

COMPANIES TRIBUNAL (CT) PRESENTATION TO THE PORTFOLIO COMMITTEE ON TRADE, INDUSTRY AND COMPETITION

1st and 2nd Quarter Performance Report 2022/23



Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

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COMPANIES TRIBUNAL (CT) PRESENTATION TO THE PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY

**1st and 2nd Quarter Performance Report
2022/23**

ACCOUNTING AUTHORITY & EXECUTIVE TEAM

Chairperson

Judge Dennis Davis

COO

**2.Ms 'Maletlatsa Monica
Ledingwane**

CFO

3.Ms Hulisani Bridget Ramugadi

CHARPERSONS: INTRODUCTORY NOTES

1. Appointment of new Members:

- a) Term of previous Members ended Sept, 2022
- b) CT had no Members: Oct-end Dec 2022
- c) New Members Appointed by Cabinet: 16 /12/2022
- d) Total of 11. Appointed for 5 year term
- e) Dep Chair: Ms Minah Tong-Mongalo
- f) All lawyers. 7 male, 4 female
- g) All Members received a two day induction
- h) Applications allocated to them

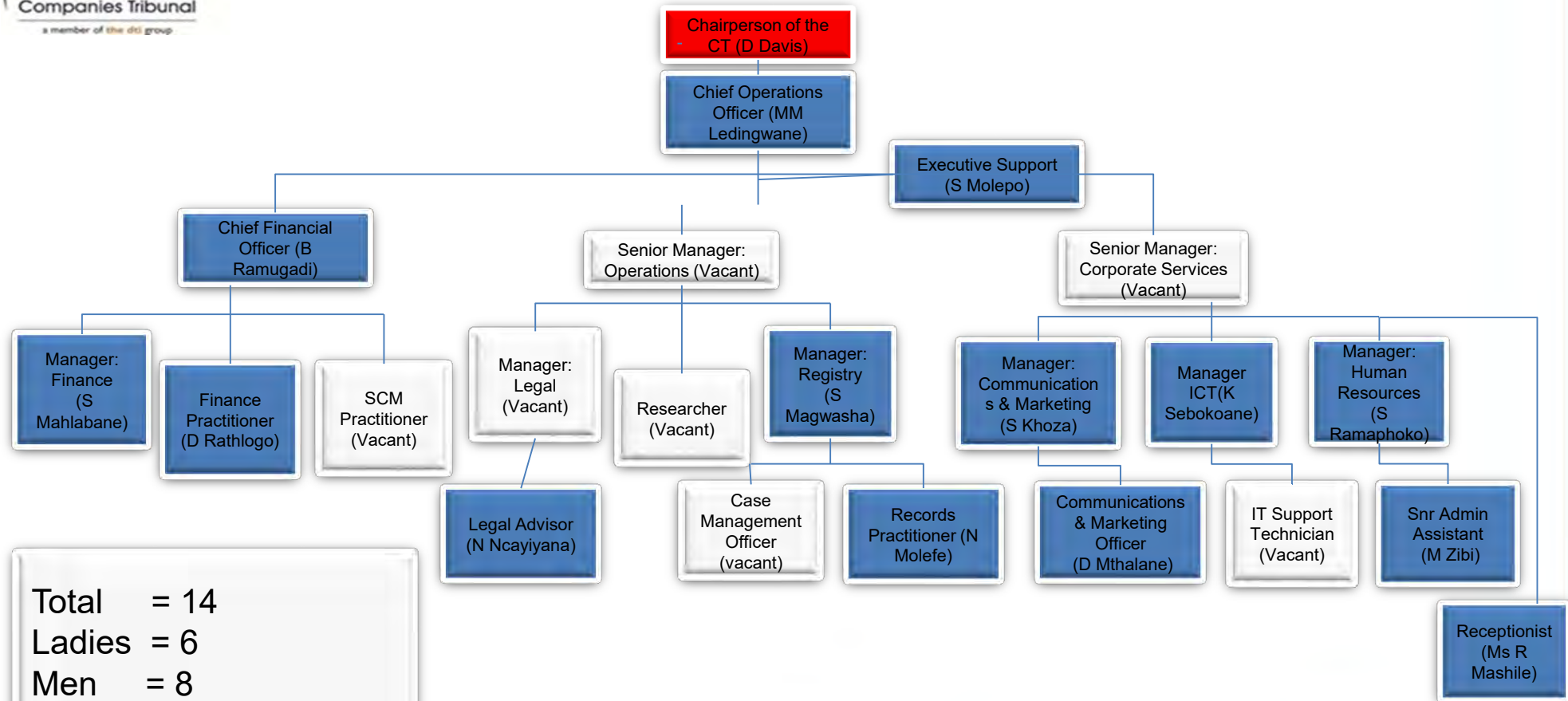
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1. ORGANOGRAM

CT ORGANOGRAM AS AT 30 December 2022



Total = 14
Ladies = 6
Men = 8
Race = All African
Interns = 1 (2 from Q4)

Legend

- Filled Funded Positions -13
- Vacant & Funded Positions - 0
- Vacant & Unfunded Positions - 7
- Not actual positions

2-EXPLANATIONS ON THE STRUCTURE

1. Structure approved November 2018
2. Not fully implemented due to financial limitations
3. 2016/2017 Tribunals cases started to decline

2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
295	316	377	272	254	244	223	224	272+39 ADR =311
Difference	(+21)	(+61)	(-105)	(-18)	(-10)	(-21)	(+1)	(+87)

4. Members' needs changed. Less research required
5. Therefore, filling of positions less urgent
6. Marketing of the Tribunal became a priority
7. Improvised through re-prioritising position funding
8. Currently the structure is under review

3. BACKGROUND AND MANDATE

Establishment:

Companies Tribunal (CT) was established in under section 193 of the Companies Act, 2008, Started operating in September of 2011.

Independence:

Subject to constitution and law.

Mandate in terms of Section 195:

Adjudication, dispute resolution through ADR and Perform, any other function assigned by Act or in Schedule 4

Vision:

The preferred adjudicatory and alternative dispute resolution forum that contributes to the promotion of fair and ethical business practices

Tribunal Members:

Required=11

Current is 11 Chair & Members

Staff Compliment:

Approved = 21(per organogram)

Funded = 14

Current = 12.

4- BENEFITS OF THE TRIBUNAL'S SERVICES

1. Cost effective compared to litigation: No cost, no legal representation needed
2. Informal and flexible
3. Advantages of ADR:
 - a) No acrimonious: Therefore preserve business relationship critical for business
 - b) Limits financial risk & uncertain as parties control the outcome of the case
 - c) Manage reputational risks - confidential
 - d) Mutually beneficial settlement agreement – not imposed
 - e) Settlement can be made an order of court- save time and cost

5. TOTAL AND NATURE OF CASES HANDLED

Nature of cases	2015/16	2016/17	2017/18	2018/19	2018/19	2020/21	2021/22
Access to records	1	0	0	0	0	0	0
Change to the financial year end	0	0	0	0	0	0	0
Company restoration	0	0	0	0	0	0	0
Review of compliance notice	5	9	8	2	5	1	12
Directors' dispute	13	27	30	35	54	39	41
Extension of time to prepare annual financial statements	3	3	0	0	0	0	1
Extension of time to convene AGM	14	14	9	4	14	39	15
Holding of an AGM	3	0	1	1	0	0	0
Name disputes	273	180	178	168	123	105	163
Outstanding information	0	0	0	0		0	0
Review of CIPC decision	2	6	2	6	2	1	11
SEC (S 72) (5)	57	29	24	28	24	34	26
S 2 (3) exemption	0	1	0	0	0	3	0
S 6 (2) exemption	1	2	2	0	0	0	0
Substituted service	5	1	0	0	1	0	2
Variation of an order/rescission	0	0	0	0	0	2	1
TOTAL (Adjudication)	377	272	254	244	223	224	272
Total (ADR)¹²	-	-	-	-	-	-	39
Total Adjudication and ADR							311

This year and the previous years, ADR statistics were not added on to this Table.

6. ANNUAL PERFORMANCE PLAN 2022/23 OUTPUTS

Targets of:

1. Program 1: Adjudication

- 1.1 Issuing of decisions within 40 days
- 1.2 Issuing of decisions within 30 days
- 1.2 Finalisation of disputes (ADR) within 25 days

2. Program 2: Administration

- 2.1 Increase user uptake of the Case Management System (CMS)
- 2.2 Capacity building
- 2.3 Stakeholder Engagements
- 2.4 Seminar
- 2.5 Research
- 2.6 Procurement to promote transformation and empowerment of designated groups.

7. KEY HIGHLIGHTS OF THE QUARTER 1 & 2

1) On Programme 1 Adjudication:

i. NEW Vs OLD	Targets for Q1 & Q2	Q 1 Achievement	Q 2 Achievement
Opposed cases finalized in 40 days	Target=95%	100% (4/4)	100% (8/8)
unopposed cases finalized in 30 days	Target=95%)	92% (36/39)	95% (41/43)
ADR cases finalized in 25 days	Target=95%)	100% (4/4)	100% (4/4)

8. KEY HIGHLIGHTS (continued)

2) On Program 2: Administration

- a) Discussions on assignment of more functions in terms of Companies Act (Schedule 4)
- b) Stakeholder Engagement: Webinar held with B-BEE Commission and CIPC

3) Financial Management

- a) Achieved clean audit report for the fifth consecutive year
- b) 100% compliance with Cost Containment Instruction of National Treasury
- a) Strategic risks identified and properly managed
- b) No irregular expenditure incurred
- c) 100% Suppliers paid 30 days

9. MANAGEMENT OF CASES

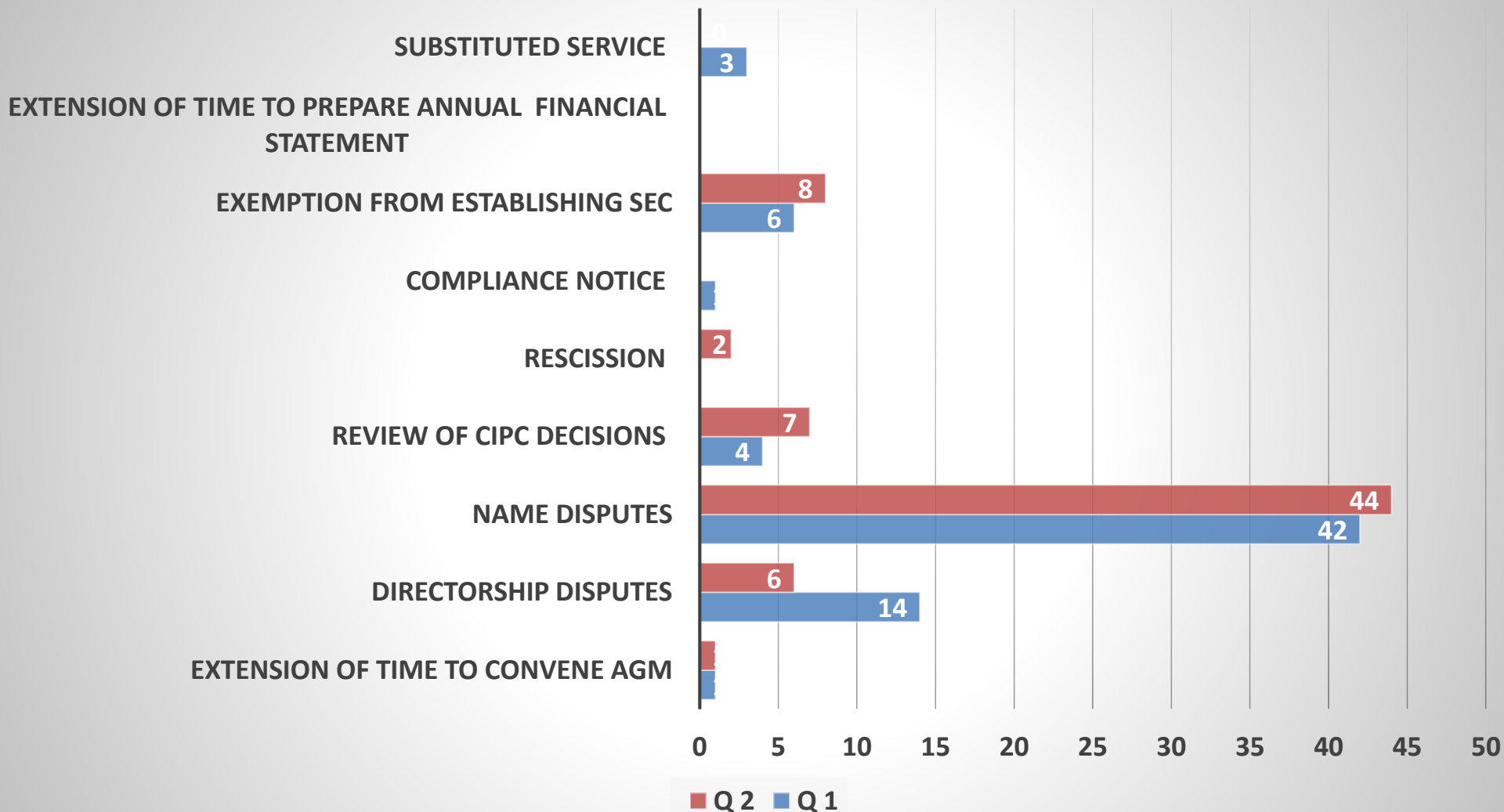
Quarter 1 and 2

i. NEW Vs OLD	Q 1	Q 2	Total YTD
Applications brought forward	195	188	N/A
New applications received	71	68	139
Total applications: Quarter end	266	256	N/A

i. Per Application Type (New)	Q 1	Q 2	Total YTD
Extension of time to convene AGM	1	1	2
Directorship disputes	14	6	20
Name disputes	42	44	86
Review of CIPC decisions	4	7	11
Rescission	0	2	2
Compliance notice	1	0	1
Exemption from establishing SEC	6	8	14
Extension of time to prepare annual financial statement	0	0	0
Substituted service	3	0	3
Total applications: Quarter end	71	68	139

10. MANAGEMENT OF CASES

Quarter 1 &



11. MANAGEMENT OF CASES

Quarter 1 and 2

iii. PER APPLICATIONS STATUS	Q 1	Q 2	Total
Pending finalisation	116	163	N/A
Decided	40	52	92
Postponed sine die	1	2	N/A
In settlement discussions	1	1	N/A
Withdrawn	7	2	9
Closed	31	15	46
Allocated (pending-with members)	29	20	N/A
In deregistration process	1	1	N/A
Reinstated cases	0	0	N/A
Total	266	256	N/A

12. MANAGEMENT OF CASES

Quarter 1 and 2

Alternative Dispute Resolution (ADR)

NEW VS OLD	Q 1	Q 2	Total
Applications brought forward	35	41	N/A
New applications received	11	2	13
Total applications	46	43	N/A

PER APPLICATIONS STATUS	Q 1	Q 2	Totals
Finalised	4	3	7
Withdrawn	1	0	1
In settlement discussion	0	0	0
Awaiting final dates from parties	41	39	N/A
Closed	0	1	1
Total	46	43	N/A

13. Progress against milestones

STAKEHOLDER ENGAGEMENTS

(i) Marketing of CT services

Outreaches and/or exhibitions	Quarter 1 (April – June)	Quarter 2 (Jul – Sep)
Target (Marketing CT Services: ADR & CMS)	Three (3) activities/ outreaches	Two (2) activities/ outreaches
Total	06	03
Achievement		

(ii) Quarterly bulletins

Quarterly Bulletin *Not part of APP*	Q1	Q2
Targets	One (1) bulletin	One (1) bulletin
Total achievements	01 Bulletin published	01 Bulletin published

14. Progress against milestones

STAKEHOLDER ENGAGEMENTS

(i) Media Engagements

Radio Activities	Q 1	Q 2
Target	One (1) Radio activity	One (1) Radio activity
Achievements	Two (2) Interviews conducted	Three (3) Interviews conducted
	02	03

(ii) Seminar

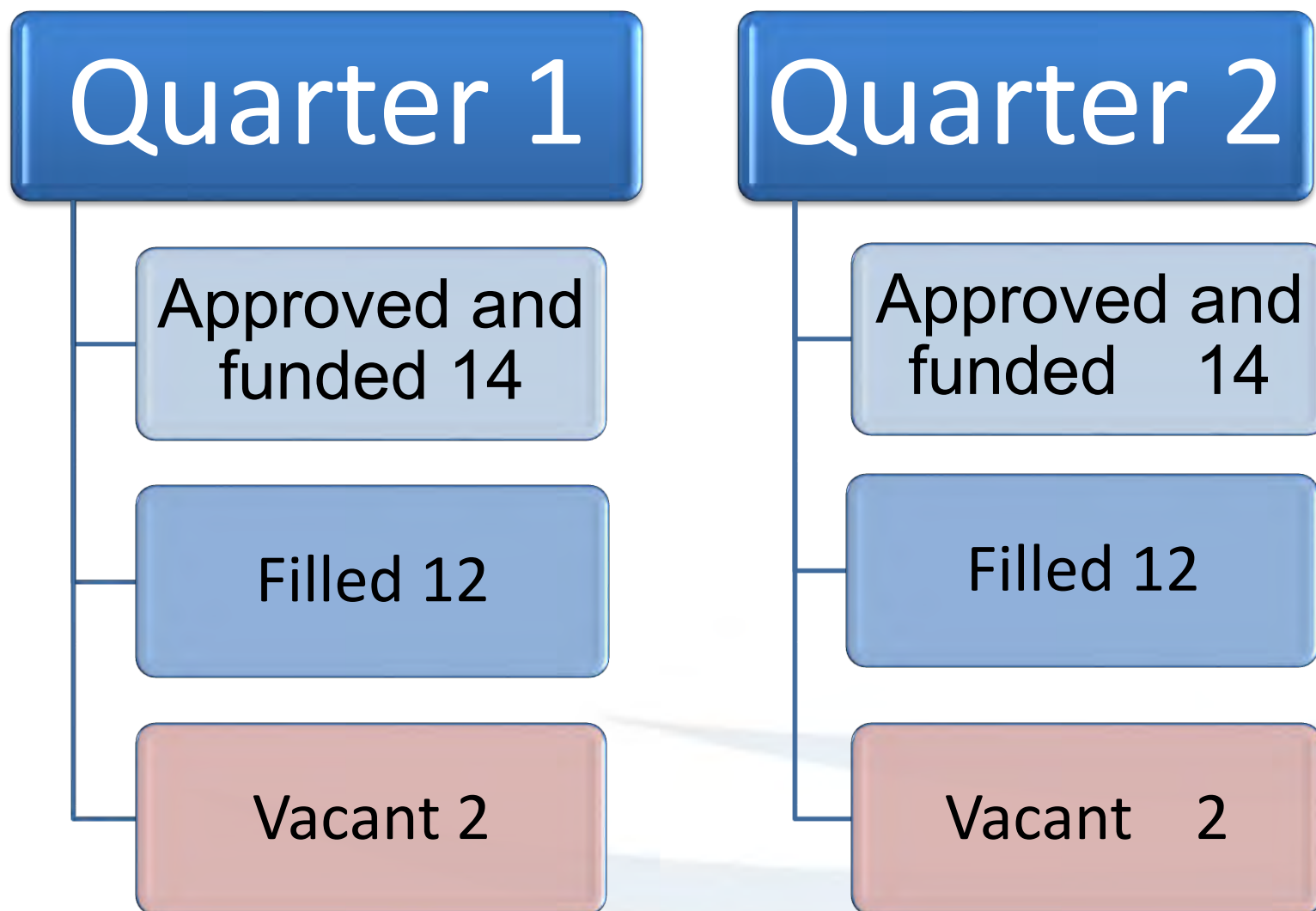
Seminar	Q 1	Q 2
Target	Draft a detailed proposal & obtain approval	Consult Stakeholders both internal & external
Achieved	Achieved	Achieved

15. Research

Research

Research	Q 1	Q 2
Target	<p>a) Submit a written research proposal including:</p> <ul style="list-style-type: none"> • Selection and design of data collection tools (e.g. interviews/questionnaires) • Stakeholder identification 	<p>a) Collect research information/material/ interviews/questionnaires etc)</p> <p>b) Do literature review; and</p> <p>c) Produce the first research draft</p>
Achieved	Achieved	Achieved

16. PROGRESS AGAINST MILESONES HUMAN RESOURCES



17. STRATEGIC RISKS AND MITIGATIONS

Inadequate funding and resources to execute our mandate effectively and efficiently.

- Requests for additional allocation from **the dtic**
- Forward planning (re-prioritising)
- Propose legislative amendments on funding model

Public reluctance to use CT services

- Induction of new members
- Hold Members Peer Review meetings and establish best practice
- Propose legislative amendments for expansion of CT's mandate

Inability to maintain and develop a positive reputation and grow the institution.
(existence)

- CT will use social media to advertise its services on a quarterly basis
- Use of social media
- Collaborations with **the dtic** and its entities on marketing
- Conduct survey on mandate/ services of the Tribunal

Inability to recruit, develop and retain competent and skilled personnel with the right values

- Development of a resource plan which includes costing and allocation of budget for critical vacancies
- Employee Wellness (counselling, financial advice, stress management)
- Conduct employee engagement survey

Unavailability and inaccessibility of IT services or systems

- Testing of Backups
- Continuity Simulation
- Vulnerability Tests
- Security Awareness Campaigns

18. FINANCIAL SUMMARY

- The Companies Tribunal spent 44% of the budget by end of third quarter
- Forecast to spend the remaining budget in the two quarters
- Increased baseline to improve support and maintenance of the case management and also enhance marketing and communication initiatives
- Insufficient funds to fill vacant positions

19. FINANCIAL PERFORMANCE

Q1 – Q2

	2022/2023					Budget
	Budget for	Budget	Actual	Variance	Percentage	Available for
	the full year	30 Sept 2022	30 Sept 2022	30 Sept 2022	Variance	rest of the year
	R	R	R	R	%	R
DTI grant received	24 529 000	14 717 400	14 717 000	400	0%	9 812 000
Revenue in kind	2 243 202	1 121 601	1 121 601	0	0%	1 121 601
Interest received	245 290	122 645	148 460	-25 815	-21%	96 830
TOTAL REVENUE	27 017 492	15 961 646	15 987 061	-25 415	0%	11 030 431
Employee related cost	15 943 725	7 971 863	7 080 390	891 473	11%	8 863 336
Operating expenses	4 181 456	2 090 728	1 885 259	205 469		2 296 198
Administrative expenses	2 390 080	1 160 113	478 188	681 925	59%	1 911 892
External Audit fees	534 843	534 843	513 137	21 706	4%	21 706
Depreciation and Amortisation	200 211	100 105	114 109	-14 003	-14%	86 102
Tribunal Members fees	3 517 176	1 758 588	1 799 218	-40 630	-2%	1 717 958
Total Expenditure	26 767 492	13 616 240	11 870 300	-234 754	-1%	14 897 192

20. REVENUE COLLECTION PER QUARTER

Transfers from DTIC

Annual budget R 24 529 000

Received in Q1 R14 717 400

Received in Q2 R 0

Revenue in kind- waived rent

Annual budget R 2 243 202

Q1 R 560 801

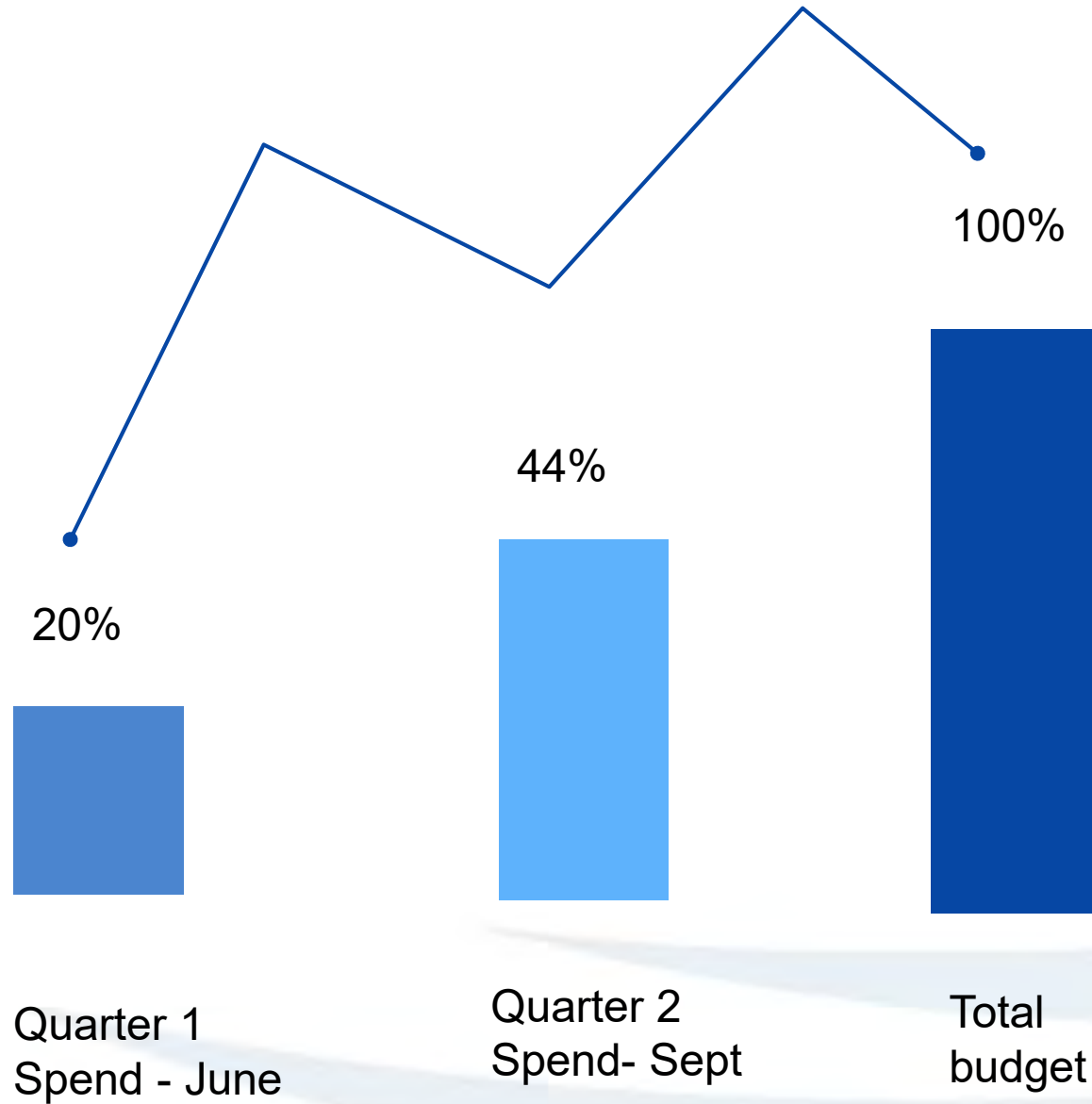
Q2 R 560 801

Interest Received

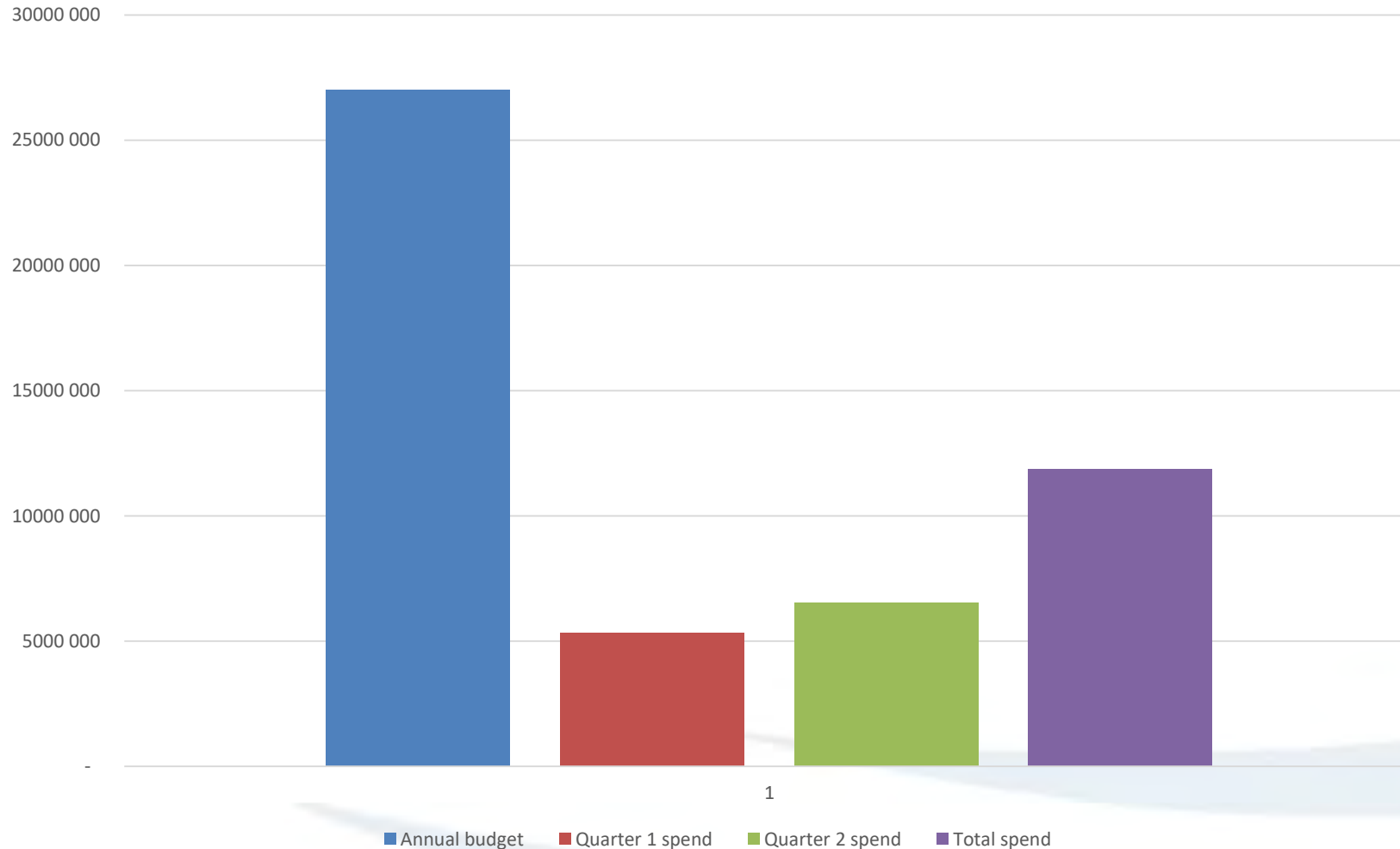
Q1 R18 896

Q2 R148 460

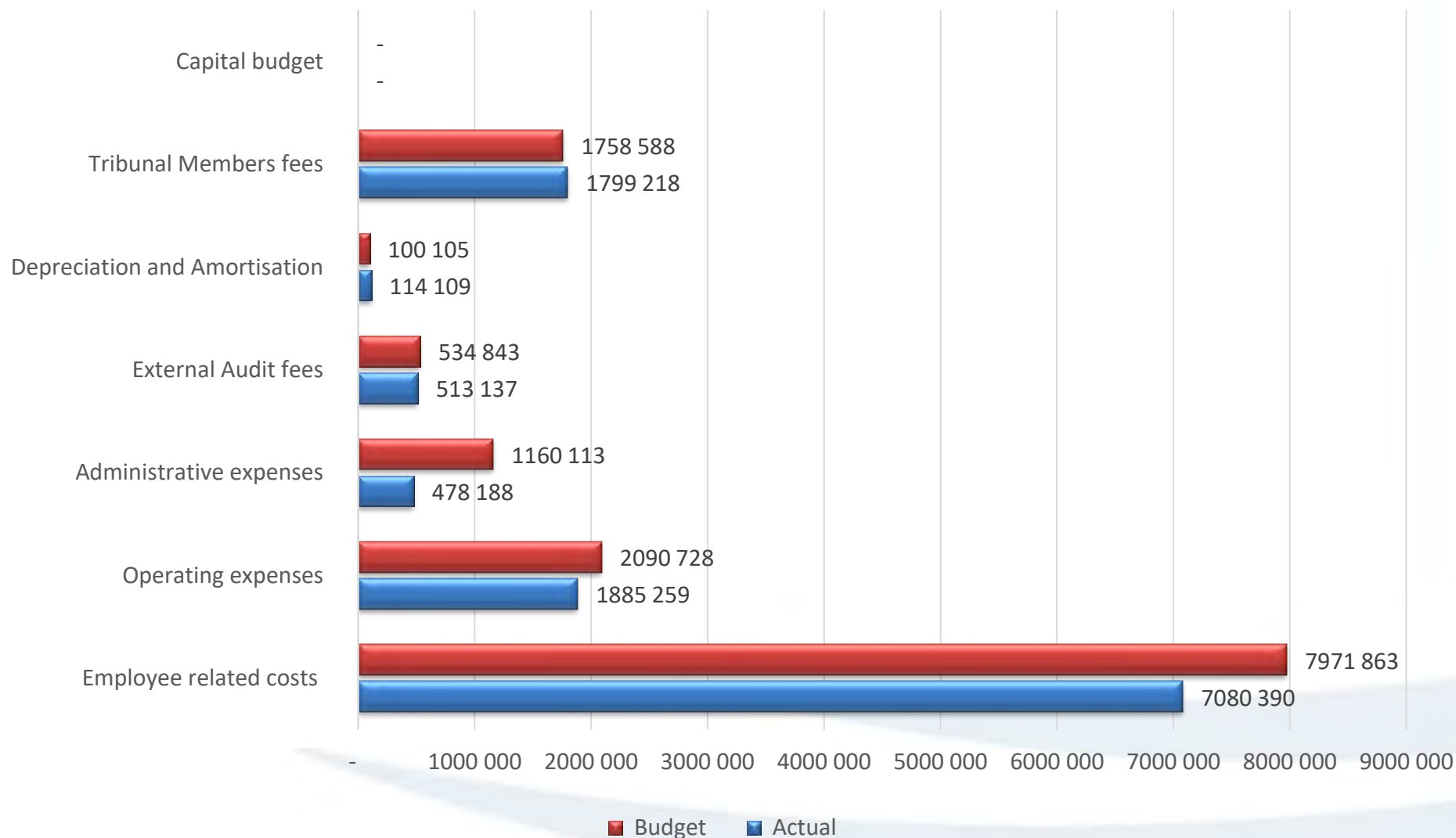
21. BUDGET SPENT PERCENTAGE



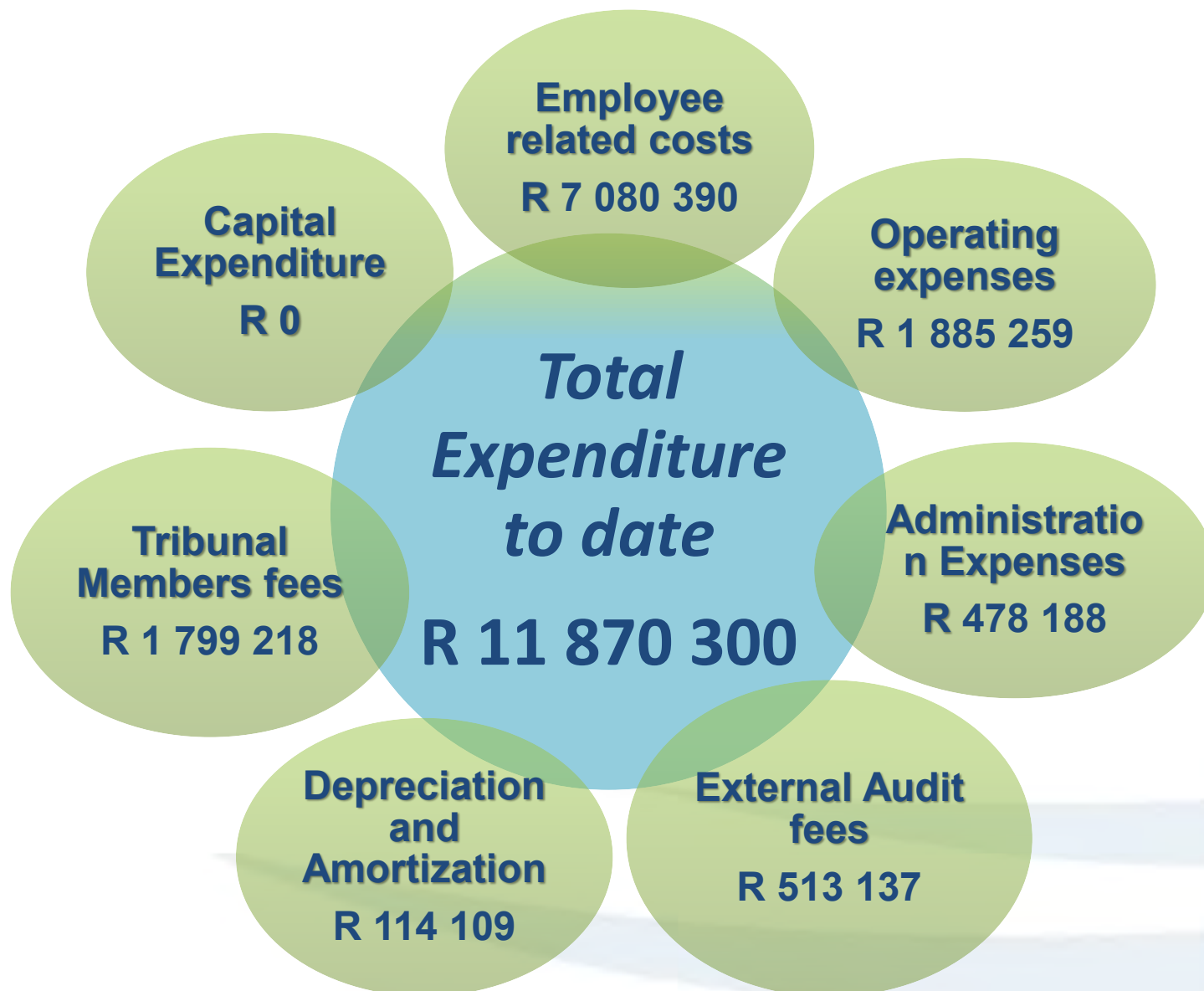
22. BUDGET SPEND FOR Q1 AND Q2



23. BUDGET VS ACTUAL FOR QUARTER Q1&Q2



24. CUMMULATIVE EXPENDITURE TO 31 SEPTEMBER 2022



25. FINANCIAL MANAGEMENT SUMMARY

Irregular, fruitless
and wasteful
expenditure

- Quarter 1 – None
- Quarter 2 – None

Payment of
suppliers within
30 days

- Quarter 1 – 100%
- Quarter 2 – 100%

Designated
Procurement

- Quarter 1 – 70%
- Quarter 2 – 75%

26. CHALLENGES

- a) Funding/Budgetary Constraints
 - b) Declining number of cases
 - c) Limited Mandate challenges
-
- a) Case management system
 - b) Facilities
 - c) External dependencies

Companies Tribunal's Reception:

012 394 1000

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Thank you!