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Hon Stevenson

State House



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Hon N. Kiviet

Speaker

Eastern Cape Legislature

Bhisho

5605

Dear Honourable Kiviet

**SUBMISSION OF RESPONSE TO THE QUESTION FOR WRITTEN REPLY**

Attached hereto is a written reply of IQP13 Question 1, 2 and 3 of 2015.

Respectfully

MR P.G MASUALLE

PREMIER OF THE EASTERN CAPE PROVINCE

14-04-2015

DATE

## RESPONSE TO INTERNAL QUESTION PAPER 13

Mr R S Stevenson to ask the Acting Premier:

- (1) (a) What was the total cost to the province with regard to litigation in the (i) 2012/13, (ii) 2013/14 and (iii) 2014/15 financial years up to and including the latest specified date for which information is available, (b) what was the breakdown per provincial Government Department in this respect in each case and (c) what total amount was paid out by the province in settlements during the aforementioned financial years;

**RESPONSE: (a)**

Financial Year	2012/13	2013/14	2014/15
Total Amount (R)	79 806 861.41	111 125 311.19	105 577 115.40

**RESPONSE: (b)**

ANNUAL PROVINCIAL EXPENDITURE LEVELS

<b>DEPARTMENTS</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15 (QUARTERS 1, 2 &amp; 3)</b>
Social Development	R 2 816 072.47	R 5 241 788.51	R 3 905 050.06
Education	R 18 300 141.50	R 19 883 473.17	R 17 106 545.85
Health	R 40 237 467.69	R 64 443 363.42	R 66 817 366.98
Provincial Planning & Finance	R 372 903.93	R 106 709.39	R 95 964.19
Rural Development and Agrarian Reform	R 2 934 371.31	R 4 378 875.30	R 2 642 503.10
Human Settlements	R 843 441.40	R 4 518 787.18	R 1 189 329.76
Local Government & Traditional Affairs	R 4 052 736.75	R 2 738 375.25	R 3 894 270.81
Sports, Recreation, Arts & Culture	R 408 398.27	R 6 308.28	R 98 522.00
Economic Development, Environmental Affairs & Tourism	R 1 735 606.88	R 1 812 368.62	R 618 608.00
OTP	R 1 865 206.74	R 1 289 180.55	R 767 381.23
Roads & Public Works	R 1 427 658.57	R 1 493 269.55	R 3 613 162.02
Transport	R 4 812 855.90	R 5 212 811.97	R 4 828 411.40
<b>TOTALS</b>	<b>R 79 806 861.41</b>	<b>R 111 125 311.19</b>	<b>R 105 577 115.40</b>

**RESPONSE: (c)**

The total amount paid as per our current records was as follows:

Financial Year	2012/13	2013/14	2014/15
Total Amount (R)	50 963 703.20	61 195 393.50	96 590 123.50

- (2) What reasons were given for the settlements paid out by the provincial Department of Health (DOH) in particular for the financial years referred to above?

**RESPONSE:**

*The settlements paid during the period 2012/13 to 2014/15 were mainly in the areas of obstetrics and orthopaedics. In the case of obstetrics, the claims mainly related to brain damage in babies during birth (Cerebral Palsy). Some of the causes of this condition are poor monitoring of a patient to determine signs of foetal distress resulting in late referral of patients to the next level of care. In other instances, the brain damage would occur when the child was still inside the mother because the mother presented late to the clinic/hospital, due to non-availability of an ambulance to transfer the patient.*

*In the case of orthopaedic claims, the claims arise from prolonged waiting times for operations, leaving the patients with some level of residual deformity, which potentially affects their occupational status. The delays in operating on patients are caused by an acute shortage of orthopaedic beds across the province, fewer orthopaedic specialists and a general high demand for orthopaedic services.*

*When these adverse events occur, independent experts in the field are engaged to determine if there was negligence/mismanagement on the side of the Department in the total care of the patients. When the expert's negligence/mismanagement had been proven and the Department had established, on evidence or alternatively on legal advice, that there was no valid defence for those matters, the Department agreed on settlement offers to the claimants.*

*The settlement of claims underscores the mitigation of inflated capital claims, exorbitant legal costs expenditure and affords speedy relief to claimants.*

- (3) Whether any of the aforementioned settlements were reached following negligence on the part of DOH personnel; if so, what disciplinary action, if any, has been or is to be taken against the personnel in question?

**RESPONSE:**

*Settlements of claims are reached once the Department's legal liability has been established. However, it becomes generally difficult to isolate negligence in most of these cases, as the cause of the adverse event could have occurred anywhere in the total chain of patient care.*

*In those instances where negligence is clear and isolated, the Department has taken serious disciplinary measures including putting the affected practitioners on suspension and reporting them to Health Professions Council of SA (HPCSA) and the Nursing Council of South Africa, where applicable. From time to time the Department also considers laying criminal charges with the SAPS in cases of gross negligence*