



Department of Justice and Constitutional Development

**17**  
**18**

THIRD PARTY FUNDS ANNUAL REPORT



**the doj & cd**

Department:  
Justice and Constitutional Development  
**REPUBLIC OF SOUTH AFRICA**

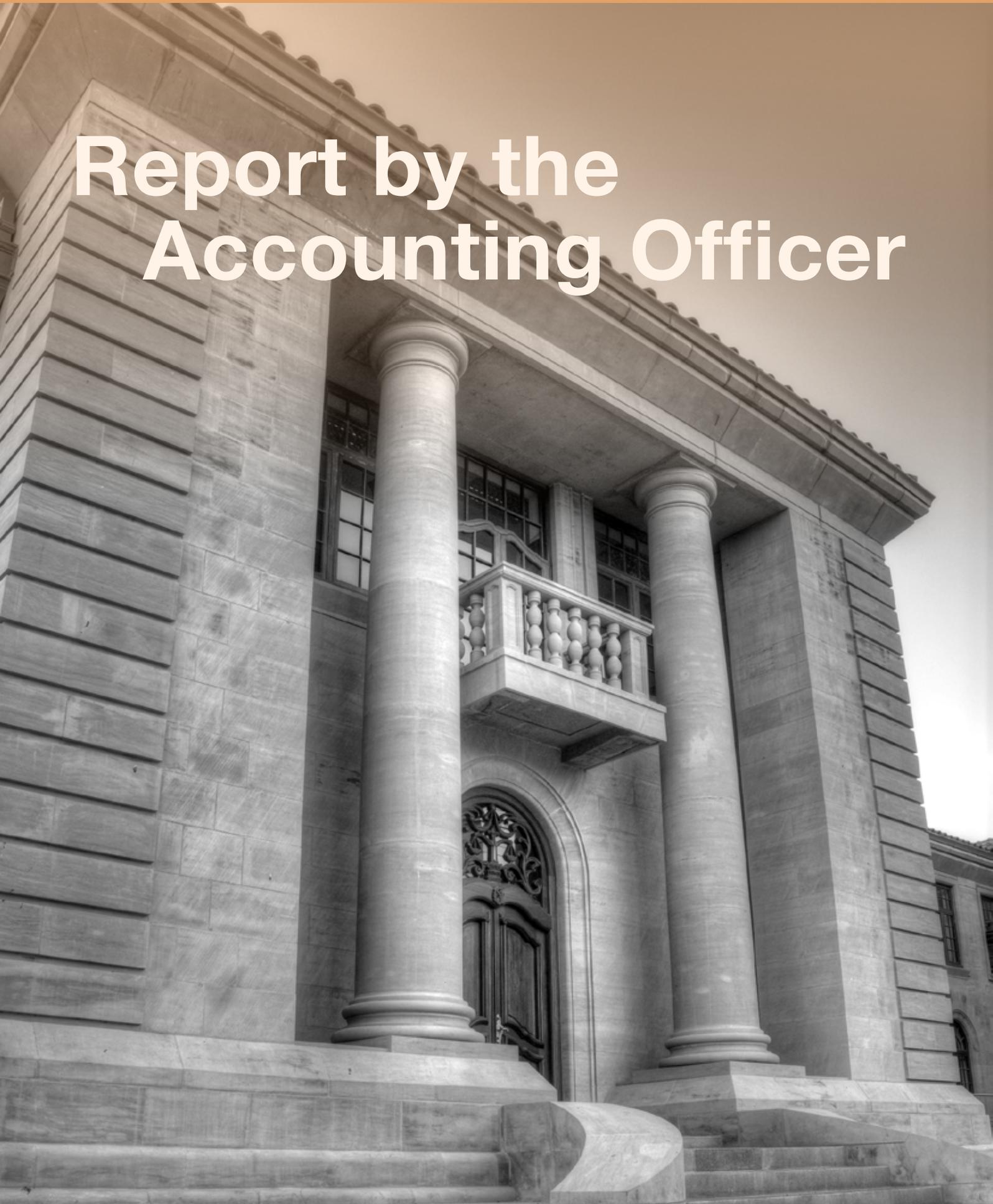




# contents

1. Report of the Accounting Officer .....	4
2. Report of the Audit Committee.....	13
3. Report of the Auditor - General to Parliament .....	16
4. Statement of Financial Position (SPO).....	21
5. Statement of Cash Flows .....	22
6. Notes to the financial statements (General information and accounting policies) .....	23

# Report by the Accounting Officer



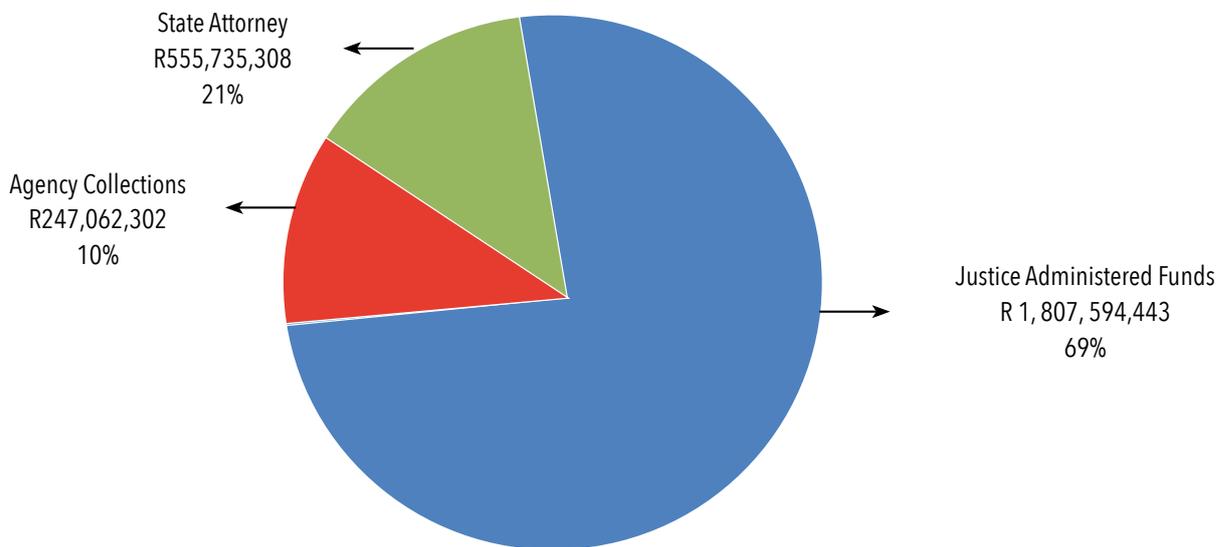
**REPORT BY THE ACCOUNTING OFFICER TO THE EXECUTIVE AUTHORITY AND PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA ON THE ANNUAL FINANCIAL STATEMENTS FOR THIRD PARTY FUNDS FOR THE FINANCIAL YEAR ENDED 31 MARCH 2018**

**1. INTRODUCTION**

The Department of Justice and Constitutional Development (Department) administers funds on behalf of third parties. The purpose of Third Party Funds (TPF) is to manage maintenance beneficiary monies (local, foreign and future), collect fines on behalf of government institutions (national, provincial, local and other authorities), the safe-keeping of bail monies on behalf of accused persons, the safe-keeping of payments into court, the safe-keeping of other monies in respect of the State Attorney so ordered by a court (such as monies in respect of provisional asset forfeiture, litigation and settlements of court action where a government institution is concerned), the collection of debts and cost orders on behalf of government institutions through the State Attorney, and monies related to conveyance matters which the State Attorney deals with on behalf of government institutions.

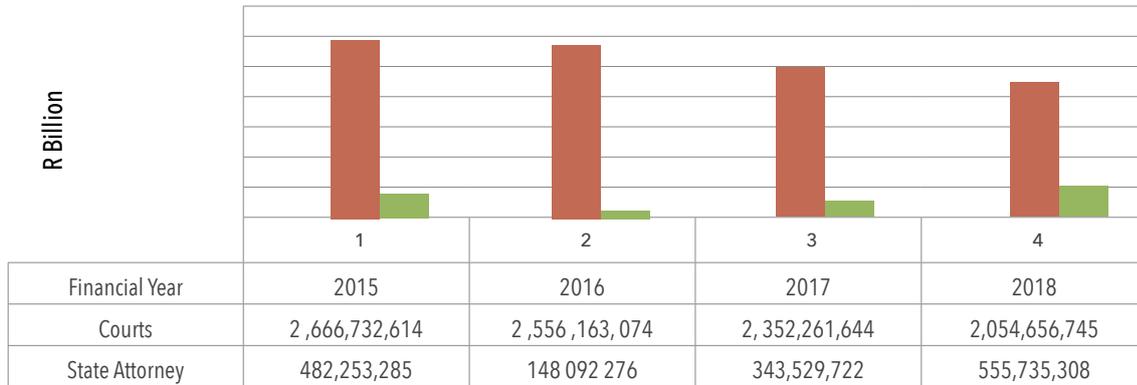
Receipts and payments from and to third parties during the financial year amounted to R2,634 billion and R2,610 billion, respectively. The following table reflects the total departmental payments for 2017/18 in respect of the various TPF portfolios to various beneficiaries (individuals, government departments, etc.):

**Third Party Funds Payments 2017 / 2018**



The following table indicates the trend of TPF payments for the past four financial years:

Annual TPF Payments



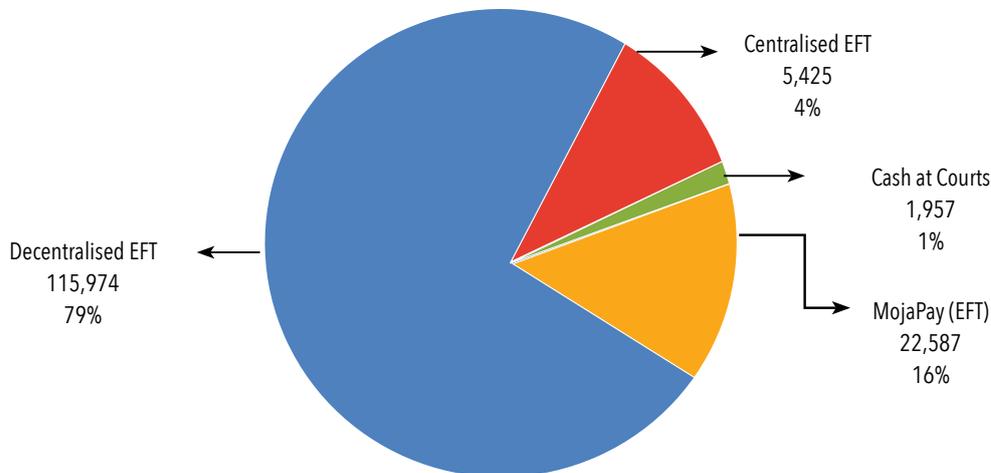
2. SERVICES RENDERED

(a) Maintenance

The DoJ&CD receives and pays maintenance on behalf of maintenance obligors (employers and individuals) and beneficiaries, respectively. In this regard, it administrates these on behalf of the parties, which may include the employers of the defendants. TPF only accounts for monies received and paid in this regard. Any unpaid monies have to be dealt with through court processes, as this is a civil matter and TPF only acts as an intermediary.

TPF only deals with monies received through it by order of court and distributes these monies as speedily as possible after being received from defendants and/or their employers. The average turn-around time for such receipts and the payment thereof is 3,6 days (including weekends and public holidays). As explained in the Report of the Accounting Officer for the 2016/17 financial year, the Department procured a new administrative solution, called MojaPay to address the accounting and service delivery challenges of the legacy systems and inadequate management and administration of Third Party Funds.

The graph below indicates the relationship of MojaPay EFT payments versus centralised EFT payments versus localised EFT payments and cash payments made in respect of maintenance for March 2018:



In essence, 99% of maintenance beneficiaries are now receiving maintenance payments on a monthly basis via the EFT and bank system. Some reasons for maintenance beneficiaries still relying on cash as a means of payment are lack of access to banking facilities in rural communities, high withdrawal costs, and the convenient location of courts versus bank locations.

To eliminate or reduce the number of maintenance payments that flow through our courts and to ensure that beneficiaries have access to their monies in a shorter space of time, the direct payment initiative has been widely promoted. The process entails the obligor (whether an individual defendant or his/her employer) having to deposit monies directly to the bank account of the beneficiary. After consultation with the Chairperson of the Magistrates' Commission, all regions have initiated projects, in consultation with the local judiciary, whereby the bulk of new maintenance orders issued are direct payment orders and where existing orders are reviewed and re-issued as direct payment orders. After objective assessment including risks, by appointed maintenance officers and maintenance investigators, a recommendation for direct payments is presented to the judicial officer (magistrate) for approval and relevant court order. The success of this project has seen a significant reduction in the number of maintenance payments that must be dealt with by the DoJ&CD and a reduction in the volume and value of the total turn-over of TPF monies within the DoJ&CD.

However, this process takes time as all stakeholders (obligor, beneficiary and employer) have to agree to this process and/or have to be informed thereof. In many instances employers claim not to have the necessary systems and resources in place to administrate this function. The DoJ&CD will, however, continue engaging with larger employers such as government departments to make this project a success.

The DoJ&CD has reached an agreement whereby the DoJ&CD, through MojaPay, can deduct monies directly from the emoluments of government employees through PERSAL (national departments, provincial departments and government components, except the Department of Defence that works on PERSOL). Consequently, these deductions are paid to the DoJ&CD centrally, with the correct reference number. Once received by the Department, the monies are allocated and paid to beneficiaries within two working days after receipt. Previously, these monies were paid to the different courts of the Department for processing, and due to all the manual processes involved, it took between 5 and 20 working days before beneficiaries received their monies. In many instances, these payments were not correctly referenced and resulted in payments being made to incorrect beneficiaries.

The DoJ&CD is currently still in the process of converting these deductions from the previous system to MojaPay. During March 2018, a total of 4 074 such deductions were processed. This has grown to 6 291 in April 2018. The DoJ&CD has also reached agreements with several employers and/or their service providers (including the Department of Defence) for bulk payments to be made to the MojaPay accounts of TPF.

#### **(b) Bail**

Bail payments in respect of the Criminal Procedure Act, 1977 (Act 51 of 1977) made to courts throughout the country are held in trust on behalf of depositors by the DoJ&CD until the finalisation of criminal cases.

These receipts and payments are mostly made by cash to courts, police stations or correctional facilities. When such monies are paid at police stations or correctional facilities, the monies are paid to courts in cash by the South African Police Service and the Department of Correctional Services.

#### **(c) Payments into court and compensation fines**

These payments are also sometimes referred to as civil payments and compensation fines and refer to payments made to court in terms of a Rule of Court or any other law, of which the intended beneficiary is a third party. This includes, but is not limited to, security deposits in civil cases and compensatory awards in criminal cases.

### (d) Court and admission of guilt fines

These fines refer to any fines ordered by a court or semi-judicial officer to be paid to the state, provincial or local authority that are received at a court. These fines, after having been processed by the Department, are paid to the National Revenue Fund through the Departmental Vote Account, the relevant provincial departments, the relevant local authority or other authorities as ordered by the court (such as the Cross-Border Transport Agency or the Department of Environmental Affairs).

### (e) State Attorney collections and payments

These monies can roughly be divided into four categories, namely debt collection, conveyancing, provisional asset seizures, and litigation.

Debt collection refers to where the State Attorney is requested to collect debt owed to a government department, local authority or other government entity and includes monies received from debtors that are then paid onwards to the relevant government department, local authority or other government entity.

Conveyancing refers to monies received and paid where a government department, local authority or other government entity is involved in property transactions. The beneficiaries of these monies are typically the conveyancing lawyers of the other party, the South African Revenue Service (transfer fees) and the Deeds Office.

Provisional asset seizure refers to where negotiable assets are seized by the National Prosecuting Authority and a court of law rules that such assets must be held by the Office of the State Attorney until finalisation of such case. Upon finalisation of such cases, and depending on the final order of court, the monies are paid to the Criminal Asset Recovery Account and/or the victims of the crime.

Litigation refers to where a court of law orders that monies be paid to or kept by the Office of the State Attorney in civil cases in which government departments, local authorities or other government entities are involved. Such monies are normally paid out to the party identified by the court at the end of such litigation.

## 3. SYSTEMS REVIEW AND DEVELOPMENT

### (a) JDAS and SAS (legacy systems)

The Justice Deposit Account System (JDAS) and the State Attorney System (SAS), utilised for the administration of TPF, were designed as case administration systems with payments and receipts recording functionality, but not as financial accounting systems with the prescribed accounting and financial reporting capabilities required in terms of current governance requirements. Transactions are recorded at Court and State Attorney level on JDAS and SAS and then bulk payments are made to the Department's Vote account to be recorded on BAS as departmental revenue where relevant, while individual payments to local and other authorities, to maintenance beneficiaries as well as State Attorney clients, are made as per orders issued by the courts or as per legal agreements within the TPF environment. It is envisaged that all legacy system bank accounts and related JDAS/SAS data bases will be closed during the 2018/19 financial year and replaced by MojaPay.

The various limitations placed on reporting data are *inter alia* due to the shortcomings of JDAS & SAS which resulted in system errors and other invalid balances arising. These items were removed from the relevant financial statement components and grouped into a ring-fenced balance. During the financial year under review, the DoJ&CD has managed to clear R18 million of these balances, down from a R16 million liability to a R2 million asset. The remainder of the ring-fenced balances will be cleared in terms of the prescribed government processes during the course of the 2018/19 financial year.

**(b) MojaPay (SAP)**

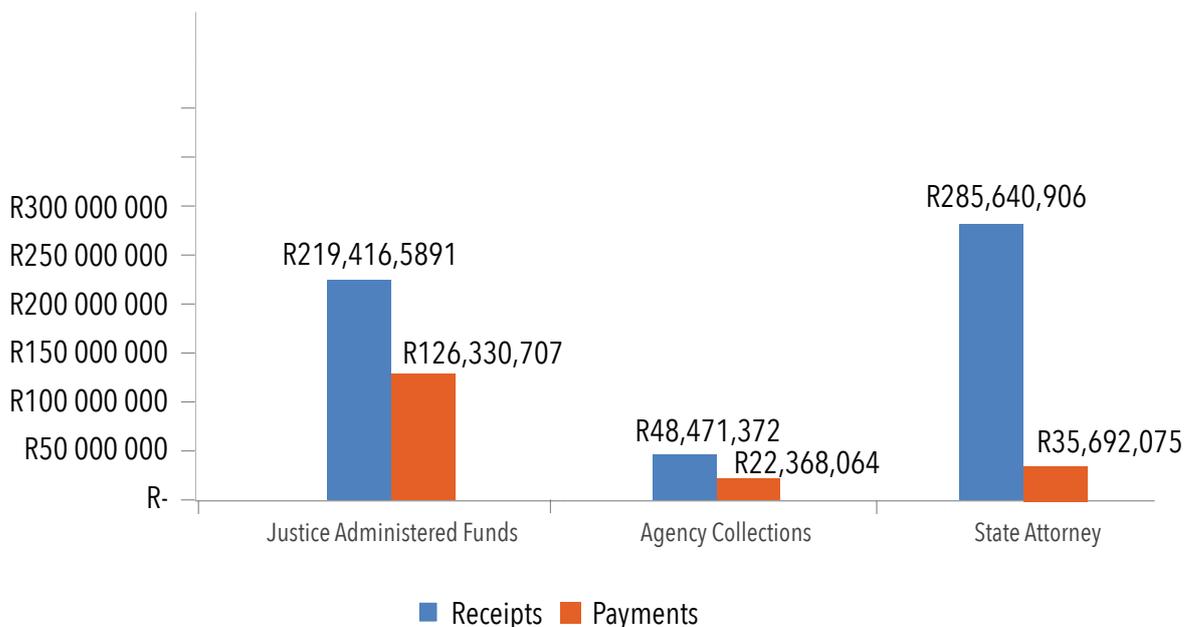
The Department has implemented a new system called MojaPay, to enhance accounting, reporting and service delivery within the TPF management environment.

The Department has deployed MojaPay to 277 courts and 12 State Attorneys as at 31 March 2018. This is in comparison to 101 courts and 12 State Attorneys as at 31 March 2017. It is envisaged that the Department will implement MojaPay in the remainder of the courts in the remainder of the provinces by 31 December 2018.

Before MojaPay is implemented in a departmental office, each official at such office must complete a two-week training course after which such officials must complete a competency test. The DoJ&CD has taken the approach that should an employee not pass the competency test, such employee will not be allowed to operate on MojaPay until they have been re-trained and re-assessed and found competent. As part of the said training exercise, the National Office of the Department provides a two-week train-the-trainer course before the relevant province/region engages in further end-user training. Since project initiation in August 2016, a total of 1 893 court officials and 100 State Attorney officials were trained (this includes train-the-trainer training):

Gauteng	226
Free State	420
Northern Cape	251
North West	180
Eastern Cape	491
KwaZulu-Natal	116
Mpumalanga	146
Limpopo	63

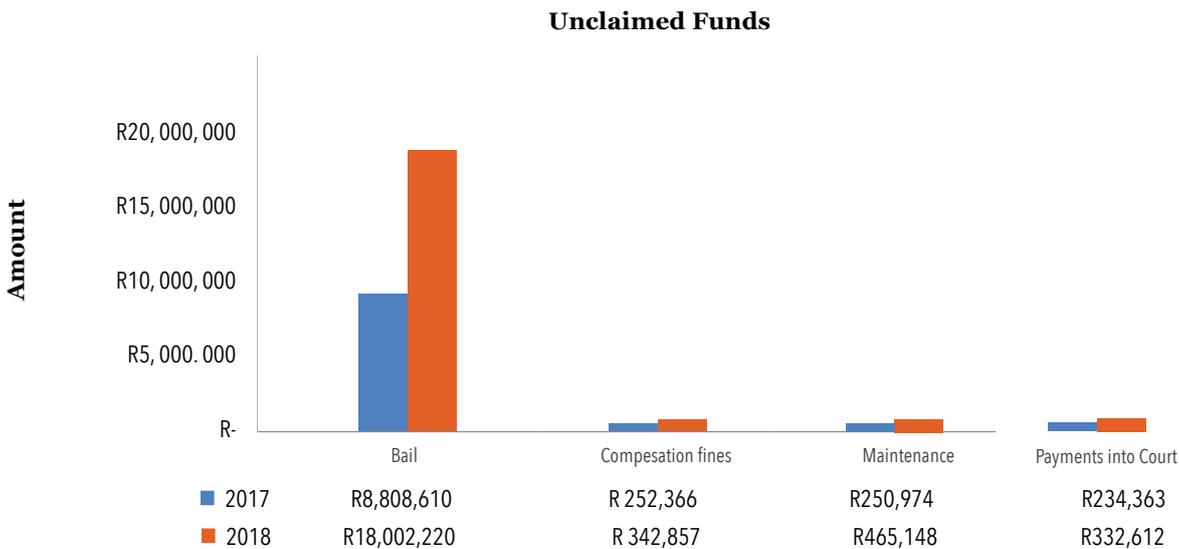
**During the 2017/18 financial year, the following receipts and payments were recorded on MojaPay:**



**(c) Operations review – Management of unclaimed monies**

Due to a previous determination by National Treasury, all unclaimed monies in respect of bail, maintenance, payments into court and compensation fines, must be kept for a period of thirty (30) years. This determination took effect from 1 April 2014. Due to this determination and to limit the risk to the DoJ&CD in this regard, the DoJ&CD opened 16 accounts with four banks (ABSA, FNB, Nedbank and Standard Bank) to safe-keep these monies until the 30 years’ holding period expires, when the monies must be paid to the National Revenue Fund.

The comparative figures for monies kept in the various accounts as at 31 March 2017 and 2018 respectively, are illustrated as follows:



**4. LEGISLATIVE REFORM**

The Justice Administered Fund Act 2017 (Act 2 of 2017) was assented to on 6 April 2017 and implemented on 1 April 2018. The effect of the Act will be that, as from 1 April 2018, monies not included in the Act, but currently reported on as part of the TPF financial statements, will solely be reported on in the Vote financial statements of the DoJ&CD, while monies received and paid in respect of maintenance, bail, compensation fines and payments into court, will be reported on in the financial statements in respect of the JAF (Justice Administered Fund).

The process to “unbundle” the reporting for the JAF monies and the Vote monies is complex and can only be fully achieved in conjunction with the roll-out of MojaPay. The split of these funds was catered for in the development of MojaPay. MojaPay has three (3) distinct reporting areas, namely JAF monies, Fines, and State Attorney monies. The administration of these funds will therefore still be done within the TPF environment. It is only the disclosure that will be done in the Vote Account.

## **5. TARIFF POLICY**

No fees are charged for the services rendered in respect of TPF, in particular for the maintenance paid to the most vulnerable in society.

However, a 10% commission (to a maximum of R369) is levied in respect of debt collection payments received by offices of the State Attorney on behalf of government departments. The commission is paid over to the National Revenue Fund through the DoJ&CD Vote Account. This commission is collected in terms of section 65J of the Magistrates' Court Act 1944 (Act 32 of 1944), as amended. In addition, TPF utilises all interest earned in respect of amounts kept in its bank accounts, to offset bank charges.

## **6. CORPORATE GOVERNANCE ARRANGEMENTS**

The governance processes of the Department are driven by the Executive Committee (EXCO) under the guidance of the Accounting Officer and the Minister of Justice and Correctional Services and under the oversight of the Audit and Risk Committee.

Corporate governance is placed as one of the significant responsibilities of EXCO in line with the requirements of the relevant King Reports.

To enable the Accounting Officer and EXCO to discharge their responsibilities and duties, certain responsibilities have been delegated to various steering and subcommittees, which cover the following areas:

- Policy and Strategy
- Finance and Audit
- Human Resources
- ICT
- Integrated Planning

The governance structures are reviewed regularly to incorporate developments and new trends within the Department and in the public sector.

EXCO is accountable for the processes of risk management. The Audit and Risk Management committees fulfil the role of oversight at different levels. EXCO takes the initiative to ensure that all its members are leading and directing the operations and service delivery initiatives in a manner that is consistent with ethical standards.

All the Departmental actions are governed by ethical principles which are contained in relevant policies, the Fraud Prevention Plan and Code of Ethics and Business Conduct of the Department.

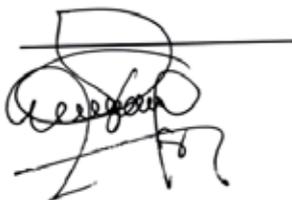
A Combined Assurance Forum was established to monitor incidents of risk materialisation so as to ensure controls are designed adequately and complied with as well as to ensure that risks are managed in an integrated holistic manner.

## **Acknowledgment**

My appreciation towards the loyal support and valuable contributions of the various stakeholders is hereby acknowledged.

### **7. APPROVAL**

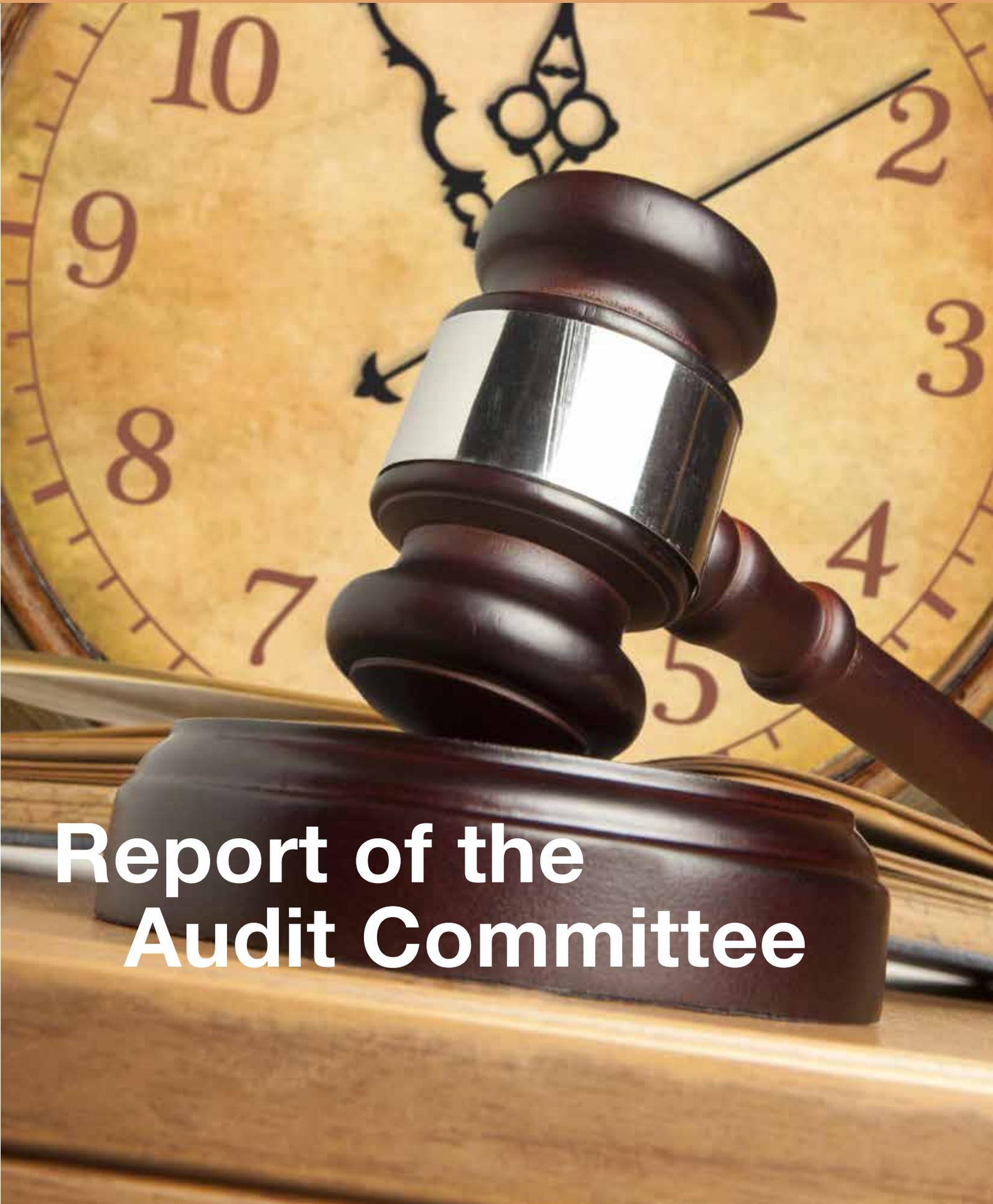
The Annual Financial Statements set out on pages 21 to 34 have been approved by the Accounting Officer.

A handwritten signature in black ink, appearing to read 'V. Madonsela', is written over a horizontal line. The signature is stylized and somewhat cursive.

.....  
**MR V. MADONSELA**

**DIRECTOR-GENERAL: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

**31 July 2018**



# Report of the Audit Committee

## REPORT OF THE AUDIT COMMITTEE ON THIRD PARTY FUNDS

### 1. REPORT OF THE AUDIT COMMITTEE

We are pleased to present our interim report for the financial year ended 31 March 2018.

#### 1.1 AUDIT COMMITTEE MEMBERS AND ATTENDANCE

The Audit Committee consists of the members listed below and is required to meet at least four times per annum as per its approved terms of reference. During the current year five (05) meetings and one (01) special meeting were held as indicated below.

Name of members	Numbers of meetings attended	Number of special meetings attended	Status
Mr. Motsamai Karedi (Chairperson)	5	1	Reappointed - 25 November 2015
Mr. Cedric Boltman	3	1	Reappointed -25 November 2015
Ms. Besky Ngunjiri	4	1	Reappointed - March 2015
Mr. Wilson Ramabulana	5	1	Reappointed - 25 November 2015
Mr Andrew Sello	5	1	Reappointed - 25 November 2015

#### 1.2 AUDIT COMMITTEE RESPONSIBILITY

We report that we have adopted appropriate formal terms of reference in our charter in line with the requirement of section 38(1(a) of the public finance management Act, 1999 (Act NO. 1 of 1999) and Treasury Regulation 3.1.

#### 1.3 THE EFFECTIVENESS OF INTERNAL CONTROL

TPF's controls have improved significantly during the year under review, this together with continuous improvement in the administrative system has contributed to the positive audit outcomes. There is however some control deficiencies still to be addressed particularly the daily reconciliation in some areas within the Department.

The Audit Committee is satisfied with the improvements on the operational controls implemented which supports the preparation of financial Statements.

## **INTERNAL AUDIT**

The Department of Justice and Constitutional Development's Internal Audit Unit is responsible for the review of TPF and the Unit has also discharged its responsibilities as per the Internal Audit plan.

### **1.4 REPORTS**

#### **1.4.1 The quality of in-year management and monthly/quarterly reports submitted in terms of the PFMA**

We are satisfied with the content and quality of monthly and quarterly reports prepared by the Accounting Officer of the Department during the year under review.

#### **1.4.2 Evaluation of financial statements**

We have reviewed and discussed the audited annual financial statements with management and also reviewed the Department's compliance with legal and regulatory provisions. We have also reviewed the Auditor-General South Africa's report and management letter and management's responses to it.

### **1.5 AUDITOR-GENERAL SOUTH AFRICA**

The Audit Committee concurs and accepts the conclusions of the Auditor General on the annual financial statements and is of the opinion that the audited annual financial statements be accepted and read together with the report of the Auditor-General.



---

**M Karedi**  
**Chairperson of the Audit Committee**

**Date: 16 August 2018**



# Report of the Auditor-General to Parliament

## Report of the Auditor-General to Parliament on Third Party Funds

### Report on the audit of the financial statements

#### Opinion

1. I have audited the financial statements of the Third Party Funds set out on pages 19 to 34, which comprise of the statement of financial position as at 31 March 2018 and the statement of cash flows for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Third Party Funds as at 31 March 2018, and its cash flows for the year then ended in accordance with the Generally Recognised Accounting Practice (GRAP).

#### Basis for opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of this auditor's report.
4. I am independent of the fund in accordance with the International Ethics Standards Board for Accountants' Code of ethics for professional accountants (IESBA code) and the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### Responsibilities of the accounting officer for the financial statements

6. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with GRAP, and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
7. In preparing the financial statements, the accounting officer is responsible for assessing the Third Party Funds' ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the accounting officer either intends to liquidate the public entity or to cease operations, or has no realistic alternative but to do so.

#### Auditor-general's responsibilities for the audit of the financial statements

8. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
9. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

## **Report on the audit of the annual performance report**

10. The fund is not required to prepare a report on its performance against predetermined objectives, as it does not fall within the ambit of the PFMA and such reporting is also not required in terms of the entity's specific legislation.

## **Report on the audit of compliance with legislation**

11. The fund is not required to prepare a report on its performance against predetermined objectives, as it does not fall within the ambit of the PFMA and such reporting is also not required in terms of the entity's specific legislation.

## **Introduction and scope**

12. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the compliance of the fund with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

13. I did not raise material findings on compliance with the specific matters in key legislation set out in the general notice issued in terms of the PAA.

## **Other information**

14. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report, which includes the audit committee's report and the accounting officer's report. The other information does not include the financial statements and the auditor's report.

15. My opinion on the financial statements and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.

16. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements, or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement in this other information; I am required to report that fact. I have nothing to report in this regard.

## **Internal control deficiencies**

17. I considered internal control relevant to my audit of the financial statements and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. I did not identify any significant deficiencies in internal control.

*Auditor-General*

Pretoria

31 July 2018



AUDITOR - GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*



**INDEX****Page**

Statement of Financial Position	21
Statement of Cash Flows	22
Notes to the Financial Statements	23

## STATEMENT OF FINANCIAL POSITION FOR THE YEAR ENDED 31 MARCH 2018

		2018	2017
		R	Restated R
<b>ASSETS</b>			
Current Assets			
Statutory Receivables	3	<b>25,706,574</b>	<b>31,606,574</b>
Courts		23,553,568	31,605,147
State Attorney		2,153,006	1,427
Other Financial Assets	7	<b>2,457,098</b>	-
Cash and cash equivalents	4	<b>893,008,585</b>	<b>805,972,165</b>
<b>TOTAL ASSETS</b>		<b>921,127,257</b>	<b>837,578,739</b>
<b>LIABILITIES</b>			
Current Liabilities			
Payables - Third Party Fund Payables	6	921,172,257	821,237,471
Other Financial Liabilities	7	-	16,341,268
<b>TOTAL LIABILITIES</b>		<b>921,172,257</b>	<b>837,578,739</b>

## STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 31 MARCH 2018

		2018	2017
		R	Restated R
<b>Net cash flow from administration activities</b>			
Receipts from third parties	5	2 665,411,559	2 638,860,793
Payments to third parties	5	(2 610,392,053)	(2 695,791,364)
Net movements in shortages as well as maintenance debtor and RD cheques		5,713,733	19,989,246
Net movement in system reconciliation		(1,648)	(39,461)
Net movement in consolidated national bank balance		(652,123)	1,509
Net interest received and bank charges		18,021,742	16,961,529
Net movement in unclaimed bank balance		9,596,423	7,767,853
Other Adjustments		(661,215)	(13,672,979)
Net (decrease) /increase in cash and cash equivalents		87,036,420	(25,922,875)
Cash and cash equivalents at the beginning of the year		805,972,165	831,895,040
<b>Cash and cash equivalents at the end of the year</b>		<b>893,008,585</b>	<b>805,972,165</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

### 1. General Information

The primary function of Third Party Funds is the administration of the categories of transactions stated below on behalf of third parties by:

- the identification, creation, maintenance and management of benefactors and beneficiaries;
- the management of the receipts and payments on behalf of benefactors and beneficiaries;
- the accurate accounting of all transactions and safeguarding of administrative documentation; and
- the timely and accurate reporting of transactions.

The legal identity of Third Party Funds (TPF) has not been defined but remains a vital administration function within the Department of Justice and Constitutional Development (DOJ&CD Vote) to deliver on the mandate to provide access to justice for all through improved service delivery. Please refer to Note 10 for an explanation of the agency relationship. Categories and nature of transactions

**Admission of guilt:** Fines, mostly traffic fines, where the accused chooses not to defend the matter in court. These funds are paid over to either local provincial or other authorities or the National Revenue Fund at the end of each month.

**Bail:** Where an accused is granted bail by a judicial officer or a duly authorised official. These funds are retained until a court authorises the return of the funds to the depositor upon completion of the case if the bail conditions have been met, or they are forfeited to the state as a court fine or they are paid over to the National Revenue Fund when the monies remain unclaimed for a period longer than twelve months after it has been authorised to be repaid to the depositor.

**Court fines:** Fines imposed by a court, which are paid over to the National Revenue Fund at the end of each month.

**Maintenance:** Funds are received from obligors in accordance with an order of court, which is then paid to beneficiaries/complainants or returned to the obligor or to the National Revenue Fund if the monies remain unclaimed for a period longer than eighteen months.

**State Attorney monies:** Money collected by the State Attorney on behalf of government institutions. The State Attorney also collects a commission on debt collections on behalf of government institutions which is paid over to the National Revenue Fund. The State Attorney captures these transactions on the State Attorney System (SAS), which is independent of the Justice Deposit Accounts System (JDAS).

**Compensatory fines:** Criminal court orders for a given defendant to pay compensation to a plaintiff.

**Deferred fines:** Fines deferred over a period as imposed by a court, which are paid to the National Revenue Fund at the end of each month as court fines.

**Payments into court:** Civil action where an offer in settlement of a plaintiff's claim is made. These security payments may in certain cases be made without a court order, where a defendant pays into court an amount, without prejudice, as an offer in settlement of a plaintiff's claim in a civil case, pending acceptance by the plaintiff. Unclaimed payments are paid over to the National Revenue Fund when the monies remain unclaimed for a period longer than thirty-nine months after it has been authorised to be repaid to the depositor.

**Unclassified monies:** Money received that cannot immediately be classified into one of the above categories, or that originates from an unknown source, or maintenance monies received for which the obligor or employer has not yet forwarded the detailed beneficiary list. If the origin of these monies cannot be traced or classified within six months, the monies are deposited to the National Revenue Fund.

## 2. ACCOUNTING POLICIES

### 2.1 Basis of preparation

The financial statements have been prepared on a historical cost basis except where stated otherwise in accordance with South African Standards of Generally Recognised Accounting Practice (GRAP). These Standards of GRAP have been applied as required by par. 38 of Government Gazette 40021 of 27 May 2016. The Government Gazette specifies that where applicable legislation is not prescriptive in terms of the financial statements, entities are required to prepare financial statements in accordance with GRAP.

These financial statements are presented in South African Rand. In the absence of an issued and effective Standard of GRAP, accounting policies for material transactions, events or conditions were developed in accordance with paragraphs 8, 10 and 11 of GRAP 3 as read with Directive 5, issued by the Accounting Standards Board (ASB).

The Fund's principal accounting policies, which are in all material respects consistent with those applied in the previous year, except as stated in Note 13, are set out below.

### 2.2 Applicable Standards of GRAP

In the current year, the Fund has adopted all new and revised standards and interpretations issued by the ASB that are relevant to its operations and are effective. The adoption of these new and revised standards and interpretations has resulted in no changes to the accounting policies.

The Fund has early adopted the following standards and interpretations that have been approved but are not yet effective for the current financial year and that are relevant to its operations:

GRAP 108 – Statutory Receivables. TPF formulated an accounting policy using the principles of the Standard to account for Receivables and Payables.

The Fund has not adopted any other GRAP standard that is not yet effective, but has based its accounting policies on such standards. At the date of submission of these financial statements for the year ended 31 March 2018, the following standards had been issued but were not yet effective:

Standard	Effective Date	Expected impact
GRAP 108 – Statutory Receivables	No date determined yet	Already early adopted – No impact
GRAP 20 – Related Party Disclosures	No date determined yet	Minimal – certain additional disclosures may be required
GRAP 32 – Service concession arrangements: Grantor	No date determined yet	No impact
GRAP 109 – Accounting by Principals and Agents	No date determined yet	Minimal

## **2.3 Summary of significant accounting policies**

### **2.3.1 Financial instruments**

Financial instruments of the TPF only comprise cash and cash equivalents and are classified as financial assets at amortised cost, except if bank balances are in overdraft; then they are classified as financial liabilities at amortised cost. Financial instruments at amortised cost are recognised when the TPF becomes a party to the transactions and are initially measured at fair value, including transaction costs and subsequently measured at amortised cost, using the effective interest method.

Financial assets are subject to annual impairment review. TPF would assess whether there is any objective evidence that a financial asset or group of financial assets is impaired. If there is objective evidence that an impairment loss on a financial asset has been incurred, the loss is recognised in surplus or deficit.

TPF would derecognise a financial instrument only when:

- The contractual rights to the cash flows from the financial asset expire, are settled or waived;
- Substantially all of the risks and rewards of the financial instrument are transferred to another party; or
- In the case of a financial asset, TPF has transferred control even if it retains some significant risks and rewards of ownership.

### **2.3.2 Cash and cash equivalents**

Cash and cash equivalents consist of cash on hand and at the bank at reporting date. Cash equivalents are short-term highly liquid investments that are readily convertible to known amounts of cash and which are subject to insignificant risk of changes in value. Cash at bank are held with reputable banking institutions in the name of the Department of Justice and Constitutional Development. Cash equivalents include cash received on behalf of TPF by other government institutions mandated to receive such monies, which is still in transit. The balance of cash and cash equivalents accrues to third parties. Refer to payables note below.

### **2.3.3 Statutory receivables**

Statutory receivables arise from the legal activities of the TPF and represent amounts that are recoverable from another/ identifiable party and include, but are not limited to, dishonoured cheques, maintenance debtors and shortages. Receivables are initially measured at the amount of cash receivable (the transaction amount) and subsequently at cost plus any interest or fees associated with the receivable.

Statutory receivables are derecognised when the TPF receives the amounts owing or when amounts are written off through DOJ&CD Vote funding when irrecoverable.

#### **2.3.3.1 Dishonoured cheques**

Dishonoured cheques debtors are recognised in the Statement of Financial Position when cheques received from various obligators are returned "Refer to Drawer" by the financial institutions only after a payment had already been made to the third party beneficiary in the interest of service delivery. Following an internal investigation, the Department of Justice and Constitutional Development may write - off the amount.

### **2.3.3.2 Maintenance debtors**

Maintenance debtors are raised when maintenance payments are made to incorrect third party beneficiaries due to incorrectly referenced payments received.

### **2.3.3.3 Shortage debtors**

Monies collected over the counter are deposited at a financial institution on a daily basis. Where the amount deposited is less than the amount collected/receipted, a cash shortage is recorded. All cash shortages are investigated and a receivable is raised for shortages. Following an internal investigation, the Department of Justice and Constitutional Development may write - off the amount.

### **2.3.3.4 State institutions and other receivables**

The receivable state institutions and other receivables refers to money due from state institutions that includes provincial governments and local authorities.

### **2.3.4 Payables**

Payables arise from amounts that are due and payable to beneficiaries. Payables do not meet the definition of financial liabilities as described in GRAP 104 due to the following reasons:

- Payables arise out of non-contractual arrangements
- Performance and remedy of non-performance is not enforceable by law
- The transactions are executed in terms of legislation opposed to a contract

As GRAP 104 is not relevant to payables in this instance, the recognition and subsequent measurement principles in GRAP 108 – Statutory Receivables – will be applied as the payables have similar characteristics of the definitions described in this standard.

Payables are subsequently measured at cost less payments made. Payables are derecognised when the rights to the cash outflows from the payable are settled, expired or waived.

### **2.3.5 Other financial assets and liabilities**

Other financial assets and liabilities consist of ring-fenced balances. The purpose of ring-fencing balances is to isolate amounts that cannot be verified under cash and cash equivalents, payables and statutory receivables. The various limitations placed on reporting data are due to the shortcomings of the reporting/accounting system, namely the JDAS and SAS system, which resulted in system errors and other invalid balances arising. Further to this, many take - on balances from the previous reporting system onto JDAS, which was done many years ago and was not appropriate.

These items were removed from the relevant financial statement components and grouped into the ring-fenced balance. The balance will be placed under investigation. Balances transferred from ring-fenced assets and liabilities are offset. Management feel that this is appropriate as the net balance would represent the actual unknown amounts.

Ring-fenced balances are recognised at the carrying amounts of cash and cash equivalents, statutory receivables and payables at date of transfer to the ring-fenced balance. This account is subsequently carried at this cost until valid payments or receipts are made to clear the balances. Once management has fully investigated the balances and no explanation or support can be found for the balances, these amounts will be written off to surplus and deficit or derecognised.

Fair presentation of the financial statements will be strengthened through this once-off ring fencing, as other components of the financial statements now give a fair reflection of the current year's operations and balances at year end.

### **2.3.6 Statement of cash flows**

The statement of cash flows does not present cash flows from operating, investing or financing activities as funds collected from or distributed to third parties do not accrue to Third Party Funds due to the nature of Third Party Funds' operations. However, in order to achieve fair presentation, cash flows from administration activities have been presented.

### **2.3.7 Comparative figures**

As stated in Note 13, comparative figures have been restated to afford a proper and more meaningful comparison of results, as set out in the affected notes to the financial statements.

### **2.3.8 Related parties**

Parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions or if the related party entity and another entity are subject to common control.

## FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2018

### 3. STATUTORY RECEIVABLES

	2018 R	2017 Restated R
<b>Courts</b>		
Dishonoured cheques	505,526	171,519
Maintenance debtors	1,848,996	2,808,837
Shortage debtors	14,852,758	18,948,266
State Institutions and Other Receivables	37,010	39,220
Vote: Receivable from the Department of Justice and Constitutional Development	6,309,278	9,637,305
<b>State Attorney</b>		
State Attorney Receivable	94,449	1,427
Vote Receivable from the Department of Justice and Constitutional Development	2 058,557	-
<b>Total Statutory Receivables</b>	<b>25,706,574</b>	<b>31,606,574</b>

	Counter shortages	Maintenance overpayments	Dishonoured cheques	State Institutions	State Attorney	VOTE: Receivable from DoJ	TOTAL
0 to 6 months	171,814	114,130	-	21,090	2,153,006	6,309,278	8,769,318
7 to 12 months	1,628,941	66,708	398,209	15,920	-	-	2,109,779
13 to 24 months	3,346,849	161,790	3,100	-	-	-	3,511,739
25 to 36 months	2,741,940	177,927	1,000	-	-	-	2,920,867
37 to 60 months	5,085,359	271,791	4,990	-	-	-	5,362,140
61 months plus	1,877,854	1,056,649	98,227	-	-	-	3,032,730
<b>Total Amount</b>	<b>14,852,758</b>	<b>1,848,996</b>	<b>505,526</b>	<b>37,010</b>	<b>2,153,006</b>	<b>6,309,278</b>	<b>25,706,574</b>

#### 4. CASH AND CASH EQUIVALENTS

	2018	2017
	R	Restated R
Cash and cash equivalents consist of:		
Consolidated Corporate Account Balance	26,843,510	18,832,368
Consolidated Court Balance	480,470,696	425,046,776
Consolidated State Attorney Balance	366,551,541	352,546,708
Unclaimed Funds	19,142,838	9,546,313
Balance as at 31 March	<u>893,008,585</u>	<u>805,972,165</u>

#### 5. CLASSES OF RECEIPTS AND PAYMENTS

##### Cash receipts from third party transactions

- DoJ&CD Courts	2,106,012,195	2,291,385,619
- State Attorney	559,399,364	347,475,174
	<u>2,665,411,559</u>	<u>2,638,860,793</u>

##### Cash payments from third party transactions

- DoJ&CD Courts	(2,054,656,745)	(2,352,261,643)
- State Attorney	(555,735,308)	(343,529,722)
	<u>(2,610,392,053)</u>	<u>(2,695,791,364)</u>

## 6. PAYABLES - THIRD PARTY FUNDS PAYABLES

	2018 R	2017 Restated R
State Attorney		
National Revenue Fund	2,576,950	14,514,601
State Organisations	331,641,406	319,330,779
Unclassified monies	16,171,470	6,235,259
Interest payable	25,370,163	12,580,487
Vote: Payable Corporate Accounts	10,831,725	6,251,880
Courts		
Bail	339,414,127	281,652,630
Maintenance	63,637,073	82,926,759
Unclassified monies	46,556,117	45,270,413
Fines	71,563,978	38,998,576
Payments into court	7,890,347	9,165,553
Contribution	750	63,130
Compensatory Fines	5,518,151	4,247,403
	921,172,257	821,237,471

## 7. OTHER FINANCIAL LIABILITIES

The DoJ&CD launched and completed a ring-fencing exercise in the previous financial year under review. The purpose of the ring-fencing exercise was to isolate amounts and transactions that cannot be verified under cash and cash equivalents, payables and statutory receivables based on historical limitations of the system.

The various limitations placed on reporting data are *inter alia* due to the shortcomings of the administrative systems JDAS & SAS which resulted in system errors and other invalid balances arising. These items were removed from the relevant financial statement components and grouped into this ring-fenced balance under other financial liabilities. These balances and transactions are available at the office level and have been aged. The balances were investigated and cleared through obtaining supporting documentation, fixing of data errors and pay-overs of funds to the National Revenue Fund as prescribed over the medium term (the next two years). These activities and clearing of historical balances are in preparation of the deployment of a new SAP-based financial administration system (MojaPay).

	As disclosed in 2016/2017	As disclosed in 2017/18	Movement	Nature of movement
Receivables	11,452,090	11,091,685	(360,405)	
Courts	11,452,090	11,091,685	(360,405)	Clearing of invalid shortages, write-off by delegated authority and recovery of overpayments.
Cash and Cash Equivalents	26,031,392	17,800,346	(8,231,046)	The net impact of clearing the receivables and payables and the clearing of system and data errors, such as erroneous postings of interest and charges.
Payables	(53,824,750)	(26,434,932)	(27,389,818)	
Courts	(41,357,253)	(18,462,634)	(22,894,619)	Pay - overs to beneficiary institutions (including NRF) and identified beneficiaries, and clearing of beneficiaries listings.
State Attorney	(12,467,497)	(7,972,298)	(4,495,199)	Pay-overs to beneficiary institutions (including NRF) and identified beneficiaries and clearing of beneficiary listings
Other Financial Liabilities	(16,341,268)	2,457,098	(18,798,367)	

## 8. INTEREST RECEIVED AND BANK CHARGES

	2018	2017
	R	Restated R
Bank charges	(28,234,238)	(26,319,124)
Interest received	46,255,979	43,280,653
	<u>18,021,742</u>	<u>16,961,529</u>

## 9. GOING CONCERN

Third Party Funds continues to act as an agent of the Department of Justice and Constitutional Development, and the Department will continue to support it in these operations. Therefore these financial statements have been prepared on the basis of accounting policies applicable to a going concern. This basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of its operations.

## 10. EVENTS AFTER THE REPORTING PERIOD

The Accounting Officer is not aware of any matter or circumstance arising since the end of the reporting date that might have a material impact on the amounts disclosed.

## 11. RELATED PARTY TRANSACTIONS

### Name of related party:

**Department of Justice and Constitutional Development**

### Relationship:

While the operating expenses of the Fund are financed by the Department of Justice and Constitutional Development, it is not possible to accurately estimate the value of those transactions because of the intricate set of the relationship. In terms of the Third Party Funds' role as a custodian of funds due between third parties and the nature of its operations no income or expenditure accrued to Third Party Funds.

In addition, interest and bank charges accrue to the Department of Justice and Constitutional Development. This results in the statement of financial performance as well as statement of changes in net assets not reflecting any amounts.

	2018	2017
	R	Restated R
Total administration costs (salaries) disclosed as:	5,882,021	5,369,970
Office of the CFO	5,882,021	5,369,970
<b>Key personnel costs disclosed as:</b>	<b>5,882,021</b>	<b>5,369,970</b>
Level 15 - Chief Financial Officer (1)	1,573,287	1,486,187
Level 14 - Chief Director (1)	1,426,599	1,320,457
Level 13 - Directors (2)	2,882,135	2,563,326

## 12. FINANCIAL RISK MANAGEMENT

The TPF is exposed to the following financial risks due to the nature of its operations:

- Credit risk
- Interest rate risk

The TPF has employed the following activities in the management of these risks:

### 12.1 Credit risk

- Cash held at bank

The bank balances represent the maximum exposure to credit risk of the Fund. The Fund, through the DoJ&CD, only banks with reputable banking institutions with highest credit ratings.

These institutions are:

- ABSA – F1+
- Nedbank – F1+
- Standard Bank – F1+
- First National Bank – F1+

### 12.2 Interest rate risk

The Fund does not actively manage its exposure to changes in the interest rate applicable to its bank balances which carry interest at a variable rate. The Fund's bank balances are of a short-term nature and therefore the exposure is minimal. The Fund is not allowed to manage available cash balances to maximise return, as the amounts in bank are essentially owed to third parties.

### 12.3 Compliance risk

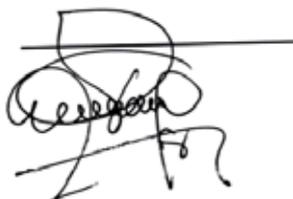
Compliance risk is defined as the risk of legal sanctions, material financial loss, or loss to reputation the Fund may suffer as a result of its failure to comply with laws, its own regulations, code of conduct and standards of best/good practice. Compliance is managed through the DFI and procedure manuals which are updated regularly and training interventions.

### 13. PRIOR PERIOD ERRORS

The Fund has previously excluded interest payable to a beneficiary in the State Attorney and per court order the relevant payable is now raised.

The effect of this change on the current period is shown below:

	As disclosed in 2016/2017	Prior period error for the financial year 2016/2017	Restated balance
Interest payable	0,00	12,580,487	12,580,487
Vote: Payable Vote Corporate Account	18,832,368	12,580,487	6,251,880



.....  
MR V. MADONSELA

DIRECTOR-GENERAL: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

31 July 2018



RP406/2018

ISBN: 978-0-621-46842-7

Tel: 012 315 1111

Private Bag X81, Pretoria, 0001

Momentum Centre, 329 Pretorius Street, Pretoria

 @DOJCD\_ZA  DOJCD DOJCD