

PC Justice 15/11/11



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

CAPACITY OF LEGAL SERVICES TO DEAL WITH LITIGATION & BREAKDOWN OF CURRENT CONTINGENT LIABILITIES

**BRIEFING TO THE
DEPARTMENT OF CORRECTIONAL SERVICES
PORTFOLIO COMMITTEE**

11 NOVEMBER 2015

Purpose

The purpose of this presentation is to brief the Portfolio Committee for Justice and Correctional Services on two issues:

- Capacity of DCS' Legal Services to deal with litigation matters facing the Department; and
- Breakdown of contingent liabilities.

Capacity of DCS' Legal Services to Deal with Litigation Matters

- The Department has put more emphasis on ensuring that it only pursues cases where it has reasonable prospects of success.
- In this regard, the Department has since reviewed its performance indicator in the Annual Performance Plan 2015/16 as follows:
“Percentage of finalised cases successfully defended”
- Internal processes have been reviewed to cater for the above-mentioned developments as follows (**Civil Claims**):
 - Letters of demand are investigated in preparation for summons, if there are no prospects of success, claims are settled on receipt of summons; and

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■ (Civil Claims....):

- All summons received are reviewed by the Acting Director Litigation in consultation with the relevant Regional Coordinator, if no prospects of success, authority is sought for the settlement of the claim;
- State Attorney and Counsel's opinions are sought, where necessary; and

- Cases are assessed throughout the litigation process. Where it is clear that prospects of success have diminished or where DCS is held liable on merits, the matter gets considered for settlement on quantum to save costs.

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■ Parole Matters

- All court matters relating to inmates serving life are handled at head office.
- In respect of motion applications by inmates who –
 - have reached their consideration dates,
 - as the time of instituting court proceedings against the Department, had not yet been considered,attempts are made to settle such matters by ensuring that such inmates are considered without putting up unnecessary legal defences.

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■ Labour Matters

- All matters for review (review of arbitration awards) are submitted to Deputy Commissioner: Legal Services for a decision whether or not the Department has any prospects of success in review.

Capacity of DCS' Legal Services to Deal with Litigation Matters.....

■ Internal Capacity

The Structure of Legal Services is currently being reviewed with a view to further increase its capacity.

All senior critical posts at head office have been filled or are in the process of being filled:

- The post of Deputy Commissioner: Legal Services has been filled, 01 July 2015.
- The Post of Director: Legal Contracts Management has been filled, 01 December 2014; and

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■ Internal Capacity

- The post of Director: Legislative Drafting has been filled on a two year contract, 01 October 2015.
- The vacant post of Director: Litigation has been advertised, closing date 09 October 2015.

Capacity of DCS' Legal Services to Deal with Litigation Matters.....

■ Regional Offices

- All critical senior posts of Regional Coordinators are filled, save for the following two posts:
 - KZN, the post has been advertised; and
 - Free State & Northern Cape: has recently become vacant and is in the process of being advertised.
- OSD makes it difficult to fill posts timeously due to its high entry requirements.

Audit Findings: Contingent Liabilities

■ The Department of Correctional Services was qualified on contingent liabilities (claims against the State).

■ The Department failed to submit a comprehensive register of claims instituted against it timeously to AGSA. When the said register was eventually submitted it was too late for AGSA to verify same with various State Attorneys servicing DCS; hence the qualification.

Audit Findings: Contingent Liabilities

- Corrective measures have been planned and undertaken to ensure that the register is –
 - prepared timeously;
 - verified with the State Attorney;
 - subjected to an internal audit processes; and
 - provided to AGSA timeously.

- Progress: the 2014/15 register has been reviewed and updated.

Audit Findings: Contingent Liabilities

- In November 2015, we shall write to the State Attorney for the verification of the register.

- In January 2016, the register together with all the supporting documents will be subjected to an internal auditing process.

- We will start engaging AGSA as early as February 2016 so as to afford ourselves ample time to deal with their queries.

Breakdown of Contingency Liabilities up to 30 September 2015

As at 31st March 2015, the Department's register of contingency liabilities was as follows:

Nature of liability	Opening Balance 2014/15 Financial Year R'000	Liabilities incurred during the year	Liabilities paid / cancelled / reduced during the year	Closing balance (31 March 2015)
Damages	211,798	55,881	56,752	210,927
Defamation	420	0	0	420
Bodily injury / Assault	118,832	36,852	29,221	126,463
Unlawful Detention	201,810	20,403	66,891	155,322

Breakdown of Contingency Liabilities up to 30 September 2015

Nature of liability	Opening Balance 2014/15 Financial Year R'000	Liabilities incurred during the year	Liabilities paid / cancelled during the year	Closing balance (31 March 2015)
Compensation	300	0	0	300
Death in detention	3,124	0	0	3,124
Unlawful deduction	42	136	0	178
Breach of contract	1,565	0	0	1,565
Rape	6,259	0	0	6,259
Pain & Suffering	96,715	80	0	96,795

Breakdown of Contingency Liabilities up to 30 September 2015

Nature of liability	Opening Balance 2014/15 Financial Year R'000	Liabilities incurred during the year	Liabilities paid / cancelled / reduced during the year	Closing balance (31 March 2015)
Damages to Properties	2,430	20	0	2,450
Motor Accidents	2,630	690	463	2,857
Injury in Prison	9,152	670	0	8,482
Loss of Support	2,253	0	0	2,253
Other	143, 873	41,785	11,770	173,889
Total	801,203	155,843	165,767	791,283

END

THANK YOU