

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

54 OVERSIGHT REPORT ON THE 2020/21 ANNUAL REPORT OF THE CITY OF JOHANNESBURG BY THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)

1 STRATEGIC THRUST

A responsive, accountable, efficient, and productive metropolitan government.

2 OBJECTIVE

To submit to Council, in terms of section 129 of the Municipal Finance Management Act (MFMA) of 2003, the oversight report on the 2020/21 integrated annual report of the City of Johannesburg.

3 SUMMARY

- The 2020/21 annual report will be adopted with reservations. This is due to the underperformance of the City and its entities. The underperformance is far-reaching, including repeated material findings by the Auditor-General of South Africa (AGSA), the high incurrence of irregular expenditure and the absence of consequence management.
- It is deeply concerning that the audit report of the Auditor-General of South Africa (AGSA) contained more repeat material findings. The deterioration in audit outcomes for Metro Trading Company (MTC) is worrying, as the entity regressed from unqualified with findings to qualified with findings, with no entity auditee in the group obtaining clean audit.
- While the City is still financially sound, there continues to be significant challenges with the collection of revenue, loss of electricity and impairment of debtors. The City has high debt levels. The City will be challenged to carefully manage its expenditure and optimise revenue, particularly with the current weak economic outlook, while maintaining investment in infrastructure and significantly improving expenditure on repairs and maintenance.
- Procurement continues to be a significant contributor to the poor audit outcomes. This is the result of inadequate implementation of internal controls and decentralised supply-chain management processes. Irregular expenditure has increased to unacceptable levels, as has the possible abuse of MFMA regulation 36(1)(a)¹ of the Municipal Supply Chain Management Regulations.

¹ Deviating from the constitutional requirements that all procurement by the state be transparent, competitive, and cost-effective because of emergencies and impracticalities, because there is a sole supplier, or in order to procure zoo animals and works of art.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- Vacancies at senior management levels contributed significantly to the poor performance. The boards of many municipal-owned entities have similarly not appointed senior managers, sometimes with unexplained delays in recruitment processes. Senior managers that are either full-time or acting have not adequately been held to account for poor performance.
- Consequence management for poor performance and non-compliance with legislation is inadequately implemented:
 - The root cause is the failure of senior management to hold officials accountable.
 - There has been minimal disciplinary action taken against senior managers who have not adhered to delegated responsibilities, particularly the prevention of unauthorised, irregular, or fruitless and wasteful expenditure (UIFW expenditure).
 - Disciplinary cases and investigations into improper conduct by employees take too long to complete, undermining consequence management and costing the City through suspension with pay.
 - It is unacceptable that despite terms of reference for disciplinary board approved in council during the year under review, to date the board is not functional. Eight years after the promulgation of the regulations requiring the establishment of the board.
- The failure to manage a disintegrated operating system appears to be the cause of many of the material audit findings. During the question-and-answer sessions with the Executive², it became apparent that the poor management of the decentralised manner in which the City receives invoices, procures goods and services, handles disciplinary cases, and manages financial and non-financial reporting is detrimental to the performance of the City.
- The Chief Audit Executive (CAE), the head of Group Internal Audit Services (GIAS), should report administratively to the City Manager, while continuing to report operationally to the Group Audit Committee. This concern of reporting line was raised by the Auditor-General of South Africa for second consecutive financial year. The elevation of the reporting line will improve the independence of the function.
- The Executive has implemented a number of initiatives to improve the performance of the City. The most notable of these initiatives include Operation Clean Audit (OPCA), the Revenue Enhancement Strategy and the Debt Rehabilitation. The efficacy of the initiatives seems to be ineffective as the audit outcomes of the City continue to deteriorate for third consecutive financial year.

² See Annexure B for a full list of questions and answers by the Executive.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- The quality of financial statements submitted by the 12 auditees within the group regressed from 42% in the previous financial year to 33% during the year under review, while quality of annual performance report submitted for auditing regressed from 58% in the previous financial year to 8% in the current year and overall non-compliance stagnated at 100%.

4 BACKGROUND

The financial year is the basis for planning, budgeting, and reporting. After the end of the financial year, which is on 30 June, every municipality and municipal entity must prepare an annual report³. The annual report provides a municipality with an opportunity to report on service delivery and financial performance of the municipality and its entities. Performance is reported against targets set in the integrated development plan (IDP), business plans and budget. The purpose of the annual report is to:

- Provide a record of the activities of the municipality or entity.
- Provide a report on performance against the budget; and
- Promote accountability to the local community for decisions made.

In the City of Johannesburg, Council delegated the responsibility to consider the annual report to the Municipal Public Accounts Committee (MPAC)⁴ on 24 February 2022. The Committee was tasked with drafting an oversight report on the annual report, which was supposed to be referred to the committee by council by the 31st of January, but due to delays which the mayor stated the reason during the January council as required by MFMA section 127(3)(a), report was referred to MPAC on 24th of February 2022. The oversight report was to be adopted by Council in an ordinary meeting before 31 March 2022, due to delays it will only be tabled in the Council ordinary meeting of 26 April 2022.

The oversight report must, as prescribed in section 129(1) of the MFMA, include a statement indicating whether Council:

- Has approved the annual report, with or without reservations.
- Has rejected the annual report; or
- Has referred the annual report back for revision of those components that can be revised.

The annual report of the City covers the Group, which consists of City of Johannesburg Metropolitan Municipality (CJMM) and 12 entities⁵. The annual reports of the 12 entities are included in the consideration process.

³ In terms of section 121(1) of the MFMA and section 46 of the Municipal Systems Act (MSA), No. 32 of 2000

⁴ As envisaged in section 129 of the MFMA and Circular 32 of the MFMA

⁵ The twelve entities are: City Power, Joburg Market, Joburg Theatre, Johannesburg City Parks, and Zoo (JCPZ), Johannesburg Development Agency (JDA), Johannesburg Metropolitan Bus Services (Metrobus), Johannesburg Property Company (JPC), Johannesburg Roads Agency (JRA), Johannesburg Social Housing Company (JOSCO), Johannesburg Water, Metropolitan Trading Company (MTC), and Pikitup.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

By the end of January, seven months after the financial year, the annual report of the municipality and any entity owned by the municipality must be tabled in council. Based on the above, council then uses the annual report to oversee the performance of the respective municipality.

5 FINDINGS, OBSERVATIONS AND RESERVATIONS**(1) AUDIT OUTCOME**

The City achieved an unqualified audit outcome with findings, the same outcome since the 2019/20 financial year. This is well short of a clean audit outcome⁶.

A clean audit outcome means that Auditor-General of South Africa (AGSA) is of the opinion that: (i) the financial statements are likely an accurate representation of the finances of the City; (ii) that the performance reported⁷ by the City is likely credible; and (iii) there was compliance with the law. The terms used by the AGSA to describe this is that (i) the financial statements are free from material misstatements, (ii) there were no material findings or misstatements on reported performance and (iii) there were no material findings on non-compliance with legislation.

Year under review

Table 1: Audit outcomes for the City of Johannesburg

FINDINGS	2018	2019	2020	2021
Audit outcome	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
Financial statements	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
Reported performance	Material findings	Material findings	No Material Findings	Material findings
Compliance with key legislation	Material non-compliance	Material non-compliance	Material non-compliance	Material non-compliance

Source: Audit reports of the City of Johannesburg

While of considerable value, audit outcomes are inherently limited. Auditors only test a sample of the figures and transactions provided for audit; an audit is not a comprehensive investigation of all reported information. There remains a risk that the AGSA did not detect misstatements or non-compliance with legislation. Audits do not inspect whether service delivery has taken place, only whether there is sufficient audit evidence to support the claim that there is service delivery. Nevertheless, clean audit outcomes are the gold standard of good governance in the public sector. Material findings by the AGSA must be treated with the utmost seriousness and remedied by management as soon as possible.

⁶ A clean audit would be an unqualified audit outcome with no material findings.

⁷ Only the IDP scorecard is audited.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE**(a) MATERIAL FINDINGS ON REPORTED PERFORMANCE**

While the annual report contains, possibly, hundreds of measures of reported performance, only 48 indicators are submitted to the AGSA as part of the audit. The 48 indicators form part of the Institutional Service Delivery Budget Implementation Plan for 2020/21 and are categorised under nine priorities. Of the nine priorities, five were audited. Of the five priorities audited, material misstatements were identified for three indicators under two of the priorities. For these three indicators, there was insufficient audit evidence to determine actual performance or management did not update the indicator to match the performance calculated by the AGSA.

Table 2: Audit of priorities of the SDBIP 2020/21

PRIORITY	AUDITED	MATERIAL FINDINGS
Priority 1: Sustainable Economic Development	<i>No</i>	<i>Not audited</i>
Priority 2: Sustainable Environment Development	<i>No</i>	<i>Not audited</i>
Priority 3: Job opportunity and creation	<i>No</i>	<i>Not audited</i>
Priority 4: Smart City	<i>No</i>	<i>Not audited</i>
Priority 5: Sustainable service delivery	<i>No</i>	<i>Not audited</i>
Priority 6: Integrated Human Settlements	Yes	Material findings
Priority 7: Safer City	<i>No</i>	<i>Not audited</i>
Priority 8: Financial Sustainability	<i>No</i>	<i>Not audited</i>
Priority 9: Good governance	<i>No</i>	<i>Not audited</i>
Priority 10: Minimising the Impact of COVID-19 Pandemic	<i>No</i>	<i>Not audited</i>

Source: 2020/21 annual report and audit report

Under Priority 6, there were two indicators which were sampled for audit by the AGSA and material findings were identified under both indicators. Human and Social Development and Housing department are the custodians of these indicators and provided supporting evidence that materially differs from the information reported in the annual performance report. The table below depicts the sampled key performance indicators (KPI's).

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE**Table 3: Material findings on reported performance**

PRIORITY	INDICATOR	TARGET	REPORTED PERFORMANCE	AGSA FINDING
Priority 6	Number of new households provided access to basic water at minimum LoS1 in informal settlements	9722	6411	Evidence material differs from reported Information
Priority 6	Number of indigent households benefitting from ESP (free basic services)	100 000	137 125	Evidence material differs from reported Information

Source: 2020/21 audit report

It appears that issues are only detected during the audit process, rather than through internal monitoring in-year and after year end. There is a clear need to review the reporting and auditing process. Group Strategy, Policy Coordination and Relations (GSPCR) must ensure that the evidence is available before the start of the audit, and that the calculations used to determine reported performance are appropriate. Group Internal Audit Services (GIAS) must audit the indicators and detect problems before the information is provided to the AGSA. GSPCR was questioned on whether it prepared audit files for the 2020/21 audit. In its response, GSPCR reported that in preparation for 2020/21 auditing, SOPs for all key performance indicators that are part of the SDBIP were developed. Subsequent to that, business process spreadsheets for all KPIs were prepared as per the Auditor-General South Africa template. During the in-year reporting, departments continued to submit evidence to substantiate and validate reported performance. The committee was not put to confidence by the management that reporting of the performance information may improve in the 2021/22 financial year, as it is apparent that the Monitoring and Evaluation Unit of GSPCR is inadequately staffed, with only seven employees for a City of over 32 000 employees. There are similar capacity constraints in GIAS.

(b) MATERIAL NON-COMPLIANCE WITH LEGISLATION

Municipalities must comply with legislation promulgated by Parliament and the Gauteng Provincial Legislature, and all regulations promulgated under the legislation. During the audit, the AGSA assesses all documentation provided to determine whether there has been compliance with the legislation. The AGSA found material non-compliance within the City across six compliance areas. A majority of the material findings were for non-compliance with supply-chain management legislation, which falls under the procurement and contract management compliance area. The repeated findings for each compliance area are deeply concerning. The regression - the increased number of material findings - demonstrates a failure of management's efforts to effect change and a continued failure to hold officials accountable.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

Table 4: Material findings on compliance with key legislation by the AGSA

COMPLIANCE AREA	2019	2020	2021
Annual financial statements	Finding	Finding	Finding
Procurement and contract management	Finding	Finding	Finding
Expenditure management	Finding	Finding	Finding
Consequence management	Finding	Finding	Finding
Revenue Management	Finding	Finding	Finding

Source: Audit reports of the City of Johannesburg

As there are too many material findings to be addressed in this report, only the most critical findings will be addressed in detail: First, Non monitoring of the contractors/providers on a monthly basis, as this result to payments made to providers who did not provide the intended services. Second, failure to keep credible and reliable evidence on the reported performance information, this jeopardizes the oversight ability as we are relying on information that is not useful and credible for targets achieved in service delivery indicators. Finally, the continued failure to have an updated disaster recovery and business continuity plans, this is matter of urgency as the unforeseen events are occurring more often recently, outdated disaster recovery and business continuity plans exposes City to a huge risk. The matter urgently requires improved coordination between Group Information Technology and Group Risk.

The most significant area of material non-compliance is with procurement and contract management. This is exacerbated by the absence of consequence management. The finding of the AGSA on consequence management is the failure to investigate the irregular expenditure arising from poor supply-chain management. While some—in terms of number, not value—irregular expenditure is the result of the failure of document management systems, a considerable amount of irregular expenditure is the result of non-compliance with legislation and regulations by senior management.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE**Table 5: Material findings leading to irregular expenditure**

MATERIAL FINDING	2019	2020	2021
Procurement of goods and services below R200 000 without obtaining the required price quotations	Finding	Finding	Finding
Procurement of goods and services above R200 000 without inviting competitive bidding	Finding	Finding	Finding
Deviations for impracticality approved where it was not impractical to invite competitive bids	Finding	Finding	Finding
Contracts awarded based on points different from criteria set in original invitation for bidding	Finding	No finding	No finding
Insufficient evidence that a proper authority extended or modified contracts	Finding	No finding	No finding
Quotations accepted from bidders who did not submit declaration on whether employed by the state	Finding	No finding	No finding
Contract performance and monitoring measures and methods were not sufficient to ensure effective contract management	Finding	Finding	Finding
Contracts or quotations awarded to bidders based on pre-qualification criteria that differed from criteria set in original invitation for bidding	Finding	No finding	No finding
Awards made to companies who directors were in service of state institution	Finding	Finding	Finding
Failure of persons in the City to disclose that family members had private or business contract awarded by the City	Finding	Finding	Finding

Source: Audit reports of the City of Johannesburg

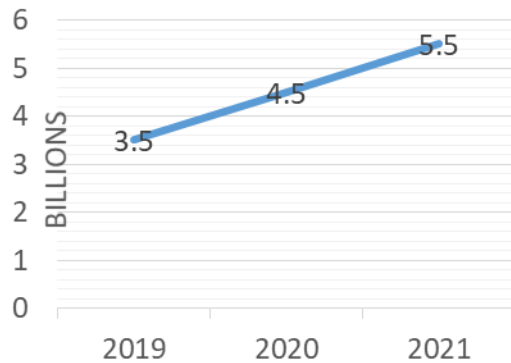
All unauthorised, irregular, or fruitless and wasteful expenditure (UIFW expenditure) must be recovered or written off. The expenditure must be recovered if an official is found to be liable because he or she acted deliberately or negligently. For at least the previous three financial years, despite the creation of Group Forensics and Investigation Services (GFIS), there have been very few recoveries. This has been combined with a clear failure to prevent the incurrence of UIFW expenditure. When the accounting officer was asked whether he fulfilled his legislated mandate to prevent UIFW expenditure, the answer provided did not adequately address the question.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

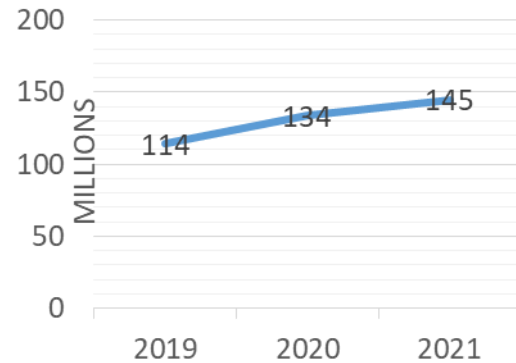
COJ LEGISLATURE

Graph 1: Cumulative irregular expenditure for CJMM, excluding entities (R' billions)



Source: Audited Group AFS

Graph 2: Cumulative fruitless and wasteful expenditure for CJMM, excluding entities (R' billions)



Source: Audited Group AFS

(c) AUDIT OUTCOMES OF ENTITIES

The City has 12 entities. Each entity is subjected to the same audit as CJMM. In 2017/18, the Group had four entities with clean audits namely: Johannesburg City Parks and Zoo (JCPZ), Johannesburg Road Agency (JDA), Johannesburg Property Company (JPC) and Johannesburg City Theatres (JCT). Since then, there has been a stark deterioration. For 2018/19, JCPZ and JPC lost their clean audits outcome, for the first time in several years, JCT and JDA lost theirs during 2019/20 financial year. This leaves the group without any clean audits for the second consecutive year. There was one entity that got qualified audit opinion during the year under review as depicted in the table below.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

Table 6: Audit outcome by entity

ENTITY	2018	2019	2020	2021
City Power	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
JCPZ	Clean	Unqualified with findings	Unqualified with findings	Unqualified with findings
JDA	Clean	Clean	Unqualified with findings	Unqualified with findings
JPC	Clean	Unqualified with findings	Unqualified with findings	Unqualified with findings
Joburg Market	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
Joburg Theatre	Clean	Clean	Unqualified with findings	Unqualified with findings
JOSHCO	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
JRA	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
Johannesburg Water	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
Metrobus	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings
MTC	Unqualified with findings	Unqualified with findings	Unqualified with findings	Qualified
Pikitup	Unqualified with findings	Unqualified with findings	Unqualified with findings	Unqualified with findings

The financial statements of ten of eleven entities were free from material misstatements, the only entity that had material findings on financial statements was MTC. Ten entities had material findings on reported performance. Notably, three of the entities are entities that provide basic services: City Power, Johannesburg Water and Pikitup. Metropolitan Trading Company (MTC) continues to perform extremely poorly. The major concern - and the symptom of the systematic absence of good governance across the City - is that all entities had material findings for non-compliance with key legislation.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

Table 7: Material findings for entities

ENTITY	PERFORMANCE REPORT	COMPLIANCE WITH LEGISLATION
City Power	Material findings	Material non-compliance
JCPZ	Material findings	Material non-compliance
JPC	Material findings	Material non-compliance
Joburg Market	Material findings	Material non-compliance
JOSHCO	No Material Findings	Material non-compliance
JRA	Material findings	Material non-compliance
Johannesburg Water	Material findings	Material non-compliance
JCT	Material findings	Material non-compliance
Metrobus	Material findings	Material non-compliance
MTC	Material findings	Material non-compliance
Pikitup	Material findings	Material non-compliance

Source: Audit reports of the entities of CoJ

The most disconcerting material non-compliance with key legislation was at City Power. The entity is responsible for 53% (R1 billion) of the irregular expenditure incurred by the entities during the financial year. The AGSA also identified that reasonable steps were not taken to prevent irregular expenditure or fruitless and wasteful expenditure. Out of all 11 entities, City Power appears to have the most work to do to improve compliance with legislation.

The deterioration in audit outcomes for MTC was the result of the assets that were carried at R1 while still in use which resulted in an incorrect assessment of useful lives which led to property plant and equipment being materially misstated. There was also an incorrect treatment of the movement of intangible assets that are no longer licensed and in use. These misstatements were due to lack of adequate reviews performed during the preparation of annual financial statements.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

(d) ROOT CAUSES OF AUDIT FINDINGS

For the City and for each entity, officials are tasked with ensuring the completeness of information submitted for auditing and compliance with legislation. To create an enabling environment for officials, the accounting officer must exercise adequate oversight over his or her senior managers and senior managers must ensure that controls are in place and implemented by their officials. The result of this should be that legislation is strictly adhered to, procurement is closely monitored, and the findings of the AGSA and internal audit are resolved timeously. Risks are identified and mitigated, and consequence management is implemented when officials negligently or deliberately act improperly. Unfortunately, for the City and 11 of its entities, this was not the case.

The AGSA identified significant control deficiencies in every entity. Either the accounting officer failed to exercise adequate oversight, which was identified in CJMM and eleven entities, and/or senior management lacked the necessary control disciplines, which was identified in CJMM and eleven entities. For CJMM and ten entities, the accounting officer failed to take adequate steps to prevent UIFW expenditure, which is required by legislation. The last finding is significant, as the amendment to the Public Audit Act makes it clear that the ultimate responsibility - and liability - for material irregular expenditure lies with the accounting officer. Despite the audit outcomes, senior managers, particularly in CJMM, faced little or no consequences for these failures.

What disciplinary action that has been undertaken appears to be ineffective. This may be the result of the City deciding to move implicated officials between entities and CJMM. As soon as an official is employed at an entity, disciplinary procedures are halted. Secondly, often officials resign after the commencement of disciplinary procedures. Disciplinary procedures are then ended despite, in many incidences, officials being liable for UIFW expenditure. The legislation is clear: officials that negligently or deliberately incur UIFW expenditure are liable for the expenditure, and that any loss that results from the expenditure should be recovered. It is startling to find that recoveries over the past three years - for a Group which has a budget in the tens of billions of Rands- recoveries does not even equate to million rands. The City is of the view that the recoveries should only be made for only fruitless and wasteful expenditure, not for irregular expenditure despite MFMA circular 68 being very clear that all financial losses resulting from irregular expenditure should be recovered.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

Table 8: AGSA opinion on internal controls by entity

ENTITY	ADEQUATE STEPS NOT TAKEN TO PREVENT UIFW EXPENDITURE	ACCOUNTING OFFICER DID NOT EXERCISE ADEQUATE OVERSIGHT	SENIOR MANAGEMENT LACKED NECESSARY CONTROL DISCIPLINES
CJMM	Finding	Finding	Finding
City Power	Finding	Finding	Finding
JCPZ	Finding	Finding	Finding
JDA	Finding	Finding	Finding
JPC	Finding	Finding	Finding
Joburg Market	Finding	Finding	Finding
Joburg Theatre	Finding	Finding	Finding
JOSHCO	Finding	Finding	Finding
JRA	Finding	Finding	Finding
Johannesburg Water	Finding	Finding	Finding
Metrobus	Finding	Finding	Finding
MTC	Finding	Finding	Finding
Pikitup	Finding	Finding	Finding

Source: Audit report of the entities of CoJ

Vacancies are another cause of the poor performance. There are several senior manager positions vacant with acting appointees, such as the City Manager, Executive Director : Corporate and Shared Services, Executive Director : Health, Executive Director: Economic Development, and the Group Head : Group Governance, to name a few. The vacancies in entities are as numerous and have directly resulted in the deterioration in audit outcomes. The problems are so severe that the AGSA flagged the entities poor performance as due to instability in leadership positions. While Council has had difficulty appointing senior managers, the board of entities have little excuse for the problem that jeopardises the entities of the City. Even with the vacancies, acting officials must be held accountable.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

As well as the poor leadership, another root cause is a failure to manage a disintegrated operating system in the City of Johannesburg Metropolitan Municipality. This is the opinion of the AGSA, which is a view that is strongly supported by MPAC. Examples of this are numerous: Most significantly, the role of Group Strategic Supply Chain Management is largely advisory, as user departments responsible for procurement. This has resulted in irregular expenditure, as officials who do not specialise in procurement are tasked with managing supply chain management processes, some of which are extremely complicated. The approach also results in each department procuring its own goods or services when coordinating procurement for multiple departments may result in economies of scale that would allow the City to leverage its size to improve value for money. The same issues affect material findings on reported performance, as there is a lack of coordination and standardisation in processes. Invoicing is decentralised, where invoices are sent to user departments, some of which are tardy with the forwarding of invoices for payment to Group Finance, the result of which is the failure of the City to pay service providers within 30 days. The decentralised nature of disciplinary processes has resulted in the uneven implementation of disciplinary proceedings, where some departments take overly long to discipline its officials while advice is provided by human resources field officers that do not specialise in the management of disciplinary procedures.

(e) KEY AUDIT MATTERS AND EMPHASIS OF MATTERS

The audit report includes sections on key audit matters (KAMs) and emphasis of matters. While neither affects the audit outcome, each is significant in understanding the state of the City. KAMs were implemented to increase transparency around the audit process and highlight the areas that are of significant risk of material misstatement or areas of significant judgement by the auditor. For the City, the KAMs is the revenue from the service charges for water and electricity due to significant judgement applied in calculating the estimation of consumption in the recognition of revenue. Emphasis of matters, in contrast, are the aspects of the financial statements that, in the view of the AGSA, are the most important to understanding the financial statements. The emphasis of matters are repeat matters from the previous financial year: the restatement of corresponding figures, material contingencies, material impairment of debtors and material electricity losses.

With regards to the four emphases of matters, the restatement of corresponding figures is likely the result of the material misstatements in the annual financial statements that were detected and corrected by the AGSA. As long as there are misstatements in the annual financial statements submitted for audit, there will likely be the restatement figures from the previous financial year. Material uncertainties, which loosely translates into incidences where the City is being sued and *may* lose money going forward, were considered in-depth during the consideration of the annual report. The high number of lawsuits is demonstrative of poor contract management and

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

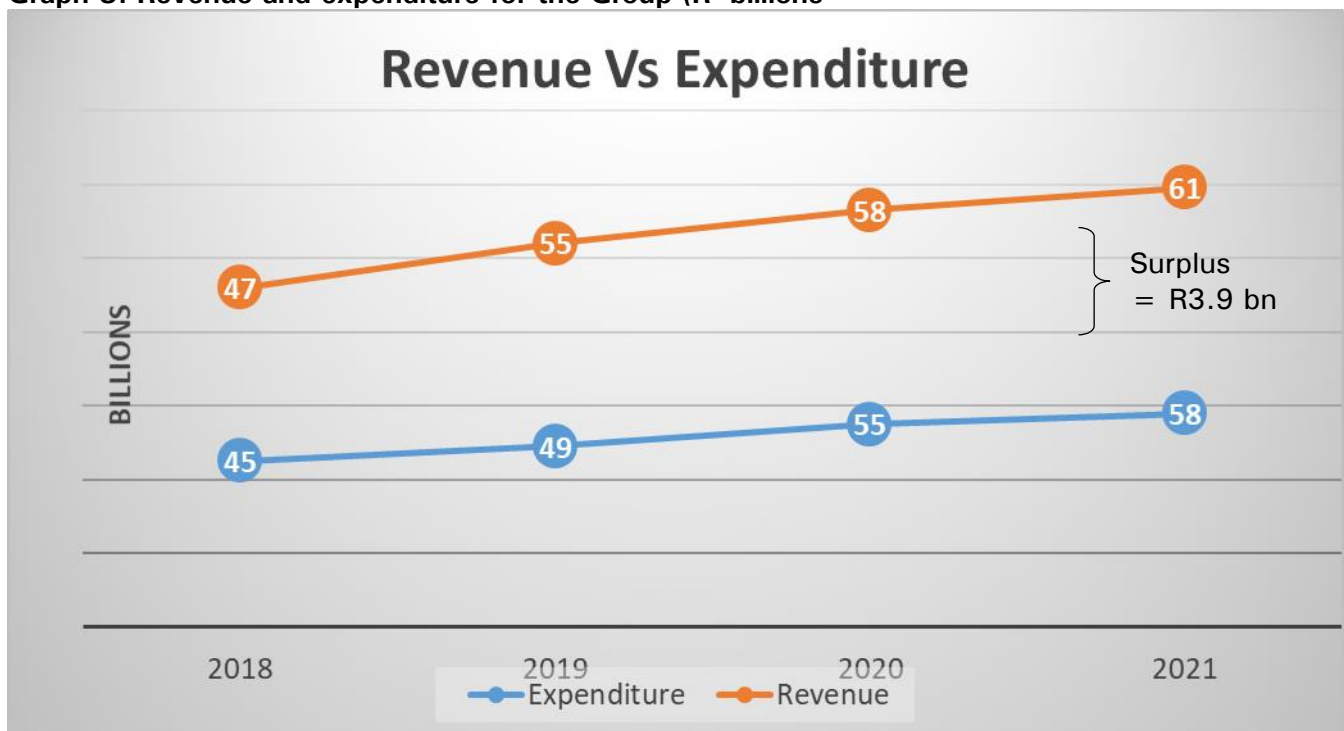
COJ LEGISLATURE

supply-chain management. Yet some assurance was provided by officials, as Group Legal and Contracts stated that it was confident that it could successfully defend the City against many of the most sizeable lawsuits. Material impairment of debtors and material electricity losses continue to jeopardise the financial wellbeing of the City. Each emphasis of matter is addressed below, in the section of financial performance.

(2) FINANCIAL PERFORMANCE

The City had a surplus: its revenue exceeded its expenditure by R3.9 billion. This is higher than the surplus of R3.1 billion in the previous year. The surplus increased as revenue increased by six percent, while expenditure increased by only 5 percent.

Graph 3: Revenue and expenditure for the Group (R' billions)



Source: Audited Group AFS

The City continues to have high levels of debt and a poor liquidity ratio, demonstrating that the state of the finance of the City remains relatively precarious.

(a) REVENUE

Revenue is derived from three main sources:

- Revenue from rates, which is charged as a percentage of the valuation of the properties.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- Revenue from the rendering of services, which primarily consists of the sale of electricity, water, sewerage and refuse removal; and
- Revenue from government grants, which includes operating grants such as the Equitable Share Levy and Fuel Tax as well as capital grants such as the Urban Settlements Development Grant.

The collection of revenue is the primary source of funding that the City uses to provide services. While revenue from the sale of electricity, water, refuse removal and sewerage and sanitation increased, it is concerning that the percentage of revenue increase for service charges and rates is below the current inflation rate, this will negatively impact the city to fund its operations as it mainly relies on the revenue from rates and service charges to fund the operation.

Table 9: Change in revenue from 2019/20 to 2020/21

SOURCE OF REVENUE	2021	INCREASE	INCREASE %
Sale of electricity	R 15.87 bn	R 0.46 bn	3%
Sale of water	R 7.35 bn	R 0.40 bn	5.74%
Refuse removal	R 1.87bn	R 0.08 bn	4.46%
Sewer & Sanitation Charges	R 5.11 bn	R 0.23 bn	4.71%
Property rates	R 13.03 bn	R 0.48 bn	3.82%
Grants & Subsidies	R 12.6bn	R 1.5 bn	13%
Other	R 5.17 bn	R0.44 bn	8.6

Total increase		R 4.31 bn	6.19 %
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Revenue increased for all the service charges. This is despite revenue from services rendered being R2.6 billion under the adjusted budget. The City indicated that under recovery was largely attributable to a decreased in water and electricity consumption in business and institutions resulting from lockdown [s]⁸, while Other service charges are under budget because of under collections on private hires and coupon revenue streams. This was because of the COVID19 pandemic. All the service and the rates billed were subjected to the tariff increase during the financial year.

Impairments—revenue billed that will most likely not be collected—increased materially to R32.7 billion from R27.2 billion. The result of repeated annual impairments is that 81 percent of the debtors' book is now impaired, which is lost revenue to the City. Much of this revenue may not be collectable, as there are complex societal issues and poverty underlying the failure of households and businesses to pay. But it is clear that the City could do better; perhaps the Debt Rehabilitation Programme is the first step in implemented targeted initiatives that provide viable solutions to these losses, despite reservations about the limiting qualifying criteria for Programme.

⁸ Note 2.2 of the Statement of Comparison of Budget and Actual Amounts.

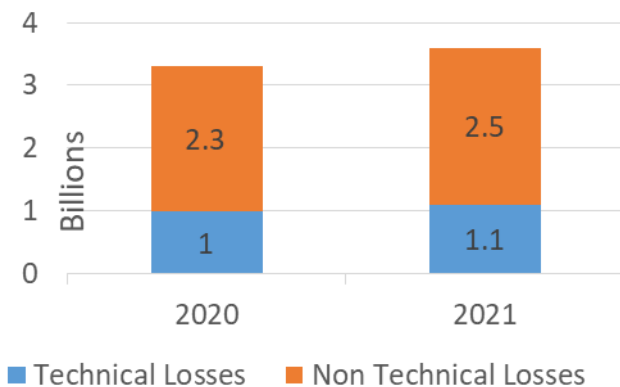
City of Johannesburg Council 2022-04-26

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COJ LEGISLATURE

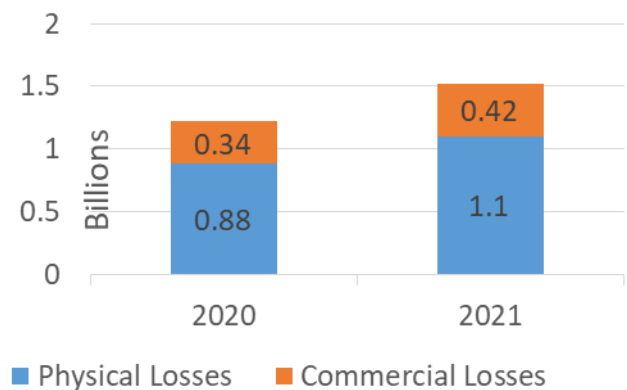
Over and above impairment losses, electricity and water losses cost the City R5.1 billion in 2020/21 financial year. The City procures electricity from Eskom and water from Rand Water. The losses consists of the electricity and water bought but not distributed to consumers. While water losses remained high, the AGSA determined that the amount lost is not financially material. For electricity, losses are financially material, and increasing substantially. Technical electricity losses remained the same as a percentage of bulk purchases, at 9% percent. These are losses, which are the result from energy that is lost in the transportation of electricity and the condition of infrastructure, are higher than ideal but stable. The increase in non-technical electricity losses - which includes billing errors, bypassing and tempering of meters, and illegal connections - increased to 20 percent, from 19 percent. This is a deeply concerning development, with the increases rate of non-technical losses resulting in a loss of R2.5 billion for the City.

Graph 4: Electricity losses (R' billions)



Source: Audited Group AFS

Graph 5: Water losses (R' billions)



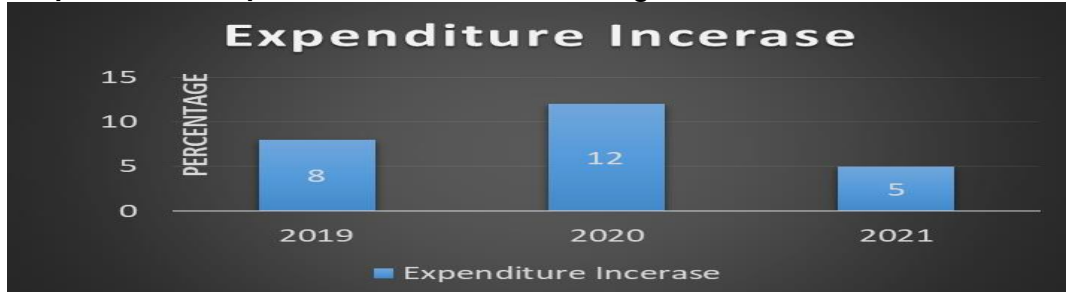
Source: Audited Group AFS

(b) EXPENDITURE

The Committee sees a clear attempt to manage expenditure to ensure the financial sustainability of the City. While, overall, expenditure increased by only five percent - driven largely by employee-related costs and bulk purchases expenses, this shows a significant improvement from 12% increase during the previous financial year. The percentage of expenditure increase have been below 10%, except for 2020 financial year due to expenditure incurred to comply with COVID-19 regulations.

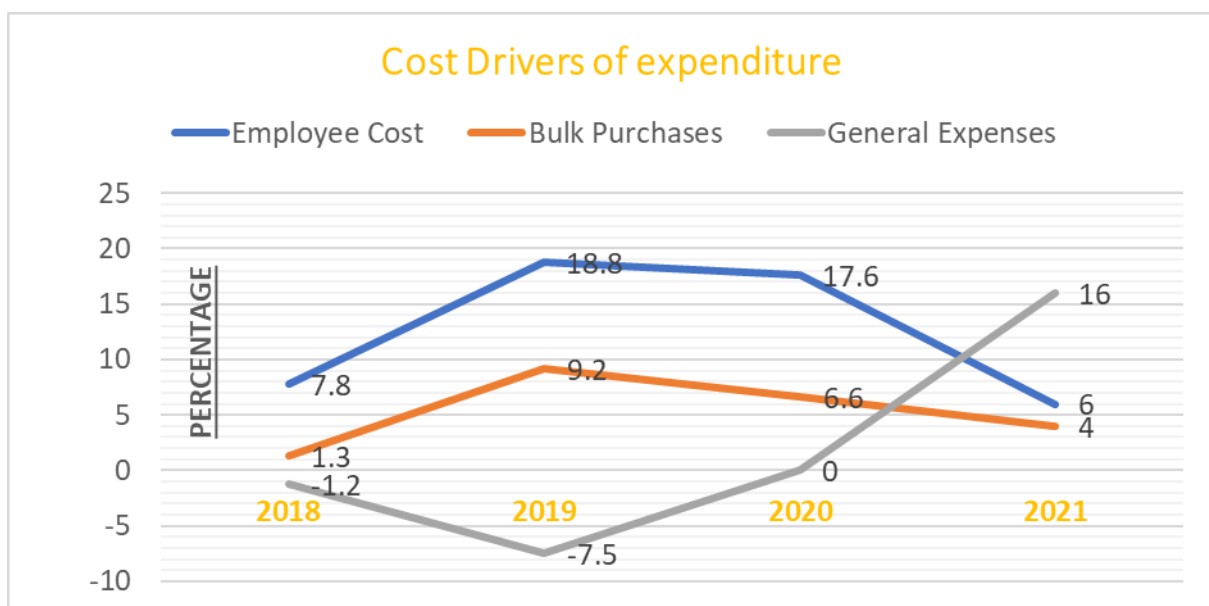
City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE**Graph 5: Total expenditure Increase (Percentage)***Source: Audited Group AFS*

The employee cost only increases by 6% in the current financial year from 12% increase in the previous financial year, this is mainly due to number of employees in the City decreasing from 38024 to 37 609. As the collective bargaining agreement stipulated a raise of five percent for all employees (excluding senior management), the low percentage of increase in the employee related costs is exacerbated by high vacancy rate.

The cost for bulk purchases increased by 4% in the current financial year from 6.6% increase in the previous financial year. The committee feels that the cost of bulk purchases can still be reduced significantly, if the losses of the bulk purchases are managed efficiently as they losses constitute almost 30% of the total bulk purchases. However, the committee noted the intention by the council to reduce its expenditure as depicted in the graph below:

Graph 6: COST DRIVERS OF EXPENDITURE (Percentage)*Source: Audited Group AFS*

City of Johannesburg Council 2022-04-26

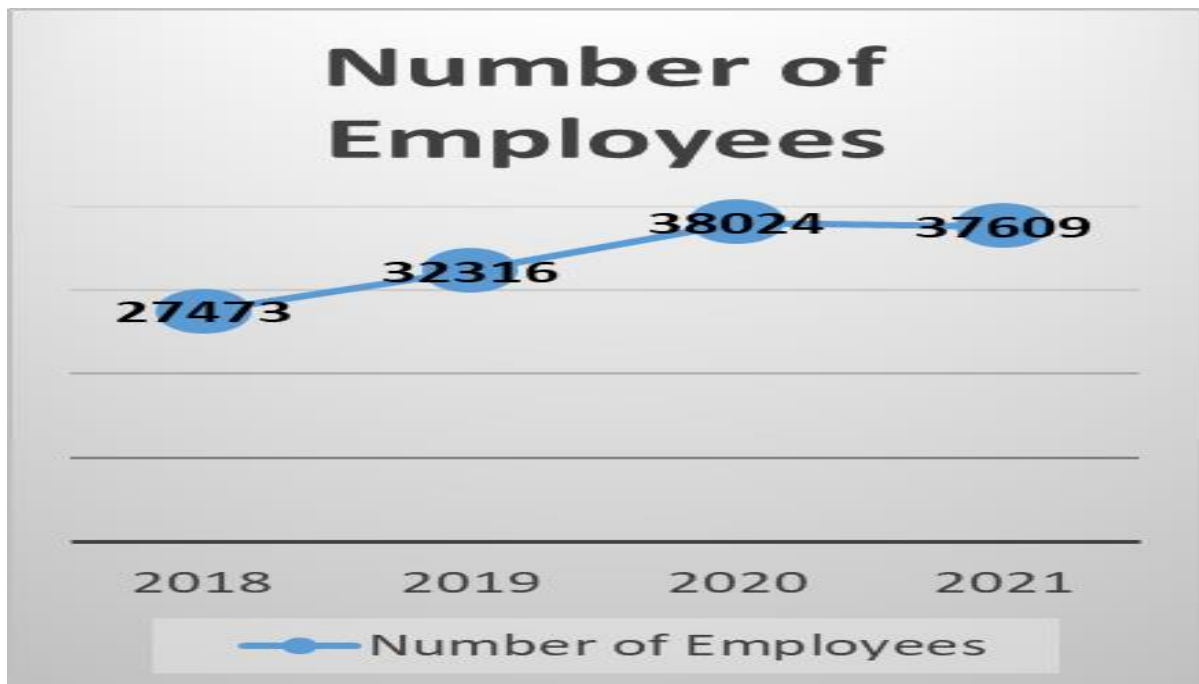
COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

Much of the procurement undertaken by the City will be categorised as general expenditure. Several line items under general expenditure are not increasing significantly with the exception of the fleet cost which increase by almost 100% in the current financial year. The expenditure fleet cost is shared service at the City, it is worth noting that this cost is responsible for significant proportion of the irregular expenditure across the City, due to AVIS contract that was declared irregular during the 2018/19 financial year. The upward trajectory in the general expenses is as due to that fleet cost.

The straight trajectory for the employee related cost can be attributable to the City not having recruitments in the bulk intakes in general workers, JMPD officers and cleaners & securities. Unlike in the previous three financial years where City was on recruitment drive.

Graph 7: Number of employees in the Group



Source: Integrated Annual Reports

(c) FINANCIAL SUSTAINABILITY

While there has been an improvement in the net surplus and cash resources of the City, there are several concerns. Liquidity is still a concern, with the current ratio of 1.17 below the National Treasury norm of 1.5 to 2.1. This includes consumer debtors, which the City may have difficulty converting into cash and make up the largest component of current assets. The cash-to-cost coverage ratio amounts to only 1.6 months. With the current

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

uncertainty surrounding Covid-19, with a potential threat of economic upheaval and lower collection of revenue, there should be some concern around the functioning of the City, particularly with the inflexibility of the higher employee-related costs.

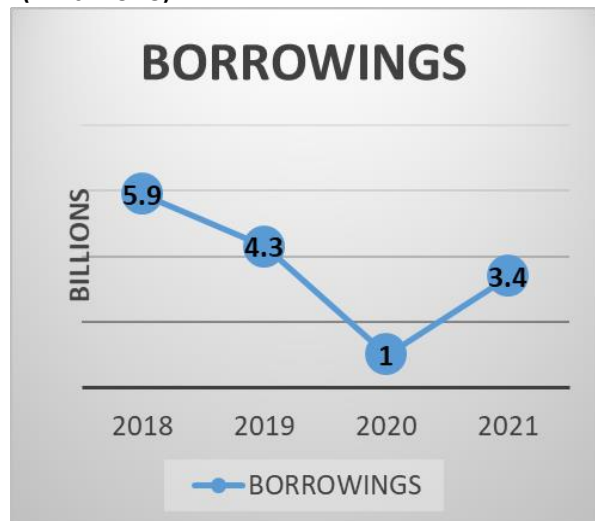
In November 2020, Moody's took rating action on the City of Johannesburg following their downgrade of the Government of South Africa's rating to Ba2 from Ba. In July 2021, they further downgraded the City to Ba3/A1.za from Ba2/Aa1.za/ for Long Term Global Scale Rating and National Scale Rating respectively with a negative outlook. This is of concern to the committee, as these will decrease the city's probability of getting funding or increase the cost of the borrowing. City largely rely on the borrowings for the funding of its capital projects, high cost might have the negatively impact the service delivery. In 2018/19, net borrowing amounted to R2 billion, accounting for 65 percent of the improvement in the cash position of the municipality.

Graph 8: Cash and cash equivalents (R' billion)



Source: Group audited AFS

Graph 9: PROCEEDS FROM BORROWINGS (R' billions)



Source: Group audited AFS

The high amount of borrowing indicates that City relies heavily on the borrowing to fund the operations more especially capital expenditure, with over 60% funded from the borrowings. The low cash balance of the City in 2017/18 was the result of a large debt repayment rather than a substantial change in the underlying operations of the City. The resumption of the City to be a net borrower, while within the National Treasury norm, should be carefully watched going forward. According to the Municipal Borrowing Bulletin, the City has a materially higher debt-to-revenue ratio than other metropolitan municipalities. There is no metropolitan municipality in South Africa that has borrowed as much as the City as a percentage of revenue. It should be noted that financing costs increased to R2.66 billion in 2020/21.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE**(3) SERVICE DELIVERY PERFORMANCE**

The City achieved 66 percent of its predetermined objectives - out of 57 targets approved in the Service Delivery Business Implementation Plan (SDBIP), 19 were achieved. This is a deterioration from the 73% achieved in the previous financial year. There is an enormous quantity of information included in the annual report and the annual reports of the twelve entities. A vast majority of the information included is not subject to verification and not audited, making an assessment of validity and reliability is difficult for this Committee. The AGSA only audited 1 KPI for core and each entity of which 92% of them material misstatements were identified by AGSA.

Table 10: Percentage of targets achieved as per service delivery performance plans

ENTITY	2020	2021
City of Johannesburg	73%	66%
City Power	67%	42%
JCPZ	91%	80%
JDA	47%	53%
JPC	50%	30%
Joburg Market	71%	71%
Joburg Theatre	91%	81%
JOSHCO	24%	30%
JRA	89%	61%
Johannesburg Water	70%	53%
Metrobus	71%	70%
MTC	38%	46%
Pikitup	82%	53%

Source: 2019/20 and 2020/21 annual reports of the City of Johannesburg and its entities

(a) PERFORMANCE OF DEPARTMENTS AND ENTITIES

Section 79 portfolio committees perform extensive in-year oversight over the various departments and entities of the City. The committees analyse quarterly performance, request various reports from the Executive, and conduct oversight visits to projects and regions across the City. This knowledge and expertise is leveraged during the consideration of the annual report, where each committee authors an oversight report on its respective portfolio. The following is a summary of key findings of these oversight committees:

For **basic service delivery**, poor performance continued to plague refuse removal. Reported poor contract management, and the resultant delays in projects completion and underperformance on capital expenditure indicators is a concern for thee. The committee is also concerned about the impact that an ageing fleet has on Pikitup's ability to perform its functions. As such, the continued reliance on augmented fleet

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

services, together with the financial implications thereof are a serious concern for the Committee. It is to that end that the Committee has a standing item wherein it is sought to receive updates on the implementation of long-term measures. City Power has improved meter reading, which is a requisite for improving revenue collection, but did not meet targets set for large power users.

The **infrastructure** renewal rate deteriorated year-to-year, with an actual renewal rate of 0.57% renewal rate for water and sewer networks and Waste Water Treatment Works electro-mechanical components based on value, compared to 1.27% in the previous financial year. This is particularly concerning when considering the need for increase in infrastructure renewal, and performance that is below target with respect to capital expenditure budget. With regards to the latter 89.9% of the annual capital expenditure budget was spent against a target of 95%.

The contribution of the municipality to **Transport** is varied. During the financial year City completed Johannesburg International Transport Interchange (JITI) cross border and long-distance public transport facility in the Inner City, negotiations for operationalization and management of the facility are in progress with JPC. Designs for public transport facility at Jack Mincer and Rosebank were completed and construction at Driezik, Sunninghill and Inner City are in progress for period under review. Transport master plans were developed in Ivory Park, Roodepoort and Inner City and preparations are in progress at Diepsloot, Randburg and Zandspruit.

The EIA for the construction of a public facility at Zola took longer than anticipated, work will commence in the new FY while engagement between city and province are in progress to resolve this matter. During the year under review, Putco has lodged a dispute against the effect of implementing phase 1C (a) of the Rea Vaya BRT system. The city is defending the matter in court, however, once the court case is finalised, the formation of the BOC to run the service and signing of BOC agreement will be finalised during the new FY.

The contribution of the municipality to **planning** is varied, in terms of Inner-City Regeneration: The spatial policy assessment and related draft spatial framework were completed, and Green Building Policy: The final Green Building Policy: New Buildings document was completed and sent for Council approval. There were delays incurred for rezoning applications for Post-decision legal admin: rezoning due to the electronic system crash at Government Gazette. Lack of space for archiving has often resulted in the loss of information and thus delays in the processing of some matters reported i.e., this occurred when the computers for the Single Law Enforcement Unit were vandalised.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

The annual target for the 2020/21 financial year for **Housing** was to formalize 4 informal settlements. The Department of Housing reported that 0 informal settlements were formalized. Over the years, this KPI has changed from eradicating informal settlements, to upgrading informal settlements and now it measures formalization. Irrespective of the various amendments the Department has never achieved any of its annual targets. When assessing the previous financial years: in the 2018/19 financial year, the target was for 10 informal settlements to be formalized and none were formalized. In the 2019/20 financial year, the annual target was reduced to 4 and the Department reported that only 1 was formalized. The Department reported that it utilized just above R 51 million for this KPI by the end of the financial year. The Department, among other factors, reported that non-achievement of this KPI was due delays in community participation processes as result of Covid-19 lock regulations.

The Department of Housing set an annual target to construct 2400 mixed housing units in the 2020/21 financial year. By the end of the financial year, the department reported that 2593 units were constructed, spending above R337 million. Both in the 2019/20 financial year and the one under review, the Department has been consistent in achieving the set targets for this KPI.

The department further sets an annual target to refurbish 5 hostels in the 2020/21 financial year. The Department reported that two hostels were furnished. There has been a decline in performance in this KPI compared to the 2019/20 financial year. For the financial year, the Department had budgeted to spend R112 million and it reports that only R11 million was spent. The department reported non-achievement of the KPI as a result of structural adjustment and change of leadership within the property management directorate. The property management directorate has the highest vacancy rate.

The performance of the City in relation to **community and social development** is more encouraging. City has made progress in enabling access to facilities, where residents can enjoy the programmes, services and projects delivered by Sports, Recreation, Libraries, Arts, Galleries and Museums. The objective is to build active and sustainable communities by ensuring equitable access, development, and excellence, thereby enhancing social inclusion prospects, and the quality of life using City facilities as a launching pad.

In 2020/21, a total number of 829,945 people accessed the City's facilities. In addressing challenges of limited access to facilities due to adjusted levels of the lockdown more programmes and services were explored using a hybrid model and can be viewed online through Joburg Arts and Culture Facebook page, Joburg Libraries Facebook pages and other social media platforms while physical access to facilities was limited in accordance with the national gazette number.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

The contribution of the municipality to **economic development** is varied. By the end of the financial year a total of 8409 SMMEs were supported against an annual target of 12000. The annual target for this KPI was not achieved. Analysis of data from the quarterly reporting is concerning as 85% of the City Departments/Entities did not report on data for the SMME's they supported. Section 79 Economic Development Committee have on numerous occasions raised the issue of statistics not being accurately captured related to this key performance indicator. In respect of the EPWP grant funding, the City created 12135 work opportunities and the target was met. However, the financial statements indicate that by the end of the year R8 million of the funding was still unspent. The tourism unit hosted the Africa Day Festival in collaboration with partners. The City sponsored and partnered with Locrate Market to host the festival. The City had utilized the same provider to host the Makhelwane Festival, are they no other similar providers in this space who can be provided the opportunity and gain experience?

Public Safety department has surpassed its target in relation to ward-based policing, where 3 police officers were deployed per ward. This saw the Department exceeding its target of 540 on by-law enforcement activities by 1037, with a total of 1577 activities conducted during the reporting period. This represents a remarkable achievement of 192%. The ward-based policing strategy also assisted the Department to exceed its target in relation to traffic management operations. The target for this Key Performance Indicator (KPI) for the 2020/2021 financial year was 6000 operations and the Department conducted a staggering 14935 operations. This represents a 149% performance on the initial annual target.

The Department conducted a total of 135 drug search and seizure operations against an annual target of 85 operations, which represents a 159% over-achievement. The establishment of the Anti-Land Invasion Unit has seen the JMPD conducting 126 operations during the reporting period, despite the glaring shortages of personnel.

(b) CONCERNS AROUND REPORTED PERFORMANCE

There are discrepancies between the performance reported and reality on the ground. During the roundtable meeting with stakeholders on the 07 of April 2022, Johannesburg Property Owners and Management Association (JPOMA), expressed that the City is failing to deliver basic services. In the Inner City in particular, but in many other areas, there is limited collection of trash, cleaning pavements and appropriate by-law enforcement. This is despite the reported improved performance on the collection of refuse. They further state that despite reported performance on revenue collection, billing is a significant issue for property owners, with a participant in roundtable claiming that officials have requested bribes for the connection meters. A huge challenge for City Power is the corruption within their contractors. The stakeholders experience on the ground indicated that there are many cases

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

of contractors threatening to disconnect properties (without a valid disconnection card) in order to elicit bribes. This seriously damages City Powers reputation, as most people do not know they are contractors and think they are City Power employees. It is also important to note that most contractors will deliberately work after hours or over weekends in order to extort more money out of City Power, is anyone looking into this?

For members of the Municipal Public Accounts Committee, the problems with the annual report and the approach of the City is palpable. The disconnect between reported performance and what the councillors witness and experience on a daily basis can be vast. This concerns the delivery of basic services—water, electricity and refuse removal—to delays with the construction of much needed infrastructure and public facilities. Councillors are acutely aware of problems with billing, where meters are not properly monitored and services provided to business that are in substantial arrears.

(c) CONDITIONAL GRANT EXPENDITURE

The City is provided monetary transfers from the National Government and the Gauteng Provincial Government, some of which is transferred only once certain conditions are met. These grants are provided to enable service delivery, in particular by providing funding for capital expenditure in 2020/21. As of 30 June 2021, the City had failed to spend R424 million of funding provided by these grants, including receiving approval for the rollover of R274 million⁹ and paying back R150 million. This performance requires significant improvement, as the failure to spend grant money delays or denies the provision of services to local communities. While over previous financial years the administration paid back hundreds of millions of rands in conditional grants, the continued failure to timeously spend grant funding is unacceptable.

Table 11: Conditional grants paid back in 2020/21

Grant	Amount paid back
Public Transport Network Grant (Operational Projects)	R127.7million
Neighbourhood Development Partnership Grant	R9.8million
Jozi Ihlomihle (HIV/AIDS) Provincial Grant	R12.9 million
Expanded Public Works Programme	R0.137million
Total paid back	R150.5million

Source: Group audited annual financial statements

⁹ It should be noted that while the majority of the rollover amount is from funding for the 2020/21 financial year, the figure includes conditional grants from prior financial years

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

(4) CONCERNS

(a) NONFUNCTIONALITY OF THE DISCIPLINARY BOARD

The terms of reference for the disciplinary board was adopted by Council on 20 April 2021, which should have resulted in the immediate functioning of the board. In response to the committee (question 40), it was revealed that management has established the disciplinary board and/or processes for reporting of allegations of financial misconduct. The Committee has worked hard to correct this, notably by publicly and privately lobbying for the establishment and functioning of a disciplinary board. The disciplinary board, which is required by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings of 2014, must hear allegations of financial misconduct. The disciplinary board, which is an independent advisory body, is also tasked with monitoring 'the institution of disciplinary proceedings against an alleged transgressor'. The City has established a disciplinary board however it is not functional. From a recommendation contained in the previous oversight report on the annual report, Council resolved "*Office of the City Manager and Group Risk and Assurance Services establish a properly constituted disciplinary board and develop standard operating procedures for the reporting of allegations of financial misconduct and for the processes of departments supporting the disciplinary board*". Since then, MPAC has repeatedly followed up on the matter, each time being assured that the board will be established and functional. The Executive must take swift action to ensure that the board is functional.

(b) FAILURE BY GROUP AUDIT COMMITTEE CHAIRPERSON TO PRESENT COMMITTEE`S INPUTS ON ANNUAL REPORT TO MPAC

The committee expressed a great concern regarding the accountability of the chairperson of Group Audit Committee, who fail to present the Group Audit Committee inputs to MPAC on the annual report for 2020/21 financial year. This limits the committee oversight capacity as those inputs from other assurance providers are critical in the process of preparing the oversight report on annual report. The committee, despite the busy schedule tried to accommodate the chairperson on two additional occasions, but the chairperson still failed to avail himself. The chairpersons disregard for MPAC was noted with great concern, as the GAC is required to present to the MPAC committee which is part of his fiduciary duties. The committee through the office of the City Manager will follow up on this matter and ensure that consequence management is implemented.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

(c) FAILURE BY GROUP FORENSIC INVESTIGATION SERVICES HEAD TO ATTEND MPAC MEETING

The committee expressed a great concern regarding the non-attendance of the MPAC meeting by the Group Head of Group Forensics and Investigation services (GFIS) and failure to delegate able official to respond adequately to the questions raised by the committee during the questions and response sessions with the executive, in preparation of the oversight report on the 2020/21 annual report. This limited the committee's oversight capacity as the inputs would have provided critical oversight in the process on preparing the oversight report. The committee, despite the busy schedule provided the departments with an additional date to participate and respond to questions however GFIS failed to attend or provide an apology. The report of Auditor General of South Africa (AGSA) has cited a total number of 263 investigated cases of alleged irregularities relating to financial misconduct, fraudulent acts, and non-compliance during 2020/21 financial year. The committee was unable to perform effective oversight on the cases investigated and the backlog of cases that are not yet investigated, due to the unavailability of the Group Head GFIS in the meeting. The committee through the office of the City Manager will require a detailed report on this matter and ensure that GFIS head come and account at the committee.

(d) LATE TABLING OF THE ANNUAL REPORT BY EXECUTIVE MAYOR

The tabling of the annual report on the 24th of February 2022 and late establishment of the committee, compromised the committee's oversight work as the annual report meetings were distracted by the council recess from the 18th of March 2022 to 04th of April 2022, and the Easter weekend. The committee only had 5 weeks to complete the Oversight report. In a typical year the committee must have 8 weeks (two months) to prepare with the oversight on annual report as per MFMA Section 129(1). The time constraints hindered the committee from completing a response to questions with the executives' sessions on a scheduled three days, out of 110 questions that the committee had, only 90 were dealt with over a period of three days session, the remaining 20 were accommodated during the extra ordinary meeting that was supposed to be for the admission of the oversight report by the committee, this really strained the committee as the in-committee meeting two adopt the oversight report and finalizing response by executive session were all done in one day. The committee would like to encourage the executive mayor to table the annual report by the 31st of January, for the committee to prepare the oversight report and submit to council by 31st of March before the council recess and Easter holidays.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

(e) NON-IMPLEMENTATION OF COUNCIL RESOLUTIONS

The Committee has faced considerable obstacles in terms of having the resolutions of Council, as based on the recommendation of the Committee, implemented. Failure to implement a resolution of the elected Council undermines Council and democracy itself. Council is vested with the executive and legislative authority. Officials must implement the resolutions of Council unless Council withdraws its resolution or if the resolution is unlawful.

(f) THE ABSENCE OF CONSEQUENCE MANAGEMENT

Consequence management has been inadequately implemented in the City. Senior management have not been held to account for poor performance, particularly material findings of non-compliance with legislation. Investigations and disciplinary hearings are resolved at a leisurely pace, and suspended employees cost the City tens of millions every year in salaries. There are two root causes for this: the failure of senior management to hold employees accountable and the poor performance of Group Forensics and Investigation Services (GFIS).

The breadth of scope of the terms of reference, and the approach of GFIS to investigate every reported incident, has resulted in GFIS being spread too thin, investigating too many matters that either should not have been investigated or could have been addressed in a less resource intensive manner. Because of this, investigations by GFIS take longer than necessary to complete and can be of inadequate quality. An unintended consequence of the mandate given to GFIS has been that senior managers and entities no longer conduct their own investigations into maladministration and non-compliance. The cases are referred to GFIS. While some cases necessarily have to be referred to GFIS, there will be cases where the evidence is readily available and the outcome clear cut. Having GFIS investigate is inefficient, it also lets senior managers abdicate their mandate to hold officials accountable.

When GFIS was established, there was inadequate planning around the coordination between the new department and several other departments. While GFIS is tasked with investigations, the Labour Relations Unit (LRU) is tasked with advising on disciplinary cases in the City, and Group Legal and Contracts is tasked with managing any legal action that must be taken by the City. There is a clear need for a framework to be established that improves cooperation and coordination between the functions.

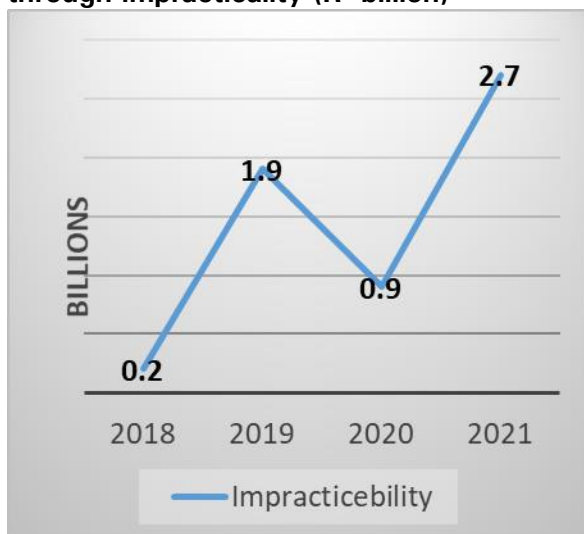
City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE**(g) THE USE REGULATION 32 AND REGULATION 36**

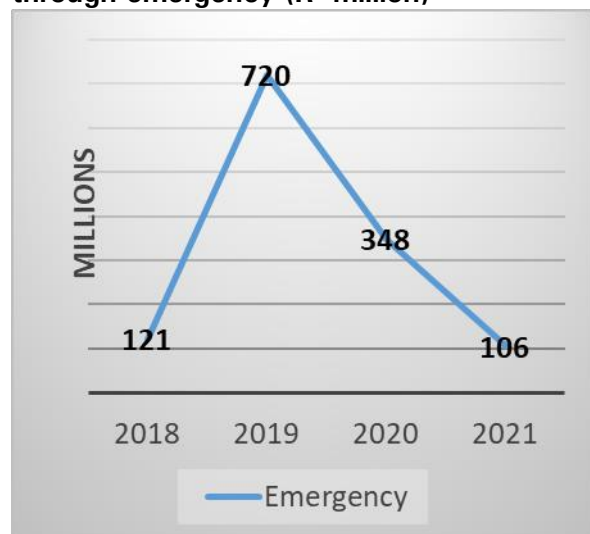
The Constitution of South Africa and the MFMA requires all procurement by municipalities to be fair, equitable, transparent, competitive, and cost-effective. There is legislation that have allowed the City to bypass the requirements of the Constitution: sections 32 and 36 of the Municipal Supply Chain Regulations (often referred to as regulation 32 and regulation 36 respectively). Under regulation 36, the use of impracticality as a justification to bypass competitive bidding increased by 200 percent to R2.7billion and 495 percent while the use of emergency as justification decreased by 70% to R106 million, the committee is not certain whether the decrease in the use of emergency will continue in the next financial year, as there are no efficient controls that the decrease can be attributable to. The committee noted the municipality elimination of use of regulation 32 during the current financial year, but the increase in the use of regulation 36 is still of concern to the committee.

Graph 10: Expenditure under contracts through impracticality (R' billion)



Source: Audited Group AFS

Graph 11: Expenditure under contracts through emergency (R' million)



Source: Audited Group AFS

Unfortunately, regulation 36 does not include a test or set of criteria that will determine whether the use of the regulation is warranted. This provides the accounting officer of a municipality wide discretion to determine whether regulation 36 should be used. During the consideration of the annual report, the use of regulation 36 was considered. The following was noted: Firstly, the reasons given for the use of the regulation, as provided to MPAC, were inadequate. Secondly, there was no requirement to determine whether the City procured the goods or services at a reasonable price. It should be noted that it has been reported that the regulation may be subject to abuse by municipalities, where emergencies or impracticalities are manufactured to allow for the use of the regulation.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

During the consideration of the annual report, the significant gaps in the regulations became apparent: the regulations fail to provide (i) clear guidelines and tests to determine its use and (ii) the requirement that an assessment be conducted to ensure value for money. For the latter gap, if either regulation costs the City considerably more than normal procurement processes, this will divert funds away from the procurement of other essential goods or services and result in a loss for the City. The City of Johannesburg must take a lead in enacting policies that address gaps in national legislation, especially with regards to regulation 36.

(h) IMPROVING THE ANNUAL REPORT FOR OVERSIGHT

Integral to oversight is the availability of information. As part of the oversight process on the annual report, section 79 portfolio oversight committees assist MPAC by performing oversight over departments and entities in their respective portfolios. As procurement, supply chain management, budget expenditure and compliance with legislation affects service delivery, almost all the committees consider these factors during the oversight process. Unfortunately, in its current format, the annual report and the annual financial statements do not provide adequate information. The committees require information related to audited expenditure per each budget vote by department, whether the respective department has audit findings or is responsible for irregular or fruitless and wasteful expenditure. This information must be published in order to enable rigorous oversight.

(i) PROCUREMENT AND PREVENTATIVE CONTROLS

'If properly designed and implemented, such [internal] controls will detect most material irregularities that could result in a financial loss. These controls are proactive and are an eloquent expression of the key guards being at their posts at all times. This is relatively cheaper than relying on investigations that will be triggered after money has changed hands in ways that are not credible or transparent. Preventative controls promote transparency, strengthen accountability, and are predictable with known expected outcomes. In essence, preventative controls are an invincible fortress against all possible abuses of the public purse'.

- *Kimi Makwetu, Auditor-General of South Africa, Auditor-General's Foreword, Preventative Control Guides, 2020:3*

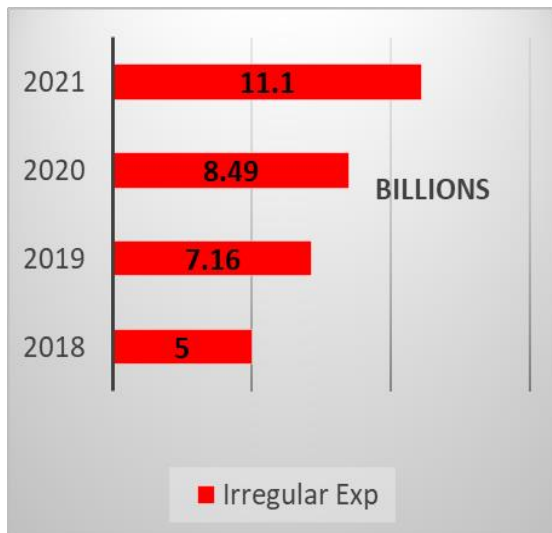
The City has seen sky-rocketing unauthorised, irregular, and fruitless and wasteful expenditure. While unauthorised expenditure is unlawful and concerning, in the City it must be addressed at a political level, in terms of a commitment to either increase specific budget votes or to cut expenditure. The deeper concern is the failure to prevent irregular expenditure and fruitless and wasteful expenditure.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

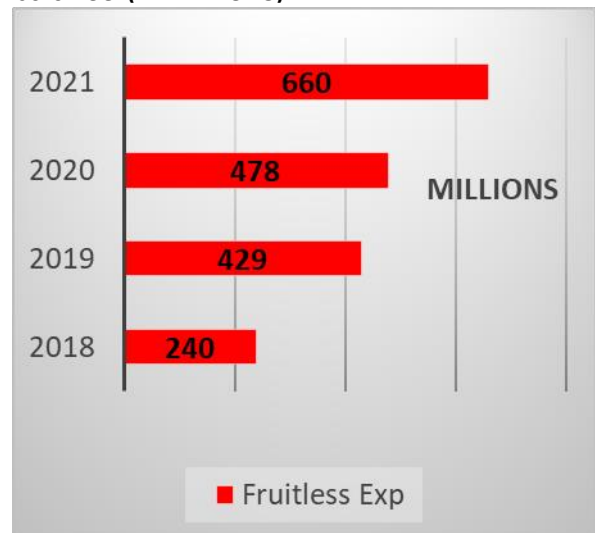
COJ LEGISLATURE

Graph 12: Irregular expenditure for the Group – closing balance (R' billions)



Source: Audited Group AFS

Graph 13: Fruitless and wasteful expenditure for the Group – closing balance (R' millions)



Source: Audited Group AFS

City of Johannesburg have the highest balance of the Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFWE) in the entire country, this is despite some write offs, by the council through MPAC, during the financial year under review. When looking at corrective controls, a key document required by legislation is the annual remedial action plan to address the findings of the AGSA. In the view of the Committee, the current plan is not appropriate and does not appear to be developed to address the particular audits findings. During the question and responses session the committee enquired about the development of the effective audit action plan, and the management promised that the proactive plan has been developed and will be submitted to the committee in May 2022.

6 STAKEHOLDER INPUT

The Committee received presentations and inputs from the Auditor-General of South Africa (AGSA), the Group Performance Audit Committee (GPAC), the Group Performance Audit Committee (GPAC), and the Office of the City Manager.

The Committee hosted a roundtable on the annual report with selected stakeholders. The stakeholders that participated in the roundtable were the Johannesburg Property Owners and Managers Association (JPOMA) and South Africa Institute of Chartered Accountants (SAICA) presented their inputs on the annual report.

The Committee ran several adverts calling for inputs into the oversight report from stakeholders and members of the general public. The committee did not receive any further inputs beside the one from the stakeholders mentioned above.

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

7 POLICY IMPLICATIONS

This report is in line with the terms of references of the Municipal Public Accounts Committee.

8 LEGAL AND CONSTITUTIONAL IMPLICATIONS

This oversight report is in accordance with section 129(1) of the MFMA.

9 FINANCIAL IMPLICATIONS

The Legislature incurred costs for catering for meetings of Municipal Public Accounts Committee.

10 COMMUNICATIONS IMPLICATIONS

The City Manager, as the accounting officer, must, within seven days of its adoption by Council, make public this oversight report, in accordance with section 129 (3) of the MFMA and in terms of section 21A of the MSA.

The report, once adopted, will also be shared with the Gauteng Department of Cooperative Governance and Traditional Affairs (COGTA) and the Auditor-General of South Africa.

11 OTHER DEPARTMENTS/ BODIES CONSULTED

The various departments and entities of the City were given a chance to respond, through the Office of the City Manager, to questions from the Municipal Public Accounts Committee. The oversight report was informed by these responses.

IT IS RECOMMENDED

- 1 That Council approve, with reservation, the 2020/21 annual report of the City of Johannesburg, together with the 2020/21 annual reports of the entities of the City of Johannesburg.**
- 2 That Council approve the oversight report on the 2020/21 annual reports of the City of Johannesburg, noting the observations cited in the body of the report.**
- 3 That the Council considers the content and recommendations of the section 79 portfolio committee oversight reports, which are attached as annexures to the oversight report.**

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- 4 That the chairperson of the Group Audit Committee (GAC) through Office of the City Manager provide a report detailing reasons for non-responsiveness to MPAC request to present audit committee inputs on Annual Report to Municipal Public Accounts Committee (MPAC), this is despite committee granting chairperson three opportunities to come and present. A report must include the date on which chairperson will come and present to the committee and be submitted to Municipal Public Accounts Committee within 30 days of the adoption of this oversight report, in May 2022.**
- 5 That Group Forensic Investigation Services (GFIS) through Office of the City Manager provide a report to MPAC, on the reasons by the GFIS head failure to delegate official capable to respond to questions raised by the committee. A report must include the date on which GFIS group head will come and account to the committee and be submitted to Municipal Public Accounts Committee within 30 days of the adoption of this oversight report, in May 2022.**
- 6 That the Office of the City Manager together with group governance provide a progress report to the Section 79 Municipal Public Accounts Committee on the functionality of a disciplinary board by May 2022. The report must include the reasons for the delays on the functionality and number of cases referred since the establishment of the board by council in April 2021, and the commitment on exact date board is expected to be functional.**
- 7 Group Corporate and Shared Services to provide a report detailing the cost and contractors used for the armed security services during the 2020/21 financial year. A report must be submitted to the Section 79 Municipal Public Accounts Committee confirming the implementation of this resolution by May 2022.**
- 8 That Group Strategy, Policy Coordination and Relations (GSPCR) provide a progress report to the Section 79 Municipal Public Accounts Committee on the implementation of the controls/initiatives undertaken to prevent material misstatements on reported performance on predetermined objectives in the 2021/22 performance report by May 2022.**
- 9 That Group Strategy, Policy Coordination and Relations (GSPCR) provide a report to the section 79 Municipal Public Accounts Committee detailing City`s compliance with circular 88 from the national treasury perspective. A report must be submitted by May 2022.**
- 10 That the Group Legal and Contracts (GLC) provide a report detailing a plan on how the department, is going to implement its proactive approach within the City to ensure that City`s stakeholders are abreast with the relevant common legal issues. The report must include the planned dates for workshops/roadshows. A report must be submitted to the Section 79 Municipal Public Accounts Committee confirming the implementation of this resolution by May 2022.**

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- 11 That the Office of the City Manager provide a report detailing preventative controls implemented to ensure that 2021/22 Annual Report is tabled in Council, within seven months after the end of the financial year (by 31 January 2023) in compliance with MFMA section 127(2).**
- 12 That the 2021/22 annual financial statements, and all future annual financial statements, include the departments (for core) responsible for irregular or fruitless and wasteful expenditure incurred. Group Finance must develop a plan for the implementation of this resolution within 30 days of the adoption of this oversight report and submitted to the next sitting of the Municipal Public Accounts Committee, in May 2022.**
- 13 That Group Strategy, Policy Coordination and Relations (GSPCR) ensure that citizens' version of the annual report for the financial year 2021/22, be made available on the same date with the Annual Report before the closing date of the submission of inputs by the public.**
- 14 That all municipal entities develop a citizens' version of the annual report of the entity for the financial year 2021/22, providing an accessible, clear, concise, integrated evaluation of the performance of the entity to enable the citizens of Johannesburg to hold the entity accountable. The citizens' version of the annual report should be informed by the framework as developed by Group Policy, Strategy Coordination and Relations (GSPCR). An implementation plan for the citizens' version of the annual report should be completed within 60 days of the adoption of this oversight report and be submitted to the sitting of the Municipal Public Accounts Committee in June 2022. The citizens' version of the annual report should accompany the 2021/22 annual report of the entity on tabling in Council.**
- 15 That Office of the Speaker develop a plan to distribute the citizens' version of the annual report widely to improve public participation in the oversight process. The plan must include the distribution of both printed and electronic copies of the citizens' version of the annual report. The plan must be developed within 60 days of the adoption of the of this oversight report and be submitted to the sitting of the Municipal Public Accounts Committee in June 2022.**
- 16 That Group Strategy, Policy Coordination and Relations undertakes a benchmarking exercise to determine best practice for reporting and recording of supporting evidence for the purposes of audit of performance information. The benchmarking exercise must include how section 79 oversight committee's and regions can contribute in this regard. The plan to conduct benchmarking must begin within 30 days of the adoption of this oversight report and be completed within 90 days of the adoption of this oversight report. The benchmarking exercise should result in a report with recommendations. The final report must be submitted to the Municipal Public Accounts Committee by September 2022.**

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- 17 That Group Risk and Assurance Service (GRAS) to submit the UIFW strategy that was sent to National Treasury in October 2021 to the Municipal Public Accounts Committee, during the next committee meeting in May.**
- 18 That the Office of the Executive Mayor/ Office of the City Manager to provide a report detailing when the moratorium is intended to be lifted, as the number of vacancies in senior management are increasing and an assessment needs to be done relating to the impact of the moratorium on service delivery, efficiency, and operation in the City.**
- 19 That the Secretary to Council urgently review the organogram of the legislature to cater for capacitation of the Sub-Committee of Municipal Public Accounts Committee for the Investigation of UIFW Expenditure. The Secretary to Council must ensure that there are no vacancies in the secretariat positions of the UIFW subcommittee. The review must be completed within 30 days of the adoption of this oversight report and submitted to the next sitting of the Municipal Public Accounts Committee, in May 2022.**
- 20 That the accounting officers of the entities to ensure that each entity have its own UIFW expenditure reduction strategy which clearly states the target of reduction, dates, and the implemented controls. The strategies must be developed within 60 days of the adoption of this oversight report and submitted to the Municipal Public Accounts, in June 2022.**
- 21 That the Managing Directors (MD's) or Chief Executive Officers (CEO's) of entities that have Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) reduction strategy to submit strategy through office of the City Manager to MPAC. The strategy must be submitted within 30 days of the adoption of this oversight report, by May 2022.**
- 22 That the Office of the City Manager to organize training for all section 56 managers on the recovery of the UIFW expenditure, A plan to introduce the training must be developed within 30 days of the adoption of this oversight report and the resulting report must be submitted to the next sitting of the Municipal Public Accounts Committee, in May 2022.**
- 23 That Group Information, Communication & Technology provide a report detailing plans on ensuring that the City`s disaster recovery plan (DRP) is updated. The report must be submitted to Municipal Public Accounts Committee within 30 days of the adoption of this oversight report, in May 2022.**

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- 24 That Group Information, Communication & Technology provide a report on the strategies to speed up the implementation of the SAP Business Transformation Program, to enable the City to achieve an integrated financial management and enterprise resource planning, business and technology solution across the City which meets National Treasury standards, as well as enable the City to achieve the objective of the Smart City. The report must be submitted to Section 79 Finance Committee within 30 days of the adoption of this oversight report, in May 2022.**
- 25 That the City Manager and the Department of Economic Development provide a report to the Section 79 Economic Development Committee on why 85% of City Departments and Entities do not report on SMME support and what measures are in place to ensure accountability. The report must be submitted to the Section 79 Economic Development Committee by May 2022.**
- 26 That the Chairman of the Board of the Joburg Fresh Produce Market provides a report on the stability of the key executive positions of the entity indicating when the positions will be filled and human resource matters relating to these be resolved. The report must be submitted to the Section 79 Economic Development Committee by May 2022.**
- 27 That the Chairman of the Board of the Johannesburg Property Company provides a report on the stability of the key executive positions of the entity indicating when the positions will be filled and human resource matters relating to these be resolved. The report must be submitted to the Section 79 Economic Development Committee by May 2022.**
- 28 That the City Manager update Municipal Public Accounts Committee on the progress of the disciplinary action, taken against officials who were responsible for R8.7 million fruitless and wasteful expenditure for sim cards procured and never used. City Manager must brief the committee within 60 days of the adoption of this oversight report, in June 2022.**
- 29 That officials who do not implement the resolutions of Council and recommendations of AGSA be appropriately sanctioned, in line with applicable legislation and policies.**
- 30 That City Power provide a report addressing a concern raised during the roundtable meeting with external stakeholders, wherein the stakeholders indicated that City Power contractors in many cases threatens to disconnect properties (without a valid disconnection card) in order to elicit bribes. The report must be submitted to MPAC within 30 days of the adoption of this oversight report, in May 2022.**

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- 31 During the roundtable meeting with stakeholder it was stated that, Johannesburg Housing Company (JOSHCO) has listed a building called Casa Mia and that building was hijacked and is causing a significant strain on the surrounding community, it has become a crime hotspot. JOSHCO to submit a report to the committee responding to this concern by the stakeholders. The report must be submitted to Municipal Public Accounts Committee within 30 days of the adoption of this oversight report, in May 2022.**
- 32 That City Power provide a report addressing a concern raised during the roundtable meeting with external stakeholders, wherein the stakeholders indicated that, there have been incidents of customers reporting illegal connections and then become the target of the electricity thief and the contractor (who obviously received a bribe to turn the other way). The report must include the controls to be implemented to protect the whistle blower. The report must be submitted to MPAC within 30 days of the adoption of this oversight report, in May 2022.**
- 33 That Group Performance Audit Committee (GPAC) through Group Governance ensure that all their quarterly reports are submitted to Municipal Public Committee (MPAC) at the end of each quarter. The report committing to this request must be submitted to submitted to Municipal Public Accounts Committee within 30 days of the adoption of this oversight report, in May 2022.**
- 34 That the accounting officer through GRAS strengthen an oversight responsibility by implementing internal controls to exercise sufficient control discipline over financial reporting and compliance with key legislation**
- 35 That Group Finance must establish a system to reconcile the number of consumers for all categories of services against the number of ratepayers as per valuation role and investigate all the significant variances to detect revenue leakages. The report detailing the plans to implement this resolution must be submitted to MPAC within 60 days of the adoption of this oversight report, in June 2022.**
- 36 That Group Finance to implement the demand management and submission of procurement plan of advertised competitive bidding in terms of MFMA circular 62. A report detailing the plan to implement this resolution must be submitted to MPAC within 60 days of the adoption of this oversight report, in June 2022.**
- 37 That the accounting officer, in accordance with section 21A of the Municipal Systems Act and section 129(3) of the Municipal Financial Management Act, make public this oversight report within seven days of its adoption by Council.**
- 38 That the accounting officer, in accordance with the section 129(3)(b) of the Municipal Financial Management Act, submit this oversight report to the Gauteng Provincial Department of Cooperative Governance and Traditional Affairs (COGTA), the Gauteng Provincial Treasury and Auditor-General of South Africa within seven days of its adoption by Council.**

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

- 39 That the accounting officer, in accordance with the section 132(1)(b) of the Municipal Financial Management Act, submit this oversight report to the Gauteng Provincial Legislature within seven days of its adoption by Council.**

(COJ LEGISLATURE)
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(tc)

THE NEXT ITEM FOLLOWS THE ANNEXURES TO THIS ITEM

City of Johannesburg Council 2022-04-26

COJ : MUNICIPAL PUBLIC ACCOUNTS COMMITTEE 2022-04-19

COJ LEGISLATURE

LIST OF ANNEXURES

- Annexure A – The S79 Municipal Public accounts Committee Report on the Participation in a Roundtable Discussion on the 2020/21 Annual Report of the City of Johannesburg.
- Annexure B – The S79 Municipal Public accounts Committee Request for Public comment on the 2020/21 Annual Report of the City of Johannesburg.
- Annexure C – Special Portfolio Committee oversight reports on the 2020/2021 Annual Report of Departments and Municipal Entities.
- Annexure D – The S79 Municipal Public accounts Committee Questions on the 2020/2021 Annual Report of the City of Johannesburg to the Executive for written response.
- Annexure E – The S79 Municipal Public accounts Committee meeting minutes on the Oversight of the 2020/2021 Annual Report of the City of Johannesburg