



Report on Financial Misconduct for the 2005/2006 Financial Year

Public Service Commission

February 2007



Vision

The Public Service Commission is an independent and impartial body created by the Constitution, 1996, to enhance excellence in governance within the Public Service by promoting a professional and ethical environment and adding value to a public administration that is accountable, equitable, efficient, effective, corruption-free and responsive to the needs of the people of South Africa.

Mission

The Public Service Commission aims to promote the constitutionally enshrined democratic principles and values of the Public Service by investigating, monitoring, evaluating, communicating and reporting on public administration. Through research processes, it will ensure the promotion of excellence in governance and the delivery of affordable and sustainable quality services.

Report on Financial Misconduct for the 2005/06 financial year



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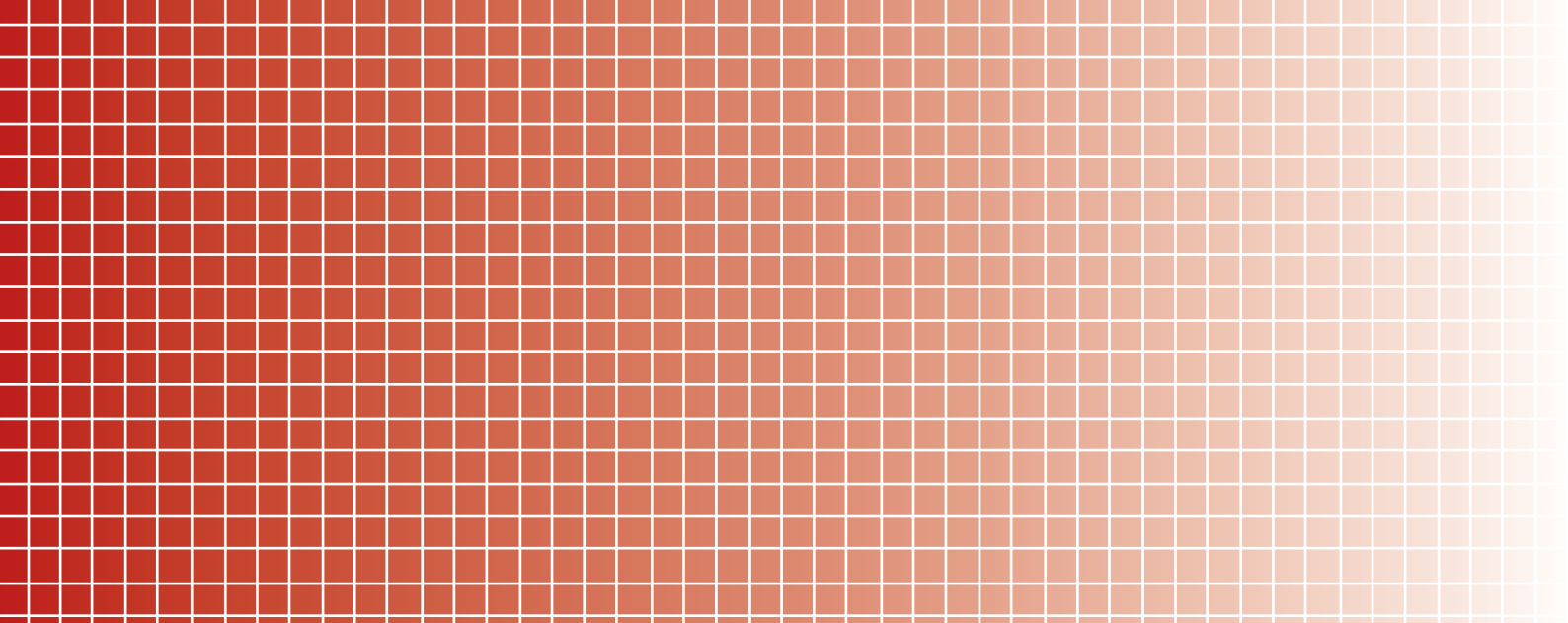
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Custodian of Good Governance





FOREWORD

I am pleased to present the Report on Financial Misconduct for the 2005/2006 financial year by the Public Service Commission (PSC), as part of the PSC's mandate to investigate, monitor and evaluate the organization and administration and the personnel practices of the Public Service.

The level of accountability society requires of its public financial management system is defined in the Public Finance Management Act (PFMA) read in conjunction with the Treasury Regulations. This legislative framework provides for the frequency, level of detail and responsibility for reporting to promote greater transparency in the financial affairs of departments. It, among others, requires departments to report finalized financial misconduct cases to the PSC. The Report of Financial Misconduct serves as a mechanism to enhance oversight in the Public Service. Through these reports Parliament and Legislatures can actively monitor how the Public Service is dealing with financial misconduct. This report provides a statistical overview and comprehensive analysis of the finalized cases of financial misconduct reported to the PSC for the financial year 2005/2006.



The fact that there has been an increase in the number of cases of financial misconduct from previous financial years as witnessed through this report is viewed in a serious light. Financial misconduct has an adverse impact on service delivery, and thus poses a challenge to government initiatives such as the Accelerated and Shared Growth Initiatives of South Africa (ASGISA), and therefore the attainment of a better life for all as enshrined in the People's Contract.

A handwritten signature in black ink, which appears to read 'Sangweni'.

PROF. SS SANGWENI
CHAIRPERSON: PUBLIC SERVICE COMMISSION

Table of Contents

FOREWORD	iii
EXECUTIVE SUMMARY	viii
CHAPTER ONE: INTRODUCTION	1
1.1 Introduction	2
1.2 Legislative framework and context	2
1.3 Purpose of the report	3
1.4 Public Service Commission's mandate	3
CHAPTER TWO: METHODOLOGY	5
2.1 Introduction	6
2.2 Collation of data	6
2.3 Communication with departments on the submission of information	6
2.4 Responses from National and Provincial Departments	6
2.5 Limitations experienced	12
CHAPTER THREE: STATISTICAL OVERVIEW AND ANALYSIS	13
3.1 Introduction	14
3.2 The number of employees charged with financial misconduct	14
3.3 Types of financial misconduct reported	19
3.4 Levels of employees charged with financial misconduct	24
3.5 Gender of employees charged with financial misconduct	25
3.6 Outcome of financial misconduct cases	26
3.7 Sanctions imposed in cases of financial misconduct	28
3.8 Criminal Proceedings instituted against employees charged with financial misconduct	30
3.9 Cost of Financial Misconduct	33
3.10 Reasons for the increase/decrease in financial misconduct cases	37
CHAPTER FOUR: OBSERVATIONS AND RECOMMENDATIONS	41
4.1 Introduction	42
4.2 Anomaly in the number of cases reported by provinces	42
4.3 Need for the analysis of the financial misconduct trends	42
4.4 Focus on building an ethical culture	43
4.5 Failure to submit reports on time	43
4.6 Inaccuracy in respect of the information provided	44

4.7	Discrepancies pertaining to financial misconduct cost and recovery of debt	44
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CHAPTER FIVE: CONCLUSION	47
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ANNEXURE A: FORMAT FOR REPORTING ON FINANCIAL MISCONDUCT	49
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LIST OF TABLES

Table 1	Reports received from National Departments	7
Table 2	Reports received from Provincial Administration: Eastern Cape	8
Table 3	Reports received from Provincial Administration: Free State	8
Table 4	Reports received from Provincial Administration: KwaZulu-Natal	9
Table 5	Reports received from Provincial Administration: Limpopo	9
Table 6	Reports received from Provincial Administration: Mpumalanga	9
Table 7	Reports received from Provincial Administration: Northern Cape	10
Table 8	Reports received from Provincial Administration: Western Cape	10
Table 9	Reports received from Provincial Administration: North West	11
Table 10	Reports received from Provincial Administration: Gauteng	11
Table 11	Number of cases on national and provincial level	15
Table 12	Breakdown of financial misconduct cases reported by departments in provinces	18
Table 13	Breakdown of fraud and theft cases at provincial departmental level	22
Table 14	Cases involving R100,000.00 and more where criminal charges were instituted	32
Table 15	Individual amount exceeding R100,000.00 not reported	32
Table 16	Individual amounts exceeding R100,000.00 where departments did not indicate whether or not criminal actions were taken	33
Table 17	Total cost of financial misconduct per year	34
Table 18	Cost of financial misconduct reported at national level	34
Table 19	Cost of financial misconduct reported at provincial level	35
Table 20	Reasons for increase in financial misconduct cases reported by the departments	37
Table 21	Reasons for decrease in financial misconduct cases reported by departments	38

LIST OF FIGURES

Figure 1	Number of cases reported for the financial year 2002/2003 until 2005/2006	14
Figure 2	Number of cases at national level	16
Figure 3	Number of cases reported at provincial level	17
Figure 4	Types of financial misconduct reported by departments for 2005/2006 financial year	20

Figure 5	Fraud and theft cases reported for the financial years 2001/2002 until 2005/2006	21
Figure 6	Analysis of fraud and theft cases	21
Figure 7	Misappropriation and abuse reported for the financial years 2002/2003 until 2005/2006	23
Figure 8	Salary levels of employees charged with financial misconduct	24
Figure 9	Number of cases per salary category	25
Figure 10	Gender of offenders in respect of financial misconduct cases	25
Figure 11	Percentage of the type of financial misconduct in respect of gender	26
Figure 12	Outcome of financial misconduct cases for the 2005/2006 financial year	26
Figure 13	Outcome of financial misconduct cases for the past four financial years	27
Figure 14	Sanctions imposed in financial misconduct cases	29
Figure 15	Sanctions imposed against employees found guilty of financial misconduct during the past four financial years	30
Figure 16	Criminal proceedings instituted against employees charged of financial misconduct	31

Glossary of Terms

Constitution, 1996

PFMA

PSC

SAPS

KZN

DPSA

PPCA

DOJCD

SMS

Constitution of the Republic of South Africa, 1996

Public Finance Management Act, 1999

Public Service Commission

South African Police Service

KwaZulu-Natal

Department of Public Service and Administration

Prevention and Combating Anti-Corrupt Activities Act

Department of Justice and Constitutional Development

Senior Management Service



EXECUTIVE SUMMARY

1. Introduction

Departments have reported finalized financial misconduct cases to the Public Service Commission (PSC) since the 2001/2002 financial year. The analysis of financial misconduct cases reported to the PSC has culminated in three reports on Financial Misconduct, i.e. 2001/2002, 2002/2003 and 2003/2004 and 2004/2005 financial years. This report covers financial misconduct cases reported to the PSC for the financial year 2005/2006 and will, where applicable, draw on information published in the previous reports in an attempt to identify trends and make recommendations.

2. Statistical overview and analysis

2.1 Number of officials charged with financial misconduct

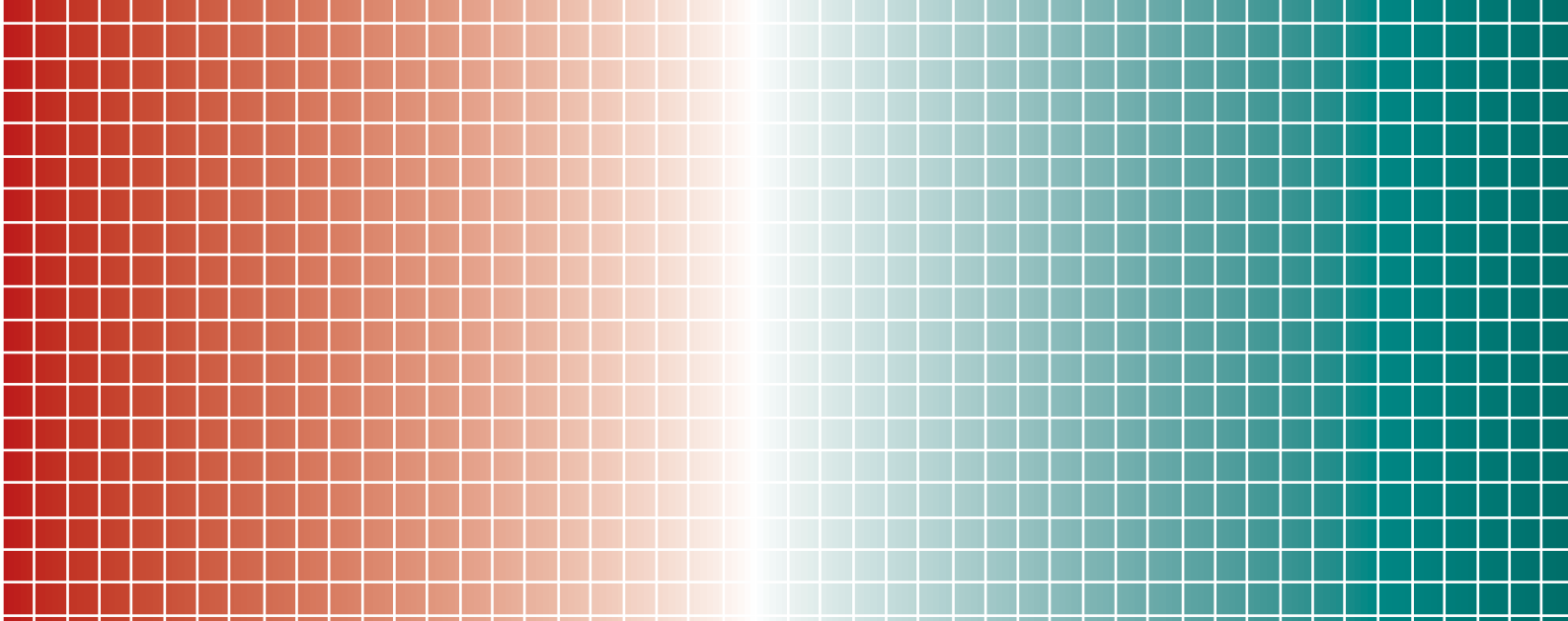
A total of 771 cases of financial misconduct was reported for the 2005/2006 financial year. The increase in the number of cases reported can be ascribed to the fact that more national and provincial departments submitted reports to the PSC during the 2005/06 financial year.

The percentage of cases reported by national departments increased to 41% in the 2005/2006 financial year. This is noteworthy considering that, according to a headcount for the Public Service as at 28 February 2006, national departments employ 32%, whereas provinces employ 68% of the total number of employees in the Public Service.

Similar to the 2003/2004 and 2004/2005 financial years, the highest number of finalized cases compared to other provinces were reported by the Eastern Cape Province (173).

2.2 Types of financial misconduct reported

In terms of the PFMA, financial misconduct entails any material losses through criminal conduct, unauthorized, irregular, fruitless and wasteful expenditure. Departments reported various types of financial misconduct committed by employees. Cases in the category “fraud and theft” comprise a significant portion (64.7%) of the overall number of cases reported.



Although transgressions in the fraud and theft cases have decreased in the last two financial years as compared to the period 2001/02 to 2003/04, the high prevalence of these offences remains disconcerting and might be ascribed to a lack of proper control systems.

2.3 Levels of employees charged with financial misconduct

Financial misconduct prevails at all levels of the Public Service. However, the largest number of financial misconduct cases are encountered at the production level i.e. salary level 1 to 8. Employees on salary level 6 and 7 have committed the highest number of financial misconduct cases. This trend is in keeping with statistics provided for the previous financial years. Although ethics is a responsibility given to every employee in the Public Service, instilling a culture of professionalism and high work ethos starts with management. It was therefore disconcerting to note that at the Senior Management level i.e. salary level 13 to 16, a total of 19 cases were reported.

2.4 Gender of employees charged with financial misconduct

Of the 771 cases reported, departments did not indicate the gender in 8% of the cases. In the remaining 92% of reported cases, financial misconduct was committed by males in 52% of the reported cases, and by females in 40% of the reported cases.

2.5 Outcome of financial misconduct cases

Of the 771 cases where charges were brought against employees, 81% of employees were found guilty of financial misconduct. This is higher than that of the 77% of employees that were found guilty of financial misconduct in the 2004/2005 financial year. In twenty three (23) instances, departments reported that the disciplinary cases were not finalised due to the resignation of employees.

2.6 Sanctions imposed in cases of financial misconduct

In deciding on a suitable sanction, the merits of each case should always be considered by the chairperson of the enquiry in terms of the principles of fair and sound labour relations. Since the 2002/2003 financial year, dismissal remains the most prevalent sanction, followed by final written warnings. It is expected that the sanction of dismissal imposed by departments will act as a strong deterrent throughout the Public Service and should reduce the number of future occurrences. Ensuring that employees are disciplined for wrongdoing fosters the practice that violators are likely to be caught and punished. It also demonstrates that the Public Service is committed to an environment of high ethical standards and integrity.

2.7 Criminal Proceedings instituted against employees charged with financial misconduct

It appears that in the majority of the cases, criminal action is not instituted against employees for financial misconduct. For the 2005/2006 financial year criminal proceedings were instituted against employees in 25% (198) of the cases. This represents a decrease in comparison to the 2004/2005 financial year, where criminal proceedings were instituted in 31% of the cases.

Following an analysis of cases in the categories “fraud and theft” and “corruption, it was found that departments indicated in 13 cases that criminal proceedings were not instituted against employees who had committed financial misconduct in excess of R100,000.00.

2.8 Cost of Financial Misconduct

The total cost emanating from unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct reported by departments and provinces for the 2005/06 financial year was R45,649,391.00. However, not all departments indicated the cost of financial misconduct. Although there has been an increase in the number of cases (771) reported for the 2005/2006 financial year, as compared to the 2004/2005 financial year (513 cases), there has been a substantial decrease in the cost of financial misconduct in the 2005/2006 financial year.

2.9 Reasons for the increase/decrease in financial misconduct cases

An increase in misconduct cases relating to social grant theft is cited by four departments. In general, it would appear that risk control mechanisms that were put in place, resulted in financial misconduct being exposed within departments. This is confirmed in the inputs provided by departments in respect of the reasons cited for the decrease in financial misconduct cases.

Departments cited among others; stringent controls, improved awareness programmes and strict application of discipline as reasons for the decrease in the number of financial misconduct cases compared to that of the 2004/2005 financial year.

3. Observations and recommendations

3.1 Anomaly in the number of cases reported by provinces

This report reflects the trend of a higher ratio of financial misconduct cases at national level as compared to provincial level. Although it could be perceived as a positive indication that provinces have managed to curb corruption to some extent, the more probable explanation is that provinces are not effectively dealing with financial misconduct or not accurately reporting on such cases. If government is committed to its focus towards rooting out corruption, the investigation of reported cases should receive the same amount of attention. Departments should consider measures to improve the investigation of reported cases of financial misconduct, ensuring that it leads to the finalization of such cases.

Discipline is essentially the responsibility of line managers. If they are reluctant or unable to deal with disciplinary cases, it will compromise the management of discipline. Departments should therefore ensure that (on a staggered basis if necessary) all Line Managers have received up-to-date, comprehensive training on the management of discipline.

3.2 Need for the analysis of the financial misconduct trends

The analysis of trends in financial misconduct committed can capacitate departments to address the adequacy and effectiveness of the internal control system and the degree of exposure and risk that exists in these areas. A strong link between investigators of cases of financial misconduct and the Internal Audit units of departments should be established. This will assist with the identification of patterns of financial misconduct and the amendment of the Internal Audit coverage plan when financial and fraud risks materialize. These trends should also lead to a re-evaluation of the existing fraud risk assessment and profile of departments to ensure a greater alignment between fraud risk assessments and real risk exposure. The identification of trends of financial misconduct should lead to an assessment of the adequacy of control measures to prevent the recurrence of the same problems.

3.3 Focus on building an ethical culture

As a result of the prevalence of financial misconduct at salary levels 6 and 7 over the past four financial years, Departments should provide focused Code of Conduct training to employees on salary levels 6 and 7, with special emphasis on the performance of duties to equip them with the specific knowledge, skills and standards of behaviour to deal with the pressures associated with any demands placed on employees employed on these salary levels.

3.4 Failure to submit reports on time

Despite repeated efforts from the PSC to obtain the required information, two departments failed to submit their inputs to the PSC by the extended closing date of 31 August 2006. In order to ensure accountability, it is incumbent on the accounting officer to ensure that finalized cases of financial misconduct are reported to the PSC in terms of Treasury Regulation 4.3, read with section 85(1)(a) and (e) of the PFMA, as soon as the disciplinary proceedings are completed. For this purpose, the PSC will in future request departments to provide reports as per the reporting format on a monthly basis.

3.5 Inaccuracy in respect of the information provided

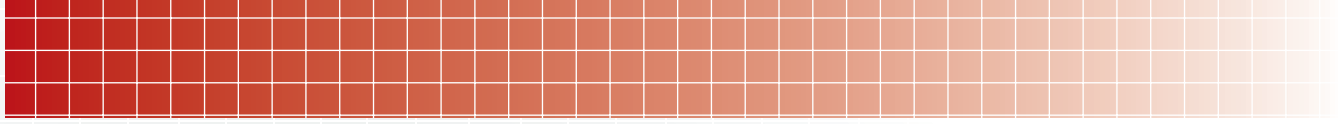
It appears that some departments are indifferent to accurate reporting or lacks the capacity to pay proper attention to accurate reporting. This observation is based on the fact that even though departments had the reporting format at their disposal, some information was still not reflected in some of the reports that were submitted to the PSC. Management control measures should be put in place by departments to ensure that inputs submitted to the PSC is accurate, valid and completed in a format that is prescribed for the purpose of reporting (attention is drawn to section 85(1)(a) and (e) of the PFMA read in conjunction with Treasury Regulations 4.3).

3.6 Discrepancies pertaining to financial misconduct cost and recovery of debt

Most departments did not provide information regarding the amounts involved in the financial misconduct and the recovery of debts. Disclosure of the amounts involved and the recovery of debt is necessary for the reporting of financial misconduct. The National Treasury should review the Treasury Regulations with a view to compelling departments to report financial costs as a result of financial misconduct and recovery of debt.

4. Conclusion

Citizens pay taxes, levies and other monies to enable government to execute its mandate and service delivery. The society generally expects the government to utilize these funds economically, efficiently and effectively. This requires commitment from the employees responsible for the various programmes of government. It is for this reason that the PFMA stipulates the rules and regulations that should be followed to enhance and achieve sound financial management.



When a department loses monies as a result of financial misconduct either through theft, fraud, corruption or mismanagement, it may find itself in a position which not only affects its capabilities to perform its duties, but which also affects the funds available to the department in future years. The PFMA places a responsibility on every official in the Public Service to actively prevent and report the occurrences of financial misconduct and other unauthorized expenditure. This requires departments to concentrate their efforts on preventing financial misconduct rather than responding to financial misconduct. Financial misconduct should be viewed seriously as it causes financial harm to the state and hampers service delivery.

Chapter One

Introduction

1.1 Introduction

In South Africa the ideals of good fiscal governance are constitutionally entrenched. Sections 215, 216 and 217 of the Constitution¹ require that budget processes of all three spheres of government should promote transparency, accountability and effective financial management, using uniform treasury norms and standards.

The introduction of the Public Finance Management Act, 1999 (PFMA), has changed the financial landscape of the South African public sector, and places South Africa amongst the world leaders with regard to public financial management. The PFMA ensures a commitment to accountability, the application of sound management practices and transparency in financial management processes.

The Treasury Regulations, issued in terms of the PFMA, are aimed at boosting financial and management competence in Government and are designed to facilitate the combating of corruption. They, among others, provide for the manner, form and circumstances under which accounting officers must report disciplinary and criminal charges of financial misconduct. The Treasury Regulations determine that the accounting officer must, as soon as the disciplinary proceedings are completed, report to the executive authority, the Department of Public Service and Administration (DPSA) and the Public Service Commission (PSC) on the outcome. The Regulations also represent internal controls and therefore form part of the department's internal control framework.

Departments reported finalized financial misconduct cases to the PSC since the 2001/2002 financial year. The analysis of financial misconduct reported to the PSC has culminated in three reports on Financial Misconduct, i.e. 2001/2002, 2002/2003 and 2003/2004 and 2004/2005 financial years. This report covers financial misconduct cases reported to the PSC for the financial year 2005/2006 involving 34 national departments and 105 provincial departments.

1.2 Legislative framework and context

Section 81 of the PFMA determines that –

- “(1) An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer willfully or negligently-
 - (a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or
 - (b) makes or permits an unauthorized expenditure, an irregular expenditure or a fruitless and wasteful expenditure.
- (2) An official of a department, a trading entity or a constitutional institution to whom a power or duty is assigned in terms of section 44 commits an act of financial misconduct if that official willfully or negligently fails to exercise that power or perform that duty.”

Section 85 of the PFMA, determines that –

- “(1) The Minister must make regulations prescribing –
 - (a) the manner, form and circumstances in which allegations and disciplinary and criminal charges of financial misconduct must be reported to the National Treasury, the relevant provincial treasury and the Auditor-General, including –
 - (i) particulars of the alleged financial misconduct; and
 - (ii) the steps taken in connection with such financial misconduct;

¹ The Constitution of the Republic of South Africa, Act 108 of 1996.

- (b)
- (c)
- (d)
- (e) the circumstances in which the findings of a disciplinary board and any sanctions imposed by the board must be reported to the National Treasury, the relevant provincial treasury and the Auditor-General; and..."

Treasury Regulation 4.3, read with section 85(1)(a) and (e) of the PFMA, determines as follows:

"4.3.1 The accounting officer must, as soon as the disciplinary proceedings are completed, report to the executive authority, the Department of Public Service and Administration and the Public Service Commission on the outcome, including-

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

4.3.2 The institution must inform the executive authority, the relevant treasury, the Department of Public Service and Administration and the Public Service Commission of the outcome of any criminal and civil proceedings instituted against any person for financial misconduct in terms of section 86 of the Act."

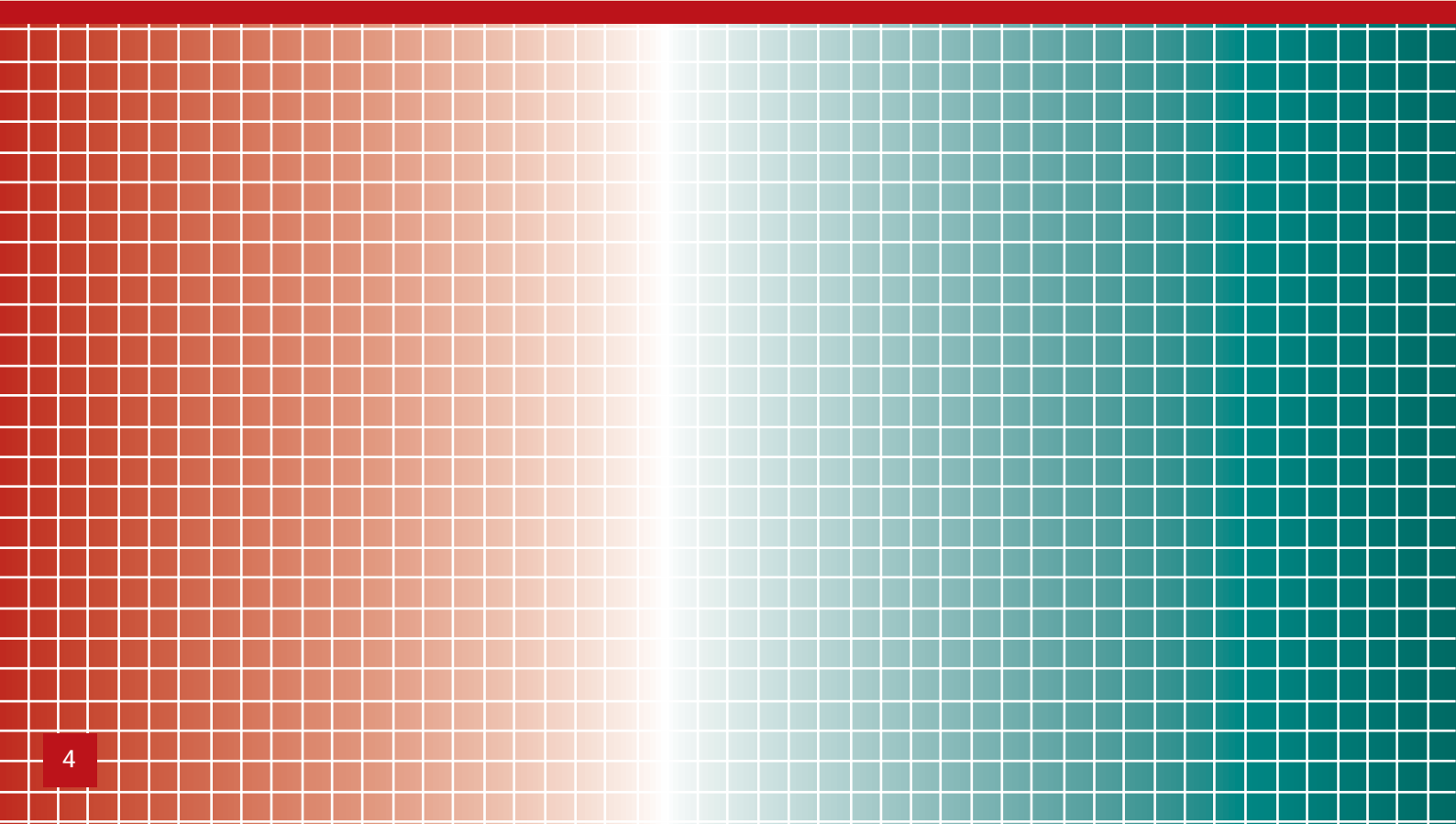
1.3 Purpose of the report

The purpose of the Report on Financial Misconduct for the 2005/2006 financial year is to provide a statistical overview and analysis of the information provided by national and provincial departments on finalized financial misconduct cases reported to the PSC for the financial year. The Report also makes reference to information emanating from the reports of the PSC on financial misconduct for previous financial years in order to draw comparisons, enhance the statistical overview and establish trends.

1.4 Public Service Commission's mandate

In terms of section 196(4)(b) of the Constitution, 1996, read in conjunction with sections 9 and 10 of the Public Service Commission Act, 1997, the PSC is empowered to investigate, monitor and evaluate the organization and administration, and personnel practices of the Public Service.

The PSC is thus, in terms of the above-mentioned constitutional mandate, empowered to monitor and evaluate financial misconduct as determined by the PFMA, read with the Treasury Regulations.



Chapter Two

Methodology

2.1 Introduction

This report covers finalized financial misconduct cases reported to the PSC for the financial year 2005/2006 and as indicated, where necessary, draws on information published in the previous reports by the PSC on Financial Misconduct in order to facilitate comparisons, enhance the statistical overview and establish trends.

2.2 Collation of data

In order to deepen analysis on cases reported to the PSC, the reporting format has been amended from previous financial years to include information on the possible reasons for the increase/decrease in financial misconduct cases in comparison to the previous financial year and the trends of cases on particular salary levels. The reporting format is attached as Annexure A.

A database of cases has been established and maintained during the past three financial years. This database has been adapted in terms of the additional information requested to capture information on finalized financial misconduct cases per department for the 2005/2006 financial year.

2.3 Communication with departments on the submission of information

In order to be able to present a comprehensive report on Financial Misconduct, it is imperative that national and provincial departments submit a report on finalised financial misconduct cases to the PSC for every financial year. Even if no financial misconduct cases were finalised a nil return must be submitted.

Although departments are compelled to report the outcome of finalized misconduct cases to the PSC, most departments do not comply with the prescripts and must on a continuous basis be reminded to report to the PSC. For this purpose, a Circular dated 09 May 2006, was disseminated to heads of all national and provincial departments, requesting them to report finalized financial misconduct cases for the financial year 2005/2006 to the PSC by 26 May 2006. It should be borne in mind that the statistics called for are for the previous financial year, and should be readily available to Departments.

In order to ensure that the Circular reached the relevant stakeholders it was also faxed to heads of Labour Relations Directorates or Chief Financial Officers in departments at national and provincial level. Further, follow-up was made telephonically, by facsimile and via e-mail. As a result of poor responses by national and provincial departments, reminders were sent on 17 August 2006 to those departments that had not provided their responses to the PSC. Departments were requested to provide inputs by no later than 31 August 2006.

2.4 Responses from National and Provincial Departments

The table below reflects those national and provincial departments that have reported finalized financial misconduct cases, those departments that submitted a nil report, and those who did not submit a report.

2.4.1 National Departments

All national departments submitted a report for the 2005/2006 financial year. Of the 34 national departments, 10 departments submitted a nil report.

Table 1: Reports received from National Departments

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture	X		
Arts and Culture	X		
Communications		X	
Correctional Services	X		
Defence	X		
Education	X		
Environmental Affairs and Tourism	X		
Foreign Affairs	X		
Government Communication and Information System	X		
Health	X		
Home Affairs	X		
Housing	X		
Independent Complaints Directorate		X	
Justice and Constitutional Development	X		
Labour	X		
Land Affairs	X		
Minerals and Energy	X		
National Treasury	X		
Presidency		X	
Provincial and Local Government		X	
Public Enterprises		X	
Public Service and Administration	X		
Public Service Commission		X	
Public Works	X		
Science and Technology		X	
Secretariat for Safety and Security		X	
Social Development		X	
South African Management Development Institute	X		
South African Police Service	X		
Sport and Recreation South Africa		X	
Statistics South Africa	X		
Trade and Industry	X		
Transport	X		
Water Affairs and Forestry	X		

The fact that all national departments submitted reports is a vast improvement from the 2004/2005 financial year, during which 15% of national departments failed to respond. This may indicate greater awareness of the need to comply with the Treasury Regulations and of the important role played by the PSC in providing oversight in terms of public administration.

2.4.2 Provincial Administrations

The responses of Provincial Administrations are reflected in the tables below. **Tables 2 to 9** indicate that all departments in the Eastern Cape, Free State, KwaZulu-Natal, Mpumalanga, Limpopo, Northern Cape, North West and Western Cape provinces submitted reports regarding the outcome of finalized cases of financial misconduct in their respective departments for the 2005/2006 financial year. Of the 105 provincial departments, 54 departments submitted a nil report.

Table 2: Reports received from the Provincial Administration: Eastern Cape

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture	X		
Economic Affairs, Environment and Tourism	X		
Education	X		
Health	X		
Housing, Local Government and Traditional Affairs		X	
Office of the Premier		X	
Provincial Treasury	X		
Public Works	X		
Safety and Liaison		X	
Social Development		X	
Sport, Recreation, Arts and Culture		X	
Transport		X	

Table 3: Reports received from the Provincial Administration: Free State

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture	X		
Department of the Premier		X	
Education	X		
Health	X		
Local Government and Housing		X	
Provincial Treasury	X		
Public Safety, Security and Liaison		X	
Public Works, Roads and Transport		X	
Social Development	X		
Sport, Arts, Culture, Science and Technology	X		
Tourism, Environmental and Economic Affairs	X		

Table 4: Reports received from Provincial Administration: KwaZulu-Natal

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture and Environmental Affairs	X		
Arts, Culture and Tourism		X	
Community Safety and Liaison		X	
Economic Development	X		
Education	X		
Health		X	
Housing		X	
Local Government and Traditional Affairs	X		
Office of the Premier		X	
Provincial Treasury		X	
Royal Household		X	
Social Services and Population Development	X		
Sports and Recreation		X	
Transport	X		
Works	X		

Table 5: Reports received from Provincial Administration: Limpopo

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture	X		
Education	X		
Finance	X		
Health and Welfare	X		
Local Government and Housing	X		
Office of the Premier		X	
Public Works	X		
Roads and Transport	X		
Safety, Security and Liaison		X	
Sport, Arts and Culture		X	

Table 6: Reports received from Provincial Administration: Mpumalanga

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture and Land Administration		X	
Culture, Sport and Recreation	X		
Economic Development and Planning	X		
Education		X	

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Finance		X	
Health and Social Services	X		
Local Government and Housing	X		
Office of the Premier		X	
Public Works		X	
Roads and Transport		X	
Safety and Security		X	

Table 7: Reports received from Provincial Administration: Northern Cape

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture and Land Reform		X	
Economic Affairs		X	
Education	X		
Provincial Treasury		X	
Health	X		
Housing and Local Government		X	
Office of the Premier		X	
Safety and Liaison	X		
Social Services and Population Development	X		
Sport, Arts and Culture		X	
Tourism, Environment and Conservation		X	
Transport, Roads and Public Works		X	

Table 8: Reports received from Provincial Administration: Western Cape

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture		X	
Community Safety	X		
Cultural Affairs and Sport	X		
Department of the Premier		X	
Economic Development and Tourism		X	
Education	X		
Environmental Affairs and Development Planning		X	
Health	X		
Local Government and Housing		X	
Provincial Treasury	X		
Social Services and Poverty Alleviation		X	
Transport and Public Works	X		

Table 9: Responses received from Provincial Administration: North West

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture Conservation Environment and Tourism		X	
Developmental Local Government and Housing		X	
Economic Development and Tourism		X	
Education	X		
Finance		X	
Health	X		
Office of the Premier		X	
Public Works	X		
Social Development	X		
Sport, Arts and Culture		X	
Transport, Roads and Community Safety	X		

Table 10 below, reflects that the Department of Education in the Gauteng province failed to submit a report in respect of finalised financial misconduct cases for the financial year 2005/2006 by the due date of 31 August 2006. This Department also did not submit an input to the PSC within the required time frame during the previous financial year.

Table 10: Reports received from Provincial Administration: Gauteng

DEPARTMENT	CASES REPORTED	NIL INPUT	NO RESPONSE RECEIVED
Agriculture, Conservation & the Environment	X		
Community Safety	X		
Education			X
Finance/Economic Development		X	
Health Services		X	
Housing		X	
Local Government		X	
Office of the Premier		X	
Public Transport, Roads and Works	X		
Social Development	X		
Sport, Recreation, Arts and Culture	X		
Gauteng Shared Services Centre		X	

In the 2004/05 financial year, 5 national departments and 13 provincial departments failed to submit any input by the due date. **Tables 1-10** above reflect that in the 2005/06 financial year all national departments and only 1 provincial department failed to submit any input by the due date. The submission of reports for the financial year 2005/06 shows a substantial improvement in comparison to the 2004/05 financial year. The improvement in the submission of reports by the provinces could be ascribed to the efforts of provincially based Commissioners in ensuring compliance by departments.

2.5 Limitations experienced

In order to enable the PSC to report on finalised financial misconduct cases, a reporting format was developed in line with the provisions of Treasury Regulations 4.3, read with section 85(1)(a) and (e) of the PFMA (Annexure A). Due to the fact that a number of departments did not submit comprehensive reports containing the required information to the PSC in previous financial years, a format for reporting has been furnished to departments since the 2002/03 financial year. The relevant departments were furthermore requested to submit comprehensive details of cases to the PSC, including information on the specific charges brought against each employee and the reasons for not taking criminal action against an employee who committed financial misconduct. Despite the provision of the reporting format and requests to provide comprehensive details to the PSC, some departments once again failed to comply with the reporting format and others submitted insufficient information. Furthermore, the information provided in many instances appeared not to have been quality checked. In order to improve data integrity follow-up enquiries had to be made with various departments, which further delayed the completion of the report.

Although the increase in the number of departments that have provided responses to the PSC during the 2005/06 financial year shows that compliance is becoming entrenched, the next concern to address would then be to ensure the improvement of the quality of the information in order to utilize such information to strengthen risk management within departments.

Chapter Three

Statistical Overview and Analysis

3.1 Introduction

This chapter presents a statistical overview and analysis of the information reported by national and provincial departments for the period 01 April 2005 until 31 March 2006, as well as information contained in the PSC's reports on financial misconduct for previous financial years. In view of the fact that the type of information that has to be provided by national and provincial departments is prescribed in Treasury Regulation 4.3, the analysis in this chapter refers to the information as determined in the prescripts. Reference is also made to additional information requested by the PSC in order to deepen the analysis on the financial misconduct cases reported to the PSC.

3.2 The number of employees charged with financial misconduct

A total of 771 cases of financial misconduct was reported for the 2005/2006 financial year. **Figure 1** below reflects the number of finalized financial misconduct cases reported during the past four financial years.

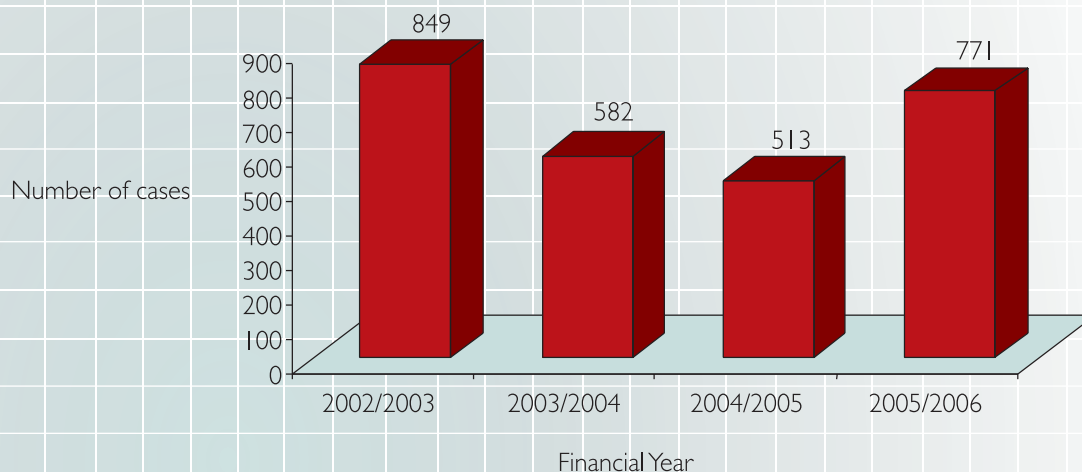


Figure 1: Number of reported cases for the financial years 2002/2003 until 2005/2006

It appears that there is a significant increase in the number of cases reported for the 2005/2006 financial year in comparison with the financial years 2003/2004¹ and 2004/2005². However, the increase in the number of cases reported may be ascribed to the fact that more national and provincial departments submitted reports to the PSC during the 2005/06 financial year.

¹ Report on Financial Misconduct 2002/2003 and 2003/2004 financial years, PSC, 2005
² Overview of Financial Misconduct for the 2004/2005 Financial Year, PSC, 2006

A breakdown of the total number of cases at national and provincial level for the previous four financial years is reflected in **Table 11** below.

Table 11: Number of cases on national and provincial level

NATIONAL/PROVINCE	2002/2003	2003/2004	2004/2005	2005/2006
National	355	181	198	319
Eastern Cape	54	181	52	173
Free State	46	60	52	29
Gauteng	108	16	6	6
KwaZulu-Natal	110	55	40	50
Limpopo	27	9	31	39
Mpumalanga	93	19	11	40
North West	56	46	45	23
Northern Cape	4	2	36	17
Western Cape	6	13	42	75
Total	859	582	513	771

In the 2004/2005 financial year the cases reported by national departments constituted 39% of the total number of cases and those reported by provinces 61%³. The percentage of cases reported by national departments increased to 41% in the 2005/2006 financial year. This is noteworthy considering that, according to a headcount for the Public Service as at 28 February 2006⁴, national departments employ 32%, whereas provinces employ 68% of the total number of employees in the Public Service.

The national sphere of government is, apart from its exclusive responsibilities such as safety and security, foreign affairs, defence and home affairs, responsible for the development of policies that guide service delivery in other spheres. In view of the primary responsibility of the provincial sphere of government to deliver, employees in this sphere are generally exposed to more opportunities to commit financial misconduct, such as bribery, fraud and theft. However, the trend of a higher ratio of financial misconduct cases at national level (41%) points to the fact that employees in national departments are more prone to commit financial misconduct.

Alternatively, and more disconcertingly, it may mean that financial misconduct is not actively pursued in the provinces. This seems to be a more plausible reason given that research conducted by the PSC in terms of its Public Service Monitoring and Evaluation System into selected departments in five provinces has confirmed that departments were not effectively managing discipline and that a disturbing proportion of managers were not aware of what was required should they be confronted with misconduct.

³ Overview of Financial Misconduct for the 2004/2005 Financial Year, PSC, 2006

⁴ State of the Public Service Report, 2006

3.2.1 National departments

Figure 2 below provides an overview of the 319 cases reported at national level for the 2005/2006 financial year.

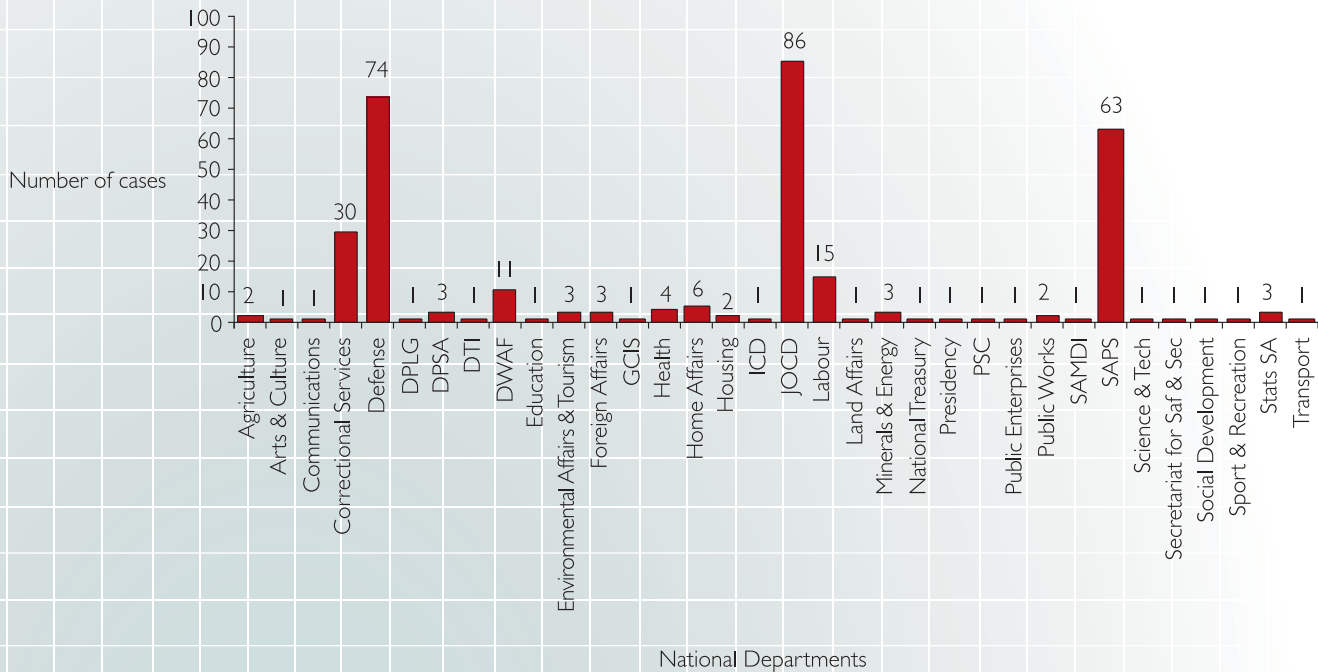


Figure 2: Number of cases at national level

The Department of Justice and Constitutional Development (DOJCD) reported the highest number (86) of finalized cases for the 2005/2006 financial year. The DOJCD did not submit an input during the previous financial year and it can therefore not be determined whether there has been an increase or decrease in the number of cases. Furthermore, although departments were requested to indicate the possible reasons for an increase or decrease in financial misconduct cases in the reporting format, the DOJCD did not respond to this question, which makes it even more difficult to determine whether financial misconduct poses an increased risk for the Department.

The Department of Defence (74 cases) and the South African Police Service (SAPS) (63 cases) respectively has the second and third highest number of cases. The Department of Defence had a minor increase in cases in comparison to the previous financial year (67 cases), whereas the South African Police Service had almost a 100% increase in comparison to the previous financial year (36 cases). The SAPS has ascribed this increase to the fact that more training has been provided to managers which has given rise to more awareness and effective monitoring to ensure compliance with the PFMA. If training has given rise to such a substantial increase in the number of cases in the SAPS, it raises the question of what the picture would have looked like if training was provided in all departments.

3.2.2 Provincial Administrations

Figure 3 below provides an overview of the 452 cases reported at provincial level for the 2005/2006 financial year.

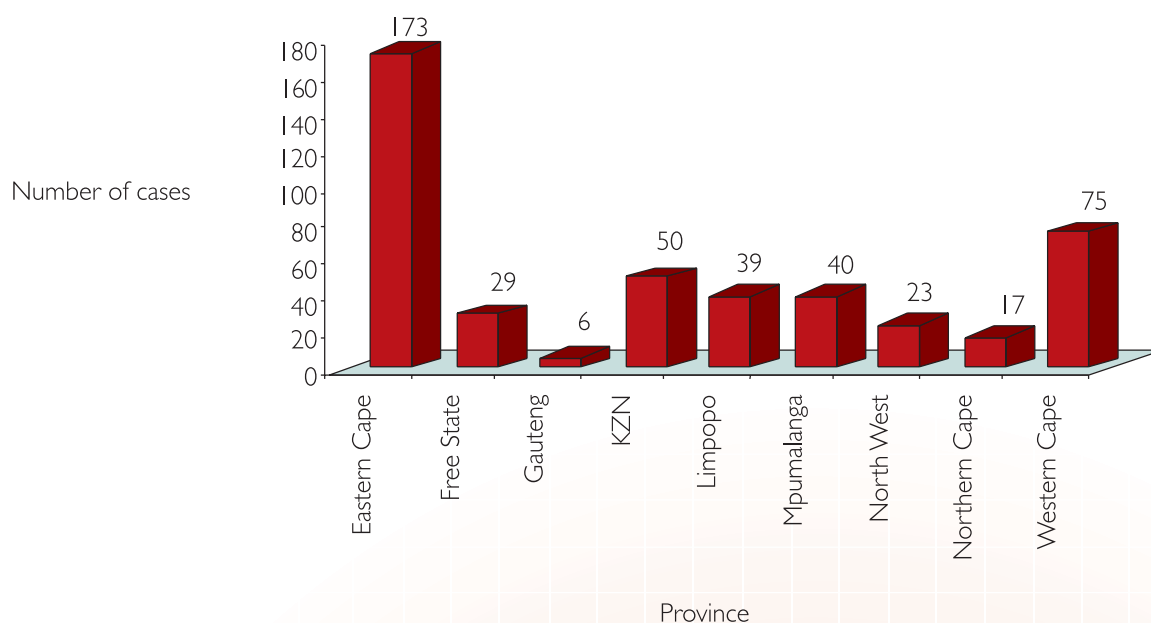


Figure 3: Number of cases reported at provincial level

Similar to the 2003/2004⁵ and 2004/2005⁶ financial years, the highest number of finalized cases compared to other provinces were reported by the Eastern Cape Province (173). Although the province remains with the highest number of financial misconduct cases, this figure indicates a considerable increase from the 52 cases reported in the 2004/05 financial year. It will be observed in **Table 12** below that the Department of Education in the Eastern Cape Province reported the highest number of cases (127). The high number of cases could possibly be ascribed to the fact that the Interim Management Team, which rendered support to the Department in the 2003/04 financial year, set up a database of disciplinary cases in order to improve reporting and case management. It is encouraging to note that the foundation laid by the Interim Management Team has had some effect on the management of discipline in this Province. Again, although departments were requested to indicate the possible reasons for an increase or decrease in financial misconduct cases in the reporting format, this Department did not respond to this question.

It is worth noting that the Free State Province had a substantial decrease in the number of cases reported compared to that of the 2004/2005 financial year. In the 2004/2005 financial year 52 finalised cases were reported, compared to the 2005/2006 financial year in respect of which 29 finalised cases were reported.

⁵ Report on Financial Misconduct 2002/2003 and 2003/2004 financial years, PSC, 2005

⁶ Overview of Financial Misconduct for the 2004/2005 Financial Year, PSC, 2006

Table 12 below provides a breakdown of financial misconduct cases reported by the various departments in each province.

Table 12: Breakdown of financial misconduct cases reported by departments in provinces

PROVINCE	DEPARTMENT	NUMBER OF CASES
Eastern Cape	Agriculture	4
	Economic Affairs, Environment and Tourism	19
	Education	127
	Health Services	15
	Provincial Treasury	1
	Public Works	7
Eastern Cape Total		173
Free State	Agriculture	1
	Education	16
	Health	2
	Provincial Treasury	1
	Social Development	3
	Sport, Arts and Culture	4
	Tourism, Environment and Economic Affairs	2
Free State Total		29
Gauteng	Agriculture, Conservation and Environment	1
	Community Safety	1
	Public Transport, Roads and Works	1
	Social Development	1
	Sport, Recreation, Arts and Culture	2
Gauteng Total		6
KwaZulu-Natal	Agriculture and Environmental Affairs	3
	Economic Development	1
	Education	1
	Social Welfare and Population Development	19
	Traditional and Local Government Affairs	17
	Transport	4
	Works	5
KwaZulu-Natal Total		50
Limpopo	Agriculture	4
	Education	6
	Health and Social Development	16
	Local Government and Housing	5
	Provincial Treasury	1
	Public Works	7
Limpopo Total		39

PROVINCE	DEPARTMENT	NUMBER OF CASES
Mpumalanga	Culture, Sport and Recreation	4
	Economic Development and Planning	3
	Health and Social Services	11
	Local Government and Housing	22
Mpumalanga Total		40
North West	Health	9
	Office of the Premier	1
	Education	1
	Public Works	5
	Social Development	2
	Sport , Arts and Culture and Recreation	1
	Transport, Roads and Community Safety	4
North West Total		23
Northern Cape	Education	4
	Health	6
	Safety and Liaison	5
	Social Services and Population Development	2
Northern Cape Total		17
Western Cape	Community Safety	6
	Cultural Affairs and Sport	1
	Education	9
	Health	40
	Provincial Treasury	2
	Social Services and Poverty Alleviation	15
	Transport and Public Works	2
Western Cape Total		75
Grand Total		452

3.3 Types of financial misconduct reported

In terms of the PFMA, financial misconduct entails any material losses through criminal conduct, unauthorized, irregular, fruitless and wasteful expenditure. Departments reported various types of financial misconduct committed by employees. For statistical purposes the types of financial misconduct reported by departments were categorized as follows:

- Corruption, as defined in the Prevention and Combating of Corrupt Activities Act, 2003.
- Fraud and theft, whereby fraud is defined as the unlawful and intentional making of a misrepresentation which causes actual and/or potential prejudice to another, and theft is defined as the unlawful taking with the intent to steal something which is prone to being stolen.
- Irregular expenditure, which means expenditure other than unauthorized expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation.
- Misappropriation and abuse, which involves the wrongful, improper or excessive use of public funds and/or assets in a person's care.
- Gross negligence which can be defined as any act or omission without considering the consequences thereof.

The figure below is an indication of the types of financial misconduct reported by the departments during 2005/2006 financial year.

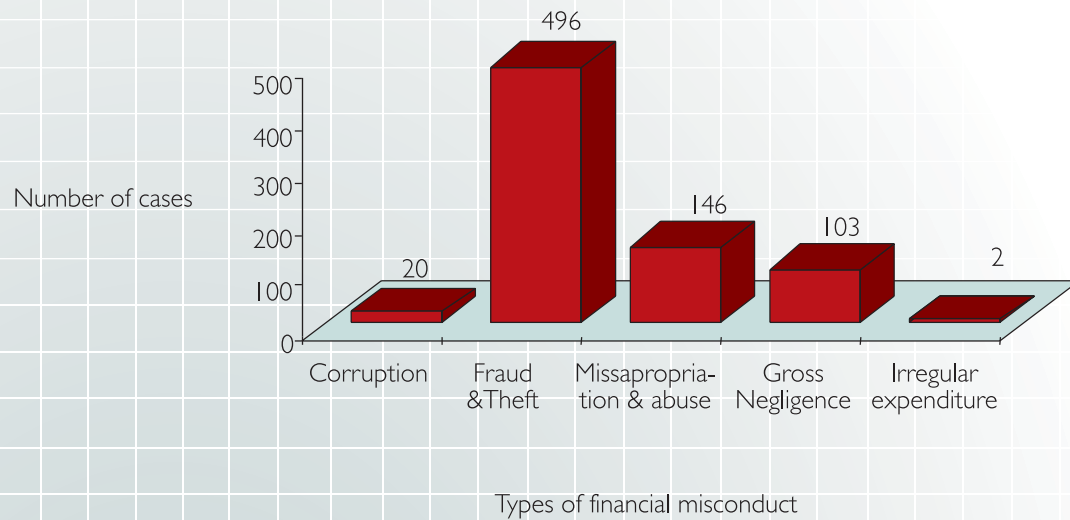


Figure 4: The types of financial misconduct reported by departments for the 2005/2006 financial year.

Figure 4 reflects that cases in the category “fraud and theft” comprise a significant portion (64.7%) of the overall number of cases reported. Fraud and theft are dominant forms of white collar crime that extracts a significant toll on Government and the economy in general. In its 2004 Report to the Nation on Occupational Fraud and Abuse⁷, the Association of Certified Fraud Examiners defines occupational fraud as “the use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources and assets”.

Figure 5 below indicates a comparison of fraud and theft cases reported for the past 5 financial years. The percentage of fraud and theft cases remained in the seventy percent range during the first three years. In the 2004/2005 financial year there was a substantial decline to 55%⁸. However, in the period under review (2005/2006) this figure increased to 65%.

⁷ Association of Certified Fraud Examiners, 2004 Report to the Nation on Occupational Fraud and Abuse.
⁸ Overview of Financial Misconduct for the 2004/2005 Financial Year, PSC, 2006

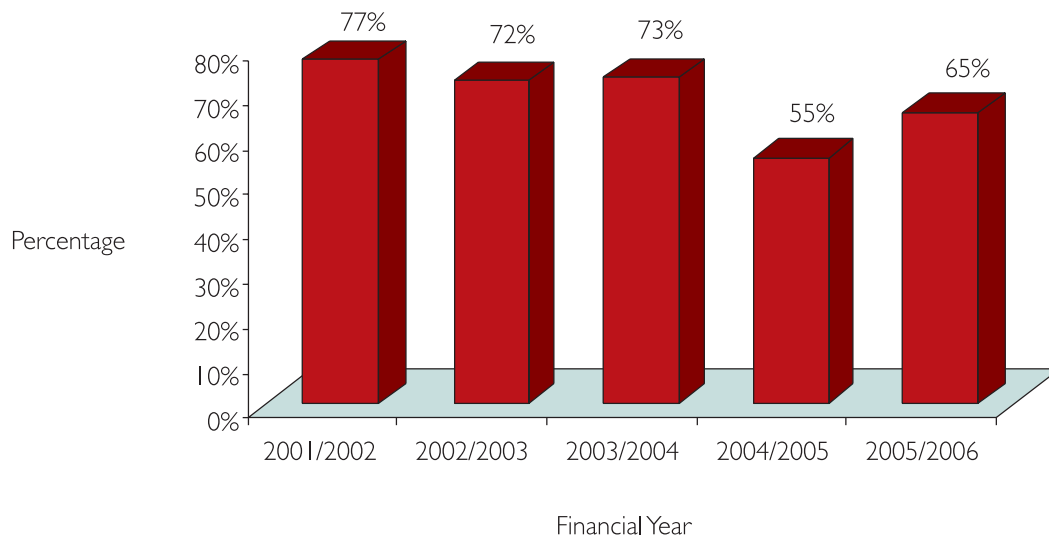


Figure 5: Fraud and theft cases reported for the financial years 2001/2002 until 2005/2006

Although transgressions in the fraud and theft cases have decreased in the last two financial years as compared to the period 2001/02 to 2003/04, the high prevalence of these offences remains disconcerting and may be ascribed to a lack of proper control systems. Fraud and theft not only damage the reputation of Government, but has an impact on the confidence of the citizenry in Government and even affects employee morale. On the other hand, as Government has increased its focus on anti-corruption, and is pro-actively taking steps to minimize the impact of fraud, this increased awareness could also have given rise to the increase in fraud cases reported.

For the financial year 2005/2006, the highest number of fraud and theft cases were reported by national departments (37%), followed by the Eastern Cape Province (25%). The figure below is an exposition of the number of fraud and theft cases reported by national departments and the provinces.

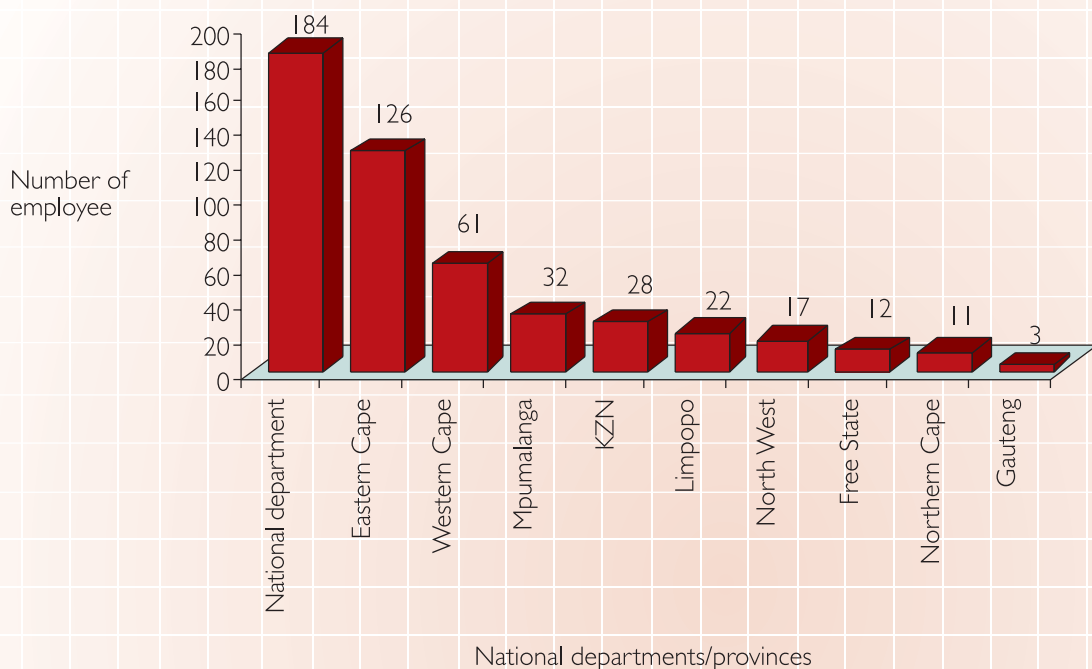


Figure 6: Analysis of fraud and theft cases

The department that reported the highest number of fraud and theft cases is the Department of Education in the Eastern Cape (104 cases), followed by the Department of Health in the Western Cape Province (32 cases). In both these departments, a large number of the cases related to social grant fraud (54 and 30 cases respectively). Social grant fraud was detected after a comparison was, amongst others, made of the Social Pension national database containing biographical and payment information of beneficiaries and the Personal Salary databases (PERSAL) of these departments. Disciplinary action was subsequently taken against employees who received social grants whilst being employed by these departments.

The table below provides a breakdown of fraud and theft cases per department, at provincial level:

Table 13: Breakdown of fraud and theft cases at provincial departmental level

PROVINCE	DEPARTMENT	NUMBER OF CASES
Eastern Cape	Agriculture	3
	Economic Affairs, Environment and Tourism	4
	Education	104
	Health Services	10
	Public Works	5
Free State	Agriculture	1
	Education	3
	Provincial Treasury	1
	Social Development	2
	Sport, Arts and Culture	3
	Tourism, Environment and Economic Affairs	2
Gauteng	Community Safety	1
	Sport, Recreation, Arts and Culture	2
KZN	Agriculture and Environmental Affairs	2
	Economic Development	1
	Education	1
	Social Welfare and Population Development	14
	Traditional and Local Government Affairs	5
	Works	5
Limpopo	Agriculture	4
	Education	2
	Health and Social Development	11
	Local Government and Housing	4
	Public Works	1
Mpumalanga	Economic Development and Planning	3
	Health and Social Services	7
	Local Government and Housing	22
North West	Health Services	8
	Public Works	5
	Transport, Roads and Community Safety	4

PROVINCE	DEPARTMENT	NUMBER OF CASES
Northern Cape	Education	4
	Health	1
	Safety and Liaison	4
	Social Services and Population Development	2
Western Cape	Community Safety	5
	Cultural Affairs and Sport	1
	Education	7
	Health	32
	Social Services and Poverty Alleviation	14
	Transport and Public Works	2
Total		312

Apart from the 64.7% reported cases in the category “fraud and theft”, **Figure 4** above (refer to page 17) reflects that cases in the category “misappropriation and abuse” comprises the second highest portion (19%) of the overall number of cases reported. Departments reported 146 cases relating to misappropriation and abuse for the financial year 2005/2006. As indicated above, this category of cases typically involves the unauthorized use of government vehicles, malicious damage to state property and abuse of petrol cards. The figure below is a comparison of misappropriation and abuse reported for the financial years 2002/2003 to 2005/2006.

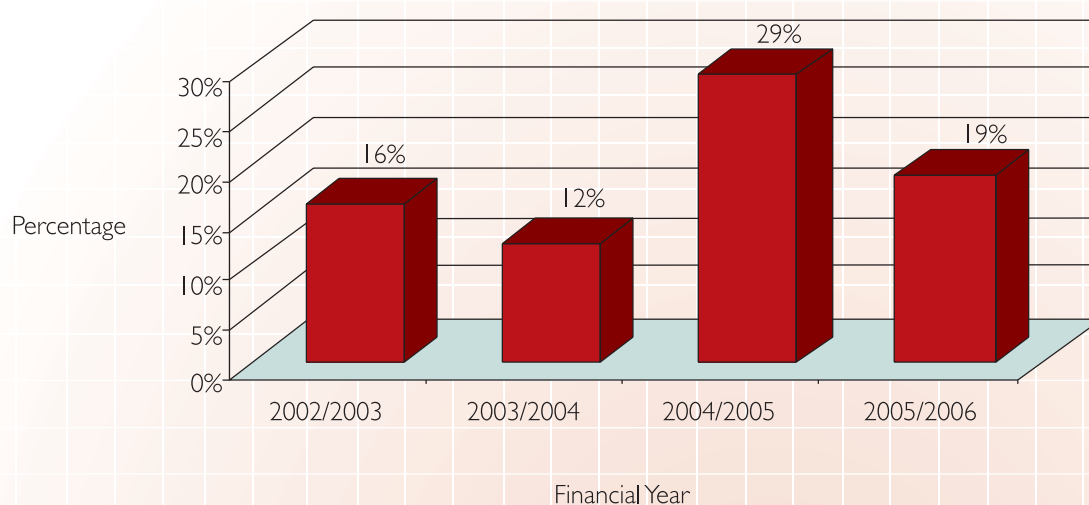


Figure 7: Misappropriation and abuse reported for the financial years 2002/2003 until 2005/2006

The State and public servants are the custodians of public resources, and is expected to administer public resources in an accountable and transparent manner on behalf of the entire citizenry. An effective accountability mechanism in respect of public funds is one measure of strengthening the fight against corruption. The establishment of proper control systems to prevent all forms of financial misconduct should go a long way in assisting departments to curb corruption within the Public Service. Ultimately all measures to prevent financial misconduct will raise the quality of public administration, and help Government to discharge its mandate to deliver goods and services to the public.

3.4 Levels of employees charged with financial misconduct

In terms of Treasury Regulations 4.3.1, departments are required to indicate the ranks of the employees that have been charged with financial misconduct. Due to the use of different rank designations by departments, departments were with effect from the 2002/2003 financial year requested to indicate the salary levels of employees. Despite repeated requests to provide the PSC with the salary levels of employees charged with financial misconduct, the salary levels were in certain cases not provided. The figure below reflects the distribution of the number of employees charged with financial misconduct according to salary levels for the financial year 2005/2006. Due to the fact that the salary levels of employees were not submitted to the PSC in 21 cases, it is reflected as "not indicated".

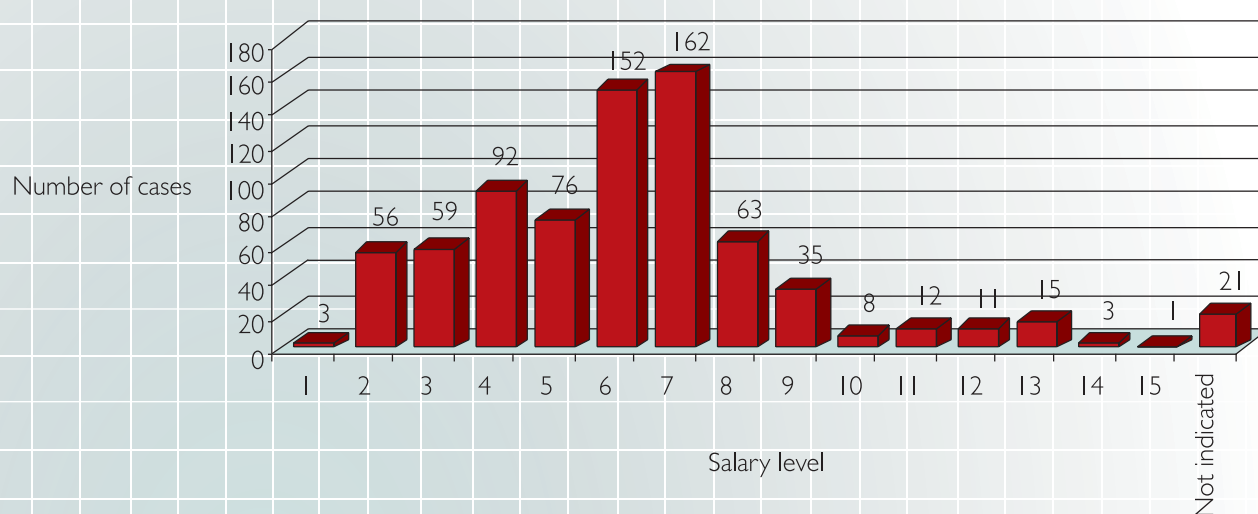


Figure 8: Salary levels of employees charged with financial misconduct

Financial misconduct prevails at all levels of the Public Service. However, the largest number of financial misconduct cases are encountered at the production level i.e. salary level 1 to 8. This trend is prevalent throughout the previous financial years, and may be ascribed to the following:

- Employees are appointed in supervisory positions with easy access to cash and goods.
- A general lack of internal controls, poor supervision and segregation of duties.
- Some employees believe that they can get away with it.
- Potential influence from supervisor/senior official.
- Poor communication practices, policies, and guidelines within the departments.

Employees on salary level 6 and 7 have committed the highest number of financial misconduct cases. This trend is in keeping with statistics provided for the previous financial years. This level of employee is often entrusted with duties which entail the handling of state monies and the procurement of goods. It was reported by departments that it appeared that financial misconduct is committed by employees on this level as a result of negligence.

Figure 9 below provides a comparison with the number of misconduct cases per salary category for the past 4 financial years (2002/2003 until 2005/2006).

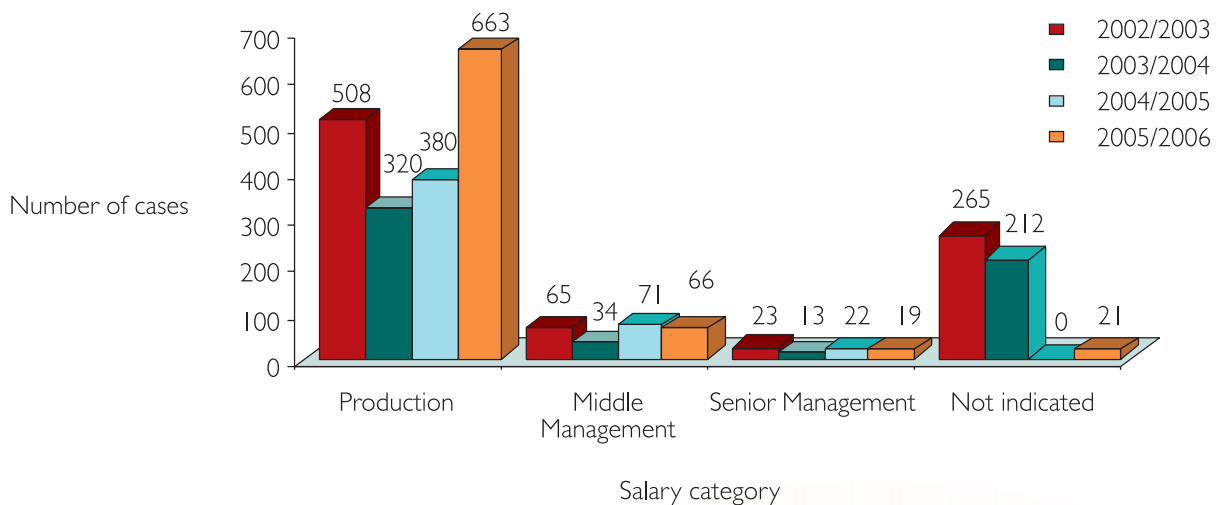


Figure 9: Number of cases per salary category

Although ethics is a responsibility given to every employee in the Public Service, instilling a culture of professionalism and high work ethos starts with management. They should lead by example and should see ethics as one of their top responsibilities. It was therefore disconcerting to note that at the Senior Management level i.e. salary level 13 to 16, a total of 19 cases were reported. In comparison with the financial year 2004/2005 (22 cases), there has been a slight decrease in financial misconduct cases at Senior Management level. However, financial misconduct on this level is still regarded as a serious risk to Government given the leadership role played by senior managers. Given the decision-making authority entrusted to employees on SMS level, it is expected of them to set an example to others and refrain from deliberate flaunting of rules and regulations.

3.5 Gender of employees charged with financial misconduct

In order to enhance analysis and establish trends, the PSC requested departments to report on the gender of the employees against whom the disciplinary proceedings were instituted during the 2005/2006 financial year.

Of the 771 cases reported, departments did not indicate the gender in 8% of the cases. **Figure 10** below reflects that of the remaining 92% of reported cases, financial misconduct was committed by males in 52% of the reported cases, and by females in 40% of the reported cases.

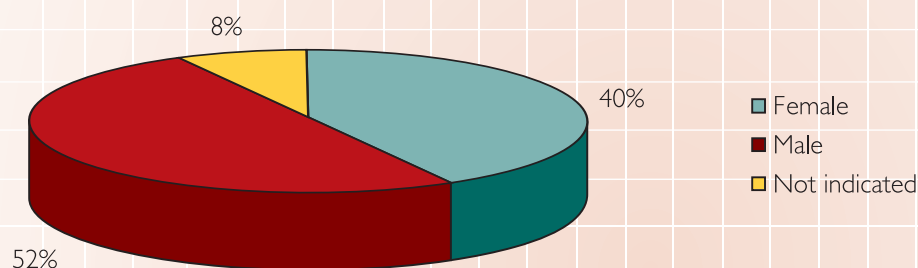


FIGURE 10: GENDER OF OFFENDERS IN RESPECT OF FINANCIAL MISCONDUCT CASES

The types of financial misconduct cases discussed in paragraph 3.3 above were further categorized in terms of gender. Figure 11 below contains an analysis of the percentage of the types of financial misconduct in respect of gender.

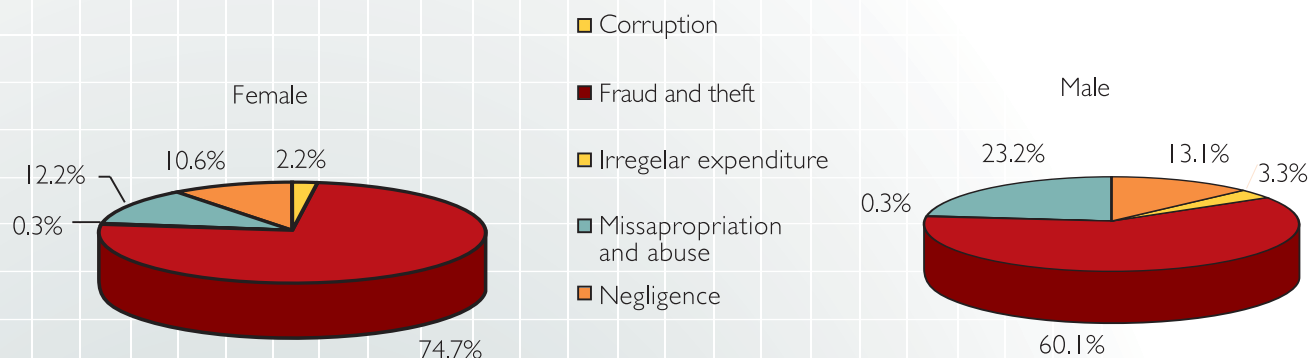


Figure 11: Percentage of the types of financial misconduct in respect of gender

Figure 11 indicates that in respect of the 312 cases involving females, incidences of fraud and theft constitute 74.7% of the total number of cases and incidences of misappropriation and abuse constitute 12.2% of the total number of cases. In respect of the 397 cases involving males, 60.1% of the reported cases involved incidences of fraud and theft and 23.2% of the cases involved incidences of misappropriation and abuse.

3.6 Outcome of financial misconduct cases

The Treasury Regulations provides for departments to report on the outcome of disciplinary proceedings. For statistical purposes the outcome of cases reported by departments were categorized as follows:

- Guilty, referring to those cases where the Chairperson of the disciplinary hearing had found the employee guilty of the charge(s).
- Case withdrawn, representing those cases where the employee was charged with misconduct, but the charge(s) was withdrawn due to lack of evidence.
- Resigned, referring to those cases where the employee has resigned from the Public Service whilst the disciplinary case was pending.
- Deceased, which refers to those cases where the employee has passed on whilst the disciplinary case was pending.
- Not guilty, referring to those cases where the Chairperson of the disciplinary hearing has found the employee not guilty of the charge(s).

An analysis of the figure below reveals that of the 771 cases where charges were brought against employees, 81% of employees were found guilty of financial misconduct. This is higher than that of the 77% of employees that were found guilty of financial misconduct in the 2004/2005 financial year.

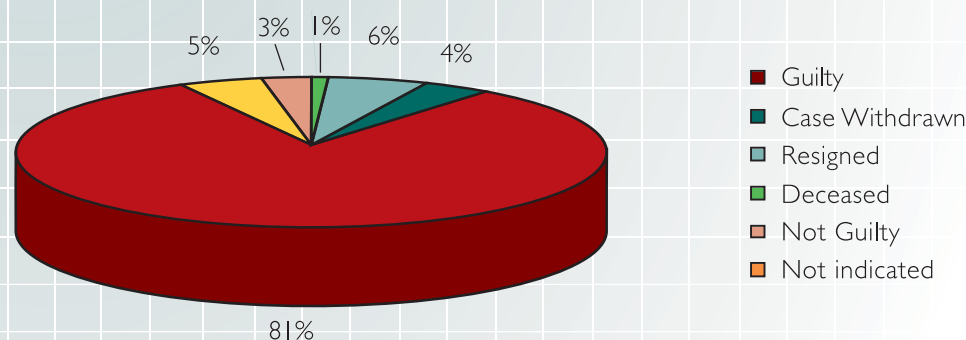


Figure 12: Outcome of financial misconduct cases for the 2005/06 financial year

Figure 12 above reflects that 6% were not found guilty of financial misconduct. This is due to various reasons,

among others, lack of evidence to support the case. A further 5% of the cases were withdrawn. In twenty three (23) instances (3%), departments reported that the disciplinary cases were not finalised due to the resignation of employees. The risks and the impact associated with this practice have been reported in the previous financial years. It was indicated that although allowing an employee to voluntarily resign may help him or her to “save face”, this practice is inconsistent with the Government's commitment to root out corruption, as these employees would not take responsibility for their actions. Resigning prior to the disciplinary process is finalised will also have the effect that employees will have a “clean record”, and the alleged misconduct will therefore not be brought to the attention of future employers.

Of concern is the reporting of a case by the Department of Justice and Constitutional Development whereby an employee resigned prior to the finalisation of the disciplinary case. The financial implication of the alleged misconduct committed by the employee, amounted to R900,000.00. The Department, however, indicated that no criminal charges had been instituted against the employee. In terms of the Prevention and Combating of Corrupt Activities Act, 2004, departments are compelled to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R100,000.00 or more to the South African Police Service. Failure to make such a report is regarded as an offence in terms of subsection 34(2) of the said Act.

Figure 13 below, is an exposition of the outcome of financial misconduct cases for the past four financial years.

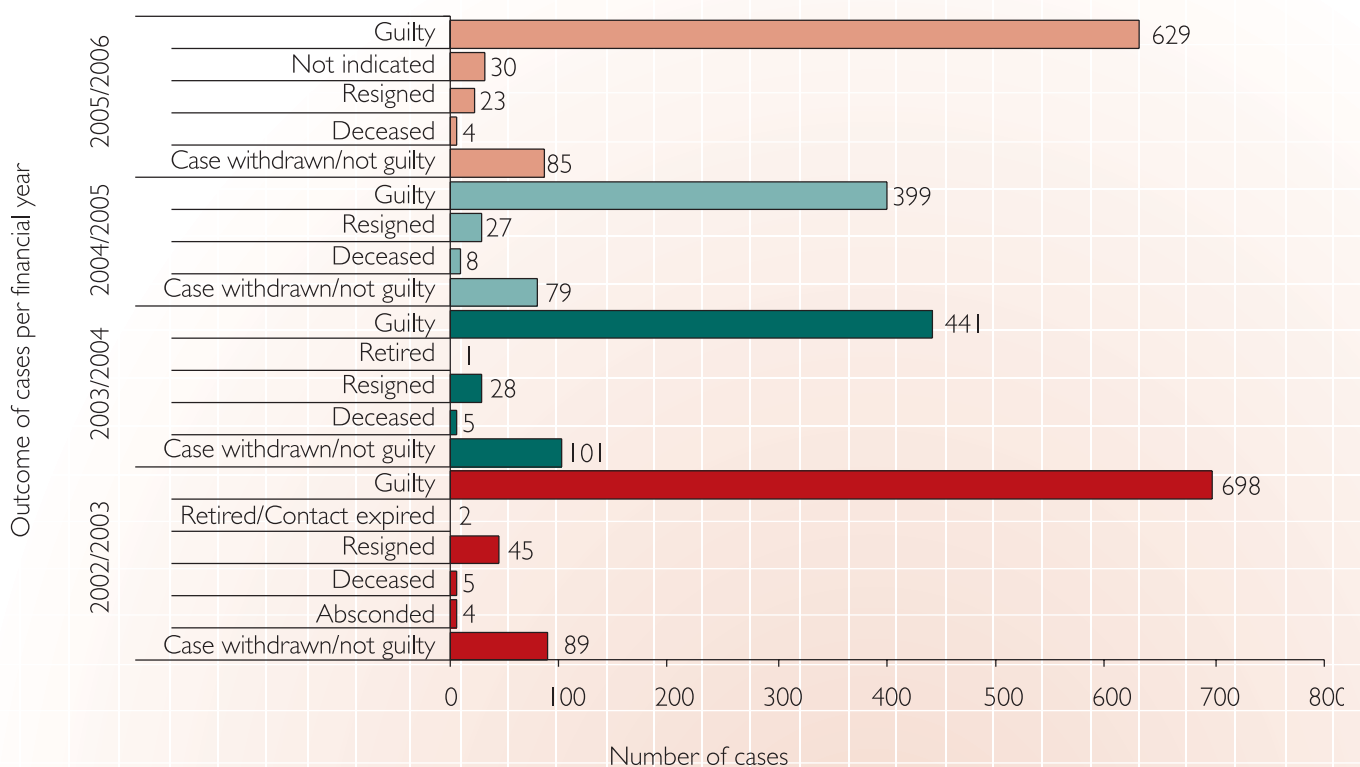


Figure 13: Outcome of financial misconduct cases for the past four financial years

Although 81% of the employees were found guilty of financial misconduct, it is noted that in 3.8% of the cases reported the departments did not indicate the outcome of the financial misconduct cases. In order to provide an analysis of the outcome of financial misconduct cases, it is imperative that departments submit properly completed reports to the PSC.

3.7 Sanctions imposed in cases of financial misconduct

In terms of section 38 of the PFMA, the accounting officer of a department, must take effective and appropriate disciplinary steps against an employee who contravenes or fails to comply with the provisions of the PFMA and/or who undermines the financial management and internal control system of the department. This is put into effect by various procedures pertaining to disciplinary actions that are applicable in the Public Service, depending on the legislation in terms of which an employee is employed, e.g. the Public Service Act, 1994, the South African Police Service Act, 1995 and the Defence Act, 1957.

In view of the fact that different sanctions are provided for in terms of the Disciplinary Code and Procedures for the Public Service, the Regulations for the South African Police Service and Defence Act, 1957, a summary of the sanctions are indicated below:

In terms of the Disciplinary Code and Procedures for the Public Service⁹, the following sanctions may be imposed:

- (i.) Counseling.
- (ii.) Written warning.
- (iii.) Final written warning
- (iv.) Suspension without pay for a limited period of three months.
- (v.) Demotion.
- (vi.) A combination of the above sanctions.
- (vii.) Dismissal.

In terms of the Regulations for the South African Police Service¹⁰, the following sanctions may be imposed:

- (i.) Counseling.
- (ii.) A written warning.
- (iii.) A final written warning.
- (iv.) Demotion by one salary level for a period not exceeding twelve months.
- (v.) Suspension without remuneration for no longer than three months.
- (vi.) Dismissal.
- (vii.) Suspended dismissal for a period not exceeding six months;
- (viii.) Any of the above sanctions but suspended for a period not exceeding six months;
- (ix.) A fine of up to R500.00 to be deducted in installments; or
- (x.) A combination of the above.

The Department of Defence may impose the following sanctions on members employed in terms of the Defence Act, for transgressions committed that relate to financial misconduct:

- (i.) Reprimand.
- (ii.) Imprisonment and cashiering in cases of members in the rank of an officer or dismissal.
- (iii.) Discharge with ignominy for ranks below that of an officer.
- (iv.) Detention in the case of a member in any other rank than that of an officer.
- (v.) Field punishment in the case of a member in any other rank than that of an officer.
- (vi.) Demotion or reversion of rank.
- (vii.) Reduction in seniority in rank.
- (viii.) Fine not exceeding R6000,00.

⁹ Disciplinary Code and Procedures for the Public Service, Public Service Co-ordinating Bargaining Council Resolution 2 of 1999, as amended.

¹⁰ The South African Police Service Discipline Regulations came into effect on 31 August 2005. Prior to this date the South African Police Service Regulations applied.

- (ix.) Confinement to barracks in the case of a private for a maximum period of 21 days.
- (x.) Corrective punishment.

In deciding on a suitable sanction, the merits of each case should always be considered by the chairperson of the enquiry in terms of the principles of fair and sound labour relations.

The figure below indicates the type of sanctions applied by the departments for the financial year 2005/2006. The sanction of dismissal was imposed in 31% of the cases. In one case, the Department of Public Service and Administration indicated abscondment as a sanction. In twenty seven (27) cases, the departments did not indicate the sanction imposed on the employees. In seventeen (17) of these cases, the departments indicated that the sanction imposed was the recovery of the money from the employee.

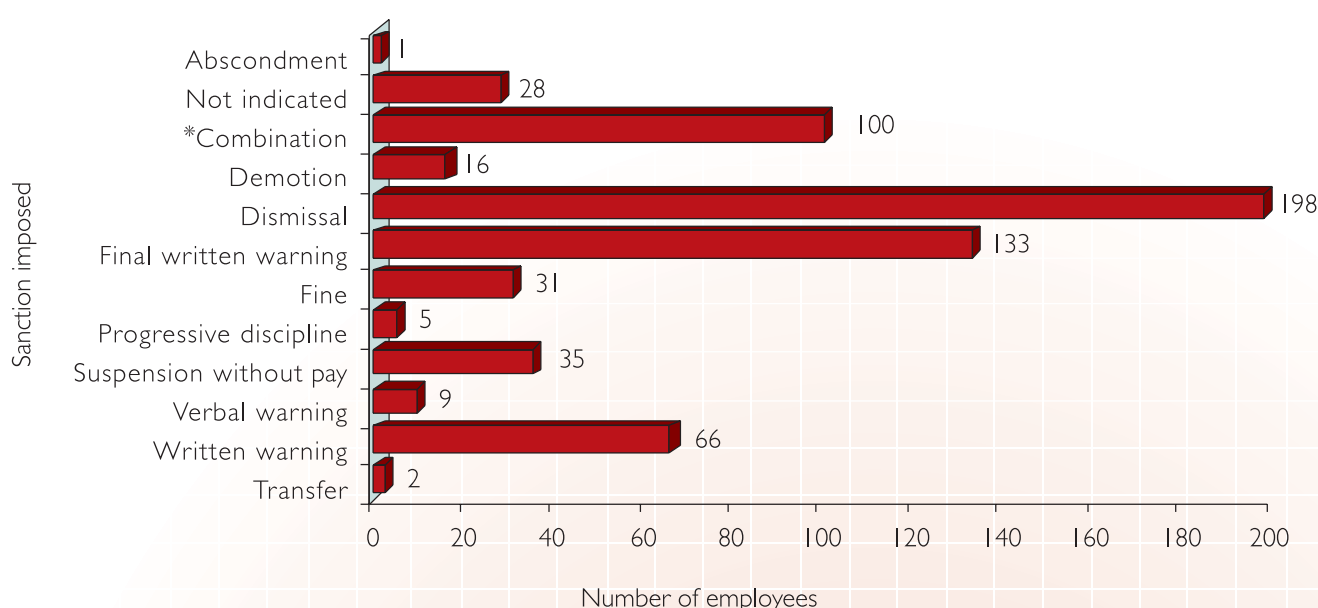


Figure 14: Sanctions imposed in financial misconduct cases

Note: "Combination" as reflected in Figure 14 means those cases where the chair of the disciplinary hearing pronounced a combination of sanctions as provided for in clause 7.4(a)(v) of the Disciplinary Code and Procedures, e.g. a final written warning and suspension without pay.

It is not always easy for the Chairperson of a disciplinary hearing to conclude that dismissal may be an appropriate sanction in an act of misconduct. One question that the Chairperson should ask himself is "was the act of misconduct sufficiently grave as to justify the permanent termination of the relationship?"

Since the 2002/2003 financial year, dismissal remains the most prevalent sanction followed by final written warnings. The figure below provides a comparison in terms of sanctions imposed over the past five financial years. Analysis of the reporting by departments for the financial year 2005/2006 against the reporting from the previous financial years, indicate that a combination of sanctions is imposed by departments on an increasing basis. For the financial year 2005/2006, a combination of sanctions was indicated in 100 cases (16%).

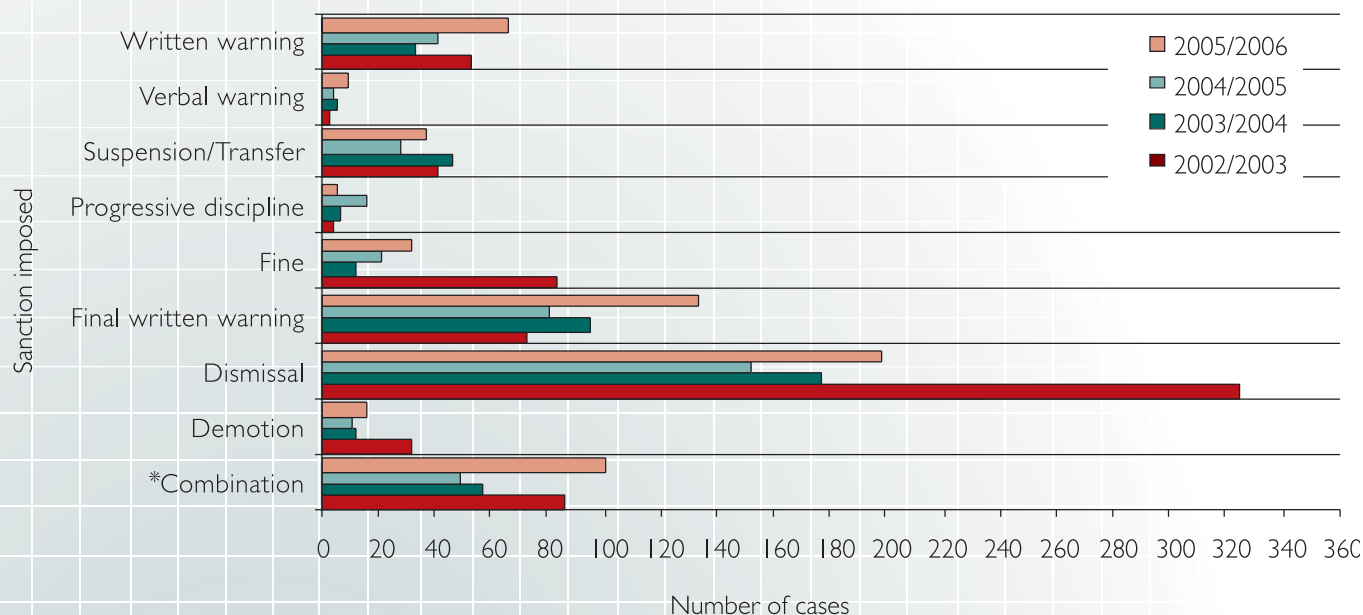


Figure 15: Sanctions imposed against employees found guilty of financial misconduct during the past four financial years

Note: "Combination" as reflected in Figure 15 means those cases where the chair of the disciplinary hearing pronounced a combination of sanctions as provided for in clause 7.4(a)(v) of the Disciplinary Code and Procedures, e.g. a final written warning and suspension without pay.

It is expected that the sanction of dismissal imposed by departments will act as a strong deterrent throughout the Public Service and should reduce the number of future occurrences. Ensuring that employees are disciplined for wrongdoing fosters the practice that violators are likely to be caught and punished. It also demonstrates that the Public Service is committed to an environment of high ethical standards and integrity.

3.8 Criminal Proceedings instituted against employees charged with financial misconduct

As financial misconduct in the Public Service is invariably harmful to the public interest, the public expects that criminal action be taken against employees that make themselves guilty of such acts.

Treasury Regulation 4.3.1 determines that the accounting officer of the department must advise the executing authority, the Department of Public Service and Administration and the PSC of any criminal charges laid against any official in terms of section 8 of the PFMA. Treasury Regulation 4.3.2 further determines that the outcome of any further action taken against an official such as criminal charges or civil proceedings must be reported to, among others, the PSC.

The figure below depicts those cases where criminal proceedings were instituted against employees charged with financial misconduct for the financial years 2002/2003 to 2005/2006.

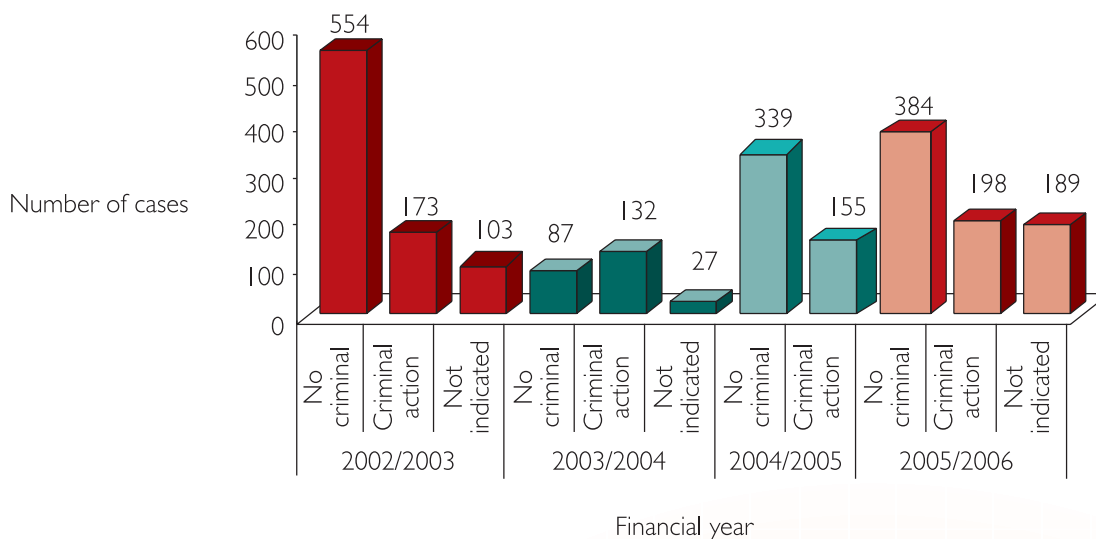


Figure 16: Criminal proceedings instituted against employees charged with financial misconduct

From the above figure, it appears that in the majority of the cases, criminal action were not instituted against employees for financial misconduct. For the 2005/2006 financial year criminal proceedings were instituted against employees in 25% (198) of the cases. This represents a decrease in comparison to the 2004/2005 financial year, where criminal proceedings were instituted in 31% of the cases. In 49% (384) of the reported cases for the financial year 2005/2006, no criminal proceedings were instituted against employees. Although departments were requested to provide reasons for not instating criminal proceedings against employees, departments failed to submit detail in this regard to the PSC. In 189 cases departments failed to provide any indication whether criminal or any other proceedings were instituted against employees charged with financial misconduct.

In terms of subsection 34(1) of the Prevention and Combating of Corrupt Activities (PCCA) Act, 2004¹¹, any person who holds a "position of authority" is compelled to report offences of theft, fraud, extortion, forgery or uttering of a forged document involving amounts of R100 000.00 or more to the South African Police Service (SAPS). Section 34(4) of the PCCA Act defines a position of authority to include a Director-General or head or equivalent officer of a national or provincial department.

Of the 38 cases involving amounts of R100,000.00 and more, criminal action were taken in the 15 instances mentioned in **Table 14** below.

Table 14: Cases involving R100,000.00 and more where criminal charges were instituted

NATIONAL/ PROVINCE	DEPARTMENT	AMOUNT (R/C)
National	Defence	188 203.00
		292 649.00
		1 300 000.00
	Justice and Constitutional Development	1 353 700.00
	Land Affairs	20 000 000.00
	Public Service and Administration	700 000.00
	Trade and Industry	140 000.00
		200 000.00
	Water Affairs and Forestry	886 000.00
Eastern Cape	Agriculture	613 360.07
KZN	Agriculture and Environmental Affairs	145 569.60
Mpumalanga	Economic Development and Planning	135 623.69
		189 416.40
North West	Transport, Roads and Community Safety	188 000.00
Northern Cape	Safety and Liaison	214 439.55

Following an analysis of cases in the categories “fraud and theft” and “corruption” (refer to paragraph 3.3 above in relation to the types of financial misconduct), it was found that departments indicated in 13 cases that criminal proceedings were not instituted against employees who had committed financial misconduct in excess of R100,000.00. Although the reporting format of the PSC provides for departments to indicate the reasons why criminal action was not taken against an employee, departments did not provide any reasons in the instances mentioned in **Table 15** below.

Table 15: Individual amounts exceeding R100 000.00 not reported

NATIONAL/ PROVINCE	DEPARTMENT	TYPE OF FINANCIAL MISCONDUCT	AMOUNT (R/C)
National	Correctional Services	Fraud and theft	168 625.46
	Defence	Fraud and theft	572 268.00
	Environmental Affairs and Tourism	Corruption	100 000.00
	Justice and Constitutional Development	Corruption	217 944.00
		Fraud and theft	113 300.00
			233 346.00
			236 519.00
			600 000.00

KZN	Social Welfare and Population Development	Fraud and theft	100 000.00
			245 686.17
			263 998.34
Mpumalanga	Health and Social Services	Fraud and theft	301 506.27
			391 914.10

With respect to the 9 cases in the categories “fraud and theft” and “corruption” (refer to paragraph 3.3 above in relation to the types of financial misconduct) where employees had committed financial misconduct in excess of R100,000.00, departments did not indicate whether or not criminal action was taken against such employees. **Table 16** below provides a breakdown of such cases.

Table 16: Individual amounts exceeding R100 000.00 where departments did not indicate whether or not criminal action was taken.

NATIONAL/ PROVINCE	DEPARTMENT	TYPE OF FINANCIAL MISCONDUCT	AMOUNT (R/C)
Eastern Cape	Education	Misappropriation and abuse	193 139.75
			221 401.56
			269 242.70
	Public Works	Fraud and theft	1 140 324.00
			1 800 000.00
Mpumalanga	Local Government and Housing	Fraud and theft	122 850.30
			165 893.91
			1 960 137.03
			2 064 870.32

The provisions of subsection 34(1) of the PCCA Act, introduces a positive duty to report certain criminal conduct. In terms of subsection 34(2) of the PCCA Act, any person who fails to comply with subsection 34(1) is guilty of an offence. Such an offence is punishable by a fine or imprisonment for a period not exceeding 10 years. Once a case is reported, it is for the SAPS and the courts to decide whether a crime has been committed. As the public expects action to be taken against offenders these stakeholders should not be deprived of the function to adjudicate on corrupt or fraudulent activities by failure to report cases.

Accounting officers of the departments mentioned in **Tables 15 and 16** above, should ensure that cases where the State has suffered losses or damages as a result of financial misconduct to the amount of R100,000.00 or more, are reported to the SAPS, failure of which constitutes an offence.

3.9 Cost of Financial Misconduct

Financial misconduct by any employee results in material and financial detriment to the State as a whole and impedes the government's ability to advance its mission of service delivery. It corrodes good governance on all levels and deprives both government and the community of scarce resources that are needed to ensure economic prosperity, equality and a better life for all. Given the emphasis on growth and development and the role expected of the public servant in this regard the Public Service can ill afford perceptions that public servants have their “hand in the till” and thereby are diverting resources from this objective.

In terms of section 38(c)(i) of the PFMA read in conjunction with Treasury Regulation Part 5, paragraph 12.5.1, the accounting officer of the department is required to take effective steps to collect all money due to the

department. However, departments are not required to provide information pertaining to the cost of financial misconduct to the PSC in terms of Treasury Regulation 4.3. Departments are therefore, requested in the reporting format, to submit information pertaining to the cost of financial misconduct to the PSC.

The total cost emanating from unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct reported by departments and provinces for the 2005/06 financial year was R45,649,391.00. However, not all departments indicated the cost of financial misconduct. **Table 17** below provides an overview of the cost of financial misconduct for the past four financial years.

Table 17: Total cost of financial misconduct per financial year

Financial year	Financial cost
2002/2003	R 331,213,430.16
2003/2004	R 20,351,101.88
2004/2005	R 120,497,731.02
2005/2006	R 45,649,391.00

Although there has been an increase in the number of cases (771) reported for the 2005/2006 financial year, as compared to the 2004/2005 financial year (513 cases), **Table 17** shows that there has been a substantial decrease in the cost of financial misconduct in the 2005/2006 financial year. However, in the 2004/2005 one case involving gross negligence to an amount of R92 000,000.00 (Ninety two Million Rand) was reported, which impacted on the overall cost of financial misconduct.

A breakdown of the cost of financial misconduct reported at National and Provincial level, is indicated below:

3.9.1 Cost of financial misconduct reported at national level

The table below reflects the financial loss as reported by the national departments for the 2005/2005 financial year. It is apparent that the material loss as a result of financial misconduct is substantial even at national level of government. An amount of R30,608,054.80 was lost as a result of financial misconduct in national departments, however only an amount of R848,295.17 was recovered. This reflects that a substantial amount totaling R29,759,759.63 was not recovered. This amount is considered an unauthorized and wasteful expenditure that should be recovered.

Table 18: Cost of financial misconduct reported at national level

DEPARTMENT	AMOUNT R/C	AMOUNT RECOVERED R/C
Agriculture	82 386.00	0,00
Arts & Culture	36 932.84	36 932.84
Correctional Services	499 121.91	63 171.71
Defence	2 832 005.00	348 568.30
Education	80 241.61	80 241.16
Environmental Affairs and Tourism	144 718.12	0.00
Foreign Affairs	47 831.03	0.00
GCIS	2 800.00	2 800.00
Health	143 631.65	31 377.54
Home Affairs	49 983.00	49 983.00

DEPARTMENT	AMOUNT R/C	AMOUNT RECOVERED R/C
Housing	24 264.31	24 264.31
Justice and Constitutional Development	4 040 825.02	52 360.02
Labour	60 454.09	3 120.36
Land Affairs	20 000 000.00	0.00
Minerals and Energy	79 633.53	9 864.23
National Treasury	154.84	154.84
Public Service and Administration	700 000.00	0.00
Public Works	4 200.00	1 000.00
SAMDI	44 149.25	0.00
SAPS	320 988.98	35 089.94
Stats SA	106 769.03	34 769.03
Trade and Industry	340 000.00	0.00
Transport	62 361.20	62 361.20
Water Affairs and Forestry Total	904 603.39	11 236.26
Total	R 30 608 054.80	R 847 294.70
Amount not recovered		R 29 760 760.10

It is encouraging to note that the Departments of Arts & Culture, Education, Home Affairs, Housing and Transport, as well as the GCIS and National Treasury have recovered the full amounts lost as a result of financial misconduct.

3.9.2 Cost of financial misconduct reported at provincial level

The table below reflects the financial loss as reported by the provincial departments for the 2005/2006 financial year. Although not all the departments indicated the cost of financial misconduct to the PSC, it is apparent that the material loss as a result of financial misconduct is substantial and impacts negatively on service delivery. From the amount of R 15 041 336.20 that was lost as result of financial misconduct only an amount of R 2 442 064.95 was recovered. This reflects that an amount of R12 599 271.25 was not recovered by the departments.

Table 19: Cost of financial misconduct reported at provincial level

PROVINCE	DEPARTMENT	AMOUNT R/C	AMOUNT RECOVERED
Eastern Cape	Agriculture	614 360.07	61 000.00
	Economic Affairs, Environment and Tourism	99 933.49	14 770.59
	Education	1 836 090.79	1 836 090.79
	Health Services	19 470.10	0.00
	Provincial Treasury	4 000.00	4 000.00
	Public Works	3 008 323.49	0.00
Eastern Cape Total		R 5 582 177.94	R 1 915 861.38

PROVINCE	DEPARTMENT	AMOUNT R/C	AMOUNT RECOVERED
Free State	Agriculture	13 348.63	0.00
	Education	64 069.00	1 200.00
	Provincial Treasury	5 000.00	0.00
	Social Development	17 744.00	5 294.00
	Sport, Arts and Culture	14 788.51	4 985.00
	Tourism, Environment and Economic Affairs	18 800.00	18 800.00
Free State Total		R 133 750.14	R 30 279.00
Gauteng	Agriculture, Conservation and Environment	50 388.00	0.00
	Community Safety	49 000.00	0.00
	Public Transport, Roads and Works	8 310.18	8 310.18
	Social Development	11 169.87	11 169.87
	Sport, Recreation, Arts and Culture	10 022.00	9 902.00
Gauteng Total		R 128 890.05	R 29 382.05
KZN	Agriculture and Environmental Affairs	200 780.60	0.00
	Economic Development	10 000.00	0.00
	Social Welfare and Population Development	836 099.98	1 500.00
	Traditional and Local Government Affairs	83 324.56	0.00
KZN Total		R 1 130 205.14	R 1 500.00
Limpopo	Agriculture	103 428.00	1 230.00
	Education	88 116.66	84 144.00
	Health and Social Development	14 569.16	235.63
	Local Government and Housing	101 176.00	0.00
	Public Works	168 951.77	26 771.97
Limpopo Total		R 476 241.59	R 112 381.60
Mpumalanga	Culture, Sport and Recreation	58 882.00	0.00
	Economic Development and Planning	374 925.70	0.00
	Health and Social Services	133 8970.05	0.00
	Local Government and Housing	4 627 567.39	820.00
Mpumalanga Total		R 6 400 345.14	R 820.00
North West	Health Services	3395.58	0.00
	Public Works	13 017.71	10 872.71
	Social Development	4631.96	2 315.98
	Sport, Arts and Culture and Recreation	24 900.00	24 900.00
	Transport, Roads and Community Safety	188 000.00	0.00
North West Total		R 233 945.25	R 38 088.69
Northern Cape	Education	54 350.00	42 050.00
	Health	193 072.29	193 072.29
	Safety and Liaison	402 738.11	0.00
	Social Services and Population Development	1 160.00	360.00
Northern Cape Total		R 651 320.4	R 235 482.29

PROVINCE	DEPARTMENT	AMOUNT R/C	AMOUNT RECOVERED
Western Cape	Community Safety	550.00	0.00
	Cultural Affairs and Sport	11 500.00	0,00
	Education	87 192.47	30 999.50
	Health	159 352.85	4 559.85
	Provincial Treasury	3 138.48	3 138.84
	Social Services and Poverty Alleviation	41 571.75	39 571.75
	Transport and Public Works	1 155.00	0.00
Western Cape Total		R 304 460.55	R 78 269.94
Grand Total		R 15 041 336.20	R 2 442 064.95
Amount not recovered			R12 599 271.25

It is encouraging to note that some provincial departments have recovered the full amounts lost as a result of financial misconduct.

In the 2004/2005 financial year the PSC reported that the total cost of financial misconduct in the provinces were R19,235,476.76¹². **Table 19** above shows that the total cost of financial misconduct in the provinces declined in the 2005/2006 financial year. As indicated earlier, this could possibly be ascribed to the fact that provincial departments do not have the capacity to deal with cases of financial misconduct.

The PFMA requires departments to include in their annual reports and financial statements particulars of, among others, any material losses through criminal conduct, any criminal and disciplinary steps taken as a result of such losses and any material losses recovered or written off. Departments should therefore not have difficulty in reporting such information to the PSC.

3.10 Reasons for the increase/decrease in financial misconduct cases

Departments were requested to inform the PSC on reasons for the increase/decrease in financial misconduct cases reported during the 2005/2006 financial year, compared to that of the 2004/2005 financial year. The following inputs in respect of an increase in financial misconduct cases were received from 15 departments:

Table20: Reasons for increase in financial misconduct cases reported by departments

NATIONAL/ PROVINCE	DEPARTMENT	REASON FOR INCREASE
National	Defence	Reporting system established to manage incidents of financial misconduct. Employees sensitized to report and manage financial misconduct according to the PFMA
	Health	Less stringent control measures in place. Instances of social grant theft
	National Treasury	Employees are not familiar with policies
Eastern Cape	Education	Instances of social grant theft
KZN	Social Welfare and Population Development	Instances of social grant theft
	Works	Focus on reducing and finalizing outstanding cases

NATIONAL/ PROVINCE	DEPARTMENT	REASON FOR INCREASE
Mpumalanga	Health and Social Services	A fraud and corruption strategy has been put in place
	Local Government and Housing	Abuse of PERSAL due to inadequate controls
North West	Office of the Premier	Lack of proper risk management planning
	Public Works	Lack of adherence to applicable legislation
	Transport, Roads and Community Safety	Delay in reporting cases by managers Lack of financial skills and training. A financial audit has been done over a long period
Northern Cape	Safety and Liaison	Employees informed of the Department's zero tolerance policy
Western Cape	Community Safety	Employees informed of the Department's zero tolerance policy
	Health	Instances of social grant theft
	Provincial Treasury	Negligence on the part of employees
	Social Services and Poverty Alleviation	Instances of social grant theft

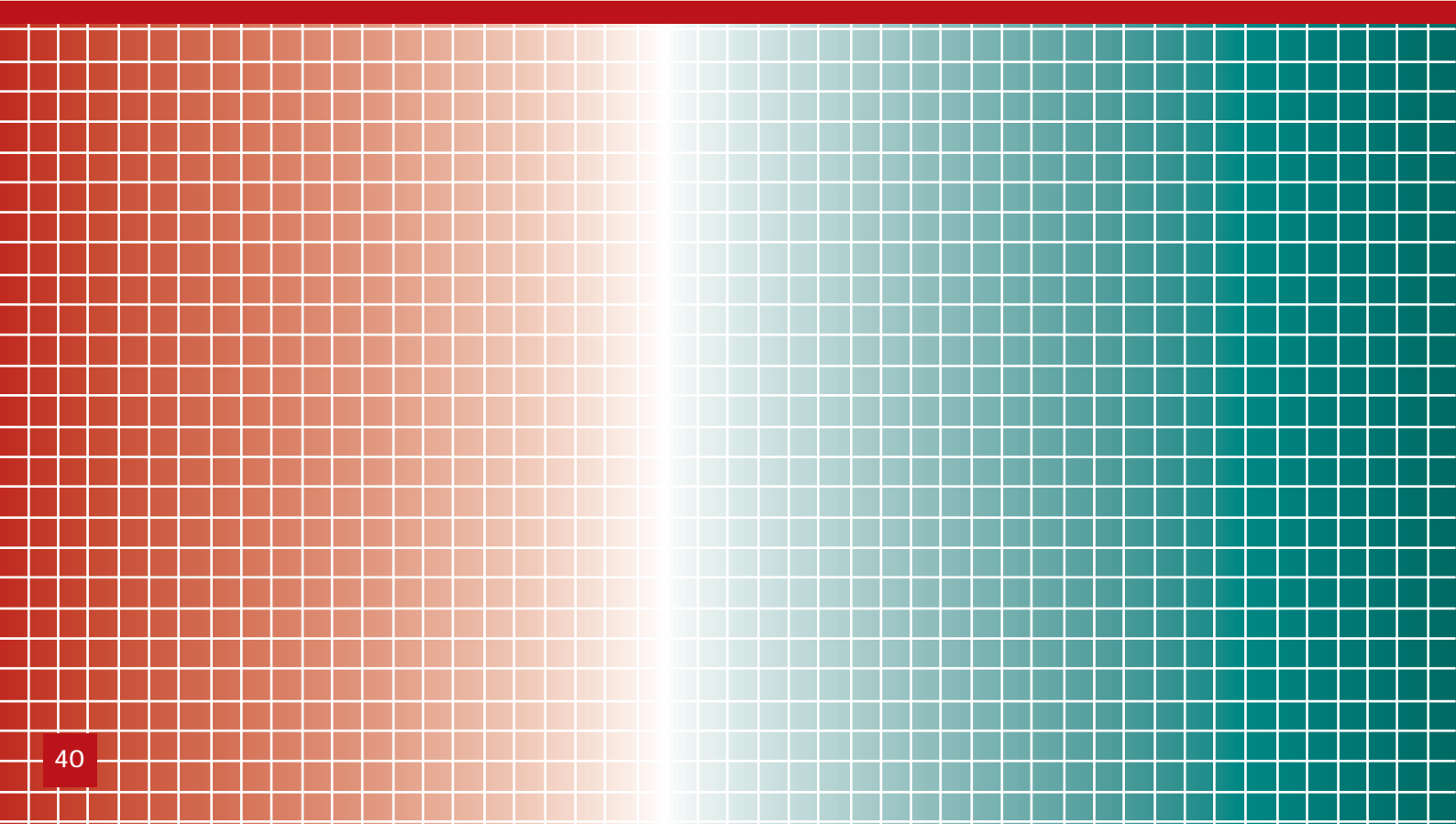
From the above responses by departments it is noted that an increase in misconduct cases relating to social grant theft is cited by four departments. In general, it would appear that risk control mechanisms that were put in place, resulted in financial misconduct being exposed within departments. This is confirmed in the inputs provided by departments in respect of the reasons cited for the decrease in financial misconduct cases. **Table 21** below reflects the inputs of some departments in this regard.

Table 21: Reasons for decrease in financial misconduct cases reported by departments

NATIONAL/ PROVINCE	DEPARTMENT	REASONS FOR DECREASE
National	Agriculture	Awareness programmes on acts of misconduct. Strengthen controls on finances and discipline
	GCIS	Strict management controls
	Health	Improved monitoring and greater sense of awareness of the consequences of fraud and theft
	Land Affairs	Stricter control measures in place
	Minerals and Energy	Workshops on dismissible offenses
	SAPS	More training provided to managers, therefore more awareness and effective monitoring to ensure compliance with PFMA
	Water Affairs and Forestry	Better controls
Eastern Cape	Agriculture	Awareness programmes on acts of misconduct. Strengthen controls on finances and discipline
Free State	Education	Too little fluctuations to accurately give explanation for the decrease
	Sports, Arts and Culture	Regular workshops

NATIONAL/ PROVINCE	DEPARTMENT	REASONS FOR DECREASE
Gauteng	Social Development	More awareness sessions were conducted to emphasize the seriousness of financial misconduct and consequences
KZN	Traditional and Local Government	Internal control inspections more effective in criminal prosecutions for fraud and theft
Limpopo	Public Works	Implementation of compliance and fraud, theft and corruption awareness programme and transfer of roads division to the department of transport
North West	Finance	Employees are trained on PFMA
	Sports Arts and Culture and Recreation	Training conducted by the LR unit
Northern Cape	Social Services and Population Development	Strict application of discipline and harsher sanctions
Western Cape	Transport and Public Works	Proper financial management

An ineffective and weak control environment exposes departments to the risk of financial misconduct. From the responses provided by the departments with regard to reasons for the decrease in the number of financial misconduct cases, it appears that most departments who responded to the question view internal controls as a strong deterrent of financial misconduct. The departments cited among others; stringent controls, improved awareness programmes and strict application of discipline as reasons for the decrease in the number of financial misconduct cases compared to that of the 2004/2005 financial year.



Chapter Four

Observations and Recommendations

4.1 Introduction

The President, Mr TM Mbeki, in his State of the Nation Address in 2006 indicated that the government will remain focused on the challenge to fight corruption in the public sector and in society at large¹. This report serves as one of the accountability mechanisms in government in its fight against corruption and provides the PSC with information to assess financial misconduct in the Public Service. This Chapter contains some observations that have been made, emanating from the analysis and findings, as well as recommendations where applicable.

4.2 Anomaly in the number of cases reported by provinces

This report reflects the trend of a higher ratio of financial misconduct cases at national level as compared to provincial level. Although it could be perceived as a positive indication that provinces have managed to curb corruption to some extent, the more probable explanation is that provinces are not effectively dealing with financial misconduct or not accurately reporting on such cases. These assumptions are made on the basis of various investigations and interventions in which the PSC has been involved with in provinces during the past few years.

Furthermore, the National Anti-Corruption Hotline (NACH) is an initiative of government, aimed at promoting and encouraging reporting on corrupt practice. The NACH was launched in September 2004 and the large number of corruption and fraud related cases reported through this mechanism, especially in the provinces, is not reflected in the statistics provided. A study presently conducted by the PSC points to the fact that departments are very slow in finalizing investigations into these cases.

Recommendations

- Reporting mechanisms are not adequate to address corruption. If government is committed to its focus towards rooting out corruption, the investigation of reported cases should receive the same amount of attention. Departments should consider measures to improve the investigation of reported cases of financial misconduct, ensuring that it leads to the finalization of such cases.
- Discipline is essentially the responsibility of line managers. If they are reluctant or unable to deal with disciplinary cases, it will compromise the management of discipline. Departments should therefore ensure that (on a staggered basis if necessary) all Line Managers have received up-to-date, comprehensive training on the management of discipline.

4.3 Need for the analysis of the financial misconduct trends

The analysis of trends in financial misconduct committed can capacitate departments to address the adequacy and effectiveness of the internal control system and the degree of exposure and risk that exists in these areas. Risk assessments assist in the prevention and the detection of fraud and other forms of misconduct. Although prevention cannot be guaranteed, measures such as risk assessment play a very important role in addressing financial misconduct proactively. Throughout the past four financial years, the PSC's reports have shown that cases in the category "fraud and theft" have been the most prevalent. Departments have a responsibility to safeguard its assets from negligent and unauthorized behaviour and should therefore assess the risks associated with the cases reported.

Recommendation

A strong link between investigators of cases of financial misconduct and the Internal Audit units of departments should be established. This will assist with the identification of patterns of financial misconduct and the amendment of the Internal Audit coverage plan when financial and fraud risks materialize. These trends should also lead to a re-evaluation of the existing fraud risk assessment and profile of departments to ensure a greater alignment between fraud risk assessments and real risk exposure. The identification of trends of financial misconduct should lead to an assessment of the adequacy of control measures to prevent the recurrence of the same problems.

4.4 Focus on building an ethical culture

Formal training programs to improve the ethical culture of departments are essential to aligning individual behaviour with each department's objectives. Departmental training programmes on improving ethical behaviour should therefore be devised to enhance the ethical environment within the department. As a result of the prevalence of financial misconduct at salary levels 6 and 7 over the past four financial years, there is a need to provide focused training in ethics to this level of employees. Furthermore, during the 2005/2006 financial year a trend emerged that cases of financial misconduct at these levels often involved negligence. Focused training on the Code of Conduct with particular reference to the "Performance of Duties" will therefore have to be done in these departments. This may alleviate the negligence identified in these departments and lead to a higher level of professional ethics as well as professional conduct. While ethics training in itself is no guarantee for complete honesty and dedication in the performance of duties, it may serve as a deterrent and also limit the prevalence of financial misconduct in the affected departments.

Recommendation

Departments should provide focused Code of Conduct training to employees on salary levels 6 and 7, with special emphasis on the performance of duties to equip them with the specific knowledge, skills and standards of behaviour to deal with the pressures associated with any demands placed on these employees.

4.5 Failure to submit reports on time

In terms of Treasury Regulation 4.3, read with section 85(1)(a) and (e) of the PFMA, accounting officers must, as soon as the disciplinary proceedings are completed, report the outcome of the financial misconduct case, to, amongst others, the PSC. To this end, the PSC sends a circular to national and provincial departments to remind them to report finalised financial misconduct cases to the PSC, once a year. In order to remind national and provincial departments to report finalised financial misconduct cases for the 2005/2006 financial year to the PSC, a circular dated 09 May 2006 was sent to all departments. Despite repeated efforts from the PSC to obtain the required information, the Department of Education in Gauteng Province failed to submit an input to the PSC by the extended closing date of 31 August 2006.

Recommendation

In order to ensure accountability, it is incumbent on the accounting officer to ensure that finalized cases of financial misconduct are reported to the PSC in terms of Treasury Regulation 4.3, read with section 85(1)(a) and (e) of the PFMA, as soon as the disciplinary proceedings are completed. For this purpose, the PSC will in future request departments to provide reports as per the reporting format on a monthly basis. In those instances where departments fail to report to the PSC in future, the PSC will summons Accounting Officers, in terms of the Rules for the summoning of witnesses in connection with inquiries and investigations of the Public Service Commission, published in Government Gazette No.23267 dated 28 March 2002.

4.6 Inaccuracy in respect of the information provided

A total of three financial misconduct reports issued during 2001/2002, 2002/2003, 2003/2004, and 2004/2005 financial years suggested improvements and necessary corrections regarding the reporting of finalized cases of financial misconduct by departments. In order to assist departments with their reporting on finalised financial misconduct, the PSC amended the format for reporting to enable departments to submit properly completed reports to the PSC. However, it appears that some departments are indifferent to accurate reporting or lacks the capacity to pay proper attention to accurate reporting. This observation is based on the fact that even though departments had the reporting format at their disposal, the following information was still not reflected in some of the reports that were submitted to the PSC:

- The rank or salary levels of employees.
- Type of a sanction imposed and an indication whether criminal or civil proceedings were taken.
- Amount involved and amount recovered.

It was also observed that pending cases, often in the hearing stages of the disciplinary process, are reported to the PSC, whereas the Treasury Regulations clearly stipulates that cases should be reported to the PSC as soon as the disciplinary proceedings are completed.

The lack of properly completed reports to the PSC raises a concern that inputs submitted by some of the departments to the PSC were not checked for completeness, validity nor reporting format. Failure to provide information as requested reflects an apparent lack of control by the department to fulfill its obligation in terms of the PFMA and Treasury Regulations, which stipulates that the accounting officer must as soon as the disciplinary proceedings are completed, report to the PSC on the outcome. It is therefore an obligation of management to present reliable, complete and accurate statistical information pertaining to finalized cases of financial misconduct to the PSC.

Monthly reporting to the PSC as recommended in paragraph 4.2 above would hopefully assist departments to provide more accurate information, as smaller volumes of information is to be provided to the PSC.

Recommendations

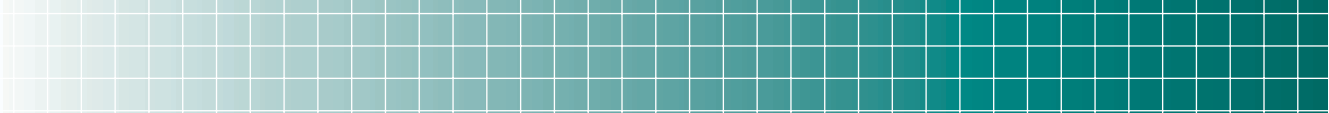
Management control measures should be put in place by departments to ensure that inputs submitted to the PSC is accurate, valid and completed in a format that is prescribed for the purpose of reporting (attention is drawn to section 85(1)(a) and (e) of the PFMA read in conjunction with Treasury Regulations 4.3).

As control weaknesses regarding information reported to the PSC have been highlighted since the 2001/2002 financial year, control over accuracy, completeness and validity of departments' financial misconduct reports must vest with senior management as stipulated in the Treasury Regulations 4.3.

4.7 Discrepancies pertaining to financial misconduct cost and recovery of debt

In the PSC's report on financial misconduct covering the financial years 2002/2003 and 2003/2004 it was indicated that Treasury Regulation 4.3 determines that the accounting officer must, amongst others, report on the charges, indicating the financial misconduct the official is alleged to have committed. This has resulted in some departments indicating the amount involved in the financial misconduct committed.

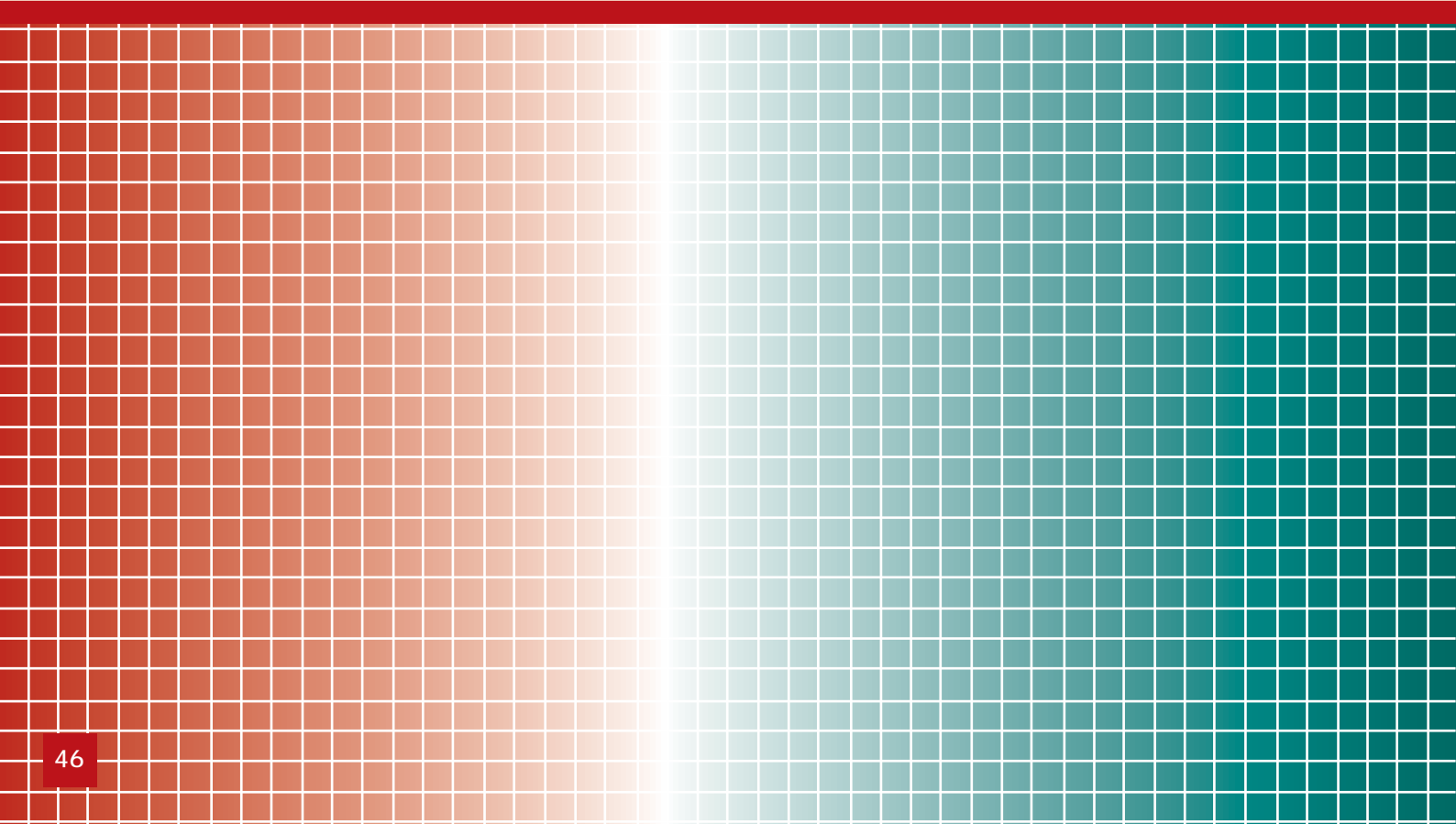
In terms of section 38(c)(i) of the PFMA read in conjunction with Treasury Regulation Part 5, paragraph 12.5.1 the accounting officer is required to take effective steps to collect all money due to the department. The PSC therefore requested departments to indicate whether the amounts involved in the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



However, as the reporting of the amount involved in the financial misconduct and the recovery of debt are not prerequisites, the total cost of financial misconduct reflected in this report cannot be regarded as inclusive of the total cost of financial misconduct and the total amount of debt recovered could not be established.

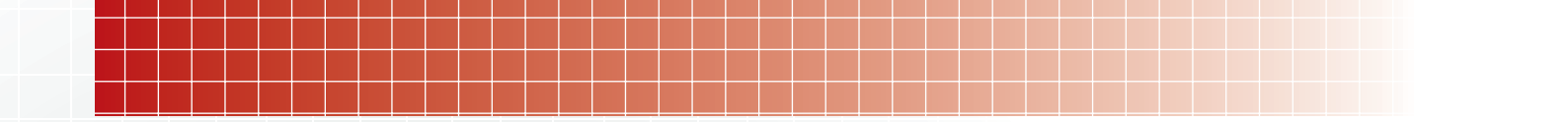
Recommendation

Disclosure of the amounts involved and the recovery of debt is necessary for the reporting of financial misconduct. The National Treasury should review the Treasury Regulations with a view to compelling departments to report financial costs as a result of financial misconduct and recovery of debt.



Chapter Five

Conclusion



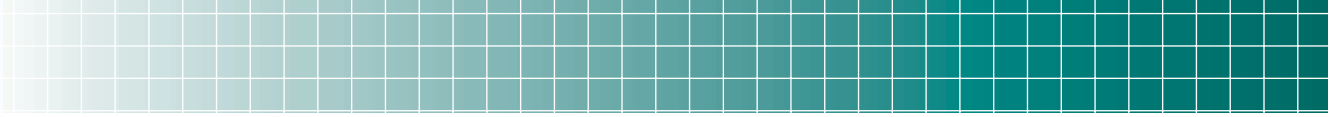
Citizens pay taxes, levies and other monies to enable government to execute its mandate and service delivery. Society generally expects the government to utilize these funds economically, efficiently and effectively. This requires commitment from the employees responsible for the various programmes of government. It is for this reason that the PFMA stipulates the rules and regulations that should be followed to enhance and achieve sound financial management.

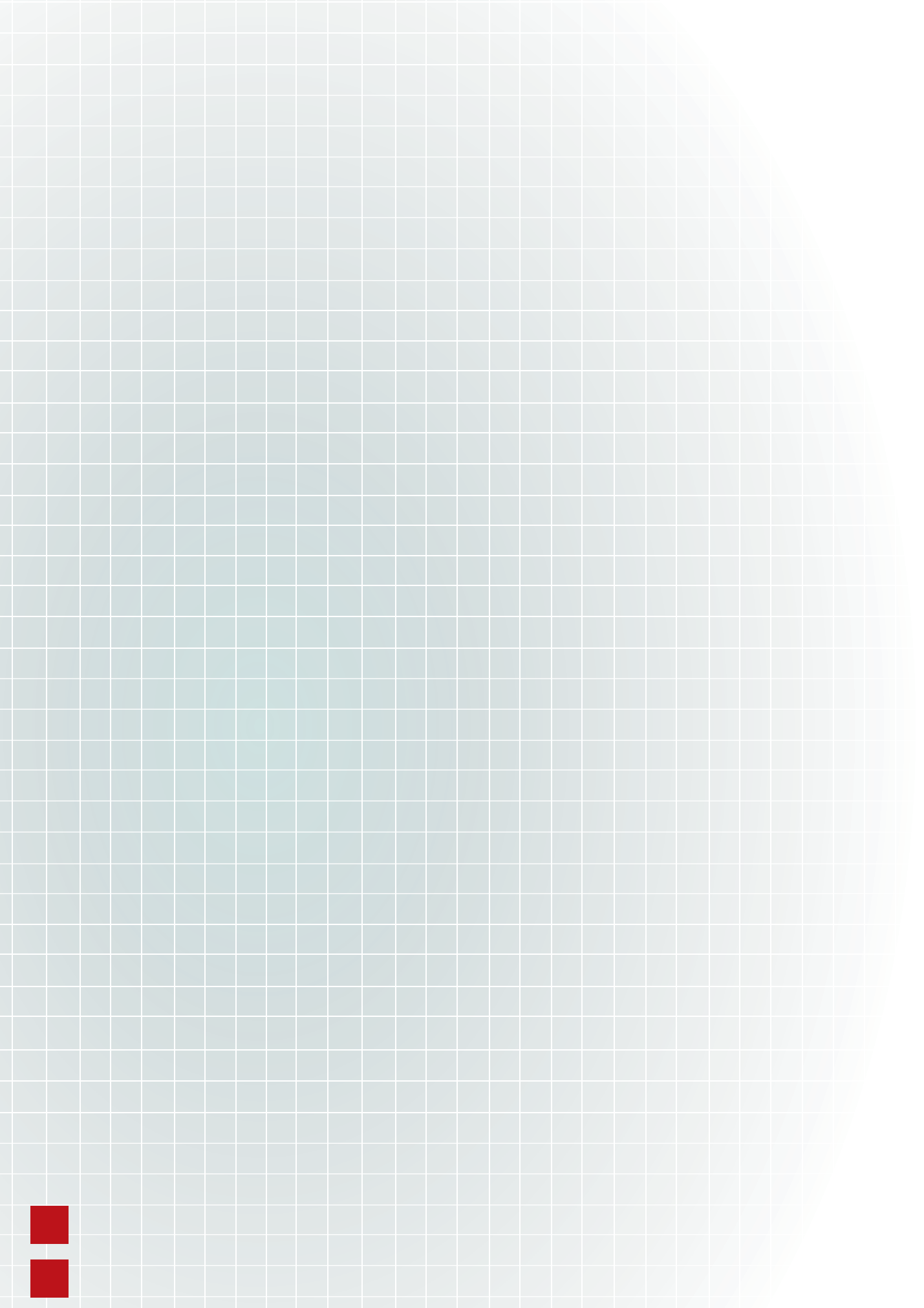
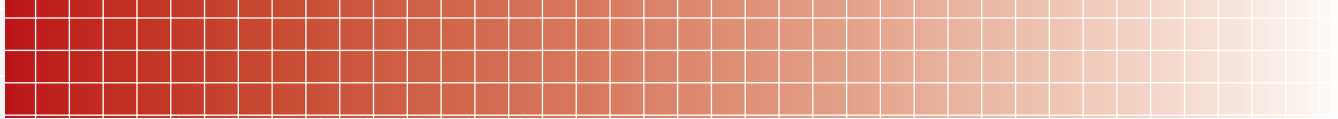
When a department loses monies as a result of financial misconduct either through theft, fraud, corruption or mismanagement, it may find itself in a position which not only affects its capabilities to perform its duties, but which also affects the funds available to the department in future years. The PFMA places a responsibility on every official in the Public Service to actively prevent and report the occurrences of financial misconduct and other unauthorized expenditure. This requires departments to concentrate their efforts on preventing financial misconduct rather than responding to financial misconduct. Financial misconduct should be viewed seriously as it causes financial harm to the state and hampers service delivery.

Annexure A

FORMAT FOR REPORTING ON FINANCIAL MISCONDUCT

NAME OF DEPARTMENT:							NAME OF PROVINCE (if applicable):		
NAME AND CONTACT DETAILS OF EMPLOYEE RESPONSIBLE FOR COMPLETION OF REPORT:									
NAME	RANK	GENDER M/F	SALARY LEVEL	CHARGES PREFERRED AGAINST EMPLOYEE ¹	FINDINGS OF DISCIPLINARY ENQUIRY	SANCTION IMPOSED	FURTHER ACTION TAKEN AGAINST EMPLOYEE ²	AMOUNT INVOLVED	RECOVERY OF LOSS ³
Example: Smit R	Accounting Clerk	M	5	Theft of paper to the value of R5000,00	Guilty	Dismissal	Criminal action was instituted against the employee on 24 May 2005. Found guilty and imprisonment of	R5,000.00	The amount of R5,000.00 deducted from the pension benefits owed to the employee.
Note:									
¹ Provide detail in regard to the specific charges preferred against each employee.									
² If no criminal action was taken against an employee that committed financial misconduct, indicate the reasons for the decision.									
³ If the loss ascribed to financial misconduct was not recovered, indicate the reasons for the decision.									
Questions:									
[a] What are the reasons for the increase/decrease in financial misconduct cases reported during the 2005/06 financial year compared to the 2004/05 financial year?									
[b] If there is a trend of financial misconduct cases on a particular salary level, indicate the possible reasons for this trend.									





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