

R317m in duplicate payments to lawyers recovered from Road Accident Fund

By [Chiara Carter](#)

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SIU investigating millions more lost to corruption, maladministration.



The SIU briefed Parliament on Wednesday about its investigation into the RAF. Archive photo: Ashraf Hendricks

- **The Special Investigating Unit (SIU) presented to Parliament's Standing Committee on Public Accounts on Wednesday about its investigations into the Road Accident Fund (RAF).**
- **Irregularities that have cost hundreds of millions of rands were described to Members of Parliament (MPs).**
- **But the SIU has recovered large amounts of money from lawyers who received duplicate payments.**
- **Disciplinary measures, as well as referrals to the National Prosecuting Authority (NPA), will be taken against current and former RAF officials, the SIU told Parliament.**

The SIU has recovered more than R317m erroneously paid to lawyers by the RAF. It is also investigating claims that the RAF lost further millions to maladministration and corruption.

The SIU began its probe in 2021. On Wednesday, it briefed Parliament's Standing Committee on Public Accounts

(SCOPA) on what it described as a “lengthy and complex investigation” into problems at the cash-strapped RAF.

The unit’s probe centres on fraudulent claims and payments, procurement and tender irregularities, alleged maladministration and possibly unlawful conduct of employees.

The investigation has so far cost R3.3m, while the SIU has managed to recover R317.6m from the return of duplicate payments made by the RAF to legal firms.

The SIU’s chief national investigations officer, Leonard Lekgetho, told SCOPA that 102 law firms, including sheriffs, were being investigated over R340m in duplicate payments from the RAF.

“The RAF has a payment system which dictates that when a claims offer is accepted, whether by settlement or by way of a court order, such claim will wait 180 days before it is paid. As a result, an attorney will attach the RAF bank account by way of writs of execution served by the sheriff causing the RAF bank to effect payment in terms of the writs upon the 180 days lapsing. The same claim will be paid again [because it was claimed on the RAF’s internal system], thus constituting a duplicate payment,” Lekgetho said.

Several legal practitioners had signed acknowledgment of debt amounting to R70m and others had refunded duplicate payments directly to the SIU.

“Disciplinary referrals will be made against those implicated officials who failed to ensure that proper controls are in place to mitigate duplicate payments, or officials who failed to implement the controls. Those officials who left the employment of RAF will be referred to the NPA where there is evidence of criminality in their conduct,” said Lekgetho.

He revealed that the SIU had evidence pointing to “trust fund accounts being misappropriated” and that 12 law firms had been referred to the National Prosecuting Authority (NPA) for prosecution and five practising lawyers reported to the Legal Practice Council (LPC).

The SIU raised concern over the RAF’s decision to scrap its panel of lawyers, an issue that was also sharply criticised earlier this year in an open letter penned by the country’s leading legal bodies.

MPs heard that the SIU was investigating why the RAF had cancelled the panel of attorneys that represented the agency in court in claim disputes and that the SIU was investigating whether this move had led to a recent spike in default judgments against the RAF.

“The total amount of default judgements issued against RAF for cost and fees from 2018 until second quarter of 2023 amounts to R4.7-billion. A sharp increase in the default judgments is noted between 2021 and 2022.

“There was a matter where a claimant was awarded a default court order amounting to R11.1m which RAF failed to honour on time, which led to this amount accumulating interest worth around R500,000 which was paid out in respect of the

claimant.

“The investigation is at an advanced stage and the team is finalising the findings and giving the right of reply to the person involved before they finalise their referrals,” Lekgetho said.

Procurement irregularities

The contracts awarded to service providers that the SIU is looking into include procurement of office furniture and cleaning and security services.

These procurement irregularities were previously flagged by the office of the Auditor-General.

Lekgetho said the SIU had found that the RAF contravened Section 217(1) of the Constitution and section 51(1)(a)(iii) of the Public Finance Management Act in contracts awarded to two service providers to deal with the backlog in RAF claims by road accident victims.

“This matter will be referred to the SIU civil litigation for assessments and potentially to be taken to the tribunal.”

Another questionable contract, valued at R1.8m, related to the procurement of SAP Licences. (SAP is a company that provides software systems.)

“The preliminary findings indicate that RAF is not using the said SAP licenses, thus, this amounts to fruitless and wasteful expenditure ... There is a potential recovery because RAF is not using the licences and currently we’re still putting evidence together so we can refer it to our civil litigation for consideration.

“The investigation is ongoing and where there is a matter pointing to criminality, same will be referred to the NPA. There are possible referrals of disciplinary action to be made to RAF,” Lekgetho said.

The SIU is yet to make findings over office furniture expenditure where it is alleged that an internal audit report indicated that a R36m office furniture contract escalated to R40m irregularly.

The unit’s interim finding is that due procurement processes were not followed in the rental contract of RAF’s head office building in Centurion.

“It appears that the RAF went at length to ensure that this building was procured. The investigation is ongoing. There is a potential recovery and the potential amount will be determined after the quantification process,” Lekgetho said.

RAF’s rental of its Johannesburg office is also being probed.

“There were many deviations and the preliminary findings points that this contract may have been awarded irregularly.”

The SIU is also investigating whether service providers such as hospitals, ambulances, doctors, experts and lawyers systemically overcharged the RAF and whether this was done in collusion with RAF employees.

Lekgetho said the SIU is also investigating RAF employees who redirected payment intended for service providers into personal bank accounts to the tune of R1.9m.

Meanwhile, payment of about R482m owed to attorneys has been blocked while the RAF investigates whether this is indeed owed.

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