COORDINATION AND MONITORING MECHANISM FOR REFERRALS FROM THE SPECIAL INVESTIGATING UNIT

IMPLEMENATION PLAN AND PROGRESS REPORT

28 February 2022

CONTENTS

ACRONYMS

ACTT – Anti-Corruption Task Team

AFU – Asset Forfeiture Unit

COGTA – Department of Cooperative Governance and Traditional Affairs

DPCI – Directorate of Priority Crime Investigation (also known as the Hawks)

DPME- Department of Planning, Monitoring and Evaluation

DPSA – Department of Public Service and Administration

IJS – Integrated Justice System

JCPS – Justice Crime Prevention and Security Cluster

NACAC – National Anti-Corruption Advisory Council

NACS - National Anti- Corruption Strategy

NPA – National Prosecuting Authority

PPE – Personal Protective Equipment

SALGA – South African Local Government Association

SCOPA – Standing Committee on Public Accounts

SCCU – Serious Commercial Crimes Unit (within NPA)

SIU - Special Investigating Unit

PURPOSE

This document sets out a start-up phase implementation plan for a coordination and monitoring mechanism in the Presidency for referrals from the Special Investigating Unit (SIU). It also provides a progress report on the initial work done towards establishing this mechanism, following the appearance of Minister M. Gungubele at Standing Committee on Public Accounts (SCOPA) on 1 February 2022.

The report does not provide information on progress of SIU referrals, given the infancy of this mechanism and that both SIU and the National Prosecuting Authority (NPA) have recently provided reports to SCOPA. Reporting on status of referrals will however become the main focus as this mechanism becomes functional.

OVERVIEW

Problem Statement

The implementation of referrals for various forms of remedial action from investigations of the SIU is not currently systematically coordinated across the multiple departments, spheres and agencies responsible for implementation. This creates gaps in accountability and the inability to monitor and detect where there is inadequate progress on implementation.

The root causes of this include:

- Business processes are not mapped as a single value chain across the multiple agencies involved.
- Data systems are not linked or aligned to detect where a referral gets stuck in the value chain.
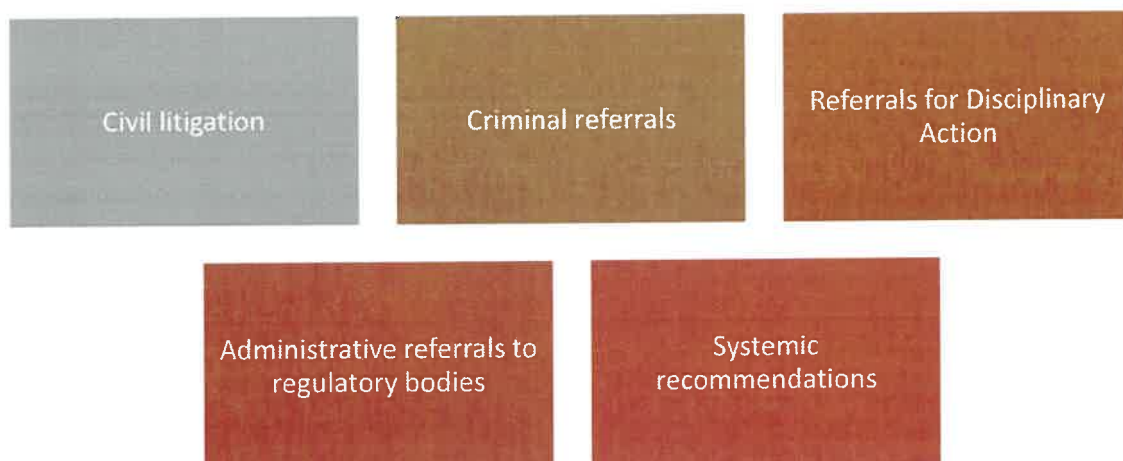
The mischief is systemic, but the pressure to show results is urgent.

The response must therefore simultaneously focus on building state capability and showing tangible results in implementation of the SIU recommendations.

Overview of SIU referrals and recommendations

The SIU has issued 81 reports to the President since 2002.

These reports contain referrals and recommendations that can be classified in the following categories:

Civil litigation	Criminal referrals	Referrals for Disciplinary Action

Administrative referrals to regulatory bodies	Systemic recommendations

Unpacking the categories

Civil litigation

- SIU enrolls matters to the Special Tribunal to recover funds
- These referrals are managed end-to-end by the SIU.
- The SIU has shared a data set with the Department of Planning, Monitoring and Evaluation (DPME) covering the period from 2014 – 2022.

Criminal referrals

- SIU refers criminal matters to the National Prosecuting Authority (NPA).
- SIU does not have influence over whether the NPA acts on these referrals.
- SIU has provided a data set for 2,371 criminal referrals dating back to 2013.

Referrals for Disciplinary Action

- The Department of Public Service and Administration's (DPSA) Ethics, Integrity and Disciplinary Technical Assistance Unit, is mandated by the Public Administration Management Act (11 of 2014) to monitor and intervene in disciplinary cases.
- DPSA is currently establishing a monitoring system for tracking progress on disciplinary cases.
- Further investigation is required to establish the status and processes of referrals to local government and public entities.

Administrative referrals

- These are made to regulatory bodies and agencies such as the National Treasury, Competition Commission, South African Revenue Services, Professional Associations etc.
- An important focus area is on assessing the processes related to blacklisting of service providers, who have been implicated in wrong-doing.

Systemic recommendations

- SIU runs awareness raising activities with departments where systemic challenges have been identified. This includes the development of improvement plans which are tracked by SIU.

Environmental scan

The Presidency's coordination and monitoring mechanism must achieve impact in an already existing eco-system of institutions, programmes and initiatives. The process of establishing the

monitoring and coordination mechanism will engage with all relevant initiatives to identify opportunities, achieve synergies and promote increased coherence and alignment. The following in is illustrative list (not exhaustive):

- National Anti- Corruption Strategy and the National Anti-Corruption Advisory Council. (PPE is referenced in the NACS)
- Integrated Justice System
- Anti-Corruption Task Team case processing mechanism project
- JCPS restructuring task team
- SIU's project to develop internal monitoring capability
- NPA capacity-building initiatives
- DPSA's Ethics, Integrity and Disciplinary Technical Assistance Unit
- National Treasury (Chief Procurement Officer, Procurement reforms, etc.)

THE PLAN

Vision of success

- An inter-operable database system provides on-demand access to the implementation status of referrals made by the SIU, across the five categories.
- This database system has been built by establishing information sharing mechanisms across the multi-agency (SIU, Presidency, DPSA, Cogta, NPA, DPCI, NT etc.) value chain that oversees and implements the recommendations contained in SIU reports.
- This is a system-of-systems that has been evolved through problem solving and smart deployment of technology. It is not a new system developed in isolation and imposed from above, but rather has evolved through leveraging opportunities and facilitating enhancement in the existing environment.
- Clearly defined roles, responsibilities, standard operating procedures (SOPS) and rules enable an articulation of explicit business process across the full value chain of SIU recommendations – from initiating an investigation to finalization of recommendations.
- This success is the product of a participatory, iterative business process mapping and enhancement exercise. The SOPS and rules are developed and agreed through ongoing engagement and trouble-shooting with all stakeholders, creating a practice of continuous improvement of the system.

Methodology

- Given the complex environment (multiple and evolving processes) and current conditions (high pressure to deliver in a context of low trust and fatigue) - a problem-driven, iterative and adaptive approach that produces tangible results early on is required:

- The mechanism should evolve through a series of three-month action learning cycles.

- The first cycle (Feb to April) will focus on the implementation of referrals from the COVID-19 PPE report, as the entry point to building the mechanism.

- The methodology is underpinned by learning through doing, as such the plan is an evolving process, not a fixed object.
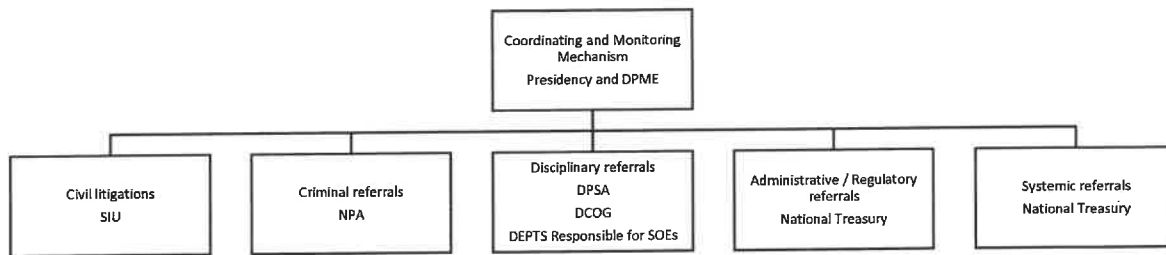
Figure 1:Proposed architecture of coordinating and monitoring mechanism

High-level plan for three-month start-up phase

Activities for February 2022	Activities for March 2022	Activities for April 2022
• Establish project team and interim project management structures • Stakeholder identification and engagement • Assessing available data and data systems • Detecting problems that can provide entry points for improvements • First update to SCOPA (end Feb)	• Recruit specialist resources • Business process mapping across the value chain • Analysis of data processes and data quality • Rapid prototyping of data warehouse and analysis capability • Criteria and procedures for prioritizing recommendations • Second update to SCOPA (end March)	• Business process enhancements • Articulate roles, responsibilities and protocols between agencies. • New iterations of rapid prototyping of data warehouse and analysis capability • Develop communications strategy with GCIS • Review start-up phase and develop new three month plan • Third update to SCOPA (end April) • First quarterly report to Cabinet

Immediate next steps arising from initial engagements

Referrals for disciplinary action	• Complete analysis of SIU disciplinary action referrals and establish baseline. • Issue follow-up correspondence to all recipients who have not responded. • Monitor compliance with quarterly DC reporting to DPSA and escalate non-compliance. • Explore how to link DPSA DC reporting to SIU Workflow system to update on disciplinary case referrals. • Engagements with COGTA and SALGA on referrals to local government.
Referrals for criminal action	• Monitor and support progress on establishing MOU between NPA, DPCI and SIU on referrals. • Facilitate business process mapping exercise between NPA, SIU and DPCI. • Work on mechanism to link NPA and SIU data systems. • Establish baseline for monitoring outcomes of criminal referrals.
Referrals for civil litigation	• Establishing baseline on compliance of recommendations for blacklisting of suppliers, with emphasis on individuals as well as juristic persons.
Referrals for administrative action	• Establishing baseline on compliance of recommendations for blacklisting of suppliers, with emphasis on individuals as well as juristic persons.
Systemic recommendations	• Further research to understand gaps, opportunities and synergies with other systemic reform initiatives (e.g. MTSF Priority 1, AGSA etc.)

Monitoring mechanism

Proposed outcome indicators (These indicators will be enhanced as the mechanism matures)

- Rand value of assets recovered as a result of SIU investigations

- Number of natural or legal persons found guilty of a crime as a result of SIU referrals

- Number of officials found guilty in disciplinary processes as a result of SIU referrals

- Number of companies and individuals blacklisted on supplier databases as a result of SIU referrals.

Note: No targets for outcome indicator should be set during the formative stage of this mechanism. The emphasis must be on accuracy and currency of data, and then understanding what this data is telling us about efficiencies and effectiveness. (e.g. reduction in number of officials found guilty could mean declining efficiency **or** improved effectiveness (deterrent). Targets will need to be used with the greatest care, so as not to introduce perverse incentives and unintended consequences.

Process indicators

Once business process mapping is completed for the various categories of referrals, process indicators will be developed to monitor each step in the value chain. This will provide a vital lever for identifying and addressing blockages and gaps in the work flow. It is at this level that target (i.e. target conditions) should be set.

Reporting

Quarterly reporting will be made to Cabinet, starting in April 2022. This will be done through the relevant clusters to ensure that any challenges at departmental level are made visible and addressed.

Monthly progress reports will be submitted to SCOPA during the initial phases of the development of the mechanism.

GCIS will develop a communication strategy for public facing communication as the mechanism matures.

PROGRESS TOWARDS ESTABLISHING THE COORDINATION AND MONITORING MECHANISM

Progress to date

- Project team formed (jointly led by DPME and Presidency)
- Information gathering, gap identification and process mapping under way with SIU, NPA, Presidency (Legal and Executive) and DPSA (Integrity and Disciplinary Management Technical Assistance Unit)
- Procurement for technical support initiated.
- Project has been adopted by GISCD DG cluster as priority of the new cluster programme.

Progress on disciplinary referrals

Findings from initial engagements

- Low response rate to correspondence from Presidency – only 9 responses to 81 letters.
- Low level of compliance by departments on updating status of disciplinary cases on PERSAL.
- Similarly, DPSA reports poor compliance with regard to quarterly reporting on disciplinary cases.
- DPSA uses manual system for tracking disciplinary cases – receives quarterly reports from departments.
- SIU currently relies on their regional offices to make follow-ups on referrals (across categories). Their data system does not currently allow for progress tracking.

Progress

- All SIU referrals for disciplinary action and correspondence have been shared with DPSA.
- DPSA is undertaking analysis of SIU referrals.
- Process to establish standard operating procedures for handling SIU disciplinary referrals initiated.
- Service provider appointed to enhance SIU systems to enable progress tracking. Intention is to expand access to the system to allow updating by DPSA, NPA, etc.

Progress on criminal referrals

Findings from initial engagements

- Lack of common unique identifiers between datasets of SIU and NPA makes updating and analysis of a baseline challenging currently.
- SIU referrals are not considered prosecution ready by NPA and are referred to DPCI for further investigation.
- NPA proposes that DPCI should be brought on board much earlier in SIU investigations, similar view from AFU.
- No systematic process for sharing progress information between NPA and SIU. Currently relies on SIU investigators to make follow ups. SIU data system does not currently allow for registering progress updates (this is currently the focus of system enhancement project)

Progress

- MOU between SIU, NPA and DPCI is currently under development.
- Officials responsible for data systems at NPA and SIU have been put in touch with each other.
- Initial attempts to analyze NPA and SIU datasets have revealed gaps and inconsistencies.

Referrals for civil litigation

Findings from initial engagements

- SIU refers matters to the Special Tribunal
- SIU is able to monitor and manage processes
- Total value of matters referred to Special Tribunal since 2014 is R84,7 billion

Progress

- Dataset has been received from SIU

Administrative referrals

Findings from initial engagements

- SIU makes recommendations to regulatory and professional bodies for blacklisting of suppliers and service providers implicated in malfeasance

Progress

- Investigation into this area has not yet started

Systemic recommendations

Findings from initial engagements

- SIU runs an outreach programme to support institutions to address systemic failures.
- This is done through awareness campaigns, developing improvement plans and monitoring progress on these plans.
- SIU's current workflow information system does not include this area of work.

Progress

- Initial discussions with SIU official responsible for this area

CONCLUSION

The work has begun on developing a coordination and monitoring mechanism for SIU referrals and recommendations.

The approach being followed is problem-driven, iterative and adaptive to avoid creating additional complexity and burden in an already complex and challenged environment.

The problems that have emerged through the initial engagement include:

- Low levels of responsiveness / compliance from departments around reporting on disciplinary action
- No unique common identifiers for tracking criminal referrals across agencies
- Data quality issues
- Communication and information sharing gaps between SIU and NPA

There are a number of existing initiatives in the space that can be leveraged and expanded to achieve successes.

The capacity and capabilities developed through establishing this mechanism could be leveraged for other priorities such as coordination and monitoring the implementation of recommendations from the State Capture Commission.

THE PRESIDENCY: REPUBLIC OF SOUTH AFRICA
Private Bag X 1000, Pretoria, 0001

Honourable Mkhuleko Hlengwa, MP

Chairperson of the Standing Committee on Public Accounts

Parliament of the Republic of South Africa

PO Box 15

Cape Town

8000

Dear Hon. Hlengwa

RE: Coordination and Monitoring Mechanism for Referrals from the Special Investigating Unit.

I write to you following our appearance before your committee on 01 February 2022.

As requested I attach an implementation plan as well as a progress report on the establishment of a coordination and monitoring mechanism, led by The Presidency.

This initiative responds to gaps in the overall coordination and monitoring of referrals to the various agencies, departments and public bodies that must give effect to the findings from SIU investigations.
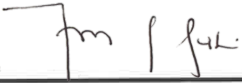

As indicated in the attached plan, we undertake to provide monthly progress updates on this initiative during the three-month start-up phase.

I would like to thank you and the committee for the proactive stance you have taken to ensuring that we collectively do what it takes to address corruption in both public and private spheres.

You can be assured of my full cooperation in this regard.

Yours sincerely

Hon. Mondli Gungubele, MP

Minister in The Presidency

Date: 04/03/2022

Coordination and Monitoring Mechanism for Referrals from the Special Investigating Unit