:

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| --- | --- |
| **OUTPUT INDICATOR** | **TARGET 2023/24** |
| Percentage of public and private bodies assessed upon request within the prescribed period | 50% of public and private bodies assessed upon request |

* 1. The *Education and Communication* programme provides strategic direction for the provision of Education and Communication and has two sub-programmes ‘Education and Public Awareness’ and ‘Communication and Media Relations’.
     1. Under this programme, the following indicators are removed:
* Number of stakeholder engagement sessions conducted according to cluster.
* Number of research reports (on personal information and access to information) finalised.
* Number of international cooperation programmes conducted.
  1. The *Legal, Policy, Research and Information Technology Analysis* programme provides for the rendering of legal services.
     1. Under this programme, the following indicators are removed:
* Percentage of legal opinions rendered and finalised.
* Percentage of contracts vetted and drafted.
* Percentage of litigation matters successfully managed.
  + 1. The following new indicator is introduced:

|  |  |
| --- | --- |
| **OUTPUT INDICATORS** | **TARGETS** |
| Rules concerning the application of section 32 (1)(b) and (f) of POPIA. | Draft Rules concerning the application of section 32 (1)(b) and (f) of POPIA approved. |

* 1. The *Administration* programme provides effective and efficient leadership, corporate and financial support services to the Information Regulator. The programme consists of the Office of the Chief Executive Officer, Corporate Services and Finance sub-programmes.
     1. In 2023/24, the following indicators are removed:
* Percentage implementation of the HR Plan achieved.
* Percentage implementation of ICT Plan.
* Number of activities in Records Management Plan implemented.
* Facilities Management Plan approved.
  + 1. In 2023/24, the following new indicator is introduced:

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| --- | --- |
| **OUTPUT INDICATORS** | **2023/24 TARGETS** |
| Percentage of recommendations and findings of the Enforcement Committee considered and finalised. | 100% of recommendations and findings of the Enforcement Committee considered and finalised. |

*Budget*

* 1. An amount of R109.3 million is allocated to the Information Regulator for 2023/24, which is a real increase of 3.57% from 2022/23.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Programme  R’millon | Budget | | | | Real Percent change |
| **2022/23** | **2023/24** | **2024/25** | **2025/26** |
| Information Regulator | 100.6 | 109.3 | 106.5 | 111.3 | 3.57% |

* 1. The biggest cost driver continues to be compensation of employees, which at R78.08 million, consumes 73.5% of the budget allocation.
  2. *Personnel.* As of February 2023, the Information Regulator had 100 staff members.

1. **Committee’s observations**
   1. The Committee once more highlights the constraints of the parliamentary programme, which limits the time available for oversight. As a result, the reporting requests in this report and other reports form a very important part of the Committee’s work method, as they supplement our knowledge and assist us to track progress. The Committee is, therefore, not pleased that the Department only tabled a report addressing the matters that were raised in the Budgetary Review and Recommendation Report on 27 April 2023, despite the request that the responses be provided by 31 January 2023. The Committee believes that the Department was given ample time to respond and the failure to do so timeously has not assisted us.

**Department of Justice and Constitutional Development**

* 1. *Performance planning*.
     1. Once again, the Committee acknowledges how difficult it must be to plan in a context where there are so many priorities, but resources are extremely tight. The Committee also acknowledges that the Department faces many challenges, including dilapidated infrastructure and aging ICT infrastructure. The Committee is also aware that there are factors falling outside of the Department’s control that affect its operations, such as load-shedding. Reliance on other departments and agencies, such as with the Department of Public Works and Infrastructure and the State Information Technology Agency, has also proven to be problematic. Nevertheless, the Committee believes that much could be done with better planning.

The Committee notes that the Department tabled its 2023/24 Annual Performance Plan on 26 April 2023 - almost a month into the new financial year and shortly before the Department was due to present the Plan to us. This is the fourth year of the present strategic cycle: the Committee would not expect that the circumstances informing the Plan to be so altered to justify the late tabling. When the Committee asked why the Plan was tabled late, the explanation was vague and unconvincing. Notably, in response to the Committee’s difficulties regarding certain indicators and targets, the Minister withdrew the Plan, and, on 23 May 2023, a revised Plan was tabled. The Committee notes that the same pattern of tabling and re-tabling was followed last year.

The Committee believes that the Department’s risk assessment and mitigation strategy remains a concern. For instance, it is difficult to understand why in its risk assessment, the Department does not highlight its infrastructure, load-shedding challenges, or the matter of case backlogs, given the negative impact of these on the functioning and efficacy of the justice system, in its risk assessment matrix in the APP. Also, its external opportunities and threats assessment was not updated.

In the Committee’s view, all the above indicate that the Department’s planning abilities require considerable attention going forward.

* 1. The Committee notes the Department’s view that its performance in 2021/22 and 2022/23 has shown significant signs of recovery and upward trajectory and will engage with the Department’s annual report and audit report later this year. However, the Committee continues to observe considerable differences between what is presented at strategic meetings and what happens on the ground, which it finds deeply concerning.
  2. *Policy.* The Committee notes that the target date for submitting a discussion document to the President on the social compact between the Executive, Judiciary and Legislative tiers of government is 31 March 2024. Specifically, Quarters 1 and 2 of 2023/24 are set aside for consultation with the Judiciary and Legislature.

The Department also intends to develop several institutional policies. Regrettably, the APP does not include timeframes for the finalisation of these policies. These policies include the long-promised Policy on Judicial Governance and Court Administration, which according to the Minister is ready for consultation. The Committee requests further information on these institutional policies, with associated deadline, before 30 June 2023.

* 1. *Vacancies.* 
     1. The Committee notes that the Department continues to struggle to fill several critical SMS positions on a permanent basis, notably the positions of Chief Master, DDG: Court Services, DDG: Constitutional Development and Head: Justice College. At present all these positions are filled in an acting capacity. Also, despite repeated requests to resolve the matter of a permanent appointment of a Solicitor-General, there has been limited progress. The Committee, therefore, ask that it be provided with the following information, in writing, before 30 June 2023:
* Details of vacancies, particularly at SMS level, but also in critical positions; how long the positions have been vacant for; the related recruitment plan, with timeframes, as well as an explanation for any delay, if applicable.
* Details of the progress made to reposition and redefine Justice College, including related timeframes, challenges, and mitigation strategies. The report should also include information on the use of external service providers to provide training.
  + 1. On a positive note, the Committee welcomes the appointment of Mr Jabulani Hlatshwayo to the position of DDG: Information and Communication Technology and wish him well in the position. The appointment is made as the Department seeks to reduce its dependence on outsourced contract ICT staff, strengthen its internal ICT infrastructure and capacity following a devastating cyberattack and ramp-up its modernisation programme.
  1. *Consequence management*. The Committee asks that it be provided with a consolidated report of all outstanding disciplinary matters so that it may continue to track progress, before 30 June 2023.
  2. *Audit action plan*: The Committee notes that the Department estimates that it will receive an unqualified audit opinion for 2022/23 and, if achieved, this would be a welcome outcome. In this regard, the Department has specifically committed to no longer being qualified based on contingent liabilities and to achieve this developed a Contingent Liability Plan. Although the Department had initially removed the indicator ‘Percentage of audit improvement plans implemented’, it reports that it will continue to implement audit action plans developed based on the audit outcome. Nonetheless, the Committee asks for the details of the commitments made, the interventions planned, and the progress made, before 30 June 2023.
  3. *Rebuilding the ICT infrastructure and building internal capacity*. Following the ransomware attack, the Department reports that it is engaged in rebuilding its ICT infrastructure from scratch. The Committee asks that the Department update it, in writing, before 30 June 2023 on the progress of its plans to address the ICT infrastructure risk, including its plan to strengthen internal capacity.
  4. *Greater attention needed to maintenance of infrastructure* 
     1. The Committee’s recent visits to courts and buildings in several provinces continue to reveal the deplorable, even shocking, state of the Department’s buildings. The Committee has reported elsewhere in detail about its observations in this regard. Nonetheless, the Committee wishes to highlight the detrimental and ongoing impact on court operations of crumbling, even dangerous, infrastructure. The Committee acknowledges that the Department has attempted to address some of the challenges, for example, by engaging with the Department of Public Works and Infrastructure to raise the delegation for day-to-day maintenance delegation from R100 000 to R1 million per incident. However, it is disappointing that, while the Department has forwarded an Interdepartmental Service Level Agreement with the DPWI and Draft Guidelines for day-to-day Maintenance and Minor Capital works (2022/2023) to the Committee, these are not yet signed. Although the Committee welcome the steps that have been taken to address the problems identified at the specific sites it visited, these do not begin to address the systemic problems. In the Committee’s view, this requires an extensive rethinking of the way the State goes about seeing to the building of new infrastructure; repairing, renovating, and maintaining its existing structures; and procuring rental accommodation.
     2. The Committee notes that in 2023/24 the Department has targeted 70 court facilities for refurbishment and upgrading through minor capital works. The Committee requests the Department to provide a comprehensive progress report, before 30 June 2023, on its infrastructure programme, and be prepared to report quarterly.
  5. *Increased backlog cases*. The Committee is acutely aware of how important it is to address the problem of case backlogs, which have escalated and, in its view, put the entire justice system at risk. There are many reasons for the backlogs: load-shedding, water outages, delays in obtaining interpretation services, postponements for further police investigation, outstanding DNA reports, plea and trial, malfunctioning court equipment, dilapidated and collapsed court rooms, and other factors. The Committee is aware that the Department cannot be held responsible for all of these. In this regard, the Committee notes that the Department reports that it will continue to pay attention to reducing case backlogs by working with all JCPS Cluster departments to sign Memoranda of Understanding that compel the inclusion of performance indicators, which support (criminal) case backlog reduction initiatives. Unfortunately, there are no timeframes attached to this initiative, but the Committee will be closely monitoring progress.
  6. *Family Advocate*. The Office of the Family Advocate (OFA) plays an important role in family litigation matters to promote and protect the best interests of children. The Department has reported previously that this Office in under-resourced and that the small footprint of the OFA renders the services inaccessible The Committee, therefore, is most concerned that the allocation for the Family Advocate programme decreases in real terms once more. The Committee notes that the Department reports that due to limited funds, no new offices can be established and, therefore, to expand the footprint in all provinces, IT-based kiosks need to be set-up where OFA services can be rendered remotely. However, the Department does not provide any further information in the APP on its plans to expand OFA services remotely.
  7. *Combatting Gender-based Violence (GBV) and Femicide*.
     1. The Committee welcomes the new directives in terms of the Domestic Violence Act, 2021, which commenced on 4 April 2023, as being progressive. The Directives impose stricter duties on office managers, supervisors and clerks of the court when dealing with cases of domestic violence. If an official does not comply with the new directives, disciplinary action will take place against them.
     2. The Committee also welcomes the inclusion of a new indicator ‘Percentage of domestic violence protection orders served by the Clerks of the Court on parties present at Court within 24 hours from the time the order is granted by the court’, as an important step towards improving the treatment of GBV victims.
     3. The Committee notes that a new indicator ‘National strategy for domestic violence court-based support services approved by 31 March 2024’ has been included in the APP. Another new indicator, ‘Number of officials providing GBV services debriefed’ is included in the APP. The Committee has remarked previously on the trauma that officials working with GBV matters experience and welcome this initiative.
  8. *Barrier-free Access to Justice for persons with disabilities.* The Committee’srecent oversight visits highlighted how difficult it is for people with disabilities to access court buildings and service centres. As such, the Committee notes that the target for courts compliant with the strategy on universal access for persons with disabilities is set at 65 for 2023/24. The Committee notes that 70 courts were made compliant in 2022/23 and ask for the details, as well as those of courts that will be made compliant in this financial year.
  9. *Master’s offices.* The Committee has expressed its concern about the deplorable state of the Master’s Office many times. In 2022/23, the Department committed to implementing a robust strategy to transform services rendered by the Master’s Office countrywide. However, the 2023/24 APP appears to focus only on three interventions aimed at modernisation of Master’s processes and does not appear to address any of the other problems that the Master’s office has. Will these interventions resolve the backlog, which is significant, for example? Nor is any information provided on digitalisation or record keeping projects in Masters’ offices, given the significant challenges experienced by many Masters’ offices with the storage of files. The Committee, therefore, asks for a report providing details of progress made regarding the strategy, in writing, before 30 June 2023.
  10. *State Attorneys*.
      1. The appointment of an Acting Solicitor-General was made in 2020 for a period of two years as a temporary solution while the post underwent an evaluation process. Several years have passed now but the post is still in the process of being finalised. The Committee, therefore, urges the Department to prioritise finalising the position so that a recruitment process can get underway.
      2. The transformation of state legal services remains a key outcome of the Department. The state attorneys’ environment is beset by serious deficiencies. These include a lack of support from both state organs and private legal practitioners and resistance to change relating to the implementation of state policies; inadequate resources (tools of trade); infrastructure; technology; and funding. The 2019/20 Annual Report reported that several policies to address issues of effectiveness and efficiency within State Attorneys had been approved for submission to Parliament. However, the policies were never submitted to Parliament. However, with the appointment of the Solicitor General in 2020, there has been progress. Policies on the Management of State Litigation; State Mediation; Briefing and Outsourcing of State legal work; Initiating, Defending and Opposing of matters; State Legal Representation; and State Litigation Contingent Liability were approved by Cabinet in 2022/23 and tabled in Parliament for noting. These policies are targeted for implementation in 2023/24.
      3. In addition, the Office of the Solicitor-General established a National Briefing Committee to monitor and assess the briefing patterns issued by State Attorney Offices across the country. This Committee will also provide guidelines on the criteria and processes to be followed on briefing patterns and protocols. The Committee notes that the Department has also committed to filling vacancies at the State Attorney in 2023/24. The vacancies currently stand at approximately 43 attorneys, 13 deputies and 5 heads of State Attorney.
  11. *Money laundering*. South Africa is now under increased monitoring by the Financial Action Task Force (FATF) due to certain deficiencies in its anti-money laundering and combating the financing of terrorism regime. The Committee, therefore, welcomes the insertion of a new indicator which provides for the implementation of several activities of the High-Level Action Plan to exit the grey list of FATF’. Specifically, the following action plan items must be achieved: The IJS system to record and monitor timeliness of money laundering/terrorism financing matters operationalised; the Master’s Office system for the recording of the beneficial ownership of trusts information operationalised; and the Register to record the number of enquiries and responses to FIC; DPCI, NPA and other relevant agencies, established and operational.
  12. *Community Advice Offices*. The Committee welcomes the implementation of a Programme for Legal Empowerment and Access to Justice (PLEAJ), which is a 36-month pilot project that is funded through National Treasury’s General Budget Support Programme. The programme will be implemented in a partnership with the Centre for the Advancement of Advice Community Offices of South Africa to provide financial support to Community Advice Offices (CAOs), while employing the lessons learnt from the funding programme to develop a policy for the sustainability of the sector. The Committee will monitor progress going forward.
  13. *Justice Modernisation.*
      1. *ICT Modernisation and digitisation projects.* The Committee notes that the focus on modernisation by way of online solutions that will automate various justice-related processes continues in 2023/24. While online solutions are intended to improve efficiency and to increase access to justice services, the Committee remains concerned about their reliability, as connectivity is often a challenge and systems go down. The Committee intends to engage with the Department on the various aspects of its modernisation programme and will arrange a meeting as soon as the programme permits. In the meantime, the Committee asks for a comprehensive report, in writing, before 30 June 2023, on the progress of rolling out the planned online solutions, the related timeframes, and challenges experienced, as well as mitigation strategies.

**National Prosecuting Authority**

* 1. The NPA continues to attract sharp criticism for its lack of progress in prosecuting high profile corruption matters, especially following recent setbacks. The NPA strongly refutes this, among others, pointing to the successful enrolment of several seminal matters that illustrate the workings of state capture, involving accused persons from both government and the private sector who allegedly played vital roles in repurposing state institutions, syphoning off public funds for private gain and committing the most damaging forms of high-level corruption, including crimes committed as part of the state capture project. The Committee also acknowledges the NPA’s frankness regarding its in-house capacity challenges, which it is working hard to bolster. Regrettably, prosecutorial experience develops over time and, for this reason, the NPA requires external support.
  2. *Enrolment of state capture cases*. The Committee notes that the Independent Directorate has enrolled 34 cases, involving 203 accused people and 65 entities, from 2019 to March 2023. These include cases against multinational firms. McKinsey & Company SA has recently been charged by the NPA in connection with the R398.4 million Transnet fraud case linked to state capture. The target for the number of state capture and complex corruption matters enrolled linked to the mandate of the Investigating Directorate for 2023/24 is 12 matters.
  3. *Revival of the Aspirant Prosecutors Programme*. The Committee notes that, after an initial intake of 98 candidates in 2019/20, the NPA reported recently on the recent graduation of almost 700 Aspirant Prosecutors. This is an encouraging sign of youth development and a much-needed boost to the NPA’s attempt to bolster in-house capacity.
  4. *Funding.* The Committee notes that the NPA receives an additional R1.3 billion over the next three years to support the implementation of the State Capture Commission and Financial Action Task Force recommendations. The Committee asks that the NPA provides it with further information on: The number and type of additional appointments; the procuring of specialist prosecution services for complex matters (especially financial crimes) and commissioning of contracted forensic auditors to deal with high‐priority asset forfeiture matters; the need for close protection services (this follows a similar decision by the Specialised Investigating Unit); the establishment of a digital forensic data centre in the Investigating Directorate; and the increased operational costs for witness protection.
  5. *Vacancies.* The Committee requestsa report, in writing, from the NPA providing a more detailed breakdown of the recruitment drive*,* including timeframes, before 30 June 2023, as well as its plans to train and develop internal capacity.
  6. *Independent Directorate*. The Committee notes that the legislation that will allow for the ID to become permanent is with the Department. The Committee also notes that the NPA reports that the most fundamental challenge to the ID’s effective functioning is the legislative and regulatory framework that creates a dependency on SAPS to assist the ID through secondments. However, seconded staff are expected to assist in authorised ID investigations while continuing to investigate the cases they were assigned to as members of the SAPS, which creates delays.
  7. *Sexual offences.*

The Committee notes that the NPA reports that it exceeded its target for the conviction of sexual offences and, in another positive development, the number of TCCs increased from 55 to 62. The NPA is working with the private sector to set up new TCCs. Further, much work is being done on the DNA Backlog project, despite the many challenges, and appears to be paying dividends.

The Committee will engage with the NPA further on its work concerning the prosecution of sexual offences when it considers the 2021/22 Annual Report on the Implementation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 as soon as the programme permits.

* 1. *Money laundering.* The Committee has previously noted the NPA’s assessment that a lot more needs to be done to address the issue of stand-alone money-laundering, where individuals are charged on money-laundering counts as stand-alone charges as opposed to charging individuals for money- laundering in relation to cases that involve other offences. The Committee also notes the NPA’s extensive plans to address money laundering and terror financing include ensuring that cases involving money laundering and terror financing are prioritised and prosecutions are instituted, tracked, and finalised regarding money laundering networks, professional enablers, foreign predicate offending and third-party laundering. As such, the insertion of a new baseline indicator ‘Number of prosecutions instituted involving money laundering’ is welcome.
  2. The NPA has clarified that it currently has delegations to accept in-kind support and donations. This support comes from various partners, including private sector and civil society and is key to the NPA’s rebuilding and collaborative approach to delivering on its mandate. The NPA has finalised an amended NPA Donor Funding Policy, which is aligned to the National Treasury Donor Funding guidelines and regulations. This has created internal control systems for dealing with all in-kind donations in line with relevant policies, prescripts, and confidentiality requirements. The Committee notes that the NPA reports receiving the following categories of in-kind donations in 2022/23: a formal agreement was reached with Business Leadership South Africa to provide tailored support for the rebuilding project of the NPA; from local donors, including non-profit organisations and businesses, for employee development and capacitation; from local practitioners in the form of professional pro bono services and corporate support services; and from local retail businesses and other private sector actors for the TCCs.

**Legal Aid SA**

* 1. *Budget*. The Committee remains extremely concerned about the sufficiency of Legal Aid SA’s budget. The Entity has, for now, budgeted for a lower recruitment rate and implemented a staff rationalisation programme to avoid over-expenditure but reports that workloads have increased contributing to backlogs and that, as funds are prioritised towards services, projects must be postponed. There is also less money for Judicare and training. The Committee doesn’t believe that the importance of Legal Aid SA as a strategic partner in our criminal justice system is fully recognised when decisions are made concerning the allocation of resources. Simply put, criminal trials cannot run if the accused is not represented, contributing to the backlogs and undermining access to justice. The Committee has repeatedly appreciated the many efforts that Legal Aid SA has taken to stretch its capacity to undertake civil work to the very limits, but this very important work is at risk because of budget constraints.
  2. *Land justice.* Although the Committee remains pleased that the legal representation function previously undertaken by the Department of Agriculture, Land Reform and Rural Development is finally transferred to Legal Aid SA, it is concerned that the transfer of function is not fully funded. Although additional amounts have been allocated (R76.6 million in 2023/24, R80.1 million in 2024/25 and R83.7 million in 2025/26) to accommodate the migration of the function to Legal Aid SA, Legal Aid SA received 740 files with a contingent liability of R144.7 million from the Department of Agriculture, Land Reform and Rural Development. No funding has been made available for this, which the Committee finds unacceptable. The Committee will continue to monitor this closely.

**Special Investigating Unit**

* 1. *Debt recovery.* The SIU’s enabling legislation provides that the SIU may recover fees from State institutions for the investigation services rendered. Regrettably, the SIU has, to date, struggled to recover fees, complicating the relationship between the SIU and its targeted clients; and creating serious challenges in respect of its funding. To address the problem, the Committee notes that the SIU has embarked on Operation Khokhela, which is a proactive project to recover outstanding debts owed for services rendered. The intention of the project is to engage both internal and external resources to ensure that most of the outstanding debt is recovered or that there is commitment from various stakeholders to make payments. Planned activities include bilateral meetings between the SIU and various stakeholders, assistance from National Treasury in sending out payment request letters, escalations to executive authorities and invoking the Inter-Governmental Relations Framework Act (IGR Act). The project is expected to be completed in July 2023, but the results are expected to be visible in the reduction of long-outstanding debts in the current financial year and subsequent financial years.
  2. *Funding model*. The Committee is disappointed by the lack of headway the SIU has made engaging National Treasury in respect of an alternative funding model. As it is the SIU’s funding model is not sustainable. However, the SIU reports that the new Minister of Finance appears keen to settle this long-standing matter. Various models have been suggested and will be presented to the Minister of Finance. The Committee welcomes this development and requests that it be kept informed.
  3. *Legislative amendments to the SIU Act*. The Committee request to be updated on the progress of legislative amendments to the SIU Act. Some of the amendments that were being considered are: the establishment of a permanent independent SIU and its status; the revenue and expenditure for the functioning of the SIU; and the monitoring and enforcement of remedial action*.*
  4. *Implementing the National Anti-Corruption Strategy (2020–2030) (NACS*). The SIU is a key role-player in the implementation of the National Anti-Corruption Strategy (2020–2030) (NACS). This strategy is a whole-of- government and societal approach. Linked to this has been the establishment of the health sector, infrastructure-build, and local government anti-corruption forums. The Committee notes that the SIU has instituted civil proceedings worth some R1.6 billion as part of the Health Sector Anti-Corruption Forum’s (HSACF) role in fighting corruption in the healthcare system. Approximately R500 million of the R1.6 billion is linked to an investigation in the affairs of the Office of the State Attorney.

**Public Protector South Africa**

* 1. *Impact of the section 194 impeachment proceedings on PPSA’s operations*. The Committee notes that the PPSA indicated that it can no longer continue to fund Adv Mkhwebane’s legal costs incurred in her defence in her impeachment proceedings before the section 194 Committee. To continue to do so will jeopardise the PPSA’s operations. The Committee notes further that the PPSA has since identified a further R4 million from an earlier surplus that it would put towards the costs.

The Committee notes further that the PPSA has engaged a consultant to verify the invoices for the protection of public funds. According to the office, Adv Mkhwebane’s legal bill for her impeachment inquiry and related court matters is more than double the original estimate.

In addition, the Committee notes that the PPSA also states that the process, as well as aspects of the evidence heard by the Section 194 Committee, has caused significant reputational damage to the PPSA. As a result, the PPSA has identified the need to allocate additional resources to its Stakeholder Management programme, including rebranding the organisation to restore trust and legitimacy.

* 1. *Remedial action*. Despite the binding nature of the PPSA’s remedial action, the Committee notes that in only 13 % of cases is the remedial action implemented. Regrettably, in 65% of cases, the PPSA’s remedial action is not followed. The PPSA introduced a new indicator in 2022/23 for submission of remedial action reports to the National Assembly. The Committee notes that in 2023/24, the PPSA intends to extend these submissions to the National Council of Provinces and Provincial Legislatures. The PPSA has also entered MOUs with the provincial governments and some provincial legislatures of the Gauteng, Eastern Cape, Northern Cape, and KwaZulu-Natal provinces. The Committee notes that, according to the PPSA, these relationships have already proven fruitful through an increased rate of resolution of certain matters, which is a welcome development.
  2. *Amending the Public Protector Act.* The Committee agrees that the Public Protector Act is outdated and, once again, urges the finalisation of legislative proposals in this regard. The Committee notes that the proposed amendments include a criminal charge of contempt of the Public Protector for those who do not implement the remedial action of the Public Protector and have not applied for judicial review.
  3. *Funding.* The Committee reiterates its view that, like the SAHRC, the PPSA is underfunded. Although the 2022 budget provided additional funding over the medium term and funds were allocated to invest in ICT, overall, the PPSA’s budget has stagnated. The Committee has noted the PPSA’s additional funding needs elsewhere in this report.

Further, since 2018/19, the PPSA has had to request additional funds from the Department to address its budgetary constraints. However, the PPSA reports that these bail outs come towards the end of the financial year and, very often, result in the PPSA reporting a cash surplus to the National Treasury. The PPSA must then apply to National Treasury to use the surplus in the next financial year. The Committee agrees that this method of sourcing additional funding is untenable. In The Committee’s view, it is preferable that additional funding to the PPSA should be provided through an increase to the baseline allocation and not through the practice of bail outs. This would allow the PPSA to properly plan for spending. However, the Committee is informed that the PPSA’s efforts to engage National Treasury on a budget adjustment for the 2023/24 financial year were unsuccessful.

* 1. *CARA funding*. The Committee notes that, to meet the current demands, the PPSA is applying for additional funding from the Criminal Assets Recovery Account (CARA) Fund, for the purposes of a Special Project: Public Protector South Africa (PPSA) Strategy and Business Plan 2023/26 to enhance the investigative capacity and resources of the Public Protector to combat and prevent corruption in the public sector.
  2. *Human Resources*. The Committee welcomes the appointment of Mr Mfundo Mdingi as the PPSA’s new Chief Financial Officer and wish him well in the position. Unfortunately, there are quite several acting appointments at Senior Management level, including the positions of Chief Operations Officer; Executive Manager: Corporate Services; Senior Management: Strategic Support; and Executive Manager: Provincial Investigations and Integration (Inland). The Committee urges that the PPSA prioritise the filling of these senior positions as a matter of urgency.
  3. *Performance.* The Committee notes that the PPSA has embarked on a journey to recalibrate itself, by among other things, rethinking the best ways to fulfil its mandate. The Committee welcomes the intention to place increased emphasis on the quality of investigations, while working efficiently to ensure prompt and timeous resolution of complaints. Accordingly, various Standard Operating Procedures of the PPSA are being revised to align to the institution’s strategic direction. The Committee also notes that the PPSA intends to make increased use of its early resolution and alternative dispute resolution processes designed to resolve issues and complaints informally and as efficiently as possible at the first possible opportunity without the need for lengthy investigations. As mentioned above, the PPSA has applied to CARA for additional funding for this project.

**South African Human Rights Commission**

* 1. *Funding.* The Committee notes that the Commission receives no additional funding for 2023/24. In fact, in real terms, its budget decreases by 7.8%. In addition, the Commission reports that the Department of Public Works and Infrastructure ended payment of office rental for three (3) provincial offices. Going forward, the Commission will require an additional R1.8 million in rental costs for the three (3) provincial offices and will affect its operational budget. The Public Sector Coordinating Bargaining Council agreement of a 7.5% increase was also not budgeted for. The Commission has identified areas where it can claw back some funds, but these rationalisations affect core mandates. The Committee has repeatedly warned against the under-funding of the Chapter 9 institutions that report to it. These institutions are established in the Constitution and form part of the architecture of our State. It is a constitutional imperative that these institutions be reasonably funded so that they can play their roles in protecting and supporting our democracy. In The Committee’s view, the funding allocated does not reflect an understanding of how important these institutions are.
  2. *Accreditation.* The Committee supports the Commission in its efforts to retain accreditation as a National Human Rights Institution. Accreditation takes place within the United Nations human rights system by the Global Alliance of National Human Rights Institutions (GANHRI). As part of the re-accreditation, all the Commission’s internal policies, procedures, human and financial resources, and institutional performance will be reviewed to determine whether the Commission should retain its “A” status. A-Status NHRIs can vote and hold governance positions within GANHRI and have speaking rights at the United Nations Human Rights Council. Achieving A-Status demonstrates and secures the Commission’s independence, authority, and status within the international human rights system.
  3. *SHiNE* programme. The Committee requests further information on the Commission’s Social Harmony National Effort (SHiNE) programme, which was launched in 2022/23. The programme was conceptualised as part of a response that was ignited from the July unrest and the general state of disharmony, poverty, and polarization in the country. The 2023/24 financial year will reportedly see the Commission strengthen its work through SHiNE to support nation-building.
  4. *Human Resources*. The Committee welcomes the appointment of Mr Vusumzi Mkhize to the position of Chief Executive Officer with effect from 27 March 2023 and wish him well in the position. However, The Committee remains concerned that except for the newly appointed CEO, most of the Commission’s senior management positions are filled in an acting capacity (specifically, the positions of Chief Financial Officer; Chief Operations Officer; and Head Strategic Support and Governance). The Committee, therefore, request a report in writing on the vacancies, particularly those in senior management positions, and the related recruitment plan, with deadlines, before 30 June 2023.
  5. *National Preventative Mechanism*. The Committee requests a comprehensive report on the progress of the National Preventative Mechanism that includes plans for 2023/24 and an assessment of the challenges faced.

**Information Regulator**

* 1. *Data breaches*. The Committee has engaged with the Regulator on several occasions concerning various large-scale data breaches over the past few years. The Committee, therefore, welcomes the Regulator’s establishment of a Security Compromises Unit within the POPIA Division. The Committee is informed that the Regulator is also in the process of issuing a Guidance Note on Security Compromises, which will assist responsible parties in complying with POPIA.
  2. *Enforcement notices.* 
     1. The Committee is pleased to see that the Regulator’s work is beginning to gain traction. The Committee notes that, on 9 May 2023, the Regulator issued an enforcement notice against the Department in which it was determined that the responsible party, being the Director-General, has interfered with the protection of personal information of data subjects. The Committee also notes that the Regulator’s assessment of the events surrounding the ransomware attack experienced by the Department in September 2021 reveals that the attack occurred because of the Department’s failure to renew various licences in 2020, specifically:
* The SIEM licenses, which are required to enable the Department to monitor unusual activity on the network and keep a back-up of the log files. This further resulted in the unavailability of critical information contained within the log files. The Department was unable to keep the backup of these log files due to space limitations on their storage servers.
* The license for the Intrusion Detection System which expired in 2020, which could have alerted relevant personnel of suspicious activity by unauthorised persons accessing the network.
* The licence for Trend Antivirus, which expired in 2020. This failure resulted in the virus definitions for known malware threats not being updated.

The Committee notes that the Regulator has ordered the Department to take various steps in respect of the breaches identified within 31 days of receiving the notice. The Committee also notes that the failure to do so is an offence and, upon conviction, the Responsible Party is liable to fine or to imprisonment for a period not exceeding ten (10) years or to both such a fine and such imprisonment.

* + 1. The Committee is pleased to note that, in response to the Regulator’s determination, the National Commissioner, on behalf of SAPS, issued a public apology on 3 May 2023 for violating several provisions of the (POPIA) by distributing personal information of the Krugersdorp gang rape victims. The Regulator ordered that the SAPS publish an apology to the victims within 31 days in major national weekly newspapers and social media platforms, such as Facebook and Twitter, for the unlawful processing of the personal information. It further ordered SAPS to include training on POPIA in all its programmes.
    2. *Legal status*. The Committee has previously identified the urgent need to resolve the issue of the Regulator’s listing in terms of the Public Finance Management Act, 1999 to allow the Regulator to properly separate from the Department. Until this matter is resolved, the Regulator essentially operates as a ‘regional office’ of the Department of Justice, which is not acceptable.

1. **Recommendation**
   1. The Committee, having considered the Annual Performance Plans 2023/24 of the Department of Justice and Constitutional Development, NPA, Legal Aid SA, SIU, Public Protector SA, SAHRC, and the Information Regulator, recommends that they be approved.
   2. The Committee, having considered the Budget Vote 25: Justice and Constitutional Development, supports it, and recommends that it be approved.
2. **Appreciation**
   1. The Committee wishes to thank the following for their co-operation and assistance in this process:
   * The Minister and the Deputy Minister.
   * The Director General and Department’ officials.
   * The National Director of Public Prosecutions and NPA officials.
   * The Acting Public Protector; the Chairperson and the Commissioners of the South African Human Rights Commission; the Chairperson and Members of the Board of Legal Aid South Africa; and the Head of the Special Investigating Unit, the Chairperson and Members of the Information Regulator, as well as all respective staff members**.**

**Report to be considered**