

The Budgetary Review and Recommendation Report of the Portfolio Committee on Justice and Correctional Services on the Office of the Chief Justice, Dated 17 November 2023

The Portfolio Committee on Justice and Correctional Services, having considered the financial and non-financial performance information of the Office of the Chief Justice for the financial year ending 31 March 2023, and the financial information for the First Quarter of 2023/24, reports as follows:

1. Introduction

- 1.1. The Money Bills Procedure Amendment and Related Matters Act 9 of 2009 (Money Bills Act) sets out the process that allows Parliament to make recommendations to the Minister of Finance to amend the budget of a national department.
- 1.2. The Money Bills Act requires portfolio committees to compile Budgetary Review and Recommendation Reports (BRRR) that assess service delivery performance of departments, entities and institutions given their respective available resources; evaluate the effective and efficient use and forward allocation of resources; and may make recommendations on the future allocation of resources. The annual review of expenditure and performance for the previous fiscal year (2022/23) also forms part of this process.
- 1.3. Section 5(1) of the Money Bills Act provides that committees *must* make their assessment of the performance of national departments and institutions, with reference to the following:
 - The medium-term estimates of expenditure of each national department, its strategic goals, and measurable objectives, as tabled in the National Assembly with the national budget;
 - Prevailing strategic plans;
 - The expenditure reports or statements relating to a vote appropriating funds for such department published by the National Treasury in terms of section 32 of the Public Finance Management Act;
 - The financial statements and annual report of such department;
 - The reports of the Standing Committee on Public Accounts relating to a department; and
 - Any other information requested by or presented to a House or Parliament.
- 1.4. Committees may make recommendations on the future allocation of resources, having assessed service delivery performance to date; evaluated the effective and efficient use of the resources already allocated; and considered the planned forward allocation of resources.
- 1.5. The Committee oversees the Office of the Chief Justice (OCJ), which was established in 2010 primarily to support the Chief Justice in the execution of their administrative and judicial powers and duties as Head of the Judiciary and Head of the Constitutional Court. The transfer of administrative functions and identified staff attached to the Superior Courts from the Department of Justice and Constitutional Development to the OCJ commenced on 1 October 2014.
- 1.6. On 1 April 2015, the OCJ became a fully-fledged Department with its own Vote. The administration for the Superior Courts, Judicial Services Commission (JSC) and South African Judicial Education Institute (SAJEI) were transferred to the OCJ, together with the budget and personnel, from the Department of Justice and Constitutional Development. The funds for judges' salaries were also transferred to the new Vote.

2. Process

- 2.1. The Minister of Justice and Correctional Services provided a political overview of Vote performance on 10 October 2023.
- 2.2. The Auditor-General South Africa (AGSA) also briefed the Committee on 10 October 2023 on the OCJ's audit outcome for 2022/23.
- 2.3. On 17 October 2023, the Committee engaged with the OCJ on its annual report for 2022/23.
- 2.4. Copies of the Minister's speech and the presentation are available from the committee secretariat.

3. Strategic overview

- 3.1. The Constitution Seventeenth Amendment Act, 2013, affirms the Chief Justice as head of the Judiciary responsible for establishing and monitoring the norms and standards for the exercise of judicial functions of all courts. The Superior Courts Act, 2013, establishes a legislative framework for the Chief Justice to exercise their judicial leadership supported by the OCJ and provides for the delegation of certain functions flowing from the Act to the OCJ.
- 3.2. When the OCJ was established as a national department within the public service, the intention was that this would be the first phase towards an independent judiciary-led court administration system to realise fully the Judiciary's institutional independence in line with the Constitution, 1996.
- 3.3. The Department of Justice and Constitutional Development continues to support the administration of the Lower/Magistrate's courts. Also, until the legislative framework for the Magistrates' Courts is brought in line with the Superior Courts Act, 2013, certain shared services (for example, tools of trade and security services) are provided by the Department of Justice and Constitutional Development.
- 3.4. The OCJ contributes to the National Development Plan's (NDP) call for strengthened judicial governance and the rule of law, and to ensuring an efficient and effective criminal justice system by:
- Accelerating reforms to implement a judiciary-led court administration.
 - Ensuring an efficient court system.
 - Reducing court administration inefficiencies.
 - Ensuring judicial accountability.
 - Providing training to the judiciary through SAJEI.
- 3.5. The MTSF 2019-2024 acknowledges that the challenges of poverty, inequality and unemployment continue to hold back the achievement of South Africa's national development. Youth, women, and people with disabilities feel the burden disproportionately. To address these challenges, the MTSF identifies priority areas. Of these, the priorities 'A capable, ethical and developmental state' and 'Social cohesion and safe communities' are of relevance.
- 3.6. In addition, the lack of access to resources and opportunity for Women, Youth and People with Disabilities are cross-cutting, requiring a variety of interventions, including legislative amendments.
- 3.7. Aligning MTSF priorities to plans, the OCJ contributes as follows:

Table 1: OCJ contribution to achieving MTSF 2019-2024 priorities:

IMPACT STATEMENT	OUTCOMES	MTSF PRIORITIES	NDP PRIORITIES
Quality and accessible justice for all	<u>Outcome 1:</u> Effective and efficient administrative support	<u>MTSF Priority 1:</u> A capable, ethical, and developmental state	<u>Chapter 13 NDP:</u> Building a capable state
	<u>Outcome 2:</u> Improved court efficiency	<u>MTSF Priority 6:</u> Social cohesion and safer communities	<u>Chapter 14 NDP:</u> Promoting accountability and fighting corruption
	<u>Outcome 3:</u> Enhanced judicial performance	<u>MTSF Priority 6:</u> Social cohesion and safer communities	<u>Chapter 14 NDP:</u> Promoting accountability and fighting corruption

- 3.8. The OCJ has the following broad strategic outcome-orientated goals.
- Capacitating the Office of the Chief Justice by securing adequate human resources for it to conduct its mandate effectively.
 - Providing administrative support to the Chief Justice in fulfilling his/her functions as Head of the Judiciary.
 - Rendering effective and efficient administration and technical support to the Superior Courts.

4. **Audit outcome 2022/23**

- 4.1. The OCJ improved its audit outcome in 2022/23, achieving an unqualified audit opinion with no material findings (clean audit opinion).
- 4.2. The OCJ attributes its improved audit outcome to the quality review processes that it has implemented and maintained.

5. **Progress of investigation of procurement of CaseLines and awarding of a cybersecurity contract to Pursuit Knowledge Consulting (PKC)**

- 5.1. The OCJ reported to the Committee on the progress of its investigation of procurement relating to the 'Caselines project' and other procurement.
- 5.2. The Chief Financial Officer, Chief Director: Court Administration and a Director: Case Management resigned on 31 May 2022. The CFO's resignation, as well as certain media articles, brought to light certain procurement risks:
- A company was established shortly after the OCJ awarded the sole supplier contract to Thomson Reuters (TR), and the CFO and two other former employees of the OCJ were directors in this company. TR subsequently subcontracted 56% of the contract value of R225.6 million to this company.
 - On a different award, there were allegations against another employee of being involved in drafting the bid specifications and being a member of the bid evaluation committee, and not declaring his connection to the director of a company who received four awards, which included a joint venture award, in the last two years.
 - The OCJ had not made use of the State Information Technology Agency (SITA) when procuring information technology goods and/or services.
- 5.3. The OCJ undertook a thorough investigation into the allegations of impropriety around the procurement of CaseLines and the awarding of a cybersecurity contract to Pursuit Knowledge Consulting (PKC).
- 5.4. The outcome of the investigation has been that the OCJ has strengthened its internal controls, which contributed to it achieving a clean audit opinion for 2022/2023; as well as litigation on the CaseLines and PKC cybersecurity contracts.
- 5.5. The OCJ has also collaborated with and strengthened its relationship with SITA to ensure that all ICT procurement is done in accordance with the State Information Technology Act, 1998.
- 5.6. *Litigation:*
- 5.6.1. On 18 October 2022, the Gauteng High Court, Johannesburg, heard an urgent application by PKC in which payment was requested in accordance with the award of bid number 2021/01 for the establishment of a Threat and Vulnerability Management Programme (TVMP) for information security management, including support and maintenance for a period of 24 months. The OCJ opposed the urgent application and simultaneously filed a counter application to review the contract it had concluded with PKC. On 18 October 2022, the Court ruled that PKC failed to establish commercial urgency.
- 5.6.2. On 25 July 2023, the Court heard, unopposed, the counter application by the OCJ and set aside as invalid the bid by the OCJ to PKC and any subsequent contracts entered between the parties.
- 5.6.3. The Director of PKC and former employee of the OCJ were arrested on fraud and corruption charges in terms of the Prevention and Combatting of Corrupt Activities Act, 2004 (PRECCA) and appeared in the Palm Ridge Magistrates' Court on 10 August 2023. The matter is ongoing.
- 5.6.4. The matter between the OCJ and the Maputunuka / PKC Joint Venture (JV) relates to ICT Professional Support and Maintenance services for a period of 36 months. Based on legal advice

and considering the need for business continuity, the OCJ approached the Gauteng High Court on 9 December 2022 for a judicial review of the award of the contract to the JV. The review follows irregularities that took the form of an undisclosed personal and business relationship between the Director of PKC and a former employee of the OCJ, who was actively involved in the procurement processes relating to the appointment of the JV. For business continuity, the OCJ sought a court order to regularise the legal relationship with the first respondent (Matupunuka), after the first respondent confirmed that it had severed its business relationship with PKC. The notice of motion with case number 2022-059925 was filed on 15 December 2022 but the date of the hearing is not yet announced.

- 5.6.5. Regarding the tainted contract with TR concerning CaseLines and relating to bid number OCJ 2021/08, the OCJ filed an application on 8 May 2023 with the Pretoria High Court, in two parts:
- In Part B, the OCJ seeks to self-review the procurement of the CaseLines evidence management platform from TR pursuant to an unlawful tender process.
 - In Part A, the OCJ asked the Court to urgently regulate the contractual relationship between the parties, while the adjudication of Part B and the new procurement process run their course. This was to ensure that the provision of CaseLines is not disrupted in the Superior Courts and that business continuity is safeguarded.
- 5.6.6. On 14 August 2023, the Court heard the unopposed Part A application on an urgent basis and suspended the award by the OCJ to TR pending the final adjudication of Part B of the application. The Court also ordered the suspension of the contract concluded with TR on 31 March 2022 and that the Interim Contract between the OCJ and TR be effective.
- 5.6.7. Following the interim court order, former employees launched an application to intervene in the Part B review application. The OCJ filed a notice to oppose the application to intervene on the grounds that the applicants lack a legal interest in the review application, as well as an application to strike out certain paragraphs on the basis that they are scandalous, vexatious, or irrelevant. A date has not yet been set for this application to intervene. Similarly, the Court is yet to announce a date for hearing Part B.
- 5.6.8. The investigation by the Directorate for Priority Crime Investigations regarding the former three OCJ employees is still under way, thus the status quo in that regard remains.

6. Human Resources

- 6.1. The OCJ had 2 204 funded posts, of which 1 987 posts were filled on 31 March 2023, with a vacancy rate of 9.8% (increasing from a 9.1% vacancy rate on 31 March 2022). However, the vacancy rate for SMS posts on 31 March 2023 was 12.8%.
- 6.2. The OCJ reports that it conducted a reprioritisation of funded posts to remain in the expenditure ceiling for compensation of employees; 40 posts were unfunded and the turnaround time in filling posts was negatively impacted.
- 6.3. The turnover rate for 2022/23 was 14%, compared with 14.7% in 2021/22.

7. Financial performance

Table 2: Final appropriation per programme

Programme	Final Appropriation 2022/23	MTEF		
		2023/24	2024/25	2025/26
R million				
Administration	292.2	271.4	283.1	295.3
Superior Court Services	1 014.7	979.8	1 022.1	1 067.5
Judicial Education and Support	56.0	53.3	55.8	57
Subtotal	1 362.9	1 304.5	1 361.0	1 419.8
Judges' Salaries	1 247.1	1 124.7	1 175.2	1 227.9
Total	2 610.0	2 429.2	2 536.2	2 647.6

Table 3: Final appropriation per economic classification

Economic Classification	Final Appropriation 2022/23 R' million	MTEF		
		2023/24	2024/25	2025/26
Compensation of employees (including Judges' remuneration)	1 963.7	1 812.3	1 891.6	1 974.2
Good and services	369.5	372.1	387.3	404.2
Transfers and subsidies	138.2	136.4	142.5	148.8
Payments for capital assets	138.6	108.4	114.9	120.5
Total	2 610.0	2 429.2	2 536.2	2 647.6

7.1. **Allocation**

7.1.1. The OCJ is allocated R2.39 billion in 2022/23, adjusted upwards to a final allocation of R2.61 billion (compared with R2.33 billion in 2021/22). The OCJ is allocated R2.43 billion for 2023/24.

7.1.2. The final allocation for programmes in 2022/23 was R1.36 billion or 52.1% of the total allocation, while the remainder of R1.25 billion comprises the direct charge for Judges' salaries.

7.1.3. In 2022/23, in terms of economic classification, R1.96 billion was allocated to compensation of employees, R369.5 million to good and services, R138.2million to transfers and subsidies and R138.6 for payment of capital assets.

7.2. **Virement.** A virement was made from the Administration programme of R6.5 million to Superior Court Services to address overspending because of contracts for leased vehicles running on a month-to-month basis, as well as more than projected spending on leave gratuities for resignations. A virement of R2.9 million was also made from the Administration programme to address overspending on the Judicial Education and Support programme due to payment of legal costs on finalised litigation by the Judicial Service Commission (JSC).

7.3. **Expenditure**

7.3.1. In 2022/23, the OCJ spent R2.45 billion or 93.8% of the final appropriation of R 2.61 billion (compared with 94% in 2021/22). Underspending amounted to R160.6 million.

Table 4: Expenditure per programme 2022/23 (with a comparison to 2021/22)

Programme	2022/23				2021/22
	Final Appropriation	Actual Expenditure	Under-expenditure	% Expenditure	% Expenditure
	R 'million				
Administration	292.2	281.8	10.4	96.5%	83.3%
Superior Court Services	1 014.7	963.6	51.0	95%	97.1%
Judicial Education and Support	56.0	49.4	6.6	88.3%	71.9%
Subtotal	1 362.9	1 294.9	68.0	95%	93.1%
Judges' Salaries	1 247.1	1 154.6	92.5	92.6%	95.1%
Total	2 610.0	2 449.4	160.6	93.8%	94.0%

Table 5: Expenditure per economic classification 2022/23 (with a comparison to 2021/22)

	2022/23	2021/22

	Final Appropriation	Actual Expenditure	(Over)/Under Expenditure	% Expenditure	% Expenditure
	R 'million				
Current payments	2 329.9	2 223.3	106 .6	95.4%	97.6%
Compensation of employees	1 963.7	1 869.8	94.0	95.2%	100%
Goods and Services	366.2	353.5	12.7	96.5%	84%
Interest on land and rent	-	-	-	-	100%
Transfers and subsidies	140.5	92.5	48.0	65.8%	55%
Purchase of capital assets	139 591	132.4	7.2	94.4%	74.6
Payment for financial assets	-	1 282	(1 282)	-	
Total	2 610.0	2 449.5	160.6	93.8%	94%

7.3.2. At programme level:

- The *Administration* programme spent R281.8 million or 96.5% of the final allocation of R292.2 million. The amount of R10.4 million that went unspent relates to:
 - *Compensation of employees*, due to the late receipt of additional funding from National Treasury coupled with the protracted process of filling vacant posts; and
 - *Goods and services* due to under-expenditure on the allocated ICT goods and services budget because of an irregularly awarded tender in the previous fiscal year.
- The *Superior Court Services* programme spent R963.6 million or 95% of the final allocation of R1 014.7 million. The underspending relates to:
 - Funds allocated for *Compensation of employees* that could not be spent because of the budget ceiling allocation for the following year (2023/24) being lower than the previous year. Furthermore, the underspending was due to the late receipt of additional funding from National Treasury coupled with the protracted process of filling vacant posts.
 - Less than projected spending under *Payments for capital assets* on leased vehicles as some contracts running on a month-to-month basis were classified as operating leases and paid for under *Goods and services*.
- The *Judicial Education and Support* programme spent R49.4 million or 88.3% of the final allocation of R56.0 million, which resulted in an underspending of R6.6 million. The underspending relates to:
 - *Compensation of employees* due to the late receipt of additional funding from National Treasury coupled with the protracted process of filling vacant posts.
 - *Goods and services* due to outstanding invoices for judicial training conducted in March 2023.
 - *Payments for capital assets* due to delayed relocation of the Judicial Support Services Unit. New office furniture and other office equipment was to be replaced on relocation, but the relocation did not take place, pending the approval of the Department of Public Works and Infrastructure (DPCI).
- *Judges' salaries*. Expenditure on the statutory allocation was R1.15 billion or 92.8% of the final allocation of R1.24 billion, which resulted in an underspending of R160.6 million. The underspending on Judges' salaries relates to *transfers and subsidies* due to less than projected expenditure on the additional funds allocated during the budget adjustment process and fewer than projected leave gratuities paid to Judges.

7.3.3. **Irregular expenditure.** The opening balance for irregular expenditure for R52.6 million for 2022/23 and the closing balance was R69.5 million at 31 March 2023 due to non-compliance with the State Information Technology Agency (SITA) Act 88 of 1998. The irregular expenditure was identified in 2021/22 but because of the need to ensure business continuity continued into 2022/23. The Auditor-

General identified the root cause of the irregular expenditure being the slow response in filling critical (finance) vacancies, which led to a lack of segregation of duties.

7.3.4. No **fruitless and wasteful or unauthorised expenditure** was incurred in 2022/23.

7.4. **Financial performance First Quarter 2023/24**

7.4.1. The overall actual expenditure for the first quarter of 2023/24 was R612.4 million or 25.2% of the R2.4 billion available budget, with higher than planned spending of R22.8 million. The higher than planned spending occurred on compensation of employees, goods and services, and transfers and subsidies, as follows:

- *Compensation of employees.* The higher than planned spending on compensation of employees is due to the implementation of the 2023/24 wage agreement as per the Public Service Co-ordinating Bargaining Council (PSCBC) resolution 02 of 2023.
- *Goods and services.* The higher than planned spending on goods and services is due to the payment of Microsoft Azure, which is a cloud-based solution currently used to host the court online system and will be claimed back from the Integrated Justice System (IJS). In addition, contributing to higher than planned spending on goods and services was higher than anticipated spending on car rentals for acting Judges, who are waiting for their leased vehicles and on training of newly appointed regional magistrates.
- *Transfers and subsidies.* The higher than planned spending on transfers and subsidies is attributed to more than anticipated leave gratuities paid to officials who resigned and to families of those who passed on.

7.4.2. Spending per programme

- *Programme 1: Administration:* This programme recorded expenditure of R84.8 million or 31.3% of R271.4 million available budget, resulting in higher than planned spending of R2.3 million. The higher than planned spending relates to compensation of employees due to the implementation of the 2023/24 wage agreement. Goods and services also recorded higher than planned spending because of payment of Microsoft Azure for court online system, as well as payment of Microsoft licences which were more than the projected amount due to the rand/dollar exchange rate.
- *Programme 2: Superior Court Services:* The programme's expenditure was R230.5 million or 23.5% of R979.8 million available budget, resulting in higher than planned spending of R7 million. Contributing to higher than planned spending was compensation of employees due to the implementation of the 2023/24 wage agreement. Goods and services' higher than planned spending is because of more than projected expenditure on car rentals for acting judges while the leased vehicles were being processed.
- *Programme 3: Judicial Education and Support:* The programme spent R12.8 million or 24% of R53.3 million available budget, resulting in higher than planned spending of R1 million. The higher than planned spending is attributed to the training of newly appointed regional magistrates. This was because the South African Judicial Education Institute (SAJEI) was informed on 16 March 2023 about the unbudgeted training of magistrates, which then took place in May 2023.
- *Judges' salaries:* The budget allocated for judges' salaries was R1.1 billion, and the expenditure incurred for the first quarter of 2022/23 was R284.3 million, which resulted in higher than planned spending of R12.4 million. This was due to a lower increase in the allocation for direct charges, which only increased from R988.2 million in 2022/23 to R989.8 million in 2023/24.

8. **Non-financial performance**

8.1. The overall achievement of planned targets for 2022/23 was as follows:

Table 6: Overall planned performance

Performance	No. of Targets
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	2019/20	2020/21	2021/22	2022/23
Achieved	14	22	21	17
Not achieved	6	3	3	5
Total	20	25	24	22
Percentage achieved	70%	88%	87.5%	77%

8.2. Reported key achievements for 2022/23 are as follows:

- The OCJ achieved 77.2% of its annual targets.
- Improved its audit outcome to achieve an unqualified audit opinion with no material findings (Clean Audit) for 2022/23.
- The OCJ had a vacancy rate of 9.8%, which is below the 10% target set by the Department of Public Service and Administration. At SMS level, the representation of women was 51%.
- The OCJ conducted 124 skills-enhancing judicial education courses for Judicial Officers and aspiring Judicial Officers that 3 798 delegates attended.
- A total of 93% of quasi-judicial matters were finalised within the prescribed times at the end 2022/23.
- 25 Fraud Prevention and Anti-Corruption awareness sessions were conducted.

9. Programme performance

9.1. Programme 1: Administration

9.1.1. The purpose of this programme is to provide strategic leadership, management, and support services to the Department. The programme consists of the following sub-programmes:

- The Management sub-programme provides administrative, planning, monitoring, evaluation, performance reporting and risk management functions necessary to ensure the effective functioning of the Department.
- The Corporate Services sub-programme provides integrated Human Resources Management (HRM), Information and Communication Technology (ICT) and security management support services to the Department.
- The Finance Administration sub-programme provides overall financial, asset and supply chain management services to the Judiciary and the Department.
- The Internal Audit and Risk Management sub-programme provides overall internal audit and risk management services to the OCJ and the Superior Courts.
- The Office Accommodation sub-programme provides for acquisition of office accommodation for the Department.

9.1.2. The Administration programme met six of eleven, or 54.5 %, of planned targets for 2022/23, compared with 79% of planned targets for 2021/22.

Table 7: Administration: Underperformance/Targets not achieved 2022/23

Performance Indicator	Performance		
	2022/23	2021/22	2020/21
Percentage of staff comprising of youth	566 of 1 987 or 28% (Target 30%)	32%	31%
Percentage of people with disabilities representation	33 of 2 204 or 1.5% (Target 2%)	19 of 2 040 or 1% (Target 2%)	20 of 1 929 or 1.03% (Target 2%)
No of service centres with Caselines system rolled out	2 (Target 5)	Court Online system not rolled out at 2 Service Centres (as per target)	Caselines system piloted at 2 service centres
Percentage of tenders awarded to suppliers with level 4 and above	0% (Target 80%)	83%	80%

Performance Indicator	Performance		
	2022/23	2021/22	2020/21
BBBEE status.			
Percentage of reported fraud cases investigated within 60 working days	18 of 37 or 55% (Target 75%)	-	-

9.1.3. Regarding the indicator '*Number of service centres with CaseLines rolled out*', the OCJ planned to roll out the Court Online system in five service centres but it was rolled out in two service centres, namely the Johannesburg and Pretoria High Courts. Delays encountered in the system development had a knock-on effect on the Pilot timelines of the Court Online System. During the pilot phase, various system bugs and defects were dealt with and subsequently caused system instabilities. The pilot was extended until September 2022, and the Department is waiting for the system to stabilise adequately before further roll-out. Infrastructure readiness to roll-out Court Online to other Superior Courts was conducted in the fourth quarter of 2022/23.

9.1.4. Regarding the target of 80% of '*tenders awarded to suppliers with level 4 and above BBBEE status*', all tenders in the OCJ's Procurement Plan were ICT related and were required to comply with SITA procurement processes. As a result, no tenders were awarded to suppliers with a level 4 status and above due to delays in the SITA procurement processes.

9.2. Programme 2: Superior Court Services

9.2.1. This programme provides judicial support and court administration services to the Superior Courts. The programme consists of the following sub-programmes:

- The Administration of Superior Courts sub-programme provides administrative and technical support to the Superior Courts, monitors the overall performance of the Superior Courts, and enhances judicial stakeholder relations.
- The Constitutional Court sub-programme funds the activities and operations of the Constitutional Court.
- The Supreme Court of Appeal sub-programme funds the activities and operations of the Supreme Court of Appeal.
- The High Courts' sub-programme funds the activities and operations of the various high court divisions.
- The Specialized Courts sub-programme funds the activities and operations of the labour, land, electoral and competition courts.

9.2.2. The programme achieved all six or 100% of six planned targets for 2022/23, as was the case in 2021/22.

9.3. Programme 3: Judicial Education and Support

9.3.1. Judicial Education and Support provides education programmes to Judicial Officers, including policy development and research services for the optimal administration of justice.

9.3.2. The programme has the following sub-programmes:

- The South African Judicial Education Institute sub-programme funds the activities of the SAJEI to provide training for Judicial Officers.
- The Judicial Policy, Research and Support sub-programme funds the provision of advisory opinions on policy development and regulatory services to the Judiciary and the Department.
- The Judicial Service Commission sub-programme provides secretariat and administrative support services to the Judicial Service Commission to perform its constitutional and legislative mandates effectively.

9.3.3. The programme met all four or 100% of planned targets for 2022/23, as was the case in 2021/22.

10. Linking financial and non-financial performance:

- Overall, the OCJ's performance decreased from 87.5% of targets met in 2021/22 to 77% in 2022/23, while it spent 95% of the allocation to programmes, which is an improvement on spending in 2020/21 (at 93.1%).
- The OCJ reports a vacancy rate of 9.8%. Although the overall vacancy rate has increased by 0.7%, it remains below the 10% target set by DPSA. The vacancy rate at SMS level has improved from 2021/22 (14.3%) but is still high at 12.8%. At programme level, the Administration programme had the highest vacancy rate of 12.3%.
- The OCJ improved its audit outcome from an unqualified audit opinion with material findings on compliance to a clean audit outcome.

11. Selected BRRR 2022 observations

11.1. The Committee made various observations in the 2022 BRRR, including:

- *Transfer of functions to the OCJ.* The Committee requested more information on the progress of the policy on judicial governance and court administration and the accompanying legislation that was to be taken to Cabinet in 2022/23.
- *Audit outcome.* Although the OCJ achieved an unqualified audit, the Committee was concerned about the outcome having regressed, largely because of various instances of irregular expenditure that occurred in the ICT environment. Notably, the Auditor-General had identified vacancies in critical occupations, which had led to a lack of segregation of duties, as a root cause.
- *CaseLines.* The Committee noted the Auditor-General's findings and recommendations concerning the procurement irregularities that occurred relating to the CaseLines project. The Committee noted that the matter is being litigated. Regarding the internal investigation, the Committee noted that the matter was referred to the SIU to review the contract and for further investigation. The Committee would continue to monitor progress.
- *Court modernisation.* The Committee noted that the OCJ was unable to roll out the court online system at two service centres as planned. However, piloting had begun at the Pretoria and Johannesburg High Courts in 2022/23. The Committee requested an explanation for the delay in rolling out the court online system at the two Courts and a progress report concerning the piloting of the system at the same two Courts.
- *Employment of women in senior management.* The Committee welcomed the increased number of women employed in senior management, despite not meeting the target of 50%, but would continue to monitor progress.
- *Employment of persons with disabilities.* The Committee noted that the OCJ had once more not been able to achieve its employment targets for persons with disabilities and would continue to monitor progress.
- *Vacancies.* The Committee noted that vacancies in senior management were far higher than the 10% norm for the public service. Further the Auditor-General had identified vacancies in critical occupations leading to a lack of segregation of duties as a root cause in the occurrence of procurement irregularities. The OCJ was asked to provide a report on vacancies, especially those at senior management level and in critical occupations.
- *Court infrastructure.* The Committee observed first-hand the infrastructure challenges at the various courts it visited countrywide. Regarding load-shedding, the Committee noted that the OCJ had engaged SAPS without success to exempt the Supreme Court of Appeal as critical infrastructure. The Committee intended to engage the Minister on this matter and other identified issues as soon as the programme permitted.

12. Committee's observations

The Committee makes the following observations:

- 12.1. This report comes towards the end of the Sixth Parliament and is the last Budgetary Review and Recommendation Report for this Parliament. Although the Committee's recommendations are not binding in the context of a new Parliament, it hopes that the concerns and suggestions regarding areas that require focus captured in this Report, as well as its Legacy Report, are nonetheless useful to and are taken up by the incoming Committee.

- 12.2. **Underspending.** The Committee notes that the OCJ was again unable to spend all the allocation, spending only 95% of the final allocation. (Although spending has improved slightly when compared to 2021/22 (and spending in the First Quarter of 2023/24 is marginally higher than planned), performance has declined significantly.) The Committee accepts the OCJ's explanation for the underspending, which to some extent appeared not to be not in the OCJ's control. However, the ability to manage expenditure is an important indicator of how efficiently resources within a Department are managed and, typically, National Treasury does not look favourably on underspending. At the outset of the Sixth Parliament, the Committee agreed that it is important to monitor performance and spending on a quarterly basis through oversight but has found it difficult to achieve due to time constraints. However, the Committee will raise this as a focus area in its Legacy Report.
- 12.3. **Progress of court administration model.** The Committee acknowledges that the OCJ cannot answer for the Minister on the progress of the court administration model or the drafting of a Lower Courts Bill towards the establishment of a single judiciary. However, the Committee noted in its 2023 Budget report, dated 9 May 2023, the Minister's statement that the policy on judicial governance and court administration had reached the stage where it was ready for engagement with stakeholders. The intention was to finalise these engagements by October this year and the outcome of these engagements would inform any necessary legislative amendments. Once more, the Committee urges the finalisation of the policy and its accompanying legislation as a priority. Not only is the establishment of a single judiciary a constitutional imperative but also the lack of an appropriate policy and legislative framework contributes to the many inefficiencies and other challenges that our judicial system experiences. The Committee intends to recommend to the incoming Committee that it closely monitor the progress of this project in the Seventh Parliament.
- 12.4. **Court modernisation.** Once again, the OCJ reports that it was unable to roll-out the court online system as planned. The plan was to roll-out the system at five Superior Courts during the 2022/23 but the system could only be rolled out at two Superior Courts, namely the Pretoria and Johannesburg High Courts. The Committee notes, however, that, at the end of 2022/23, 101 709 cases were lodged and issued through Court Online. Depending on the ICT infrastructure readiness and the system stabilisation, the Department intends to prioritise the future roll-out of the Court Online to all Superior Courts.
- The Committee notes that technology is also being employed in relation to Judges' administrative matters, that is, the development of the e-Judiciary system, which implements the Judges' Remuneration and Conditions of Employment Act. In addition, the ICT infrastructure refresh project was implemented at the OCJ's Data Centre for the production site and the Disaster Recovery site.
- 12.5. **'Caselines' procurement improprieties.** The Committee previously noted the Auditor-General's findings and recommendations concerning alleged improprieties in procurement concerning the 'CaseLines' project, as well as its recommendation that the Committee closely oversees the OCJ's actions in addressing these. We have engaged the OCJ on several occasions and agree with the importance of ensuring business continuity, which the OCJ appears to have done for now. We note also that not only has the OCJ put in place measures to address the internal weaknesses that permitted the alleged improprieties in procurement to occur, but the matter is also now being litigated. The Committee has included in some detail, in this Report, the information that the OCJ has provided, including the status of each matter being litigated. The Committee will include a recommendation on the need to continue to monitor the progress of the litigation as a matter for the attention of the incoming Committee.
- 12.6. **Employment of women in senior management.** We are pleased that the OCJ can report progress concerning the employment of women in senior management. We are also mindful that promoting gender equality is multifaceted, extending far beyond employing women in senior management positions and includes ensuring a work environment that is appropriately supportive with opportunities for personal development.
- 12.7. **Employment of persons with disabilities.** The Committee notes that, once again, the OCJ did not achieve its employment targets for persons with disabilities. As we mention in the paragraph above, the promotion of equality for persons with disabilities is also multifaceted, extending beyond employment, to include issues of reasonable accommodation.

- 12.8. **Audit outcome.** We welcome the OCJ's improved audit outcome, in which it satisfactorily addressed the challenges of the previous financial year (2021/22). We note that the OCJ attributes the improvement to the quality review processes that it has implemented and maintained.
- 12.9. **Vacancies.** Although the OCJ reports an overall vacancy rate that is below the 10% norm suggested for the Public Service, vacancies in senior management remain higher than the norm at 12.8%. We, therefore, request the OCJ to provide a report on its vacancies, particularly those in senior management and in critical occupations, with a recruitment plan, before 31 January 2024.
- 12.10. **Court modernisation.** The Committee notes that the roll out of the Court Online project to further Superior Courts has once again been delayed. (The Court online was piloted in the Gauteng High Court at Pretoria and Johannesburg at the beginning of the 2022/23 financial year and is partially operational at the Constitutional Court and Supreme Court of Appeal). The OCJ reports that depending on ICT infrastructure readiness and the system stabilisation, it will prioritise further roll out to other courts in 2023/24. We are disappointed by the lack of progress to date. The project is vitally important to efforts to make our courts more efficient and, therefore, will recommend that the incoming Committee include the roll out of the solution to all Superior Courts as a priority focus area.
- 12.11. **Storage of court records/digitisation project.** A lack of space makes storing court files challenging. The implementation of the Court Online solution should assist going forward but does not address the challenge of storing older records. The OCJ has made a submission to the IJS for funding to assist with the digitisation of old court records. The Committee requests a report on the digitalisation project, as well as the OCJ's plans to store older records in the meantime, by 31 January 2024, and will note this as another focus area for the incoming Committee to take up.
- 12.12. **Court infrastructure and other arrangements.** During the Committee's oversight visits, it noted various challenges relating to the infrastructure and, more generally, relating to the accommodation arrangements of the Superior Courts visited. The Committee's observations are contained in its reports on oversight visits to courts country wide conducted between January 2022 and April 2023. The Committee has also met with the Judiciary and with the Minister of Justice and Correctional Services and the Minister of Public Works and Infrastructure to discuss its observations and resulting concerns.

The Committee is aware that the OCJ, like any other organisation, is negatively affected by the country's energy supply constraints and persistent load shedding. The OCJ reported that, in 2022/23, it installed backup generators and water tanks in most of the Superior Courts to reduce the impact of load shedding on service delivery. The Minister has also stated that the Constitutional Court and Supreme Court of Appeal are not subject to load-shedding. However, a request for an upgrade to be implemented for the Constitutional Court has been made to the DPWI through the Justice Department. The upgrade relates to installing a new generator with increased capacity output to power more areas of the facility and extended operating hours. The OCJ has further embarked on a process with the Justice Department to assess all generators for replacement of aged equipment and introducing alternative measures such as solar power.

Load shedding also affects the ability of water reservoirs to pump and supply water. When the water supply is interrupted, the Courts must stop operations for hygiene reasons. To mitigate against this, the OCJ has started installing water tanks in the Superior Courts to act as a backup supply to municipal water.

Network downtime increased due to rolling load-shedding, and it affects productivity and service delivery. The intermittent power dip is also causing damage to ICT hardware and infrastructure. The OCJ requires uninterrupted power supply systems in all centres, which can carry the required power load while alternative power supply like generators take over.

The Committee has previously expressed its concern about the poor state of our courts and the impact of load-shedding on court operations. For now, it requests a progress report in writing on the supply of back-up power and water tanks to the Superior Courts by 31 January 2024 and will bring the issue of the generally poor state of court infrastructure, the lack of security, and the need for backup power and water tanks to the attention of the incoming Committee in its Legacy Report.

13. **Appreciation**

- 13.1. The Committee thanks the Minister and Deputy Minister, the Secretary-General and the staff of the OCJ for their assistance in this process.
- 13.2. The Committee also wishes to thank the Auditor-General South Africa for the support it provided to the Committee.

Report to be considered.