AUDIT PERSPECTIVES

READY TO USE EXTRA POWERS

Public accountability has been in the spotlight in recent years, particularly since President Cyril Ramaphosa's call to address rampant corruption, maladministration and malfeasance, and strengthen public institutions, especially law enforcement agencies.

This call has never been more urgent, given the recent covid-19 relief fund irregularities in areas including procurement of personal protective equipment (PPE) and disbursement of funds from the Unemployment Insurance Fund (UIF).

The Auditor-General (AG) has long raised concerns about pervasive mismanagement of public funds without consequence.

This led to calls from parliamentary oversight structures, civil society, organised labour, media and the public at large for the AG to be empowered to hold accounting officers entrusted with public funds accountable for their actions.

In 2019, president signed the Public Audit Act (PAA) into to law to enhance the AGSA's powers. These amendments, which provide valuable instruments for implementing effective consequence management and taking remedial action, centre on the material irregularity (MI).

An MI is any fraud, theft, breach of fiduciary duty or non-compliance with, or contravention of, legislation that could result in a material financial loss, the misuse or loss of a material public resource, or substantial harm to a public sector institution or the general public.

The amended PAA empowers the AG to report on MIs detected during audits, and take action if accounting officers and authorities do not appropriately deal with such irregularities. The AG can now refer MIs to a public body for investigation; take remedial action, if MI recommendations are not implemented; and issue certificates of debt if remedial action is not implemented.

These amendments are corrective, not punitive, and aim to strengthen financial and performance management to improve public sector accountability. They have inspired hope that accounting officers will be held accountable and face consequences for wrongdoing.

The Public Audit Act and its regulations have been shaped to support the process of fair, transparent and legally sound administrative justice by giving accounting officers ample opportunity to fulfil their duties, rectify any breaches and compromises in the system of internal controls, and address any financial management failures.

The MI process requires the AG to notify the accounting officer when an MI is identified in the audit, giving them the opportunity to take appropriate action to stop the irregularity; prevent any loss, misuse or harm, and/or recover any losses; identify the responsible person or entity; and take appropriate action.

If the accounting officer does not take appropriate action, the AG may refer the matter to a public body for investigation or issue a recommendation in the audit report. If this recommendation is not implemented, the AG must issue binding remedial action.

Finally, if this remedial action is not implemented, the AG must, as a last resort, issue a certificate of debt. The process does not allow a certificate of debt to be issued immediately.

There have been questions about when the AG will 'send people to jail'. However, while the process may lead to arrest and eventual imprisonment, this is not our responsibility.

As announced in 2019, we adopted a phased implementation approach for the MI process, informed by our resources, skills, capacity and stakeholder expectations.

In the first year (2018-19), we selected 25 national, provincial and local government auditees, taking into account the latest audit outcomes of high irregular expenditure over the previous three years and ensuring sufficient coverage across spheres of government and provinces. We defined MIs narrowly, as material non-compliance that resulted in material financial loss.

In 2019-20, we implemented the MI process at 146 auditees, focusing on those representing a significant portion of the expenditure budget and irregular expenditure of national, provincial and local government (including state-owned entities), and on key contributors to government priorities. We expanded the MI definition to include any non-compliance with, or contravention of, legislation, fraud, theft or breach of fiduciary duty that resulted, or were likely to result, in a material financial loss.

On 31 March 2021 we will present our general report on national and provincial government audit outcomes, outlining our progress in the first two years of implementing the MI process. During this time, we identified 78 MIs with an estimated financial loss of R5,8 billion. These are currently being addressed. In 2020-21, we plan to implement the full MI definition.

The public hope for, and expectation of, action and consequence management is justified, and we will discharge our mandate diligently, fairly and with due care. We will implement the AG's enhanced powers if no action is taken, up to and including issuing certificates of debt. However, our measure of success is a changed culture and better audit outcomes. Our ultimate goal is to enable public accountability.

The spotlight on public accountability is welcomed and should be encouraged, this is not only the responsibility of us in authority but should concern each and every citizen. It requires an active citizenry that demand service delivery that will improve their lives. It must be a citizenry that take active interest in how public funds are spend and how they benefit them.

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Auditing to build public confidence