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Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

MANAGEMENT OF STATE LITIGATION POLICY

**POLICY DEVELOPED PURSUANT TO SECTION 3(4) OF THE STATE
ATTORNEYS AMENDMENT ACT, 2014
(ACT 13, 2014)**

INITIATED BY:

**OFFICE OF THE SOLICITOR-GENERAL
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT
FEBRUARY 2021**



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Table of Contents

| | |
|--|-----------|
| CHAPTER 1: INTRODUCTION | 3 |
| 1.1 Definitions | 3 |
| 1.2 BACKGROUND..... | 4 |
| 1.3 LEGISLATIVE MANDATE | 4 |
| 1.4 SCOPE OF APPLICATION | 5 |
| CHAPTER 2: POLICY AIMS AND OBJECTIVES | 5 |
| 2.1 THE EFFICIENT AND EFFECTIVE MANAGEMENT OF STATE LITIGATION..... | 5 |
| 2.2 SKILLS DEVELOPMENT PLAN FOR LITIGATION OFFICERS AND STATE ATTORNEYS..... | 5 |
| CHAPTER 3: ROLE-PLAYERS | 6 |
| 3.1 ACCOUNTING OFFICERS OR ACCOUNTING AUTHORITIES..... | 6 |
| 3.2 SOLICITOR-GENERAL..... | 7 |
| 3.3 STATE ATTORNEYS..... | 7 |
| 3.4 CLIENT DEPARTMENTS/LITIGATION OFFICERS | 7 |
| CHAPTER 4: COORDINATION & CONDUCT OF LITIGATION | 7 |
| 4.1 ETHICS AND GOVERNANCE OF THE STATE ATTORNEY AND LITIGATION OFFICERS..... | 8 |
| 4.2 RECEIPT OF PROCESS | 8 |
| 4.3 RESPONSIBILITY OF LITIGATION OFFICERS AND/OR ORGANS OF STATE | 9 |
| 4.4 RESPONSIBILITY OF STATE ATTORNEY | 10 |
| 4.5 Issuing of Instructions..... | 11 |
| 4.6 Attendance of Hearings..... | 11 |
| 4.7 Settlement..... | 11 |
| 4.8 Withdrawal as Attorney of Record | 11 |
| CHAPTER 5: LITIGATION RISK ANALYSIS | 12 |
| 5.3 A litigation risk report must consist of: | 12 |
| CHAPTER 6: REPORTING RESPONSIBILITIES | 13 |
| 6.1 LITIGATION EXPENDITURE REPORT | 13 |
| 6.2 JUDGMENT REPORT..... | 13 |
| 6.3 SUBMISSION OF REPORTS..... | 13 |
| 6.4 REPORTING RESPONSIBILITIES OF THE STATE ATTORNEY | 14 |
| CHAPTER 7: COMPLAINTS | 14 |
| 7.1 REPORTING AN ATTORNEY OF RECORD..... | 14 |
| 7.2 REPORTING A LITIGATION OFFICER | 14 |

CHAPTER 8: MONITORING AND EVALUATION15
CHAPTER 9: DISPUTE RESOLUTION16
CHAPTER 10: POLICY REVIEW.....16
CHAPTER 11. POLICY APPROVAL16

CHAPTER 1: INTRODUCTION

1.1 Definitions

For purposes of this policy, unless the context indicates otherwise-

- (i) **“Accounting Officer or Accounting Authority”** means an accounting officer or accounting authority as defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (ii) **“Advocate”** means a legal practitioner who is admitted and enrolled as such under the Legal Practice Act (Act No. 28 of 2014);
- (iii) **“Attorney”** means a legal practitioner who is admitted and enrolled as such under the Legal Practice Act (Act No. 28 of 2014);
- (iv) **“Department or Client Department”** in relation to a government body or institution includes such body or institution in the national, provincial, local spheres and state owned enterprises;
- (v) **“Head of Legal Services/Head of Unit”** refers to a person responsible for the overall provision of and who oversees legal services in the Department;
- (vi) **“Head of Office”** refers to a person who is responsible for the overall management of the State Attorney office;
- (vii) **“Legal Process”** means any civil or criminal proceedings instituted by or against an organ of state;
- (viii) **“Legal Services”** means any form of legal advice, or drafting of documents, or representation of any person that requires the expertise of a person trained in the practice of law;
- (ix) **“Litigation Officer”** means a legally qualified person in the employ of an organ of state or client department who is responsible for the handling of litigation for or brought against the state;
- (x) **“Minister”** means the Cabinet Minister responsible for the administration of justice;
- (xi) **“Official”** refers to a Litigation Officer and/or a Head of Legal Services or Unit;
- (xii) **“Organ of State”** means an organ of state in the national, provincial and local spheres of government, including state owned enterprises;
- (xiii) **“Private Practitioner”** means an Attorney or Advocate, who is not in the employ of the state;

- (xiv) **"Section Head"** refers a person in charge of a section and who directly supervises officials and the operations of the said section both in the State Attorney's Office and Client Departments;
- (xv) **"Solicitor-General"** means the incumbent appointed in terms of section 2 of the State Attorney Act, as amended;
- (xvi) **"State Attorney"** means any person who is an attorney appointed in terms of the State Attorney Act, as amended;
- (xvii) **"State Litigation"** means work performed on behalf of organs of State that requires the services of State Attorneys and Litigation Officers.

1.2 BACKGROUND

- 1.2.1 The Office of the Solicitor General seeks to promote an integrated, policy driven, professional, efficient and cost-effective management of state litigation.
- 1.2.2 Various court judgments highlighted critical shortcomings in the management of state litigation. Apart from initiatives to build capacity in the offices of the State Attorney, this policy seeks to address the following shortcomings:
 - (a) the absence of a set of clearly defined rules governing how litigation services are to be acquired, managed and monitored;
 - (b) lack of proper as well as effective communication between client departments and State Attorneys in the conduct of litigation, resulting in the State incurring unnecessary legal costs; and
 - (c) inadequate training and lack of supervision of Litigation Officers and State Attorneys.
- 1.2.3 This policy seeks to address the above challenges in order to ensure an improvement in the quality of services rendered and generally for the proper management of state litigation.
- 1.2.4 Consideration should also be had to the fact that the State should not litigate for the sake of litigation and wasteful litigation expenditure should be obviated, to the extent that any dispute against the State could be resolved through less costly mechanisms. Where litigation cannot be avoided and the State is circumstantially compelled to defend its interests, any such defence of the State should be done in a prudent, efficient and responsible manner.

1.3 LEGISLATIVE MANDATE

The management of litigation on behalf of the state and the provisions in this policy are based on principles and values espoused in the:

- (a) Constitution of the Republic of South Africa, 1996;

- (b) Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (c) Employment Equity Act, 1998 (Act No.55 of 1998);
- (d) Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005) as amended;
- (e) Legal Practice Act, 2014 (Act No. 28 of 2014);
- (f) Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (g) Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (h) Public Service Act, 1994 (Proclamation No. 103 of 1994);
- (i) State Attorney Act, 1957 (Act No. 56 of 1957), as amended;
- (j) State Liability Act, 1957 (Act No. 20 of 1957), as amended.

1.4 SCOPE OF APPLICATION

The principles espoused in this policy apply to all State Attorneys and Client Departments within the national, provincial, local spheres and including state owned enterprises.

CHAPTER 2: POLICY AIMS AND OBJECTIVES

This policy is based on the following aims and objectives:

2.1 THE EFFICIENT AND EFFECTIVE MANAGEMENT OF STATE LITIGATION

- 2.1.1 Coordinate litigation management for the state and its various organs to ensure that its interests are adequately protected;
- 2.1.2 Ensure cost-effective and efficient management of state litigation;
- 2.1.3 Clarify the roles, responsibilities and accountability of stakeholders in state litigation management;
- 2.1.4 Realign and redefine, where necessary, the functions and processes in the management of state litigation;
- 2.1.5 Establish and implement a complaints management procedure;
- 2.1.6 Ensure uniformity of procedures by organs of the state in state litigation management;
- 2.1.7 Monitor reporting responsibilities, evaluate performance and apply continuous improvement processes; and
- 2.1.8 To avoid commitment of state funds by the accounting officers or office bearers and/or exposure to litigation costs in matters with little or no prospects of success.

2.2 SKILLS DEVELOPMENT PLAN FOR LITIGATION OFFICERS AND STATE ATTORNEYS

- 2.2.1 Client departments and State Attorneys must place an emphasis on developing legal capacity within their offices and this must be underpinned by the need to create a highly qualified and skilled pool of litigation officers and State Attorneys managing state litigation. By fostering an internal highly skilled pool of Litigation Officers and State Attorneys will not only greatly reduce the dependence of government on private practitioners, but also lead to more efficient and effective management of state litigation.
- 2.2.2 In developing their legal capacity client departments and State Attorneys must give preference to persons in accordance with State policies on transformation.
- 2.2.3 Litigation Officers and State Attorneys must be exposed to environments that increase their knowledge of the law and enhance their skills on the interpretation of legal principles on an ongoing basis as it is an essential component of efficient litigation management.
- 2.2.4 Organs of state must therefore adopt internal learning and development policies that provide an enabling environment for learning by the Litigation officers and State Attorneys. This environment should provide the following minimum enabling standards:
- (a) Continuing legal training opportunities in partnership with the State Attorney, private sector law firms, Bar Councils and similar institutions for providing practical training and updates on legal processes;
 - (b) Partnerships or sabbatical opportunities with academic institutions to enable the acquisition of higher as well as advanced or specialist academic qualifications, based on availability of resources;
 - (c) Local and international exchange programmes with recognized institutions and state institutions, to enable Litigation officers and State Attorneys to become specialists in various areas of law;
 - (d) Overhaul internal structures, functions and processes as currently involved in state litigation with a view to developing and enhancing skills to create a body of competent and experienced Litigation officers and State Attorney.
 - (e) Establishment of more units with new areas of specialization ordinarily associated with the private and corporate sector.

CHAPTER 3: ROLE-PLAYERS

The management of state litigation involves the following role-players:

3.1 ACCOUNTING OFFICERS OR ACCOUNTING AUTHORITIES

3.1.1 The Public Finance Management Act (PFMA) provides for the designation of either Accounting Officers or Accounting Authorities, and vests specific powers and responsibilities in such incumbents. These incumbents must be central figures, in consultation with their Executing Authorities, in ensuring that their institution's litigation is managed in accordance with this policy.

3.1.2 Decisions on whether or not a matter must be initiated, defended or opposed must be the responsibility of the Accounting Officer or Authority, acting in consultation with the Executive Authority of the organ of state. The Accounting Officer may delegate this decision making power.

3.2 SOLICITOR-GENERAL

3.2.1 The Solicitor-General has the primary responsibility for the co-ordination of state litigation through:

- (a) The provision of norms and standards for litigation;
- (b) The provision of reporting protocols on the implementation of the said norms and standards.

3.2.2 This co-ordination occurs through the supervision and oversight of the work of the State Attorney in the various offices throughout the country. The Solicitor-General reports to the Minister of Justice and Correctional Services.

3.3 STATE ATTORNEYS

3.3.1 State Attorneys are professional public sector legal practitioners employed by the Department of Justice and Constitutional Development to provide legal services to Client Departments. Their work is regulated by the Legal Practice Act and the State Attorney Act as amended.

3.3.2 The mandate of the State Attorneys, as derived from section 3 of the State Attorney Act is to provide client departments with services rendered by attorneys, notaries and conveyancers.

3.4 CLIENT DEPARTMENTS/LITIGATION OFFICERS

Client Departments are organs of state in the national, provincial, local sphere of government including state owned enterprise, whose litigation is coordinated and managed through the Office of the Solicitor General.

CHAPTER 4: COORDINATION & CONDUCT OF LITIGATION

Coordination of all State litigation shall be a joint effort and responsibility between the Office of the Solicitor General and State organs. As the executive officer of all State Attorney Offices, the Solicitor General shall play an oversight role and supervise the work of State Attorneys. The Accounting Officers for State organs shall ensure that its litigation is coordinated and managed in accordance with this policy and that its implementation thereof is applied and read in conjunction with policies as envisaged in Section 3 (4) of the State Attorney Amendment Act 13 of 2014.

State Attorneys and State organs shall cooperate with one another, communicate early and promote collaborative initiatives to achieve common goals of early settlement of matters, reduction of State contingent liability, high litigation costs and effective case management, as well as, by observing the rules regulating proceedings before the Courts of law to enhance governance issues.

State Attorneys and State organs shall share skills, expertise, jurisprudence, capacity, infrastructure and develop a common litigation strategy to pursue the State interests and for an effective achievement of a coordinated litigation approach.

4.1 ETHICS AND GOVERNANCE OF THE STATE ATTORNEY AND LITIGATION OFFICERS

In conducting litigation:

- 4.1.1 Litigation officers must comply with the standards of professional conduct and ethics required by their professional bodies and the state.
- 4.1.2 State Attorneys are bound by the professional standards and ethics of the Legal Practice Council.
- 4.1.3 Litigation Officers and State Attorneys are also subject to the Codes of Conduct for the Public Service and the Handbook for Senior Management Services (SMS).

4.2 RECEIPT OF PROCESS

Litigation is conducted according to strict timeframes. Adhering to these timeframes is essential to avert adverse judgments and punitive costs orders. The issuing and service of process are governed by the applicable Rules of court.

- 4.2.1 A process served directly on the organ of state must be forwarded to the Offices of the State Attorneys within three (3) days. A process served directly on the Offices of the State Attorney must be forwarded to the organ of state within five (5) days.
- 4.2.2 Upon receipt of service, the organ of state must clearly indicate on the court papers/matters so received the date and time of such receipt.

- 4.2.3 The court papers/matters received must immediately be forwarded to the Legal Services Unit.
- 4.2.4 Written instructions on the letterhead of the organ of state, duly signed, must be sent to the State Attorney.
- 4.2.5 A letter of instruction to the State Attorney must clearly indicate the date of receipt of service of the court papers/matters referred to in paragraph 4.2.2 above, in order that the State Attorney can correctly calculate time periods as prescribed by the court Rules.
- 4.2.6 If court papers are served at the Office of the Premier, where a client department is a party or where such court papers concern a matter arising from a client department, such client department must be notified immediately upon receipt of such papers by the Office of the Premier.
- 4.2.7 In the event that the Office of the Premier instructs the State Attorney in such court papers so received, the said instruction must consist of the following:
- (a) a letter setting out the background to the matter and indicating the name, telephone, fax numbers, and e-mail address of the contact person;
 - (b) if available, the State Attorney's reference number and contact details of the attorney dealing with the matter: and
 - (c) copies of court papers, all correspondence, as well as copies of all other relevant documents.
- 4.2.8 The State Attorney must acknowledge receipt of all new instructions within seven (7) working days of receipt of the instructions; inform the relevant parties of the contact details of the attorney who is responsible for the matter and the reference number where applicable.

4.3 RESPONSIBILITY OF LITIGATION OFFICERS AND/OR ORGANS OF STATE

- 4.3.1 Upon service of process on an organ of state, the Head of Legal Services or unit must give notice of such process to all other stakeholders affected by such proceedings.
- 4.3.2 Litigation Officers are required to consider the merits of each matter before instructing the office of the State Attorney.
- 4.3.3 When considering the merits of the matter, Litigation Officers are to endeavor to mediate or settle matters and where possible engage with the opponents with the intention to resolve the matter amicably.
- 4.3.4 After the relevant avenues referred to in paragraph 4.3.3 above have been exhausted, the matter must be referred to the office of the State Attorney within three

(3) days. All communication with opponents must cease once the matter is referred to the office of the State Attorney.

4.3.5 The Client must ensure that instructions are provided timeously.

4.3.6 The Litigation Officers must ensure that the relevant witnesses are available to attend court.

4.3.7 Litigation Officers must make necessary arrangements to obtain instructions from their principals as and when the need arises during the course of the hearing.

4.4 RESPONSIBILITY OF STATE ATTORNEY

4.4.1 The same procedure as contemplated in paragraph 4.3.1 applies to the Offices of the State Attorneys.

4.4.2 All communication by the State Attorney to the organ of state must be in writing and any verbal communication must subsequently be confirmed in writing.

4.4.3 The State Attorney must provide advice to the organ of state on the merits and procedural aspects of mediation and/or litigation.

4.4.4 In matters where the client department requires an opinion, the State Attorney may in its discretion and after consultation with the client department refer such a request to the Office of the Chief State Law Adviser.

4.4.5 The State Attorney must timeously liaise with the organ of state on the dates of consultations and the witnesses required to attend. In the case of urgent proceedings, notice must be given immediately.

4.4.6 On receipt of a notice of set down the State Attorney must within five (5) inform the organ of state in writing of same and advise the organ of state of all relevant witnesses required to attend court.

4.4.7 The State Attorney must provide the organ of state with copies of all pleadings and other documents relevant to the matter.

4.4.8 The State Attorney must promptly inform the organ of state about the progress made in the matter and the outcome thereof.

4.4.9 Where a judgment or order has been granted against an organ of state, the State Attorney must immediately forward a copy of same to the client. Compliance therewith should be in accordance with the provisions of section 3 of the State Liability Act.

4.4.10 Where judgment on capital and a costs order have been awarded in favour of an organ of state, the State Attorney must take all reasonable steps to ensure that the said capital and costs are recovered.

4.4.11 The State Attorney must provide the organ of state with the invoices within two (2) days of receipt for input before payment is effected by the State Attorney.

4.4.12 The organ of state must respond within two (2) days of receipt of the invoices. In the event that there is no response from the organ of state within the said period, the State Attorney must scrutinise the invoice and proceed to effect payment.

4.5 Issuing of Instructions

4.5.1 The Accounting Officer or Authority, in consultation with the Head of legal services or a person delegated to the assignment, must give written instructions to initiate, defend or oppose proceedings to the Litigation Officer in the client department within two (2) days of receipt of the request for instructions, or within such period as may be specified in the request.

4.5.2 Written instructions to the State Attorney to defend/oppose or to mediate must be given within five (5) days of receipt of request for instructions. The instructions must be accompanied by all supporting documents, including the legal opinion by the Litigation Officer of the respective organ of state on the merits of the matter. The instructions to defend or oppose must also include the appointment of counsel or correspondents where necessary.

4.5.3 Written instructions to initiate proceedings on behalf of the organ of state must be given to the State Attorney as soon as possible from date of knowledge of possible claim, and not less than six (6) months prior to the applicable prescription period. Such instructions must be given on authority of the Accounting Officer or Authority, who shall act in consultation with the Executive Authority.

4.5.4 In an urgent matter where an organ of state is opposing or initiating and instructions were not provided in writing, the said instructions should be confirmed in writing within a day.

4.5.5 The organ of state must furnish the State Attorney, on a monthly basis, with names of Litigation Officers who will be on standby to deal with matters to be heard after hours.

4.6 Attendance of Hearings

State Attorneys and Litigation Officers must attend all consultations and hearings and remain in attendance until finalisation of matters affecting their departments, whether in person or virtually.

4.7 Settlement

All instructions from client departments to the State Attorney to settle a matter must be in writing.

4.8 Withdrawal as Attorney of Record

4.8.1 The State Attorney may withdraw as an attorney of record from a matter in the following instances:

- (a) Where a request for instructions in preparation for trial was forwarded to client department in writing on no less than two (2) occasions and no instructions were forthcoming. A third and final request must have been forwarded to client department at least ten (10) days before hearing. The aforesaid letter must also notify client department of the State Attorney's intention to withdraw.
- (b) Where instructions were requested in urgent matters and instructions were not provided immediately on request.
- (c) Where an opinion has been forwarded to client department advising that there are no prospects of success, that the matter should be mediated or settled and client department insists that the matter be defended.
- (d) Where there is a conflict of interest.
- (e) Where witnesses are not available on the day of trial.

4.8.2 The withdrawal referred to in paragraph 4.8.1 above must be exercised only after consultation with the Section Head in the State Attorney office. The Section Head must then consult the Head of office, who in turn must inform the Head of legal services in the client department of the withdrawal.

CHAPTER 5: LITIGATION RISK ANALYSIS

5.1 Every organ of state must conduct, on an annual basis, an analysis of risk factors pertaining to the department's litigation. The analysis must clearly track litigation trends in the specific institution, and reflect factors that contributed to the identified trends.

5.2 The analysis should reflect discernable potential risk factors, and provide a roadmap for the stemming of such potential risk factors.

5.3 A litigation risk report must consist of:

- (a) Risk identified;
- (b) Nature of matters litigated;
- (c) List of judgments against the organ of state;
- (d) Progress and compliance with judgments and reasons for non-compliance;

- (e) Factors identified as causes for the organ of state's exposure to litigation; and
 - (f) Measures and/or corrective measures to be put in place to mitigate the identified risk.
- 5.4 To ensure the credibility and authenticity of the analysis, a copy thereof should be submitted to the risk management or audit division of the organ of state.
- 5.5 Organs of state must submit litigation risk, contingent liability and skills audit reports on an annual basis to the Solicitor-General in order to assist the Solicitor-General in coordinating the management of state litigation.
- 5.6 The skills audit report stated in 5.5 above must consist of training plans and target dates.
- 5.7 These reports must be tabled by the Minister in Cabinet, relevant structures and oversight bodies, including but not limited to, the Office of the Auditor-General and Parliament.

CHAPTER 6: REPORTING RESPONSIBILITIES

The following reports must be provided by the State Attorney to the Solicitor-General:

6.1 LITIGATION EXPENDITURE REPORT

This report must consist of statistics of litigation matters and financial reports on amounts paid by the department in respect of legal costs, settlement agreements and court judgments. In the event of expenses being incurred in respect of private practitioners, the following details must also be provided:

- (a) Name, gender and race of the private practitioner;
- (b) Name of the parties to the matter;
- (c) Number of briefs;
- (d) Nature of the matter;
- (e) Name of Attorney who dealt with the matter; and
- (f) Name of person who selected the practitioner.

6.2 JUDGMENT REPORT

This report must consist of:

- (a) All judgments granted by courts;
- (b) Prescriptions;
- (c) Default judgments; and
- (d) Progress made in respect of compliance with judgments reported on.

6.3 SUBMISSION OF REPORTS

- 6.3.1 The reports in paragraphs 6.1 and 6.2 above must be submitted quarterly, with the report of the last quarter consolidating the reports of the preceding quarters into an annual litigation report.
- 6.3.2 Quarterly reports must be submitted to the Solicitor-General by no later than the 15th day after the end of the quarter reported on.
- 6.3.3 Annual litigation reports must be submitted to the Solicitor-General by no later than the 30th April of the year immediately following the financial year reported on.

6.4 REPORTING RESPONSIBILITIES OF THE STATE ATTORNEY

The reporting requirements are the responsibility of the Head of the State Attorney's office. The Head of the office of the State Attorney must submit such reports to the Solicitor-General, who in turn must submit reports to the Minister.

CHAPTER 7: COMPLAINTS

7.1 REPORTING AN ATTORNEY OF RECORD

- 7.1.1 Should there be a complaint regarding the rendering of services by a State Attorney, the organ of state must refer such complaint to the office of the State Attorney in the following sequence and within the specified timeframes:
- (a) The Attorney of record to deal with and escalate, if necessary to the Section Head within five (5) working days from the date of receipt of the complaint;
 - (b) The Section Head to deal with and escalate, if necessary to the office Head within five (5) working days from the date on which the Section Head receives the complaint;
 - (c) The office Head to deal with and escalate, if necessary to the Solicitor-General within ten (10) working days from the date on which the office Head receives the complaint;
 - (d) The Solicitor-General to deal with the complaint within twenty (20) working days from the date on which the Solicitor-General receives the complaint.

7.2 REPORTING A LITIGATION OFFICER

7.2.1 Should there be a complaint regarding the rendering of instructions/support by the Litigation officer of the organ of state, the Attorney of record must refer such complaint to the Head of office who shall refer same to the organ of state in the following sequence and within the specified timeframes:

- (a) The Litigation officer to deal with and escalate, if necessary to the Section Head within five (5) working days from the date of receipt of the complaint;
- (b) The Section Head to deal with and escalate, if necessary to the Head of legal services within five (5) working days from the date on which the Section Head receives the complaint;
- (c) The Head of Legal Services to deal with and escalate, if necessary to the Accounting Officer/Authority within ten (10) working days from the date on which the Head of Legal Services receives the complaint;
- (d) The Accounting Officer or Accounting Authority to deal with the complaint within twenty (2) working days from the date on which the Accounting Officer/Authority receives the complaint.

CHAPTER 8: MONITORING AND EVALUATION

8.1 The achievement of the objectives entailed in this policy is an ongoing process, and the successful application thereof depends on an effective monitoring and evaluation process on an ongoing basis.

8.2 The Solicitor-General must play a leading role in the implementation of this policy and, to this end, must:

- (a) Provide clarity and guidelines to organs of state on the proper interpretation, implementation and application of this policy;
- (b) Fulfill a monitoring and coordinating function to all the stakeholders;
- (c) Develop strategies for intervention where challenges are encountered;
- (d) Foster ongoing interaction with stakeholders in respect of these objectives;
- (e) Collect statistics on the reports referred to in Chapters 5 and 6 above;
- (f) Collect litigation risk analysis reports and identify litigation trends; and
- (g) Provide feedback to all organs of state on the consolidated reports.

CHAPTER 9: DISPUTE RESOLUTION

- 9.1 Any person who is dissatisfied with the interpretation, implementation and application of this policy may lodge an official complaint to be addressed to the Solicitor-General.
- 9.2 The complaint must be delivered to the Office of the Solicitor-General.
- 9.3 The complaint must:
- (a) Be in writing;
 - (b) State the name, address, and contact information of the complainant;
 - (c) Provide a full and detailed description of the complaint; and
 - (d) Contain any other additional information that may be considered necessary or useful for the purpose of dealing with the complaint.
- 9.4 The Solicitor-General must:
- (a) Consider the complaint;
 - (b) Investigate the matter; and
 - (c) Provide a response in the matter within sixty (60) days.
- 9.5 If the complainant is dissatisfied with the decision of the Solicitor-General, he or she may lodge an appeal in writing to the Minister of Justice and Correctional Services. The Minister must then make a final determination on the matter.

CHAPTER 10: POLICY REVIEW

- 10.1 This policy must be reviewed after three (3) years or when required, after consultation with all stakeholders.
- 10.2 The statistics collected by the Solicitor-General must be analysed and form part of the process for reviewing this policy and its effectiveness.
- 10.3 The review process must also make recommendations for operational improvements within the office of the State Attorney and Client Departments in so far as the management of state litigation is concerned and a recommendation to the organs of state in so far as the handling of their litigation is concerned.

CHAPTER 11. POLICY APPROVAL

| Initiated By | Approved By | Date Approved |
|---------------------------------|--|---------------|
| Office of the Solicitor-General | Signature:  | 19/04/2021 |
| | Mr. R O Lamola, MP Minister of Justice and Correctional Services | |

In terms of the provisions of Section 3(5) the State Attorneys Amendment Act, 2014 (Act 13, 2014), this Policy and any amendments thereto must be (a) approved by Cabinet and (b) tabled in Parliament by the Minister of Justice and Constitutional Development.