

Profiling and Analysis of the most Common Manifestations of Corruption and its Related Risks in the Public Service



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Foreword

His Excellency J.G. Zuma, President of the Republic of South Africa, in his 2009 State of the Nation Address, called for South African citizens to “intensify the fight against crime and corruption and to build cohesive, caring and sustainable communities”. Indeed, the fight against corruption has indeed been intensified by Government through partnerships with various stakeholders to create transparency and accountability in the Public Service.

The progress made includes, among others, the establishment of a comprehensive legislative framework and institutional mechanisms which seek to prevent corrupt activities. An important part of these institutional mechanisms has been the establishment of a National Anti-Corruption Hotline (NACH) for the safe and anonymous reporting of corruption in the Public Service. In addition, Cabinet has introduced guidelines on Minimum Anti-Corruption Capacity Requirements to tackle corruption and unethical behaviour in the workplace, and to monitor the implementation of anti-corruption initiatives in departments.



As part of the monitoring of anti-corruption initiatives, the PSC embarked on an exercise to assess the most common manifestations of corruption and its related risks in the Public Service. This assessment examines the current corruption risks and anti-corruption infrastructure.

In this research the PSC found that the common forms in which corruption manifests itself are fraud and bribery, abuse of Government owned vehicles, procurement and appointment irregularities. The primary objectives of this assessment were to raise awareness on these common manifestations of corruption and to determine high risk corruption areas and to propose solutions to manage them.

Based on this analysis, the PSC has made action oriented recommendations aimed at assisting National Departments, Public Bodies, and Provincial Governments in strengthening the prevention, detection and investigation of corruption.

I would like to thank all Departments and Public bodies that have participated in this assessment. I trust that this report will assist them to further deepen integrity within their respective institutions by effectively dealing with corruption.

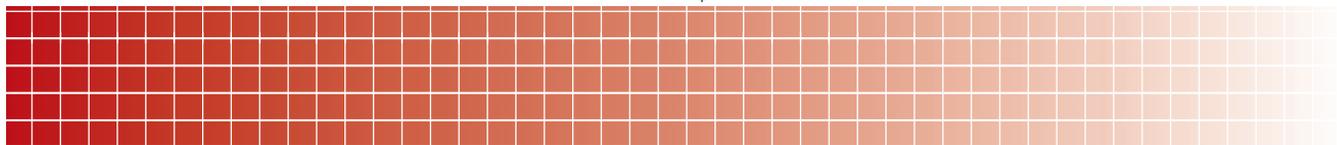
I remain convinced that if the objectives of the National Anti-Corruption Strategy were met sooner rather than later, the hydra of corruption would be dealt a crippling blow from which it would find it hard to recover.

A handwritten signature in black ink, appearing to read 'RR Mgiqima', written over a white background.

DR RR MGIJIMA
CHAIRPERSON: PUBLIC SERVICE COMMISSION

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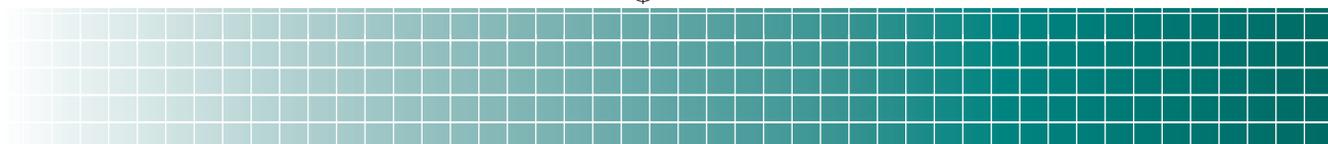
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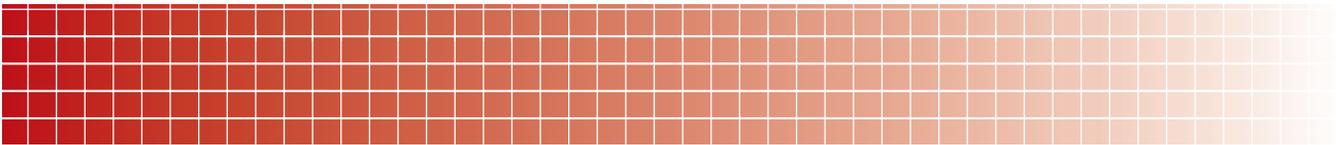




List of Acronyms

ACFE	Association of Certified Fraud Examiners
COGTA	Cooperative Governance and Traditional Affairs
CFA	Compliance and Forensic Audit Unit
CC	Counter Corruption
CMS	Case Management System
CMIS	Corruption Management Information System
DIU	Department Investigation Unit
DTI	Department of Trade and Industry
FAU	Forensic Audit Unit
GSSC	Gauteng Shared Services Centre
HOD	Head of Department
ICD	Independent Complaints Directorate
IMU	Integrity Management Unit
NACH	National Anti-Corruption Hotline
NPA	National Prosecuting Authority
OPSC	Office of the Public Service Commission
PSC	Public Service Commission
PFMA	Public Finance Management Act
PRECCAA	Prevention and Combating of Corrupt Activities Act
RDP	Reconstruction and Development Programme
SAPS	South African Police Service
SIU	Special Investigating Unit
SLA	Service Level Agreement
SASSA	South African Social Security Agency





Executive Summary

1. INTRODUCTION

Corruption is a global concern that seriously hampers development and diverts resources from where they are needed most. The unfortunate reality is that the poor suffer most. South Africa has responded actively to the fight against corruption. Apart from comprehensive anti-corruption legislation, a wide range of instruments have been introduced to deepen integrity and to strengthen the fight against corruption. One of the most visible and collaborative anti-corruption efforts since 2004 was the creation of the National Anti-Corruption Hotline (NACH). The NACH came into effect on 1 September 2004. It provides a “one-stop” mechanism for members of the public to report acts of corruption, and also creates opportunities for different role-players to cooperate better in receiving and handling allegations of corruption.

The Public Service Commission (PSC) manages the NACH, a role which is in line with Section 195 of the Constitution of the Republic of South Africa which mandates the PSC to promote a high standard of professional ethics in the Public Service. As part of fulfilling this mandate, the PSC has embarked on an exercise to assess the most common manifestations of corruption and its related risks in the Public Service.

2. OBJECTIVES

In conducting this assessment of the most common manifestations of corruption and its related risks, the PSC set out to achieve the following objectives:

- To profile and analyse institutional responses to handling cases of alleged corruption (e.g. National and Provincial Departments, Public Bodies and Entities).
- To raise awareness on the fight against corruption.
- To assess the potential risks or threats related to corruption occurring in Government departments, Public Bodies and Entities.
- To determine high risk corruption spheres/fields and propose solutions to manage them.
- To propose appropriate systems to address the most common manifestations of corruption and its related risks in the Public Service.
- To improve good governance through the monitoring of risks associated with corruption within the Public Service.
- To propose recommendations for the management of risk relating to corruption in the Public Service.

3. METHODOLOGY

The methodology applied by the PSC in this assessment focused on gathering information from departments through questionnaires, analyzing statistical data from the Case Management System of the NACH and conducting consultative workshops and interviews. The interviews focussed on managing cases of alleged corruption, the composition of anti-corruption units in departments, the mandates of the units as well as challenges experienced by departments.

4. SCOPE

The study covered a sample of randomly selected Provinces, National Departments and Public Bodies. These were:

(a) National Departments

- Department of Social Development ;
- South African Police Service (SAPS);
- Department of Correctional Service;
- Department of Home Affairs;
- Department of Justice and Constitutional Development ;
- Statistics South Africa;
- Department of Trade and Industry (DTI);
- Department of Cooperative Governance and Traditional Affairs (COGTA); and
- Department of Health.

(b) Provinces

- Mpumalanga Province;
- Western Cape Province; and
- Gauteng Province.

(c) Public Bodies

- National Prosecuting Authority; and
- Special Investigating Unit.

5. LIMITATIONS

The responses of Departments to the questions raised were not always comprehensive enough to facilitate detailed analysis.

6. OVERVIEW OF FINDINGS

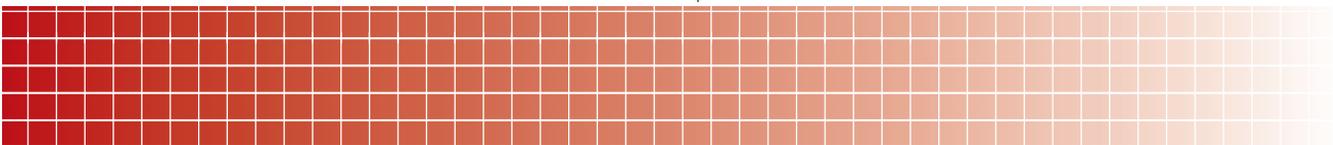
The findings of the PSC were as follows:

Reporting of common allegations: The top four (4) categories of alleged corruption cases are fraud and bribery, abuse of Government-owned vehicles, as well as procurement and appointment irregularities.

The focus in fighting corruption: It was found that the current anti-corruption infrastructure is focussed mainly on the investigation of cases of alleged corruption in the departments or public entities instead of focusing on a holistic approach, namely investigation, detection and prevention.

Risk Management: While the government's National Anti-Corruption Strategy recognises risk management as a strategic consideration in the fight against corruption, the PSC found that risk management is not being effectively implemented or coordinated in the Public Service by the relevant anti-corruption units of departments where they exist. While some departments may perform regular risk assessments and risk analyses as part of their ongoing activities, there is an insufficient interface between risk management functions on the one hand, and anti-corruption units, on the other. This in turn results in an inadequate extraction and analysis of fraud and corruption risks.

Departmental policy on anti-corruption: Forty percent (40%) of departments have anti-corruption policies of reasonable quality, with evidence of implementation. The remaining 60% either have no policies or have very basic policies of poor quality.



Strategic objectives related to fighting corruption: Ten percent (10%) of departments have clear written objectives which are well integrated with other objectives and with evidence of planning and monitoring against objectives. Forty-five percent (45%) of departments have written objectives for addressing corruption. The strategy can be deduced from these objectives whilst the remaining forty-five percent (45%) have poorly formulated or no strategic objectives for addressing corruption.

Application of discretion: The PSC found that the areas of utmost concern to departments are those where officials can use their discretion to decide whether or not to investigate cases of alleged corruption. In this regard, officials tend to request the closure of cases even before these have been investigated. This has resulted in queries from whistleblowers who are concerned about cases of alleged corruption not being investigated and the necessary feedback not being provided.

Investigations of allegations of corruption: Only fifteen percent (15%) of the departments were found to have advanced investigative capacity, while twenty-five (25%) have basic capacity. The remaining departments were found to have no basic investigative capacity.

The Minimum Anti-Corruption Capacity Requirements directs that Anti-Corruption Investigative Units must be established within departments. The PSC found that Anti-Corruption Investigative Units established in departments at the provincial level are dysfunctional.

Disciplinary sanctions: Feedback reports submitted to the PSC show that Departments are often lenient in imposing disciplinary sanctions against officials found guilty of fraud and corruption. It is common to find written or final written warnings to officials found guilty of fraud and corruption.

The PSC also found that disciplinary enquiries are very time consuming, and that departments take too long to finalise enquiries against officials suspected of fraud and corruption. As a consequence, officials are suspended from duty with full pay for long periods while the disciplinary processes are being finalised.

7. RECOMMENDATIONS

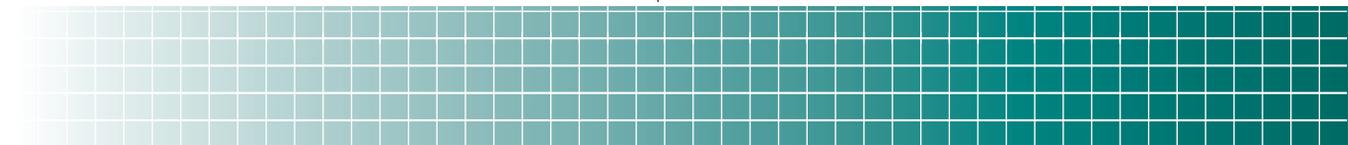
The recommendations made are as follows:

Addressing fraud and bribery: As at 31 June 2010 a total of 1511 cases associated with fraud and bribery had been reported to the NACH. Given the volume of fraud and bribery cases received through the NACH, the PSC recommends that internal controls in areas of procurement and financial management should be strengthened. Departments should periodically conduct surprise procurement audits of selected projects to identify weaknesses and malpractices in procurement processes. The risk management plans and fraud prevention plans of departments must further be updated to address the risks identified.

Conducting risk management: Based on the continuous influx of calls to the NACH on alleged corruption within departments, the internal controls of departments appear to be in need of further strengthening. The fact that 30% of the departments did not conduct risk assessments is cause for concern as this is a basic requirement for the successful implementation of risk assessment and fraud prevention plans as provided in section 38 of the Public Finance Management Act (PFMA), 1999. The absence of such plans could be a contributing factor in the increase in NACH cases received. The PSC therefore recommends that each Accounting Officer must specifically focus on and analyse corruption risk as part of the risk management required in terms of the PFMA and implement fraud prevention plans required in terms of the PFMA.

The PSC is of the view that the abovementioned recommendations would go a long way in strengthening the government's fight against corruption.





Disciplinary sanctions against public officials: The PSC has noted that Departments tend to be lenient in imposing disciplinary sanctions against corrupt officials found guilty of fraud and corruption. Apart from the internal disciplinary procedure which departments have to follow in cases of fraud and corruption, departments are required to report offences relating to fraud and corruption involving an amount of R100 000 or more, to the South African Police Service in terms of section 34(1) of the Prevention and Combating of Corrupt Activities Act, 2004. It is important to note that section 34(4) read with section 34(1) of the Act, expresses a zero tolerance approach to corruption and corrupt activities. The PSC therefore, recommends that departments report all fraud and corruption related activities to the SAPS, in order for criminal action to be taken against perpetrators.

Delays in the finalisation of cases against officials on suspension: The Disciplinary Code and Procedures provides that *“the employer may suspend an employee on full pay or transfer the employee if (i) the employee is alleged to have committed a serious offence; and (ii) the employer believes that the presence of an employee at the workplace might jeopardise any investigation into alleged misconduct, or endanger the well being or safety of any person or state property”*. Section 7.2 (c) of the Disciplinary Code and Procedures provides that *“if an employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing within a month or 60 days, depending on the complexity of the matter and the length of the investigation*. However, Departments take more than 60 days to finalise disciplinary enquiries even in minor offences. This is too costly for Government as the officials are being suspended from duty with full pay without rendering services to a department.

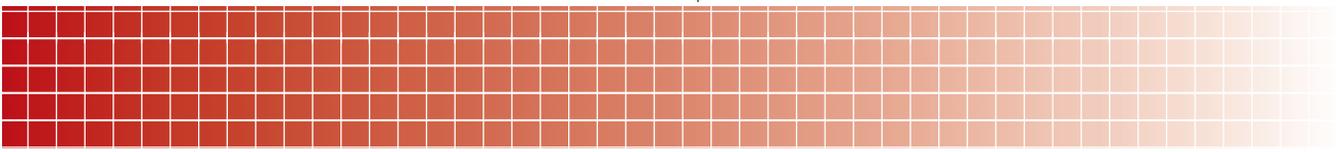
In view of the above the PSC recommends that Executive Authorities and Accounting Officers must be held accountable for ensuring that disciplinary enquiries are resolved within 60 days, depending on the complexity of the matter and the length of the investigation.

The PSC recommends that a guideline on minimum sanctions for specific offenses of fraud and corruption must be issued by the Minister of Public Service and Administration. The guideline should make provisions for minimum sanctions to be imposed by departments in acts of misconduct.

The PSC also recommends that once a case of alleged corruption or fraud is detected, departments must conduct internal disciplinary hearing concurrently with the referral of the case to the South African Police Service for criminal charges.

Enhancing investigative capability in the Public Service: The PSC took note of the information provided by departments with respect to coordination, integration and enhancement of investigative capability in the Public Service and subsequently recommends the following:

- Provinces must establish centralised Anti-Corruption Investigative Units. Failure to do so will impact negatively on the success of the NACH and will erode efforts to build integrity within the Public Service. The centralized Anti-Corruption Investigative Units will also ensure that there is proper coordination of cases in provincial departments and also ensure that evidence is not tampered with and cases are thoroughly investigated.
- The Offices of the Premiers in the Provinces must commit as much resources as possible to the investigation of corruption. In particular, Integrity Management Unit should be created through the appointment of appropriately skilled persons and through the training of officials in the discipline of Forensic Investigation. Failure to do so will impact negatively on the success of the NACH and will erode efforts to build integrity within the Public Service. The Integrity Management Unit will ensure that there is proper coordination of cases in provincial departments and also ensure that evidence is not tampered with and cases are thoroughly investigated.



- The investigative capacities in the local sphere of government, which is currently fragmented, needs coordination and integration. The PSC is of the view that more attention should be devoted to the prevention of corruption and to identifying and eliminating systemic regulative and organisational gaps that create corruption-prone environments. Preventive actions should focus on reforming regulatory frameworks to reduce discretionary powers of municipal officials and open government measures such as increased transparency of decision-making procedures and public participation.
- Departments and public entities must conduct an in- depth assessment of its fraud risk management frameworks and strategies. The outcome of such assessment could prevent over-investment in sub-optimal anti-fraud areas.



Chapter One

Introduction

1.1 BACKGROUND

The global discourse on good governance is underpinned by the expectation that government should be proactive in fighting the spread of corruption and in promoting an integrity-driven form of administration. Accompanying such an integrity driven administration should be the political will to put in place enabling policies and a commitment to implement them. In South Africa, by 2004, government had managed to put in place a range of key policy instruments and normative frameworks necessary to promote and support a high standard of professional ethics. This legislative framework includes the Prevention and Combating of Corrupt Activities Act (Act no. 12 of 2004)¹, the Protected Disclosure Act, (Act no. 26 of 2000)², the Promotion of Access to Information Act, (Act no. 2 of 2000)³ and the Promotion of Administrative Justice Act, (Act no. 3 of 2000)⁴. Cabinet has also prescribed the minimum anti-corruption capacity required for all departments⁵. This includes, amongst others, the capacity to both prevent and investigate corruption.

Given that corruption is a serious problem, Government has decided to address it through combating initiatives, law enforcement and prevention mechanisms. As part of its prevention strategy, the National Anti-Corruption Hotline (NACH) was established in the Public Service. The PSC has been mandated by Cabinet to manage the NACH. The NACH became operational with effect from 1 September 2004.

Against this backdrop the PSC deemed it important to conduct a project on: *“Profiling and analysis of the most common manifestations of corruption and its related risks in the Public Service.”*

1.2 MANDATE

The PSC has a very specific mandate in relation to the promotion of professional ethics in the Public Service. In terms of this mandate the following sections of the Constitution, 1996⁶ are applicable:

“195(4)(a) to promote and maintain a high standard of professional ethics in the Public Service”,

“196(4)(b) to investigate, monitor and evaluate the organisation and administration, and the personnel practices, of the public service;”

“196(4)(f)(i) to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executing authority and legislature;”

The following sections of the Public Service Commission Act, 1997 are applicable:

“8. Subject to the provisions of the Constitution, the Commission may exercise the powers and shall perform the duties entrusted to the Commission by or under this Act, the Constitution or the Public Service Act.”

“9. The Commission may inspect Departments and other organisational components in the Public Service, and has access to such official documents or may obtain such information from heads of those Departments or organisational components or from other officers in the service of those Departments or organisational components as may be necessary for the performance of the functions of the Commission under the Constitution or the Public Service Act.”

Given the above, the PSC has a Constitutional mandate to promote professional ethics and to investigate, monitor and evaluate public administration practices.

¹ Republic of South Africa: Prevention and Combating of Corrupt Activities Act (Act no.12 of 2004).

² Republic of South Africa: Protected Disclosure Act, (Act no. 26 of 2000).

³ Republic of South Africa: Promotion of Access to Information Act, (Act no. 2 of 2000).

⁴ Republic of South Africa: Promotion of Administrative Justice Act, (Act no. 3 of 2000).

⁵ Republic of South Africa: Minimum Anti-Corruption Capacity Requirements in Departments, DPSA, 2006.

⁶ Republic of South Africa: Constitution of the Republic of South Africa, 1996, Act 108 of 1996.

1.3 OBJECTIVES

The PSC, in conducting this assessment of the most common manifestations of corruption and its related risks, set out to achieve the following objectives:

- To profile and analyse institutional responses to handling cases of alleged corruption in addition to the NACH (e.g. National and Provincial Departments, Public Bodies and Entities).
- To raise awareness on the fight against corruption.
- To assess the potential risks or threats related to corruption occurring in Government departments, Public Bodies and Entities.
- To determine high risk corruption spheres/fields and propose solutions to manage them.
- To propose appropriate systems to address the most common manifestations of corruption and its related risks in the Public Service.
- To improve good governance through the monitoring of risks associated with corruption within the Public Service.
- To propose recommendations for the management of risk relating to corruption in the Public Service.

1.4 METHODOLOGY

The methodology applied by the PSC in this evaluation focused on gathering information from departments through questionnaires, analysing statistical data from the Case Management System of the NACH and conducting consultative workshops and interviews.

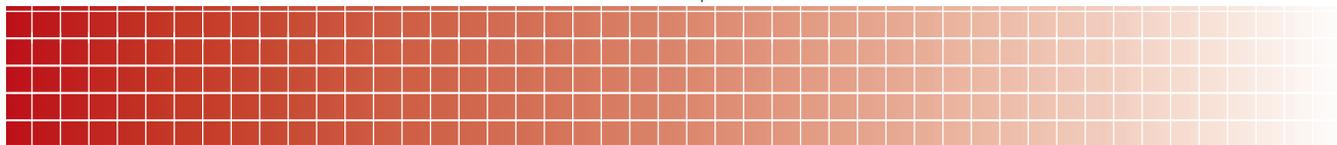
The PSC conducted an evaluation of all information available from the PSC Case Management System (CMS) and through NACH workshops conducted with National and Provincial Departments with senior managers and investigators who are involved with the investigation of cases of alleged corruption in departments.

The PSC specifically considered the following:

- Cases of alleged fraud and corruption reported to the PSC from 1 September 2004 to 31 June 2010
- Institutional responses to the handling of cases of alleged corruption.
- A sample of departments and their management of cases of corruption referred to them for investigation.

The above-mentioned information was collated, analysed and evaluated as follows:

- (a) Cases of alleged fraud and corruption reported to the PSC from 1 September 2004 to 31 June 2010 were analysed in order to determine:
 - The most common manifestations of corruption;
 - The profound areas of risk related to corruption; and
 - The level of risk and the potential impact.
- (b) Institutional responses to the handling of cases of alleged corruption reported were analysed by:
 - Collating information on the various types of corruption that have been investigated by institutions such as the Special Investigating Unit (SIU) and National Prosecuting Authority (NPA);
 - Collating information on the methodology, adopted by various public bodies, in the successful investigation of corruption matters reported; and
 - Collating information on the risks associated with the most common manifestations of corruption.



(c) A sample of National Departments and Provinces were assessed in terms of the following:

- The various types of corruption they deal with, in addition to the cases that were reported to them through the NACH;
- The management of investigations conducted into the reported cases of corruption; and
- The risk associated with the most common manifestations of corruption.

1.5 SCOPE

The study covered a sample of randomly selected Provinces, National Departments and Public Bodies. These were:

(a) National Departments

- Department of Social Development ;
- South African Police Service (SAPS);
- Department of Correctional Service;
- Department of Home Affairs;
- Department of Justice and Constitutional Development ;
- Statistics South Africa;
- Department of Trade and Industry (DTI);
- COGTA; and
- Department of Health.

(b) Provinces

- Mpumalanga Province;
- Western Cape Province; and
- Gauteng Province.

(c) Public Bodies

- National Prosecuting Authority; and
- Special Investigating Unit.

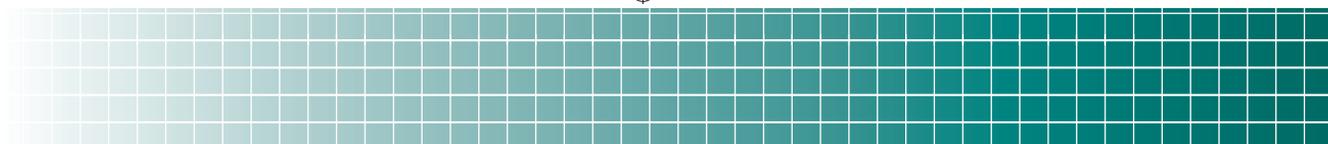
1.6 LIMITATIONS

The PSC's analysis of information was limited by the fact that, in some instances, the responses of Departments to the questions raised and information required by the PSC were not adequate.

The above limited the PSC's ability to compare information on the CMS against information contained on Departmental data bases and to identify all constraints experienced and successes achieved by Departments in the handling of cases of alleged corruption.

The research study did not look into the risk assessments conducted by Departments, Public bodies and Entities. This is after considering the fact that no recommendation was made that Departments, Public bodies and Entities should conduct risk assessments on cases of alleged corruption reported on the NACH. The PSC also did not do an analysis of the potential impact of the risks.





1.7 OUTLINE OF THE REPORT

The structure of this report is as follows:

- Chapter 2** Provides assessment of the most common manifestation of corruption.
- Chapter 3** Provides the management of cases of alleged corruption.
- Chapter 4** Provides a summary of the findings and recommendations.
- Chapter 5** Provides the conclusion to this report.

Chapter Two

Assessment of the Most Common Manifestations of Corruption

2.1 INTRODUCTION

This chapter reflects on what the common manifestations of corruption are, and it assesses the risks associated with these forms of corruption. In order to create a proper context for understanding the findings, the chapter also discusses what risk is and how it should be managed in departments.

2.2 UNDERSTANDING THE MANAGEMENT OF THE RISK OF FRAUD AND CORRUPTION

Managing the risk of fraud and corruption should involve at least the following ten essential areas⁷:

- **Strategy:** a plan or approach that is defined in terms of aspirations, goals, timelines, initiatives and measurable indicators of achievement;
- **Structure:** a defined configuration in which the oversight function operates and in which roles and responsibilities are designed and assigned;
- **Staff:** all members of staff and management who form part of anti-corruption units or similar units;
- **Fraud risk assessment:** a formal approach to determining the risk of fraud and corruption based on an assessment of existing controls, resulting in a formal plan of action to address unacceptable risks;
- **Fraud awareness and training:** a formal and coordinated process of creating awareness amongst staff and management within an organisation of the threat of fraud and corruption and providing ongoing training to anti-fraud staff;
- **Whistle blower mechanism:** a tool or system that any person may use to report allegations of fraud and corruption;
- **Data analysis:** a process of gathering, modelling and transforming data with the goal of extracting useful information;
- **Fraud response plan:** a formal and documented plan for responding to allegations of fraud and corruption;
- **Fraud investigation and remediation:** the formal investigation methodology, case management systems and quality assurance leading to remediation or recovery of losses; and
- **Reporting:** the process of reporting statistics and information to stakeholders and oversight bodies.

In order to manage the risk of fraud and corruption within the Public Sector, departments therefore require a holistic approach that includes the above areas to be addressed and implemented. However, when a holistic view of fraud and corruption risk management is taken, there also needs to be an understanding that anti-fraud and anti-corruption is influenced or 'driven' by four main drivers:

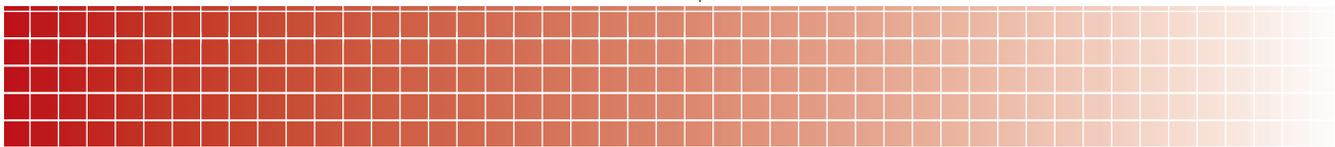
- **Governance:** controls the manner in which business or activities in an organisation are conducted;
- **People:** the actions of staff and management that conduct the activities of the organisation;
- **Processes:** the methods and practices used in performing the activities in an organisation; and
- **Tools:** the technology and systems that enable the activities in an organisation.

The above drivers, combined in the correct manner according to a pre-defined strategy for reducing corruption, will influence the following three main dimensions of anti-corruption:

- **Prevention:** the process of preventing or minimising the incidence of actual fraud and corruption.
- **Detection:** the process of detecting fraud and corruption should the prevention aspects fail; and
- **Investigation:** the scientific process of establishing facts pertaining to an allegation of fraud or corruption;

Within each of the above three (3) dimensions, there are governance considerations, people considerations, process considerations and tools to consider:

⁷ Adapted from Ernest and Young, *European Fraud Survey 2009: Is Integrity the Casualty of the Downturn*.



The above holistic approach to viewing fraud and corruption risk management is illustrated in **Figure I** below:

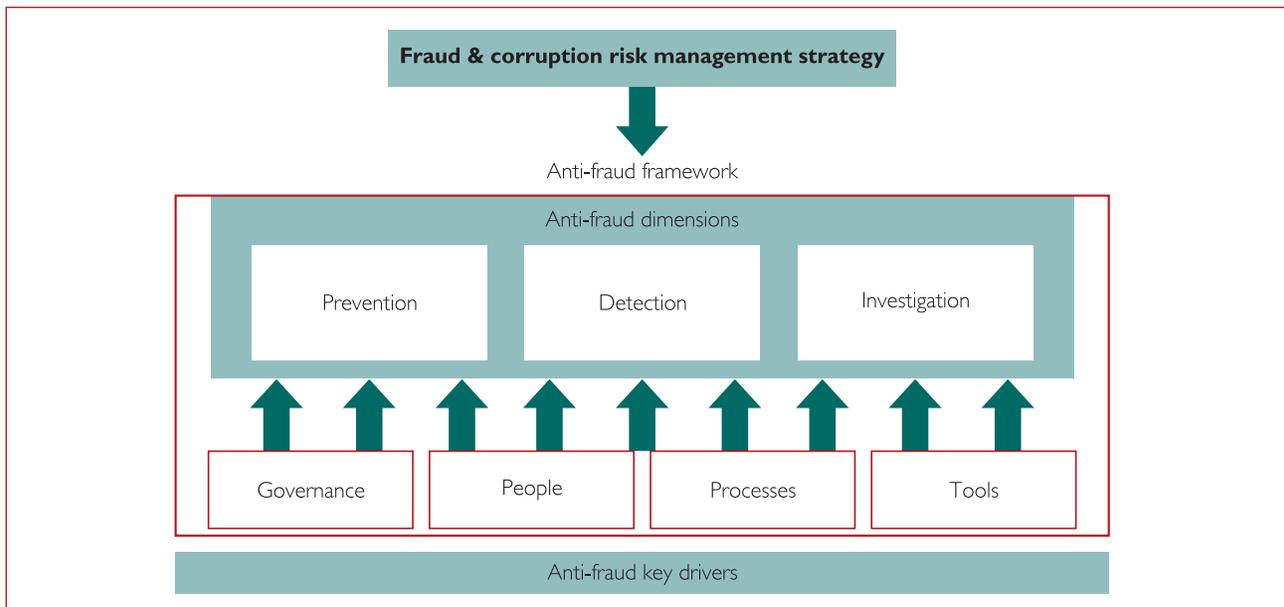


Figure I: Anti-fraud framework⁸

2.3 MANAGING FRAUD AND CORRUPTION IN THE PUBLIC SERVICE

In the next Section of the report the PSC reviews the current state of anti-corruption as was found in departments through its research and critically assesses the “fitness” of departments with respect to the framework described above.

2.3.1 Strategy

The PSC found that only fifty percent (50%) of the departments assessed have clearly written objectives of fighting corruption. However, the PSC found that departments tend to place little emphasis on investigating allegations of corruption. This in turn may explain why the Public Service continues to make inadequate progress in creating the necessary capacity to fight corruption. Without sound strategies in place which specify among others, the goals, timelines, interventions and measurable indicators, anti-corruption will lack strategic direction and implementation momentum

2.3.2 Structure

In terms of structure the PSC assessed the organisational configurations the selected institutions use as well as the manner in which the assignment of roles and responsibilities has been done. The PSC found that the structural arrangements used largely display the following attributes:

- There is some level of central control providing a degree of consistency across policies but with a greater degree of provincial variation and autonomy as compared to a centralised structure;
- The national or provincial departments and entities are more likely to have their own policies for combating and preventing of corruption e.g. the National Department of Health may have its own policy and the provincial department of health may also have their own policy which is tailored to respond to the risks they face on a regular basis; and
- Policies fall within an integrated or semi-integrated framework. This basically means that anti-corruption policies are integrated with existing departmental policies, e.g. Human Resource Policy include anti-corruption measures such as vetting employees before they join a department.

⁸ Adapted from Ernest and Young. *European Fraud Survey 2009: Is Integrity the Casualty of the Downturn.*





During interviews with officials from the sampled departments eighty percent (80%) of respondents indicated that, compared to the Special Investigating Unit, their own departmental anti-corruption units had unclear responsibilities and powers to investigate cases of alleged corruption. Given such unclear mandates and powers, it should, therefore, not come as a surprise that the PSC's referral of cases of alleged corruption to departments does not always yield the desired results. Of course, it may be possible that these roles are clear on paper, but the fact that the officials who are supposed to implement them do not seem to understand them suggest that they may not always know what to do once they receive an allegation of corruption. Currently, cases of alleged corruption reported on the NACH are referred to the Directors-General (coordinators of anti-corruption activities) in the provinces for referral to the relevant Provincial Departments.

In its evaluation of the NACH in 2008 the PSC reported that provincial departments have submitted feedback on 31% of all cases referred to them⁹. The PSC was concerned about the slow rate of feedback by departments as it impacts negatively on the credibility of the NACH. In this regard, the PSC recommended that provinces should review their referral protocols of the NACH. The PSC also recommended that departments must ensure strict compliance with the requirement that feedback must be provided within 40 days of referral and that such feedback must be updated on a continuous basis¹⁰. Respondents indicated that delays are still experienced in the referral of cases of alleged corruption from the Offices of the respective Director-General to the relevant provincial departments. As a result, provincial departments are not in a position to provide the PSC with timely feedback on these cases. The late submission of feedback on NACH cases undermines the integrity of the NACH as callers are not updated on progress with cases.

In 2008 the PSC found that:

- *“The Western Cape Province has established a Forensic Investigative Unit which is responsible for investigation of NACH cases.*
- *The Mpumalanga Province has established an Integrity Management Unit which is divided into two Directorates namely, Forensic Investigations and Education and Governance. The Directorate: Forensic Investigations is responsible for the investigation of cases of fraud and corruption whilst the Directorate: Education and Governance is responsible for education and training in professional ethics as well as the marketing of the NACH. The Integrity Management Unit has had a positive impact on the handling of NACH cases referred to the province.*
- *The Gauteng Province indicated that it has 30 officials in the Forensic Services Division of the Gauteng Shared Service Centre (GSSC) who are responsible for investigation of fraud and corruption cases.*
- *In KwaZulu-Natal, North West Province, Northern Cape, Free State and Limpopo Province there were no dedicated units such as Integrity Management Units or Forensic Investigative Units for investigating NACH cases. In these provinces, it was found that a lack of coordination and investigation of cases remains a challenge”¹¹.*

In terms of the National Anti-Corruption Hotline Toolkit “Corruption cases reported to the NACH are referred to the Directors-General (coordinators of anti-corruption activities) in the provinces for referral to the relevant Provincial Departments”¹².

The PSC therefore recommends that the Offices of the Premiers in the Provinces should commit as much resources as possible to the investigation of corruption. In particular; Integrity Management Unit should be created through the appointment of appropriately skilled persons and through the training of officials in the discipline of Forensic Investigation. Failure to do so will impact negatively on the success of the NACH and will erode efforts to build integrity within the Public Service. The Integrity Management Unit will also ensure that there is proper coordination of cases in provincial departments and also ensure that evidence is not tampered with and cases are thoroughly investigated.

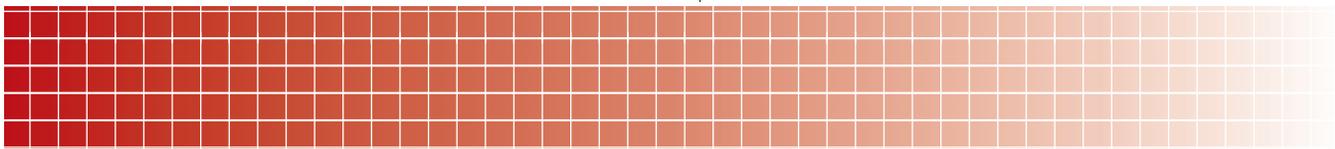
9 Republic of South Africa: Second Biennial report on “Measuring of the effectiveness of the National Anti-Corruption Hotline”, Public Service Commission , 2008.

10 Republic of South Africa: Second Biennial report on “Measuring of the effectiveness of the National Anti-Corruption Hotline”, Public Service Commission , 2008.

11 Republic of South Africa: Second Biennial report on “Measuring of the effectiveness of the National Anti-Corruption Hotline”, Public Service Commission , 2008.

12 Republic of South Africa: National Anti-Corruption Hotline Toolkit, Public Service Commission, 2006.





2.3.3 Staffing

Fifty percent (50%) of respondents indicated that their staffing within the anti-corruption units contributes to the capacity constraints experienced by departments regarding investigations. In this regard, it needs to be noted that in a series of studies¹³, the PSC found that, on average, the number of officials employed by the departments per anti-corruption unit is four (4). The units are generally led by middle managers. In some Government departments, in order to complement the anti-corruption units, departments utilise consultants to address their capacity needs. The utilisation of consultants can be expensive and unsustainable. Departments should, therefore, to the extent possible employ dedicated permanent staff with relevant experience to address their capacity needs. In addition, departments should consider elevating the management of their anti-corruption units to senior management level and include the responsibility of combating corruption in the performance agreement of such senior managers. This approach should be replicated in departments that have not yet established dedicated anti-corruption units.

2.3.4 Assessing risks relating to fraud

In the interviews conducted, forty five percent (45%) of respondents indicated that there is inadequate practical knowledge of assessing and managing the risk of fraud and corruption in the Public Service. While risk assessment reports are generated, these are not always taken up with senior managers and other relevant principals to show that the necessary corrective actions are taken. Twenty percent (20%) of respondents indicated that generally the anti-corruption units would on their own be able to deal with all issues pertaining to investigation, combating and prevention of corruption within a department without the involvement of senior managers.

2.3.5 Fraud awareness and training

The study found that fraud awareness training does get priorities, with as much as 95% of the sampled entities confirming that officials attend anti-corruption awareness campaigns during induction courses and during ad hoc campaigns. While this is encouraging, there is a need to leverage such training in such a manner that it can influence actual practice in the departments and lead to improved prevention and combating of corruption. It is through creating this strategic link between training and implementation that departments can even be in position to determine whether the training received represents value for money or not.

2.3.6 Whistle blowing mechanisms

The majority of whistle-blowers tend to be comfortable with disclosing their identity when they report allegations of corruption through the NACH. For example, in 2008 the PSC found that only forty percent (40%) of alleged corruption cases received through the NACH were reported by anonymous callers¹⁴.

2.3.7 Data analysis

The gathering and analysis of appropriate data is crucial if departments are to effectively manage the risk of fraud and corruption. In this regard, thirty five percent (35%) of respondents indicated that there is an inadequate focus on the part of departments on collecting and analysing data for detecting and preventing fraud in government departments. The data sets departments generally rely on are the statistics they generate about cases that are being investigated and the progress of the investigations. However useful such data can be, this represents a rather reactive approach to monitoring which kicks in only once cases of corruption have been identified. A rather advanced data analysis approach was found to exist within the Department of Home Affairs. The process used generates exception reports on a monthly basis, such giving management timely early warning signals. An important consideration is to ensure that management indeed acts on this data to deal with possible fraud and corruption decisively.

¹³ Republic of South Africa: Public Service Commission: Assessment of Professional Ethics in the Free State, 2007, Limpopo, 2009 and Western Cape 2010.

¹⁴ Republic of South Africa: Measuring of the Effectiveness of the National Anti-Corruption Hotline: Second Biennial Report: Public Service Commission, 2008.



2.3.8 Fraud Prevention Plan

The study found that the contents of fraud prevention plans tend to differ from one department to another, and that the implementation of these plans is inadequate. These observations corroborate the PSC's previous findings which indicated that in a sample of 69 departments (15 national and 54 provincial), sixty five (65%) of them reported that they still needed sufficient capacity to improve their Fraud Prevention Plans and their implementation.¹⁵ Similarly, the PSC's Fifth Consolidated Monitoring and Evaluation Report indicated that "departments are struggling to implement the fraud prevention strategies they have put in place"¹⁶.

2.3.9 Fraud investigation and remediation

Methodology: Cases of fraud and corruption need to be investigated through clear, systematic methodologies which do not just depend on who is doing the investigation. Clear protocols are also necessary to clarify in advance the approval processes for investigations and the handling of sensitive information emanating from the investigations, among others. The PSC found that departments generally do not have formal protocol documents and investigative methodologies for managing anti-corruption investigations.

In terms of the Special Investigating Unit (SIU) it needs to be noted that "the Unit has special investigative powers, for which provision is made in the SIU Act and which can be used when the President proclaims an investigation"¹⁷.

Case Management Systems: The assessment revealed that there are many case management information systems or data registers used by departments as well as public entities for recording cases of alleged corruption. It was noted that the cases recorded in the data registers of departments do not always correspond with those contained in the PSC's NACH schedules. This in turn raises concerns about the accuracy, completeness, and validity of the data contained in these data registers.

Quality Assurance: Investigations need to be supported by a credible quality assurance process which ensure that the necessary methodologies are implemented correctly, that the rigour in the collection and analysis of evidence, and that the resultant report is of good standard. The assessment found that the quality assurance of investigations is generally *ad hoc* and subjective, depending on who the supervising manager is. This may explain why some investigation reports have in the past been forwarded to the PSC with inadequate information.

2.3.10 Reporting

Proper reporting is an important step in any process of dealing with fraud and corruption. In instances such as the current one where cases reported to the NACH are in turn referred to departments for follow up and investigation, it is crucial that reports are provided so that whistleblowers can receive the necessary feedback, and appropriate corrective action can be taken. The assessment established that there is a slow rate of feedback with respect to the cases being investigated. Of the **7766** cases reported through the NACH and referred to departments since September 2004 to 31 June 2010, feedback was received on only **2811** (36%) of them. This basically means that in **4955** (63%) cases referred to departments and public bodies by the PSC, the responsible whistleblowers have no idea what progress (if any) is being made with their investigation. The PSC continues to be concerned that such a trend runs the risk of compromising the integrity of the NACH and diminishing public confidence in the government's commitment towards fighting fraud and corruption.

15 Republic of South Africa. Public Service Commission. Report on the Implementation of Fraud Prevention Plans in the Public Sector. November 2007.

16 Republic of South Africa, Public Service Commission: Fifth Consolidated Public Service Monitoring and Evaluation System Report, Research Cycle 2007/2008.

17 Republic of South Africa, Special Investigating Unit Annual Report: 2006/2007.

2.4 ADDRESSING THE MOST COMMON MANIFESTATIONS OF CORRUPTION

The definition of corruption, in terms of Prevention and Combating of Corrupt Activities Act, 12 of 2004¹⁸ (PRECCAA) focuses on “an employee accepting an offer of any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or an employee agreeing to accept any offer of gratification from any other person whether for the benefit of himself or herself or for the benefit of another person.” Hence, PRECCAA defines and restricts the act of corruption to the giving and receiving of bribes. This interpretation of the definition of corruption is often not shared by the general public who have a much wider interpretation of the term. Members of the public will often associate and define unethical behaviour by public officials and poor service delivery as corruption.

The NACH, since its inception, has received various allegations of corruption that range from fraud and bribery, to appointment irregularities¹⁹. As a result of the nature of the allegations received by the NACH, the PSC has opted to categorise corruption into eleven main categories. These eleven main categories are defined in order to streamline the identification of the nature of reported allegations and to assist in trend analysis.

Table I below reflects the PSC’s eleven categories of corruption followed by the number of occurrences of each of the categories during the period of 01 September 2004 to 31 June 2010²⁰.

Table I: Types of corruption reported for the period 2004 - 2010 as at 31 June 2010

Categories of corruption	Number of occurrences	Percentages
Fraud and Bribery	1511	19%
Mismanagement of Government Funds	870	11%
Abuse of Government resources	985	13%
Procurement irregularities	720	9%
RDP housing	450	6%
Appointment Irregularities	627	8%
Social Grant Fraud	420	5%
Identity Document fraud	781	10%
Unethical Behaviour	580	8%
Criminal Conduct	512	7%
Other	310	4%
Total	7766	100%

As per **Table I** above, the largest number of cases of alleged corruption investigated by departments is on fraud and bribery (1511). The abuse of Government resources represented the second largest number (985), with mismanagement of funds (870), Identity document fraud representing (781) and procurement irregularities (720)

As indicated above the five most common manifestations of corruption in the South African Public Service are:

- Fraud and Bribery;
- Mismanagement of Government funds;
- Abuse of Government Resources;
- Identity document fraud, and
- Procurement Irregularities.

¹⁸ Republic of South Africa: Prevention and Combating of Corrupt Activities Act 12 of 2004.

¹⁹ Republic of South Africa: Measuring the Effectiveness of the National Anti-Corruption Hotline, Public Service Commission, 2007.

²⁰ Republic of South Africa: Case Management System of the NACH: Public Service Commission, 2008.

It is important to elucidate the abovementioned common manifestations of corruption and show the control weakness associated with them. This is done through an illustration by table format. It is imperative that departments take note of these control weaknesses and institute appropriate steps to address them, where necessary.

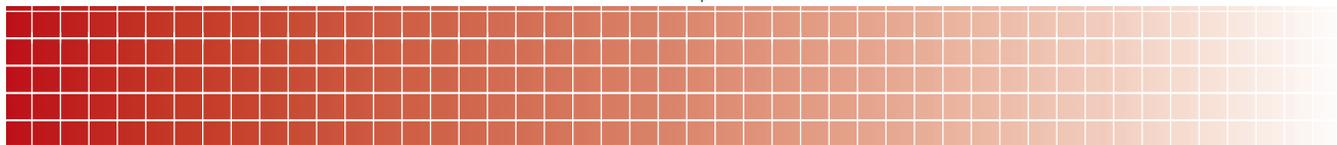
2.5 COMMON ALLEGATIONS OF CORRUPTIONS: CRITICAL POINTS

The most common type of allegations of corruption received since the inception of the NACH is fraud and bribery (19%). This may indicate that there is a lack of integrity within the Public Service and that some officials do not adhere to ethical conduct and are able to circumvent internal control systems without detection.

The consequences in the occurrences of fraud and bribery are twofold. Not only is there a financial implication when a loss occurs, but there may also be a profound reputational implication. Members of the public, if aware of the occurrences of **fraud and bribery** may lose faith in the Public Service's ability to perform its duties and also its ability to manage itself and its officials. On the other hand, some of these cases involve members of the public when offering bribes to officials in obtaining tender contracts. The risks associated with fraud and bribery and its related controls are reflected in **Table 2**.

Table 2: Fraud and bribery

Risk associated with fraud and bribery	Possible control weaknesses
Officials claiming overtime without rendering any activities	<ul style="list-style-type: none"> Supervisory checks not done Lack of overtime recording system
Officials claiming subsistence allowance on unauthorised trips, or trips not undertaken	<ul style="list-style-type: none"> Lack of systems to verify attendance of trips Circumvention of delegation of authority
Officials receiving kickbacks from members of the public in order to obtain Government tenders	<ul style="list-style-type: none"> Lack of declaration of interest procedures Lack of policy in accepting gifts
Traffic officials receiving bribes from motorists or providers of public services in order to speed up the process or to prevent delays	<ul style="list-style-type: none"> Lack of education and awareness campaigns to members of the public on anti-bribery measures Lack of enforcement of internal disciplinary measures against the perpetrators
Officials demanding bribes in order to issue illegal driver's licenses and roadworthy certificates	<ul style="list-style-type: none"> No supervisory checks Sharing of access controls to circumvent segregation of duties
Prison warders accepting bribes in order to help inmates escape from prison	<ul style="list-style-type: none"> Lack of detection controls Lack of access controls
<p>Members of public offered bribes to officials, in return for obtaining tender contracts.</p> <p>Private individuals resort to collusive tendering to fix prices and limit competitiveness.</p> <p>Adjudication of tenders is often irregular and the correct procedures are not followed.</p> <p>Tender specifications are ignored or modified to suit a prospective tenderer with a view to facilitating the tenders' success in the tender process.</p>	<ul style="list-style-type: none"> Lack of enforcement of internal disciplinary measures against the procurement officials Lack of blacklisting mechanisms in the public sector that provide personal names, company names and list of offenders involved in corrupt activities. Lack of visible prosecution of companies involved in corrupt practices in the same manner and to the same degree with the officials involved in corrupt activities



Mismanagement of Government funds by public officials represents the second most common type of allegation (11%). A reflection of the activities and the possible risk areas is indicated in **Table 3**.

Table 3: Mismanagement of Government funds

Risk associated with mismanagement of Government funds	Possible control weaknesses
Mismanagement of school funds by teachers and school principals	<ul style="list-style-type: none"> Lack of systems of recording receipts Lack of systems to verify number of learners and teachers Lack of HR systems to identify 'ghost teachers'
Senior managers giving unlawful instructions to junior officials to authorise expenditure	<ul style="list-style-type: none"> Lack of ethics training Lack of segregation of duties Weak approval system Lack of guidelines and policy
Irregular and fruitless expenditure and non-compliance with the operational policies of a Department or Public Body	<ul style="list-style-type: none"> Lack of knowledge of operational expenditure Lack of internal audit processes Lack of risk assessments

Since sound financial management is one of the pillars of accountability, the number of cases involving mismanagement of Government funds by public officials reported to the NACH should be viewed with concern. Much of the same argument with the occurrence of fraud and bribery is applicable here, in that the occurrence of this category of corruption exposes the Public Service to financial and reputational risks.

Abuse of Government resources account for 13% of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated in **Table 4**.

Table 4: Abuse of Government resources

Risk associated with Abuse of Government resources	Possible control weaknesses
The misuse of GG vehicles by public service employees were reported through the NACH	<ul style="list-style-type: none"> Procedures for use of vehicles being circumvented
Theft of petrol from GG vehicles as well as cases of abuse of petrol cards	<ul style="list-style-type: none"> Lack of data monitoring to identify theft Lack of safe keeping of government assets (petrol cards) Ease of use & potential for collusion with corrupt 3rd parties
GG vehicles being used as taxis for personal benefit	<ul style="list-style-type: none"> Poor record keeping and analysis of use Lack of data monitoring to establish trends

Nine-hundred-and-eighty-five (**985** or 13%) cases of alleged abuse of Government-owned vehicles by public service employees were reported through the NACH. These include cases where officials drive Government-owned vehicles recklessly and at high speed (50%). Theft of petrol from Government-owned vehicles as well as cases of abuse of petrol cards were further reported (15%). Thirty five percent (35%) of callers in this category alleged that Government-owned vehicles are being used as taxis for personal benefit.

Fleet cars, such as Government owned vehicles, represent a very unique risk, in that vehicles are expensive commodities to own and maintain. At the same time, they are some of the easiest assets to abuse due to the fact that they are completely mobile. It is due to this mobility, that they are so difficult to exercise control over. Once the vehicle leaves the relevant Public Service property, it is free from observation and control.



Procurement irregularities account for 720 (9%) of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated in **Table 5**.

Table 5: Procurement irregularities

Risk associated with procurement irregularities	Possible control weaknesses
<ul style="list-style-type: none"> • Officials awarding government tenders without following policies and procedures. • Tenders awarded to friends and family members • Tender rigging and bribery 	<ul style="list-style-type: none"> • Officials disclosing classified information to contractors or service providers. • The unscrupulous contractor or supplier may falsify qualities or standards certificates • The unscrupulous contractor or supplier may pay bribes to contract supervisors • Officials awarding government tenders without following policies and procedures. • Tenders awarded to friends and family members • Lack of internet for public procurement by Government

Cases of procurement irregularities involve collusion between a person issuing a tender and an associate which is often a family member or friends seeking to win the tender. Such practices place a strain on government resources and increase the cost of public services. Based on the PSC's investigations into public administration practices emanating from complaints lodged in terms of its Complaints Rules²¹ the area of procurement is a high risk area for corruption and maladministration in the Public Service. The high monetary value associated with procurement transactions makes this an area specifically susceptible to collusion between private companies or individuals and public officials.

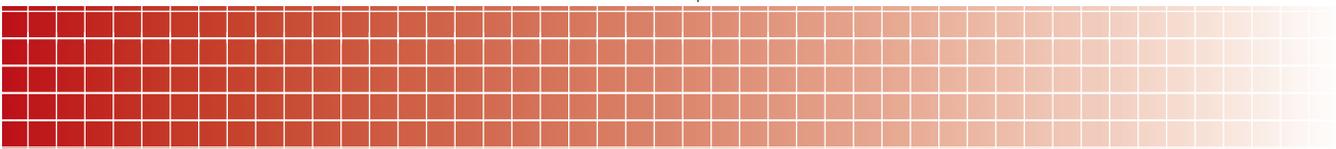
RDP housing fraud account for **450** (6%) of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated in **Table 6**.

Table 6: RDP housing fraud

Risk associated with RDP housing fraud	Possible control weaknesses
<ul style="list-style-type: none"> • Bricks and equipment meant for building RDP Houses are used to erect houses of certain councilors and municipal officials for personal benefit and some are stolen by members of the community • Certain municipal officials and Councillors are allegedly selling or renting RDP houses out to members of the public for personal benefit • RDP houses used as taverns and occupied by illegal immigrants • RDP housing projects not being completed • Housing officials are paid bribes to ignore the use of inferior materials in the construction of RDP houses 	<ul style="list-style-type: none"> • Lack of internal audit processes • Lack of risk assessments • Disciplinary hearings must be promptly held when necessary • Openness and transparency in procedures and decision making should be striven for. • Augment existing agencies with fast-track prosecutions • Pursue high-profile prosecutions as an example-setting strategy

Unethical conduct by Councilors and Municipal officials relating to selling of Reconstruction and Development Programme (RDP) houses accounted for four hundred- and-twenty (420) cases reported to the NACH. The allegations reported are that RDP houses are used as taverns. In some other instances certain municipal managers are allegedly selling RDP houses to members of the public for commercial gains. The management of RDP houses seems to be a huge problem that requires immediate intervention.

21 Republic of South Africa: Complaints Rules of the Public Service, 19 July 2003.



Appointment irregularities account for 627 (8%) of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated in **Table 7**.

Table 7: Appointment Irregularities

Risk associated with appointment irregularities	Possible control weaknesses
<ul style="list-style-type: none"> • Appointments of persons without following policies and correct procedures • Appointments of friends and family members to various positions in the department • Taking shortcuts can compromise the integrity of the recruitment process. 	<ul style="list-style-type: none"> • Nepotism must be guarded against. Employment procedures and selection criteria must not be implemented or applied in a discriminatory way to favour friends or relatives • Departments must have clearly stated sanctions for non-compliance with recruitment and selection practices.
<ul style="list-style-type: none"> • Fraudulent Matriculation Certificates are presented to the department by officials when applying for positions 	<ul style="list-style-type: none"> • The risk of corruption is minimised where there are policies and procedures that promote openness in dealing with conflicts of interests • No supervisory checks and screening of candidates for employment. • Staff performing similar functions must also be periodically monitored • Disciplinary hearings must be promptly held when necessary

Out of 627 cases of alleged appointment irregularities reported on the NACH, 80% of government departments were reported. Most of the allegations concern that senior managers appointed their friends and family members into senior positions even though they do not qualify for the positions. In some instances candidates are appointed into senior positions without following the correct policies and procedures.

Social grant fraud account for **420** (5%) of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated in **Table 8**.

Table 8: Social Grant fraud

Risk associated with social grant fraud	Possible control weaknesses
<ul style="list-style-type: none"> • Submission of false information by members of the public in order to qualify for a pension, child or disability grant • Creation of "ghost" social grant beneficiaries by officials for personal benefit. 	<ul style="list-style-type: none"> • Lack of internal audit processes • Lack of risk assessments • Disciplinary hearings must be promptly held when necessary • Openness and transparency in procedures and decision making should be striven for: • Pursue high-profile prosecutions as an example-setting strategy

Despite the fact that the Department of Social Development has its own Social Grant Fraud Hotline, a total of 420 cases of alleged social grant fraud were reported to the NACH. Most of these cases involve pension, disability and child grant committed by members of the Public as well as officials. Other cases relates to the selling of fraudulent medical reports and birth certificates in order to apply for social grants.



Identity document fraud account for **781** (10%) of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated are **Table 9**.

Table 9: Identity document fraud

Risk associated with identity document fraud	Possible control weaknesses
Officials employed at the Department of Home Affairs fraudulently selling South African identity documents, passports, death, birth and marriage certificates to foreign nationals in return for money	<ul style="list-style-type: none"> • Lack of internal audit processes • Lack of risk assessments • Disciplinary hearings must be promptly held when necessary • Openness and transparency in procedures and decision making should be striven for • Augment existing agencies with fast-track prosecutions • Pursue high-profile prosecutions as an example-setting strategy

Seven hundred-and-eighty-one (781) of alleged fraud relating to passports, work permits and identity documents were reported on the NACH. Most of these cases allegedly involve syndicates for aiding and abetting illegal foreigners. Foreign nationals were also reported for offering bribes to Home Affairs officials in order to obtain fraudulent passports and identity documents.

Unethical Behaviour account for **580** (8%) of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated in **Table 10**.

Table 10: Unethical behaviour

Risk associated with unethical behaviour	Possible control weaknesses
<ul style="list-style-type: none"> • Officials coming to work late or being absent from work without permission • Unprofessional conduct or behaviour of officials e.g. Violation of the Code of Conduct for the Public Service 	<ul style="list-style-type: none"> • Professional ethics must be promoted throughout the Public Service • Monitor and evaluate the implementation of the Code of Conduct for the Public Service

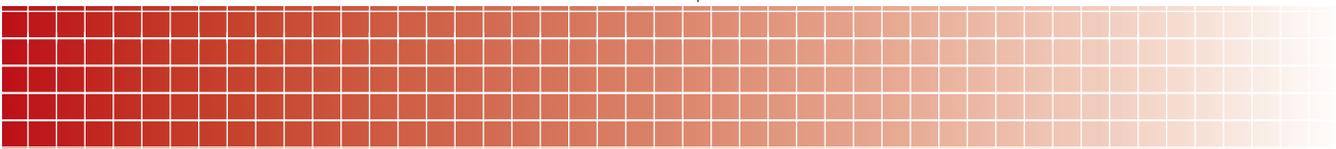
The cases of alleged unethical behaviour reported on the NACH relate to allegations such as non-compliance to official working hours and abuse of power by senior officials. It is expected that Departments must promote the Code of Conduct for the Public Service in order to instil a high level of professional ethics in the Public Service.

Criminal conduct account for **512** (7%) of the matters reported to the NACH. A reflection of the activities and the possible risk areas is indicated in **Table 11**.

Table 11: Criminal Conduct

Risk associated with criminal conduct	Possible control weaknesses
<ul style="list-style-type: none"> • Certain teachers stealing government furniture at schools • Officials stealing government computers • Nurses stealing medicines at hospitals 	<ul style="list-style-type: none"> • Lack of internal audit processes • Lack of risk assessments • Disciplinary hearings must be promptly held when necessary • Openness and transparency in procedures and decision making should be striven for: • Pursue high-profile prosecutions as an example-setting strategy





Despite procurement policies put in place, officials are for stealing Government equipment such as furniture at schools, computers and medicines at hospitals. Based on the number of cases received on the NACH it appears that dealing with stealing of government equipment will have to remain a priority for Government as a whole.

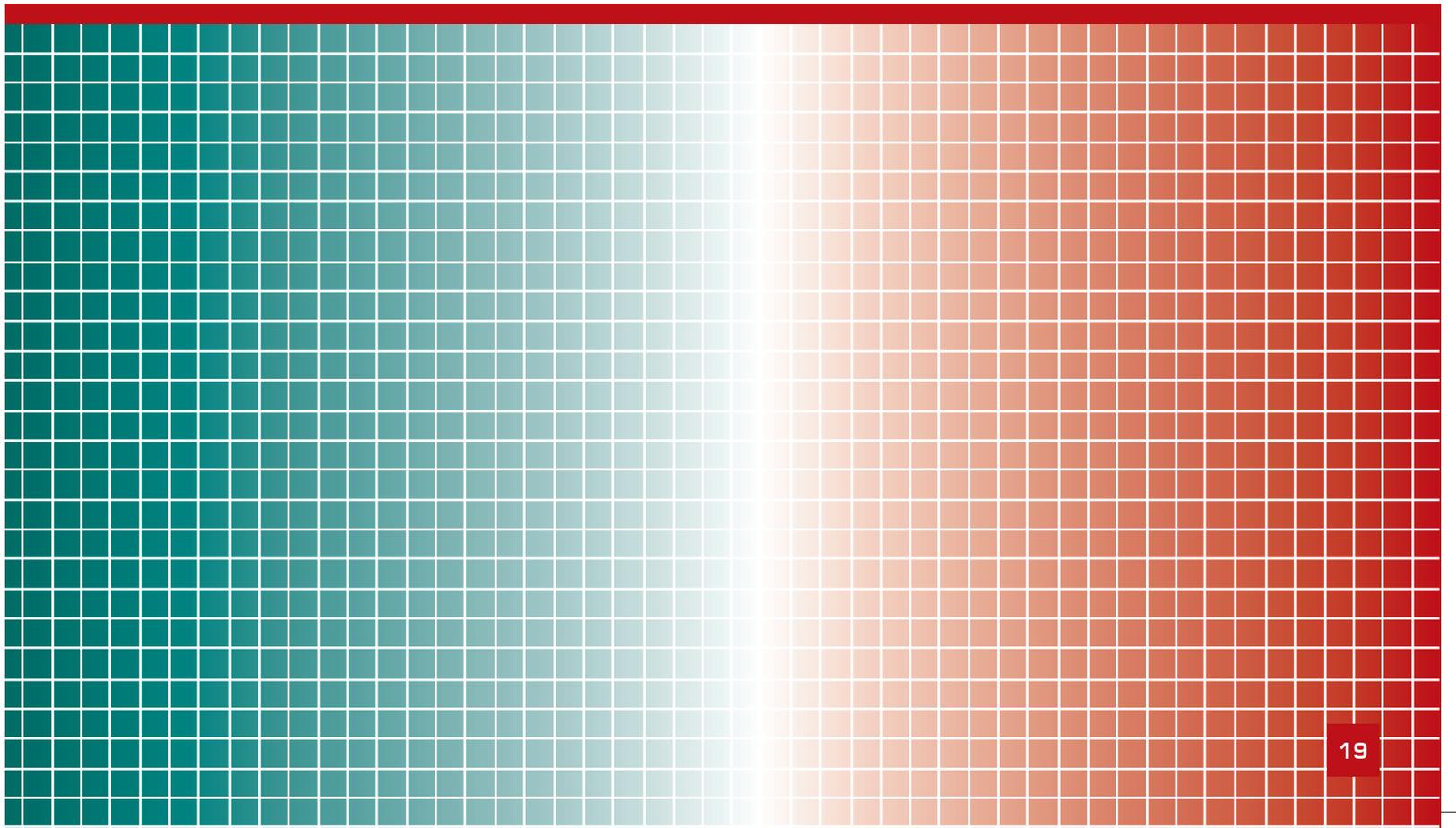
2.6 SUMMARY

From the PSC's research it was found that departments generally do not approach fraud and corruption in a holistic manner. The primary focus of departments is on the investigation of fraud and corruption, with the 'infrastructure' which focuses on detection and prevention being at best, basic in terms of maturity. Therefore, there is a need to realign the functions of the Anti-Corruption Units within the departments to ensure prevention and detection is included in the holistic approach to managing the risk of fraud and corruption.



Chapter Three

Managing Cases of Alleged Corruption: Provincial and National Departments



3.1 INTRODUCTION

One of the objectives of the research report was to identify the measures national departments and provincial departments have put in place to mitigate the risks associated with the manifestations of corruption and hence, to understand how departments manage the investigation of cases of corruption referred to them. This Chapter seeks to shed some light on this matter and also elucidates the challenges faced by national and provincial departments.

3.2 MANAGEMENT OF CASES OF ALLEGED CORRUPTION BY PROVINCIAL DEPARTMENTS

For the period 1 September 2004 to 31 June 2010 the PSC referred 3929 cases of alleged corruption, that were reported to the NACH, to Provinces for investigation. Of these cases, 1188 were referred to the Gauteng Province. This represents the highest number of referrals to one province. For the period under review, the Gauteng Province submitted feedback on five-hundred (500) cases of which two hundred-and-sixty-eighty (268) were closed after investigation.

The second highest number of cases, i.e 791, of alleged corruption was referred to the Mpumalanga Province who provided feedback to the PSC on 300 cases. One hundred-and ninety-six (196) of these cases were closed after investigation. The highest percentage of feedback received by the PSC was in respect of the Western Cape (73%). However, the highest percentage of cases closed was with respect of Mpumalanga (25%), Northern Cape (23%), Gauteng (23%) and North-West (21%). Western Cape closed 12% of cases of the CMS of the NACH. **Table 12** below provides a breakdown of the number of cases of alleged corruption referred to provinces.

Table 12: Cases of alleged corruption referred to Provinces: 1 September 2004 to 31 June 2010

Province	No of cases referred	Feedback received	Percentage of feedback received	Cases Closed	Percentage of cases closed
Kwa-Zulu Natal	409	191	47%	43	11%
Free State	203	49	24%	26	13%
Mpumalanga	791	300	38%	196	25%
Western Cape	251	185	73%	30	12%
North West	307	133	43%	65	21%
Eastern Cape	424	83	20%	19	4%
Limpopo	300	96	32%	36	12%
Northern Cape	70	17	24%	16	23%
Gauteng	1188	500	42%	268	23%
Total	3949	1522	39%	699	18%

3.3 INSTITUTIONAL RESPONSES TO COMBATING CORRUPTION

This part deals with institutional responses to allegations of fraud and corruption. In order to analyse the effectiveness of current anti-corruption measures within the Public Service, the PSC interviewed and assessed a randomly selected sample of Provinces in order to understand their management in combating corruption and the most prevalent matters reported. For this purpose the Western Cape, Mpumalanga and Gauteng Provinces were included in the sample.

3.3.1 Western Cape Province

In its assessment on combating corruption in the Western Cape, the PSC established that the Forensic Audit Unit (FAU) in the Office of the Premier of the Western Cape Province reports cases of alleged corruption to the Director-General who is accountable to the Premier. The FAU is mandated per individual investigation by means of a Service Level Agreement (SLA) agreed with the relevant Departments in the Province. The PSC further established that the FAU has twenty five (25) posts on its staff establishment, see **Table 13**.

Table 13: Investigative Capacity in Western Cape Province²²

Salary Level	Rank Designations
Level 13	Director
3 x Level 12	Deputy Director
1 x Level 11	Deputy Director
2 x Level 10	Assistant Director
4 x Level 9 (Contract)	Forensic Investigator
8 x Level 8	Forensic Investigators
2 x Level 8	Forensic Accountants
4 x Level 8	Forensic Advisory Officer

The officials on the staff establishment as indicated in **Table 13** are primarily officials with background in auditing. The unit has experienced a high staff turnover through the years of its existence. The unit is in process of appointing new staff members. The proposed minimum requirements for the appointments are a relevant degree and five years relevant experience (or eight years in the case of an individual without a relevant degree).

- The FAU is centralised with the management of cases occurring within the unit. The unit deals with allegations that are received from the NACH, complaints made by ordinary persons and enquiries from departments. All cases received are captured on a data register with a reference that indicates the status. Matters referred by the PSC and matters referred internally are captured separately. The FAU refers service delivery matters received from the PSC directly to the relevant Provincial Department or Municipality.
- Investigations of cases of alleged fraud and corruption are allocated to investigators depending upon the nature of the case as well as the case loads. At the conclusion of a successful investigation, a report with recommendations is issued to the relevant HOD. The FAU submits summarised versions of their reports to the PSC. The FAU discusses cases received at operational meetings with all relevant role-players from each Department on a monthly basis where feedback is also provided. The FAU submits letters to the relevant HOD's detailing matters of concern and other comments as necessary. It was further indicated that capacity constraints do pose a challenge.
- The FAU, through its awareness component, conducts anti-corruption awareness campaigns in the following ways:
 - Structured awareness training with predetermined dates takes place. An academy for awareness training has been established;
 - The FAU is in the process of developing a corruption and fraud awareness brochure to be distributed to the public; and
 - The FAU conducts ad hoc presentations upon request.
- The FAU is reliant on Provincial Departments to supply it with feedback on those matters referred by the FAU, on behalf of the PSC. Some departments submitted feedback at a slow pace due to capacity constraints. The PSC referred 251 cases of alleged corruption to the Western Cape Province for investigation since September 2004 to 31 June 2010. Out of these cases, feedback was received on 185 of them (73%) and 30 cases were closed on the CMS of the NACH. Thus, although the Western Cape achieved the highest feedback rate for the period under review, its rate of finalising and closing cases is still very low.

²² Information obtained from the Western Cape Province.

3.3.2 Mpumalanga Province

In its assessment on combating corruption in the Mpumalanga Province the PSC established that the Mpumalanga Province has an Integrity Management Unit (IMU) that reports to the Director-General in the Office of the Premier. Investigations conducted by the IMU are sanctioned by the relevant HOD's when they provide information relating to allegations reported. In instances where municipalities request the IMU to conduct investigations on their behalf, the IMU will be mandated by means of a letter, in terms of Section 106 of the Municipal Systems Act, 32 of 2000²³. Currently, the IMU have drafted a Memorandum of Understanding (MOU) to be implemented between the unit and the Provincial Departments that would allow for the Departments to acknowledge allegations made and to authorise the IMU to investigate such allegations. The PSC further established that the IMU has seven posts on its staff establishment (see **Table 14**).

Table 14: Investigative capacity of the Mpumalanga Province²⁴

Salary Level	Rank Designations
Level 14	General Manager: IMU
Level 13	Senior Manager: Education and Governance
Level 11	Manager: Forensic investigation
Level 9	Asst. Manager: Education & Gov.
Level 9	Asst. Manager: Forensic investigation
Level 9	Asst. Manager: Forensic investigation
Level 9	Asst. Manager: Forensic investigation

As indicated in **Table 14** one official is at the level of a General Manager; one Senior Manager; and three Assistant Directors. The Assistant Directors are involved in the investigation of cases of alleged corruption and also focus on ethics management. These officials have vast experience in forensic auditing. Skills development of the officials of the IMU is encouraged. However, due to budgetary constraints the IMU provides on the job training and staff attended conferences such as those presented by the Association of Certified Fraud Examiners (ACFE).

An Anti-Corruption Case Management unit is attached to the IMU. The Unit is responsible for handling cases of alleged corruption from the NACH, as well as those reported internally. Cases of alleged corruption received are recorded on a MS-Excel spreadsheet. Matters referred by the PSC and matters referred internally are captured separately. Cases are allocated to investigators based on case loads, sensitivity and competency. External consultants are utilised when deemed necessary. During the commencement of an investigation, the IMU will forward a letter to the relevant Department, requesting information/documentation relevant to the allegations. Upon completion of the investigation, a full investigation report is forwarded to the PSC with findings and recommendations. The IMU informs the Departments about the outcome of a case. The IMU is also required to produce quarterly Audit Committee status reports of all cases investigated. Capacity constraints are a challenge to the IMU.

The IMU conducts anti-corruption awareness campaigns by way of distributing pamphlets, conducting ethics management sessions and media campaigns.

The PSC referred 791 cases of alleged corruption to the Mpumalanga Province for investigation during 01 September 2004 to 31 June 2010. Of these cases, feedback was received on 300 (38%) and 196 cases were closed on the CMS of the NACH as at 31 June 2010. The Province thus has a higher rate (25%) of cases closed compared to all other provinces. However, this rate is still not adequate and would need to be increased.

²³ Republic of South Africa: Municipal Systems Act, 32 of 2000.

²⁴ Information obtained from the Mpumalanga Province.

3.3.3 Gauteng Province

In its assessment on combating corruption in the Gauteng Province the PSC established that the Gauteng Forensic Services Unit (FSU) reports directly to the HoD of the Department of Finance. The FSU investigates cases of alleged corruption as per request from the Accounting Officers of the relevant Provincial Departments. The PSC further established that:

- The FSU has forty-three (43) forensic investigators on its staff establishment. The majority of the investigators have legal financial qualifications. The FSU identifies training needs of individuals on an annual basis and embarks on training programs, based upon needs identified. All officials are expected to enrol for a one year Diploma in Auditing or Criminal Justice and Investigative accounting. The FSU is adequately staffed for the tasks assigned to it, though it outsources investigations if it becomes necessary.
- The FSU records all cases referred, both internally and those referred by the PSC, on its CMS. Matters referred by the PSC and matters referred internally are captured separately on its CMS. The PSC refers corruption matters directly to the GSSC. Investigations are allocated to Directors, based upon case loads, sensitivity and competency.
- The FSU conducts anti-corruption awareness campaigns by means of conducting workshops and distributing posters.

The PSC referred 1 188 cases of alleged corruption to the Gauteng Province for investigation during the period of 01 September 2004 to 31 June 2010. Of these cases, feedback was received on 500 and 260 cases were closed on the CMS of the NACH during the reporting period.

3.3.4 NACH cases referred to Gauteng, Western Cape and Mpumalanga Provinces

Table 15 below reflects the number of cases per category that were referred to the Western Cape, Gauteng and Mpumalanga Provinces during the period of September 2004 to April 2009.

Table 15: Types of corruption referred to Gauteng, Western Cape and Mpumalanga Provinces: 1 September 2004 to 31 June 2010

Categories of corruption			
	Western Cape	Mpumalanga	Gauteng
Fraud and Bribery	62	127	443
Mismanagement of Government Funds	51	36	73
Abuse of Government resources	34	461	164
Procurement irregularities	42	64	91
RDP Housing fraud	9	7	77
Appointment Irregularities	31	36	76
Social Grant Fraud	-	-	-
Identity Document fraud	-	-	-
Unethical Behaviour	11	32	47
Criminal Conduct	-	-	153
Other	11	28	64
Total	251	791	1 188

In terms of **Table 15** above, the most common manifestations of corruption reported in the Western Cape are fraud and bribery, mismanagement of school funds by school principals, and procurement irregularities. The Province has managed to investigate 251 cases from the NACH between September 2004 and 31 June 2010.

Out of the 251 cases referred, feedback was received on 185 cases and 30 cases have been closed on the CMS of the NACH.

The most common allegations of corruption reported in the Mpumalanga Province are abuse of Government-owned vehicles, fraud and bribery, misappropriation of school funds and procurement irregularities (see **Table 15**). The allegations of abuse of Government vehicles include reckless driving, unauthorised use of petrol cards and using vehicles as taxis during weekends. In order to address such abuse, the PSC is of the view that the province should further strengthen their control over the issuing of vehicles and the monitoring of log sheets. Allegations of misappropriation of school funds includes the fact that receipts are not issued in respect of school fees received, financial statements are not audited and that proper bookkeeping in schools is non-existent. Allegations of procurement irregularities involve the awarding of lucrative tender contracts to companies without following the correct procedures or in return for kickbacks.

In terms of the cases reported to the NACH regarding the Gauteng Province the most common allegations of corruption include fraud and bribery, matters relating to criminal conduct and abuse of Government resources and procurement irregularities (see **Table 15**).

3.4 MANAGEMENT OF CASES OF ALLEGED CORRUPTION: NATIONAL DEPARTMENT'S PERSPECTIVES

As indicated in **Table 16** below, a total of 3554 cases were referred to National Departments, between September 2004 and 31 June 2010. The largest number of cases referred was to the Department of Home Affairs i.e. seven-hundred-and-eighty-one (781) followed by the Department of Correctional Services with seven-hundred-and-eight (708).

Table 16: Cases of corruption referred to National Departments: 1 September 2004 to 31 June 2010

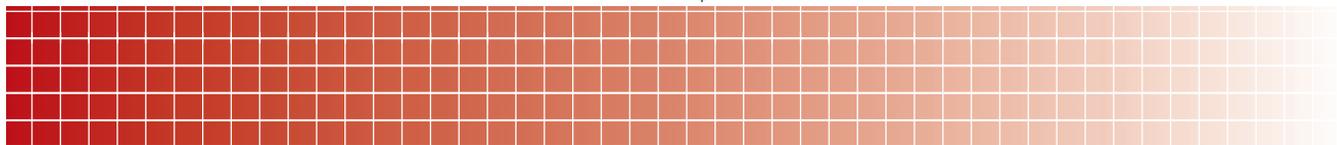
National Department referrals			
Departments	Cases Referred	Feedback Received	Cases Closed
Agriculture Forestry and Fisheries	10	4	4
Arts and Culture	8	2	2
Communications	13	3	1
Correctional Services	708	377	292
Defence and Military Veterans	58	22	3
Education	13	6	6
Environmental Affairs and Tourism	23	20	8
International Relations and Cooperation	15	4	4
Government Communications and Information System	4	0	0
Government Employees Pension Fund	4	3	2
Health	16	2	1
Home Affairs	781	251	142
Human Settlements (Housing)	21	6	2
Independent Complaints Directorate	322	175	110
Justice and Constitutional Development	197	55	18
Labour	53	21	5
Rural Development and Land reform	63	23	5
Minerals and Energy	4	2	2

National Department referrals			
Departments	Cases Referred	Feedback Received	Cases Closed
National Intelligence Agency	1	1	1
National Treasury	13	6	2
Cooperative Governance and Traditional Affairs	245	3	2
Public Enterprise	2	2	2
Public Protector	22	6	5
Public Service and Administration	7	2	1
Public Service Commission	3	3	3
Public Works	29	8	8
Science and Technology	4	3	3
Secretariat for Safety and Security	7	1	0
Public Administration Leadership and Management Academy	1	1	1
SAPS	357	179	120
SA Revenue Service	34	34	34
Social Development	268	2	2
Sports and Recreation South Africa	3	0	0
Statistics South Africa	10	2	2
The Presidency	2	1	1
Trade and Industry	108	50	31
Transport	10	1	1
Water Affairs	115	35	22
Total	3554	887	453

The number of cases referred to each of the National Departments may be directly attributable to their size. However, factors such as the core business of each of the Departments may also play a crucial role. For example, the Department of Justice and Constitutional Development is equally large considering that it employs about (19349 officials) distributed throughout the country. Yet, only 197 cases of alleged corruption were referred to the Department.

In addition a department whose core business represents services/items that are of great value, or touches upon deeply vested human interests may be more susceptible to acts of corruption. In this regard the following issues are worth noting in terms of department's vulnerability to corruption:

- Individuals who wish to obtain tender contracts from Government, are likely to offer bribes in return of being awarded tender contracts;
- Given their yearning for freedom, comfort and protection inmates are likely to offer bribes to officials of the Department of Correctional Services;
- Individuals who wish to acquire a South African Passport or Identity Document, but do not qualify, are likely to offer bribes to officials of the Department of Home Affairs; and
- Individuals who wish to obtain social grants, but do not qualify, are likely to offer bribes to officials of the Department of Social Development.



3.4.1 Institutional responses to corruption: National Departments

This part deals with institutional responses to allegations of fraud and corruption. In order to analyse the effectiveness of current anti-corruption measures within the Public Service, the PSC interviewed and assessed a randomly selected sample of national departments in order to understand their mandate and the most prevalent matters reported. The outcome of this analysis is captured in the ensuing paragraphs.

3.4.1.1 Department of Justice and Constitutional Development

In its assessment of the Department of Justice and Constitutional Development the PSC established that the department has a dedicated Forensic Audit Unit (FAU) and it reports cases of alleged corruption to the Director-General. The FAU is mandated by the Director-General to conduct investigations. This mandate is contained in Circular no 21 of 2004 issued by the Department of Justice and Constitutional Development. The PSC further established that:

- The FAU has three officials on its staff establishment. These officials have forensic investigative skills. However, the FAU currently faces capacity constraints.
- The FAU is responsible for all nine magistrate regions in South Africa. The FAU manages cases of alleged corruption. The Director: Forensic Audit, delegate cases to the Deputy Director based upon priority. All cases are registered on a database. Officials are expected to update cases received on a monthly basis and to provide the PSC with a progress report. However, as **Table 16** shows, the PSC has received feedback on only 55 of the 197 cases referred to the Department. This indicates that officials do not always update the PSC on progress as expected. Cases are allocated to investigators in terms of workload, confidentiality and sensitivity. All investigations are reviewed by the Director: FAU and the Chief Director: Risk Management. All finalised cases are forwarded to the Director-General for approval. The Integrity Management Unit that reports to the Chief Director: Risk Management is responsible for conducting fraud awareness campaigns.
- The most common cases of alleged corruption reported within the Department of Justice and Constitutional Development relate to fraud and bribery, mismanagement of government funds, abuse of government resources and procurement irregularities. The allegations of fraud and bribery are mostly occurring at the magistrate's offices where the officials assist members of the public. These include cancellation of traffic fines and falsification of statements and documentation.

3.4.1.2 Department of Health

In its assessment of the Department of Health the PSC established that the Department's forensic unit is part of its Internal Audit unit and reports directly to the Director-General. The Director-General mandates all investigations to be conducted. The PSC further established that:

- The forensic unit has only one investigator, and it utilises external consultants to address its capacity needs. The unit manages all cases of alleged corruption reported to it. According to **Table 16**, only one of the 16 cases referred to the Department has been closed since in September 2004. This is a cause for concern as the Department utilises external consultants in the investigation of cases but cases referred to the Department for investigation are still not completed.
- The majority of cases of alleged corruption investigated by the department involve fraud and bribery, mismanagement of government funds, and procurement irregularities. Allegations of fraud and theft relates primarily to nurses and doctors stealing medicine and equipment at hospitals.





3.4.1.3 Department of Cooperative Governance and Traditional Affairs

In its assessment of the Department of Cooperative Governance and Traditional Affairs (COGTA) the PSC established that the Risk Management Unit of the department reports cases of alleged corruption to the Internal Audit Division and the Director-General. The Risk Management Unit conducts internal investigations. The COGTA's anti-corruption unit is tasked with conducting investigations. All investigations are mandated by the Director-General of the Department. The Unit consists of one official and utilises external consultants to address capacity constraints.

The Risk Management Unit conducts anti-corruption awareness campaigns by way of:

- Drafting fraud and corruption related inserts and articles on a monthly basis; and
- Raising awareness of corruption and the available reporting mechanisms by means of distributing handouts brochures, branded pens and posters.

The PSC further established that:

- The most common allegations of corruption reported at the CoGTA relate to fraud and bribery, mismanagement of government funds, abuse of government resources and procurement irregularities. The allegations of procurement irregularities mostly relate to officials awarding tender contracts without following policies and procedures as well as tender contracts awarded to friends and family members. The receipt of bribes from members of the public, in return for obtaining tender contracts is also a common occurrence. As indicated in **Table 16**, the COGTA received 245 cases of alleged corruption from the NACH. However, feedback on only three (3) cases was received by the PSC. This is despite the fact the PSC held two meetings with Senior Managers and the Minister of CoGTA regarding the submission of feedback on the investigation of cases to the PSC. The slow provision of feedback and the investigation of cases of alleged corruption by CoGTA is a cause for concern as allegations of corruption in the municipalities are reported on a regular basis.
- Allegations of RDP housing fraud implicating councillors and municipal officials are also common. The allegations include the selling of bricks and equipment meant for building RDP houses. It is alleged that the bricks are also used to erect houses for certain councillors and municipal officials for personal benefit. Furthermore, it is alleged that RDP houses are sold for personal gain, used as taverns and some are occupied by illegal immigrants. These allegations were investigated by the SIU on behalf of the COGTA and in March 2009, it was recommended that disciplinary action be taken against 634 officials.

3.4.1.4 Statistics South Africa

In its assessment of Statistics South Africa the PSC established that the department has a Risk Management Unit that reports cases of alleged corruption to the Statistician-General. The Unit was created to manage cases of alleged corruption from the NACH as well as cases reported within the Department. The unit has five officials in its Risk Management unit and these officials have background in law enforcement. However, the Department utilises external consultants to assist with forensic investigations. All cases referred are recorded and assigned to investigators based on workload, competency and investigation requirements. Training and raising awareness on corruption is done on a regular basis. The most common allegations of corruption reported at Statistics South Africa relate to mismanagement of government funds, abuse of government resources and procurement irregularities.

As **Table 16** shows, the PSC has received feedback on only 2 of the 10 cases referred to Statistics South Africa since 2004. This rate is not adequate considering that the Department has five officials in its Risk Management Unit, and also utilises consultants to assist with forensic investigations.



3.4.1.5 Department of Correctional Services

In its assessment of the Department of Correctional Services (DCS) the PSC established that the Departmental Investigating Unit (DIU) in the DCS reports cases of alleged corruption to the National Commissioner of Correctional Services. Investigations are mandated by the National Commissioner in terms of section 95 of the Correctional Services Act, 111 of 1998²⁵ as amended. The PSC further established that:

- At the time of drafting this report the DIU had eight officials on its staff establishment. The investigations are done by these officials, some of whom had previously worked for the SIU, SAPS, and the South African Revenue Service. The unit is said to be understaffed, and is in the process of employing additional forensic staff. The Department has a contract with the SIU. In terms of this contract the SIU may assist the Department with investigations.
- All cases of alleged corruption that have been reported are recorded in a data register. The data register contains cases reported through the NACH and cases reported within the Department. Investigations are allocated according to competency. The Department encourages skills transfer and attempts to allocate two investigators to each case. The DIU conducts anti-corruption awareness campaigns by distributing handouts and brochures.

As indicated in **Table 16**, the PSC referred 708 cases of alleged corruption to the Department of Correctional Services for investigation for the period 01 September 2004 to 31 June 2010. Out of these cases, feedback was received on 377 of them and 292 cases were closed on the CMS of the NACH. Thus, although the Department of Correctional Services achieved a high feedback rate for the period under review, its rate of closing cases is still very low.

- The most common cases of alleged corruption reported relate to fraud and bribery, mismanagement of government funds, abuse of government resources and procurement irregularities. The NACH also receives complaints by inmates against prison warders who receive bribes in order to help inmates escape from prison. Assault of inmates by prison warders or prison gangs at the instigation of certain warders is often reported.
- Allegations of procurement irregularities are a major concern within the DCS. During the 2006/2007²⁶ financial year, the SIU produced a report regarding the extent of corruption and fraud in the awarding of tender contracts in the DCS. The tenders involved *inter alia*, the awarding of lucrative catering contracts.
- The SIU conducted an investigation into Correctional Centre pharmacies and primary health centres connected to the DCS and found that:
 - *“There is excessive ordering of medicines by pharmacies and primary health care centres, which resulted in the overstocking of expired medicines;*
 - *Medicines were not stored thereby resulting in theft; and*
 - *Patient files are not updated correctly, thus rendering accurate record-keeping of dispensing of medicines impossible”²⁷.*

Through the investigations conducted and the findings as indicated above the SIU recommended that “516 DCS officials be subjected to disciplinary action”²⁸.

25 Republic of South Africa: Correctional Services Act, 111 of 1998.

26 Republic of South Africa: Special Investigating Unit Annual Report, 2006/2007.

27 Republic of South Africa: Special Investigating Unit Annual Report, 2006/2007.

28 Republic of South Africa: Special Investigating Unit Annual Report, 2006/2007.

3.4.1.6 Department of Trade and Industry

In its assessments of the Department of Trade and Industry (DTI) the PSC established that the Compliance and Forensic Audit Unit (CFA) of the DTI reports cases of alleged corruption to its Director-General. The CFA is mandated to perform investigations on behalf of the Department in terms of the Internal Audit Charter, as approved by the Audit Committee and the Minister of Trade and Industry. The CFA has two officials on its establishment who have background in internal auditing and forensic investigations. Where necessary the CFA addresses its capacity constraints by means of a contract with external consultants to perform forensic investigations. The PSC further established that:

- The CFA deals with cases of alleged corruption received from the PSC. All matters referred to it are recorded in a data register. Matters are allocated to investigators, or outsourced based upon capacity and priority. Investigations are performed in terms of the DTI's draft Forensic Audit Methodology.
- The most common allegations of corruption reported to the DTI relates to fraud and bribery, mismanagement of government funds, abuse of government resources and procurement irregularities committed by members of the public and officials. The PSC received feedback on only 50 cases whereas 108 cases were referred to the DTI (see **Table 16**). Out of these cases, only 31 were closed on the CMS of the NACH. This rate is not adequate.
- The Corporate Governance Unit of the DTI conducts anti-corruption awareness campaigns and communicates messages through newsflashes on its intranet as well as conducts fraud awareness training during induction courses.

3.4.1.7 Department of Home Affairs

In its assessment of the Department of Home Affairs the PSC established that the Counter Corruption (CC) Unit of the Department forms part of the Integrity Management Unit and reports to the Director-General. Investigations are mandated by the Director-General. The PSC further established that:

- At the time of drafting this report the CC Unit had twelve (12) officials on its staff establishment. The officials have background in law enforcement and intelligence gathering. The investigators of the CC Unit receive training on an ad hoc basis. As the CC Unit faced capacity constraints, endeavours were under way to address the capacity shortfall.
- All investigations are being managed from within the CC unit, although some of the investigators are stationed in the Western Cape, KwaZulu-Natal and Limpopo Provinces. All matters received by the CC Unit, both from the NACH and through other mechanisms are recorded and allocated to the relevant investigators.
- Once an investigator finalises an investigation, a report is completed and submitted to the Director-General for consideration. The Unit provides slow but regular feedback to the PSC regarding the status of investigations.

Since the inception of the NACH the PSC referred 781 cases from the NACH to the Department of Home Affairs (see **Table 16**). The Department provided feedback to the PSC on 251 cases of which one hundred-and-forty-two (142) have been closed. The majority of complaints reported primarily involved the following:

- Solicitation of bribes to obtain fraudulent South African identity documents and passports;
- Fraudulent marriage certificates in order to obtain South African identity documents and passports;

- Fraudulent death certificates in order to obtain South African identity documents and passports; and
- Selling of South African identity documents and passports to illegal immigrants and embezzlement of funds.

The slow feedback and finalisation rate as indicated in **Table 16** may be as a result of capacity constraints. The lack of capacity at the Department seems to be further aggravated by the fact that only twelve (12) investigators are responsible for conducting investigations throughout the more than 500 offices of the Department in South Africa. The rate of closing cases of alleged corruption should be addressed by the department as the majority of cases reported only require verification of allegations pertaining to documents issued by department.

3.4.1.8 Department of Social Development

In its assessment of the Department of Social Development the PSC established that the Investigation Unit in the Department reports cases of alleged corruption to its Director-General. Investigations are carried out by the unit on an individual basis as and when cases are received.

The unit does not have a fixed number of staff, as the Department utilises an integrated approach to investigations. This integrated approach draws upon resources from the following components:

- Internal Audit
- Internal Control
- Financial Misconduct Board
- Risk Management Committee

The PSC further established from the Department of Social Development that:

- All cases of alleged corruption received are recorded in a data register. Matters that are for the attention of provincial departments are referred to the relevant Heads of those provincial departments.
- The cases of alleged corruption received from the NACH are assessed in terms of nature, severity and complexity and an investigative team is appointed per investigation drawing upon resources from other units in the Department. However, as **Table 16** shows, the PSC has received feedback on only 2 of the 268 cases referred to the Department. This indicates that officials do not always update the PSC on progress as expected. The PSC has on numerous instances tried to obtain the co-operation of the Department by having discussions with officials in the department and by addressing correspondence to the Executive Authority. However, these interventions have not achieved much success.
- The Department benefits from a contract with the SIU, in terms of which the SIU conducts investigations on behalf of the Department into reported social grant fraud.
- The Department uses a toll free national security fraud hotline (0800 60 10 11) that operates 24 hours a day and seven days a week.
- The Department conducts anti-corruption awareness campaigns training and communications in the media.
- As part of the corruption prevention strategy, internal control systems have been improved, and forensic and investigating teams deployed in all provinces.

The most common allegations of corruption reported within the Department involve social grant fraud and abuse of government resources. These cases are investigated by the SIU. In its investigation of fraud and corruption in the disbursement of social grants, the SIU found that 43 705 public servants were receiving grants to which they were not entitled²⁹. The SIU recommended that 21 588 of these officials be disciplined. However, measures were taken against only 3 657 who were mainly only given a warning. An unknown number of officials were dismissed.

29 Republic of South Africa: Special Investigating Unit Annual Report, 2006/2007.

3.4.1.9 South African Police Service (SAPS)

In its assessment of the SAPS the PSC established that all cases of alleged corruption referred to the SAPS are handled by the Strategic Management Component of the Office of the Chief Operation Officer. In terms of the investigation of corruption or any criminal offence involving a SAPS personnel member, the SAPS investigators are mandated in terms of the following legislation:

- The South African Police Service Act, 1995 (Act No. 68 of 1995), as amended by the South African Police Service Amendment Act, (Act No. 57 of 2008);
- The Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- The Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992);
- The National Strategic Intelligence Act, 1994 (Act No. 39 of 1994); and
- The Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).

The PSC further established that:

- The Strategic Management Component assigns cases to the relevant investigators depending on the nature of the case. Cases of alleged corruption involving amounts of R100 000.00 or more are referred to the Commercial Branch Unit within the Detective Services Division whilst allegations of corruption involving an amount of less than R100 000.00 are referred to the SAPS Organised Crime Unit for investigation³⁰. The PSC referred 357 cases of alleged corruption to the SAPS for investigation during 01 September 2004 to 30 June 2010 (**Table 16**). Of these cases, feedback was received on 179 cases and 120 cases were closed on the CMS of the NACH as at 30 June 2010. The rate of feedback and closure of cases is not what is expected from the SAPS as it is a department whose priority lies with investigations, detective services and prosecutions etc. Unlike other departments its focus area is associated with investigations. The SAPS, therefore, does not have any excuse why its rate of closing cases of alleged corruption occurs at a slow pace.
- The SAPS conducts anti-corruption awareness campaigns by way of communicating messages to all personnel members, including personal notification to members on their salary advices.

The most common allegations of corruption reported at the SAPS relate to fraud and bribery, mismanagement of government funds, abuse of government resources and procurement irregularities.

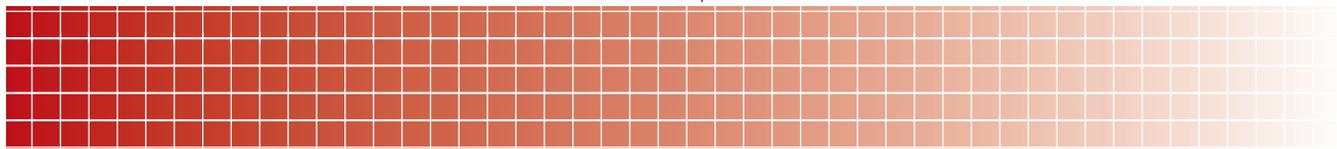
3.4.2 Types of corruption referred to National Departments

Table 17 below reflects categories of corruption followed by the number of cases that were referred to national departments that formed part of this assessment.

Table 17: Types of corruption referred to National Departments: 1 September 2004 to 31 June 2010

Categories of corruption	Social Development (SASSA)	South African Police Service	Correctional Services	Home Affairs	Justice and Constitutional Development	Statistics South Africa	Trade and Industry	CoGTA	Health	Total
Fraud and Bribery	24	111	168	202	51	-	44	29	5	634
Mismanagement of Government Funds	2	11	13	-	6	-	4	21	1	58
Abuse of Government resources (e.g. vehicles, furniture, etc.)	2	38	50	12	27	2	5	5	-	141
Procurement irregularities	4	25	21	-	18	2	32	25	5	132

³⁰ Republic of South Africa: The Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).



Categories of corruption	Social Development (SASSA)	South African Police Service	Correctional Services	Home Affairs	Justice and Constitutional Development	Statistics South Africa	Trade and Industry	CoGTA	Health	Total
RDP Housing fraud	-	-	-	-	-	-	-	125	-	125
Appointment Irregularities	3	3	34	9	25	4	6	14	2	100
Social Grant Fraud	378	-	-	-	-	-	-	-	-	378
Identity Document fraud	-	-	-	430	-	-	-	-	-	430
Unethical Behaviour	2	6	57	8	22	-	6	-	-	101
Criminal Conduct	-	72	123	-	-	-	-	11	-	206
Other	6	91	242	120	48	1	9	15	3	535
TOTAL	421	357	708	781	197	9	106	245	16	2840

In terms of **Table 17**, the most common cases of alleged corruption referred to national departments are:

- Fraud and bribery (634 cases)
- Social grant fraud (378 cases)
- Identity document fraud (430 cases)
- Criminal conduct (206 cases)
- Abuse of Government resources (141 cases)

In terms of the PSC's assessment, fraud and bribery is the category of cases of alleged corruption most commonly reported to the NACH and referred to National Departments. The Department of Home Affairs, followed by the Department of Correctional Services and the SAPS are the three departments with the highest incidences of fraud and bribery. For the period under review, no incidences of fraud and bribery were reported in respect of Statistics South Africa.

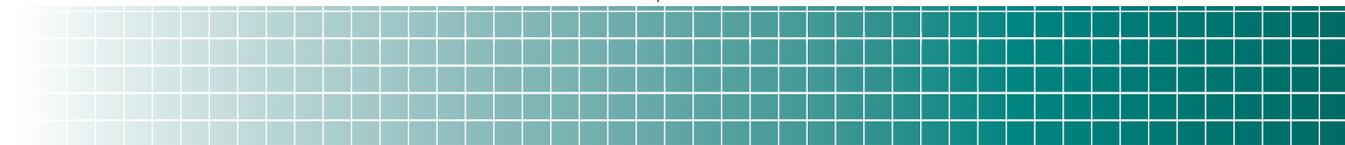
Social grant fraud has been reported in respect of the Department of Social Development. In terms of the NACH protocol these cases have been referred to SASSA for investigation. A disturbing trend is that the department has provided the PSC with feedback on only two cases (see **Table 16**). There are indications that the SIU assists with the investigation of cases, which suggests that the lack of feedback to the PSC is not necessarily because no investigations are being conducted.

Incidences of identity document fraud, which have major ramifications with regard to the internal affairs of a state, has been referred to the Department of Home Affairs, which is the only department that deals with this matter. Although the department provides regular feedback to the PSC (see **Table 16**) only 142 cases have been closed during the reporting period.

Significant to note is that allegations of appointment irregularities (100 cases) occurred in all departments within the sample. It would, therefore, appear that incidences such as nepotism are rife in government departments. This is an aspect which ought to be tackled head-on as it has a negative effect on service delivery, as incorrect appointments could be made through nepotism by senior management.

The highest incidences of corruption relating to criminal conduct being reported to the NACH are in respect of the Department of Correctional Services and the SAPS. This could possibly be because of the nature of the functions of these departments which involve the combating of criminal activities.





In terms of the “other” acts of corruption as indicated in **Table 17** it needs to be mentioned that they involve acts of corruption by members of the public, 419 scams (i.e. e-mail based fraud) and incidences where departments are being reported for poor service delivery.

3.5 MANAGEMENT OF CASES OF ALLEGED CORRUPTION: PERSPECTIVES OF PUBLIC BODIES

In terms of the PSC’s assessment a total of 302 cases were investigated by Public Bodies, between the inception of the NACH in September 2004 and 30 June 2009. An analysis of the number of cases investigated by public bodies between September 2004 and June 2009 showed that the largest number of cases was investigated by the South African Social Security Agency (SASSA) (239), with the NPA giving feedback on the smallest number of cases i.e. 16 cases. This section deals with an assessment of cases of alleged corruption referred to public bodies. For this purpose the PSC interviewed the NPA and the SIU.

3.5.1 Institutional responses to corruption: Public Bodies

Through the PSC’s assessment on institutional responses to corruption regarding Public bodies the following was established:

National Prosecuting Authority: The Integrity Management Unit (IMU) of the NPA reports to the Chief Executive Officer. Currently the IMU is mandated to investigate cases of alleged corruption.

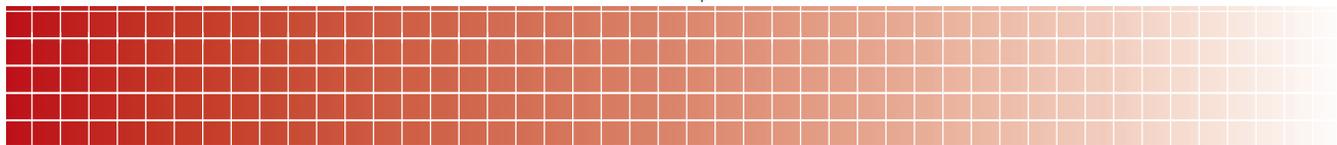
The IMU has nineteen (19) officials on its staff establishment. All cases reported are recorded in a CMS and are evaluated to ascertain whether a case falls within the jurisdiction of the NPA or not. Cases of alleged corruption are allocated to investigators or to the Department of Justice and Constitutional Development if they involve officials of that Department. Cases are allocated to investigators, based on capacity and competency. After a preliminary investigation, cases may be referred to the SAPS for investigation. All investigation reports and status reports are sent to the IMU for consolidation after which they are supposed to be forwarded to the PSC.

The NPA, through the capacity building and empowerment arm of the IMU conducts anti-corruption awareness campaigns by utilising road shows (quarterly) to raise awareness of corruption and the available reporting mechanisms to raise awareness of the NPA’s Code of Ethics.

Special Investigating Unit (SIU): The SIU is accountable to the President and to Parliament. The SIU is mandated through Proclamation 118 of 2001 and the Special Tribunals Act, 74 of 1996 to investigate cases of alleged corruption. The SIU is further mandated in terms of individual Proclamations, issued by the President as and when necessary for the purpose of investigating cases of alleged corruption.

The SIU is unique in that it operates in a criminal environment using civil legal remedies. As the focus of the SIU is on civil litigation, it does not have the power to arrest or prosecute suspects. When it uncovers evidence of criminal activity, it hands a court-ready docket to the SAPS. It also works closely with other law enforcement agencies. The SIU has been able to provide an integrated forensic service, which includes:

- Performing multi-disciplinary forensic investigations;
- Using civil litigation to recover or prevent losses;
- Facilitating criminal prosecutions;
- Preparing disciplinary matters against corrupt government officials; and
- Making recommendations to improve systems.



The SIU for example functions in a manner similar to a commission of inquiry in that the President refers cases to it by issuing a proclamation. It may investigate any matter set out in Section 2 of the SIU Act no. 74 of 1996 such as-

- *“Serious maladministration in connection with the affairs of any state institution;*
- *Improper or unlawful conduct by employees of any state institution;*
- *Unlawful appropriation or expenditure of public money or property;*
- *Any unlawful, irregular or unapproved acquisitive act, transaction, measure or practice that has a bearing on state property;*
- *Intentional or negligent loss of public money or damage to public property;*
- *Corruption in connection with affairs of any state institution; and*
- *Unlawful or improper conduct by any person who has cause or may cause serious harm to the interest of the public or any category thereof”³¹.*

The SIU can also take civil action to correct any wrong-doing it discovers during an investigation. Thus the SIU can, for example, obtain court orders to:

- *“Compel a person to pay back any wrongful benefit received;*
- *Cancel contracts when the proper procedures were not followed; and*
- *Stop transactions or other actions that were not properly authorised”³².*

The cases referred are assessed in terms of their nature, severity, complexity and scope. Based upon this assessment it is decided how the investigation will be scoped and staffed out of the SIU’s different competencies.

Government has shown a strong commitment to the work of the SIU, with an increase in the budget allocated over an eight year period from R 23 million in 2002/2003 to a projected R149.5 million by 2009/10³³.

3.6 GENERAL OBSERVATIONS

During the assessments the PSC made some general observations on departments’ management of cases of alleged corruption. The observations made are both in respect of national and provincial departments and are reflected hereunder:

Departmental policy or mandate on anti-corruption: Cabinet decided in September 2003 to require of all public service departments and entities to have certain ‘Minimum Anti-Corruption Capacity Requirements³⁴. The Department of Public Service and Administration (DPSA) in its research found that 40% of departments have fairly comprehensive mandates or policies of reasonable quality, together with evidence of implementation in place. The remaining 60% have no mandate or very basic policies of poor quality³⁵.

The PSC noted that the Minimum Anti-Corruption Capacity Requirements only provides that departments should have specific components and functions that need to be established as well as the capacity for implementing anti-corruption functions³⁶. Furthermore, the PSC has also noted that the various laws and regulations such as the Prevention and Combating of Corrupt Activities Act (no. 12 of 2004) and the Public Finance Management Act (no 1 of 1999) only supports government’s effort in the fight against corruption. However, no specific investigative mandate or powers in relation to departments are given through these Acts. In order to give effect to the Minimum Anti-Corruption Capacity and the relevant Acts there is a need to review the Public Service Regulations to include investigative powers of departments.

Strategic objectives related to fighting corruption: The DPSA in its research found that “10% of departments have clear written objectives for addressing corruption which are well integrated with other objectives

31 Republic of South Africa: Special Investigating Unit Annual Report, 2006/2007.

32 Republic of South Africa: Special Investigating Unit Annual Report, 2006/2007.

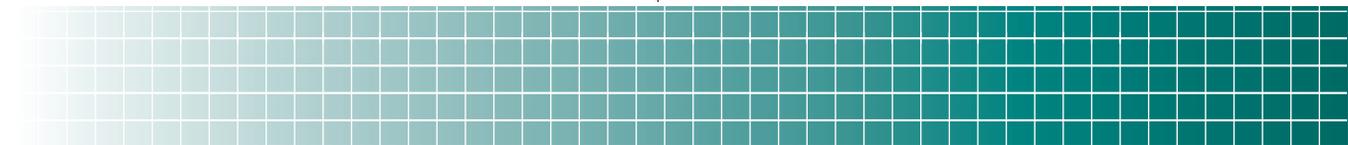
33 Republic of South Africa: Special Investigating Unit Annual Report, 2006/2007.

34 Republic of South Africa: Minimum Anti-Corruption Capacity Requirements in Departments, DPSA: 2006.

35 Republic of South Africa: Minimum Anti-Corruption Capacity Requirements in Departments, DPSA: 2006.

36 Republic of South Africa: Minimum Anti-Corruption Capacity Requirements in Departments, DPSA: 2006.





and with evidence of planning and monitoring against the objectives. Forty five percent (45%) of departments have written objectives for addressing corruption. The remaining 45% have poorly formulated and applied objectives (5%) or no strategic objectives³⁷. The PSC would like to emphasise that it is imperative for departments to have clear strategic objectives related to fighting corruption thereby strengthening a department's effort to combat corruption.

Application of discretion: The PSC found that the areas of utmost concern to departments are those where officials have to use their discretion for investigating or not investigating cases of alleged corruption. In this regard, departments request the closure of a case even if the case has not been investigated. This has resulted in queries from the whistleblowers who are concerned about cases of alleged corruption not being investigated and the lack of feedback.

Disciplinary sanctions: During interviews, investigators raised concern that departments are too lenient in imposing disciplinary sanctions against corrupt officials found guilty of fraud and corruption e.g. a written or final written warning is taken against officials who are found guilty of misconduct or no action is taken against officials. Severe penalties should be given to offenders as disciplinary sanctions should serve as a deterrent amongst public servants regarding a zero tolerance towards corruption.

The PSC also noted that departments do not refer cases of alleged corruption to the SAPS for criminal prosecution where it is necessary. This is a serious concern as it undermines the fight against corruption.

Furthermore, departments raised concern that disciplinary enquiries are very time consuming and departments take too long to finalise disciplinary cases against officials suspected of alleged fraud and corruption in that officials are being suspended for more than a year:

In 2008 the PSC recommended that:

*"In essence, the provisions of the Disciplinary Code and Procedure are adequate. However, it has to be recognised that not all users of Disciplinary Code and Procedure possess the necessary knowledge and skills to interpret and implement it in the proper manner. It is therefore proposed that departments develop a Departmental Manual to guide users through the steps involved in labour relations in general and the management of discipline in particular"*³⁸

Departments also raised concerns that sanctions are imposed inconsistently and therefore, there is serious need to improve the manner in which sanctions are managed by departments as this may lead to challenges by disgruntled employees.

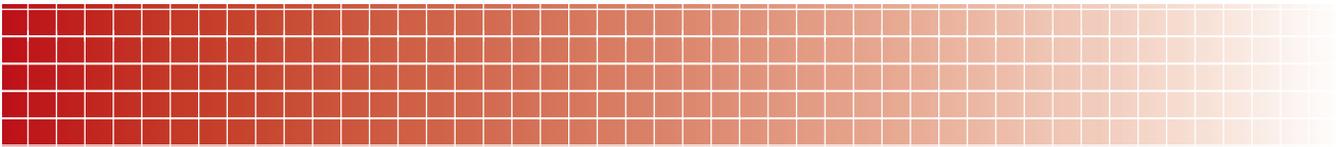
Investigations of allegations of corruption: Fifteen percent (15%) of departments have advanced investigative capacity and twenty-five (25%) have basic investigative capacity. The remaining sixty percent (60%) of departments have no basic investigative capacity. In this regard, it needs to be noted that these departments have no forensic investigative plans and protocol documents for investigating cases of alleged corruption. The research also found that a stronger anti-corruption capacity exists in national departments³⁹. This is concern as more than 70% of employees are employed in provincial departments and the majority of basic services are delivered at local and provincial.

The successful investigation of cases of alleged corruption is contingent on a number of factors. Some of these are within a department's ability to control and directly influenced whilst others are largely dependent on funding by Government. In this regard, departments sampled by the PSC, cited the following challenges and weakness with the investigation of allegations of corruption:

37 Republic of South Africa: Minimum Anti-Corruption Capacity Requirements in Departments, DPSA: 2006.

38 Republic of South Africa: Evaluation of the consistency of sanctions imposed for misconduct in the Public Service, 2008.

39 Republic of South Africa: Minimum Anti-Corruption Capacity Requirements in Departments, DPSA: 2006.



- Inadequate records are kept of investigations conducted;
- A lack of support by management during the investigation of cases of alleged corruption e.g. investigators are intimidated by officials while pursuing cases of alleged corruption;
- A lack of communication exists between provincial departments and the Offices of the Premier in respect of cases of alleged corruption being conducted or finalised in the provinces;
- Departments do not have time limits for the investigation of cases of alleged corruption; and
- Departments stopped investigations of certain cases of alleged corruption without valid reasons.
- Anti-Corruption Investigative Units established in departments at the provincial level are dysfunctional

It is clear from the above that departments experience serious challenges with regard to the effective investigation of cases of alleged corruption. Such challenges could be mitigated by clear policy guidelines and a review of the Disciplinary Code and Procedures. It is also essential to improve the turn-around time for investigating cases of alleged corruption as well as putting a time limit with respect to officials who are suspended from duty on account of fraud and corruption.

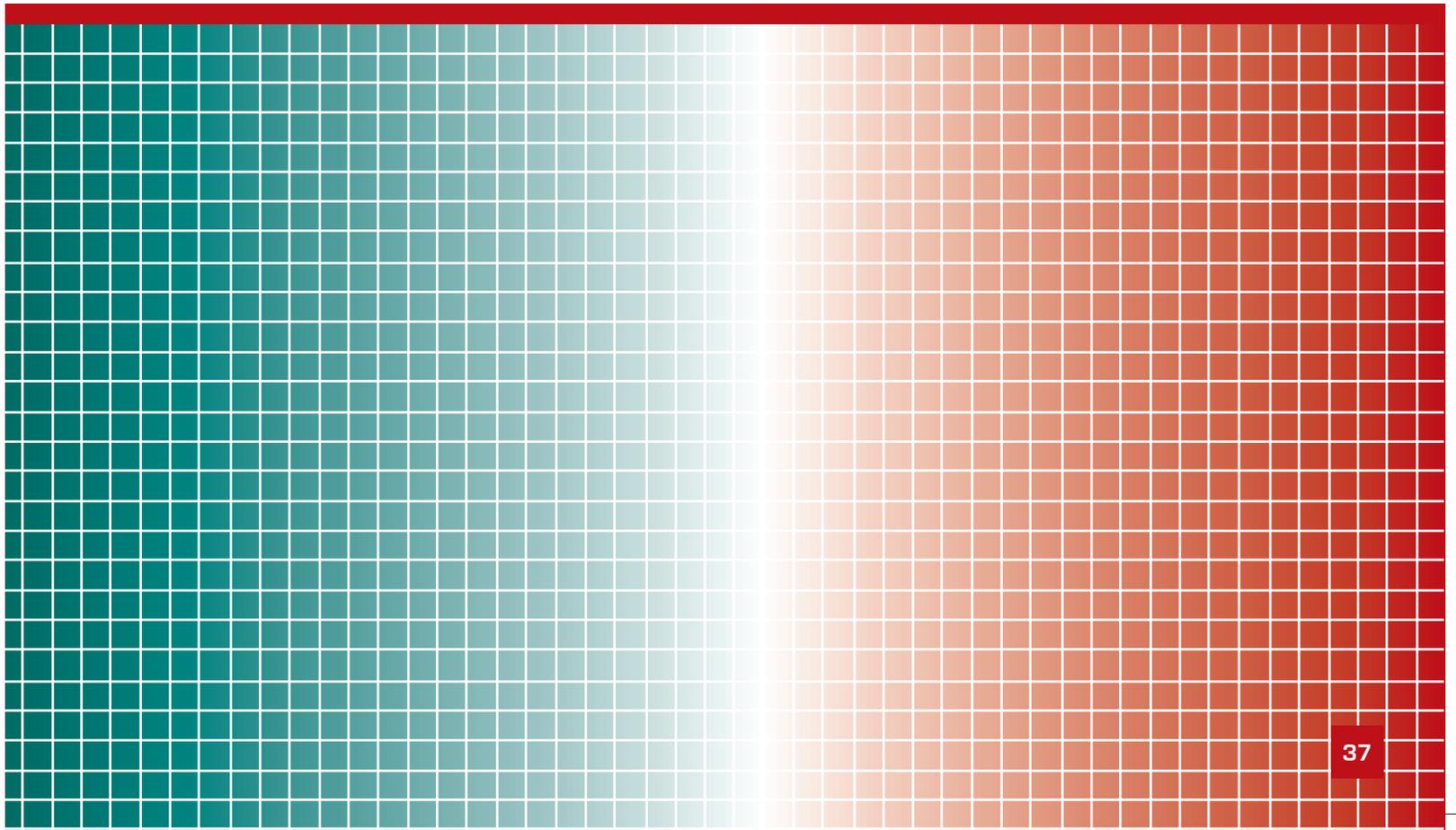
3.7 SUMMARY

Investigation of cases by departments is not adequately managed. The PSC is concerned about the ability of departments to investigate cases of alleged corruption given the poor track record regarding feedback and the conclusion of cases. The fact that cases of alleged corruption are increasing may lead to further frustration by whistleblowers if cases are not investigated which will have a negative impact on the credibility of the NACH. The limited resources of departments curtail their ability to build the required investigative capacity to deal with cases of alleged corruption, and the PSC believes that the time has come to commit as much resources as possible to departments to address these capacity constraints.



Chapter Four

Summary of Findings and Recommendations



4.1 INTRODUCTION

The PSC's assessment of the most common manifestations of fraud and corruption identified various challenges in the Government's efforts of combating and preventing corruption. This is exemplified by the findings of this report which will be discussed in this chapter. The PSC proposes various recommendations in this chapter for departments to implement and to assist them in strengthening their anti-corruption efforts.

4.2 SUMMARY OF FINDINGS

The findings of the PSC are encapsulated within the following issues:

- Reporting of common allegations of fraud and corruption;
- The focus in fighting corruption
- Risk management
- Application of discretion
- Investigation of allegations of corruption
- Disciplinary sanctions

4.2.1 Reporting of common allegations

The most common cases of alleged corruption as reported to the NACH and referred to departments are:

- Fraud and Bribery;
- Mismanagement of Government funds;
- Abuse of Government Resources;
- Identity document fraud, and
- Procurement Irregularities.

4.2.2 The focus in fighting corruption

It was found that the current anti-corruption infrastructure is focussed mainly on the investigations of cases of alleged corruption in the departments or public entities instead of focusing on a multi-pronged approach namely, investigation, detection and prevention.

4.2.3 Risk Management

While the government's National Anti-Corruption Strategy considers risk management as a strategic consideration in the fight against corruption, the PSC found that risk management is not being effectively implemented, managed or coordinated in the Public Service by the relevant anti-corruption units of departments where they exist.

Departments are only performing risk assessments and analysis as a function of their ongoing activities and overall management of their risks. Risk management functions are separate from anti-corruption units and the two never converge or interact, resulting in very limited extraction and analysis of fraud and corruption risks.

4.2.4 Departmental policy or mandate on anti-corruption

It was found that forty percent (40%) of departments have policies of reasonable quality together with evidence of implementation, for tackling corruption. The remaining 60% have no policies or very basic policies of poor quality.

4.2.5 Strategic objectives related to fighting corruption

Ten percent (10%) of departments have clear written objectives which are well integrated with other objectives and with evidence of planning and monitoring against objectives. Forty-five percent (45%) of departments have written objectives for addressing corruption. The strategy can be deduced from these objectives whilst the remaining forty-five percent (45%) have poorly formulated or no strategic objectives for addressing corruption.

4.2.6 Application of discretion

The PSC found that the areas of utmost concern to departments are those where officials have to use their discretion and where there is an opportunity for the exercise of individual judgement in the management of public funds. This results in the abuse of official power. Examples of these include, the issuing of identity documents, approval of social grants, subsidies, granting of licences and the levying of fees. In this regard, the PSC identified the following risks relating to the application of discretion:

- Individuals who wish to obtain tender contracts from Government, are likely to offer bribes in return for being awarded tender contracts;
- Inmates with their specific need for freedom, comfort and protection are likely to offer bribes to officials of the Department of Correctional Service;
- Individuals who wish to acquire a South African passport or identity document, but do not qualify for it, are likely to offer bribes to officials of the Department of Home Affairs;
- Individuals who wish to obtain social grants, but do not qualify, are likely to offer bribes to officials of the Department of Social Development;
- Accused individuals who are being prosecuted are likely to ensure the “disappearance” of case dockets and are much more likely to offer bribes to prosecutors of the NPA;
- People who wish to acquire housing, health and social services, but do not qualify, are likely to offer bribes to officials in government departments;
- A department that lacks forensic specialists and a risk management unit to deal with cases of alleged corruption will have a lower number of cases closed on the CMS of the NACH; and
- A province where service delivery declines will receive more complaints about alleged corruption because of the lack of public confidence, accountability and transparency.

4.2.7 Disciplinary sanctions

The information obtained through feedback reports submitted to the PSC revealed that Departments are too lenient in imposing disciplinary sanctions against corrupt officials found guilty of fraud and corruption. For example, written or final written warning is issued to officials who are found guilty of fraud and corruption. In some instances no action is taken against officials and departments do not refer cases of alleged corruption to the SAPS for criminal prosecution where it is necessary.

Furthermore, departments indicated that disciplinary enquiries are very time consuming. The PSC found that departments take too long to finalise disciplinary enquiries against officials suspected of alleged fraud and corruption in that officials are being suspended for more than a year. The Disciplinary Code and Procedures provides that “the employer may suspend an employee on full pay or transfer the employee if (i) the employee is alleged to have committed a serious offence; and (ii) the employer believes that the presence of an employee at the workplace might jeopardise any investigation into alleged misconduct, or endanger the well-being or safety of any person or state property”. Section 7.2 (c) of the Disciplinary Code and Procedures provides that “if an employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing **within a month or 60 days**”⁴⁰, depending on the complexity of the matter and the length of the investigation. However, Departments take more than 60 days to finalise disciplinary enquiries even in minor offences. This is too costly for Government as the officials are being suspended from duty with full pay.

40 Republic of South Africa: Disciplinary Code and Procedures, PSCBC Resolution No. 2 of 1999.

4.2.8 Investigations of allegations of corruption

The following findings were made regarding the challenges and weakness with the investigation of allegations of corruption:

- Fifteen percent (15%) of departments have advanced investigative capacity and twenty five percent (25%) have basic investigative capacity. The remaining sixty percent (60%) of departments have no basic investigative capacity. In this regard, it needs to be noted that these departments have no forensic investigative plans and protocol documents for investigating cases of alleged corruption. This resulted in departments outsourcing investigations to forensic firms.
- Inadequate records are kept of investigations conducted.
- A lack of support by management during the investigation of cases of alleged corruption i.e. investigators are intimidated by officials while pursuing cases of alleged corruption.
- A lack of communication exists between provincial departments and the Offices of the Premier in respect of cases of alleged corruption being conducted or finalised in the provinces.
- Departments do not have time limits for the investigation of cases of alleged corruption.
- Departments stopped investigations of certain cases of alleged corruption without valid reasons.
- Anti-Corruption Investigative Units established in departments at the provincial level are dysfunctional.

It is clear from the above that departments experience serious challenges with regard to the effective investigation of cases of alleged corruption. Such challenges could be mitigated by clear policy guidelines and a review of the Disciplinary Code and Procedures. It is also essential to improve the turn-around time for investigating cases of alleged corruption as well as putting a time limit with respect to officials who are suspended from duty on account of fraud and corruption.

4.3 RECOMMENDATIONS

Through this assessment, the PSC has identified a number of areas that require strengthening. As such, recommendations are made for departments to implement them in the interest of preventing and combating corruption. The recommendations made pertain to the following:

- Addressing fraud and bribery
- Disciplinary sanctions
- Enhancing investigative capability in the Public Service
- Strengthening internal controls

4.3.1 Addressing fraud and bribery

A total of 1511 cases associated with fraud and bribery has been reported to the NACH. Given the volume of fraud and bribery cases received through the NACH, the PSC recommends that internal controls in areas of procurement and financial management should be strengthened. Departments should periodically conduct surprise procurement audits of selected projects to identify weaknesses and malpractices in procurement processes. The risk assessment plans and fraud prevention plans of departments must further be updated to address risks identified.

In line with section 40 (a) to (c) and 45 (b) and (c) of the PFMA, 1999, the PSC recommends that the Heads of Department must ensure that Chief Financial Officers are held responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility. In addition, he or she must take effective and appropriate steps to prevent any unauthorised expenditure and fruitless and wasteful expenditure and any under collection of revenue due.

4.3.2 Conducting risk assessments

Based on the continuous influx of calls to the NACH on alleged corruption within departments, the internal controls of departments appear to be in need of further strengthening. The PSC, therefore, recommends that internal controls and management of risks in departments must be strengthened further and that each Accounting Officer must include an analysis of corruption risk as part of the risk management strategy required in terms of the PFMA.

4.3.3 Disciplinary sanctions

The PSC has noted that Departments are too lenient in imposing disciplinary sanctions against corrupt officials. Apart from the internal disciplinary procedure which departments have to follow in cases of fraud and corruption, departments are compelled to report offences relating to fraud and corruption involving an amount of R100 000 or more, to the South African Police Service in terms of section 34(1) of the Prevention and Combating of Corrupt Activities Act, 2004. It is important to note that section 34(4) read with section 34(1) of the Act, expresses a zero tolerance approach to corruption and corrupt activities. The PSC therefore, recommends that departments report all fraud and corruption related activities to the SAPS, in order for criminal action to be taken against perpetrators. This could be done by implementing section 26 (1) of the Prevention and Combating of Corrupt Activities Act, 2004 that provides as follows: *“Any person who is convicted of an offence of fraud and corruption is liable:*

- (i) in the case of a sentence to be imposed by a High Court to a fine or to imprisonment up to a period for imprisonment for life;
- (ii) in the case of a sentence to be imposed by a magistrate’s court to a fine or imprisonment for a period not exceeding 18 years;
- (iii) in the case of a sentence to be imposed by a regional court to a fine or imprisonment for a period not exceeding five years;
- (iv) in contravention of section 17(1), 19,20,23 (7)(a) or (b) or 34 (2), is liable in the case of a sentence to be imposed by a High Court or regional court to a fine or imprisonment for a period not exceeding 10 years;
- (v) in the case of a sentence to be imposed by a magistrate’s court to a fine or imprisonment for a period not exceeding three years;
- (vi) in contravention of section 28(6)(b) is liable to a fine of R250 000 or imprisonment for a period not exceeding three years; and
- (vii) In addition to any fine a court may impose a fine equal to five times the value of the gratification involved in the offence”⁴¹.

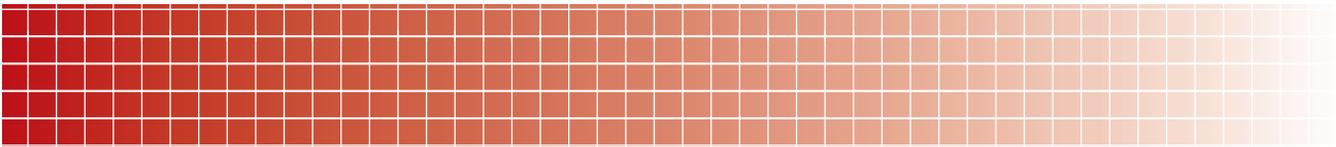
The Disciplinary Code and Procedures provides that *“the employer may suspend an employee on full pay or transfer the employee if (i) the employee is alleged to have committed a serious offence; and (ii) the employer believes that the presence of an employee at the workplace might jeopardise any investigation into alleged misconduct, or endanger the well being or safety of any person or state property”*⁴². Section 7.2 (c) of the Disciplinary Code and Procedures provides that *“if an employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing within a month or 60 days, depending on the complexity of the matter and the length of the investigation”*⁴³. However, Departments take more than 60 days to finalise disciplinary enquiries even in minor offences. This is too costly for Government as the officials are being suspended from duty with full pay.

In lieu of the above the PSC recommends that Heads of Departments must be held accountable and responsible if they do not ensure that disciplinary enquiry is resolved within 60 days, depending on the complexity of the matter and the length of the investigation.

41 Republic of South Africa: Prevention and Combating of Corrupt Activities Act, 2004.

42 Republic of South Africa: Disciplinary Code and Procedures, PSCBC Resolution No. 2 of 1999.

43 Republic of South Africa: Disciplinary Code and Procedures, PSCBC Resolution No. 2 of 1999.



The PSC recommends that a guideline on minimum sanctions for specific offenses of fraud and corruption must be issued by the Minister for Public Service and Administration. The guideline should make provisions for minimum sentences to be imposed by departments in acts of misconduct.

The PSC also recommends that once a case of alleged corruption or fraud is detected, departments must conduct an internal disciplinary hearing concurrently with the referral of the case to the South African Police Service for criminal charges.

4.3.4 Enhancing investigative capability in the Public Service

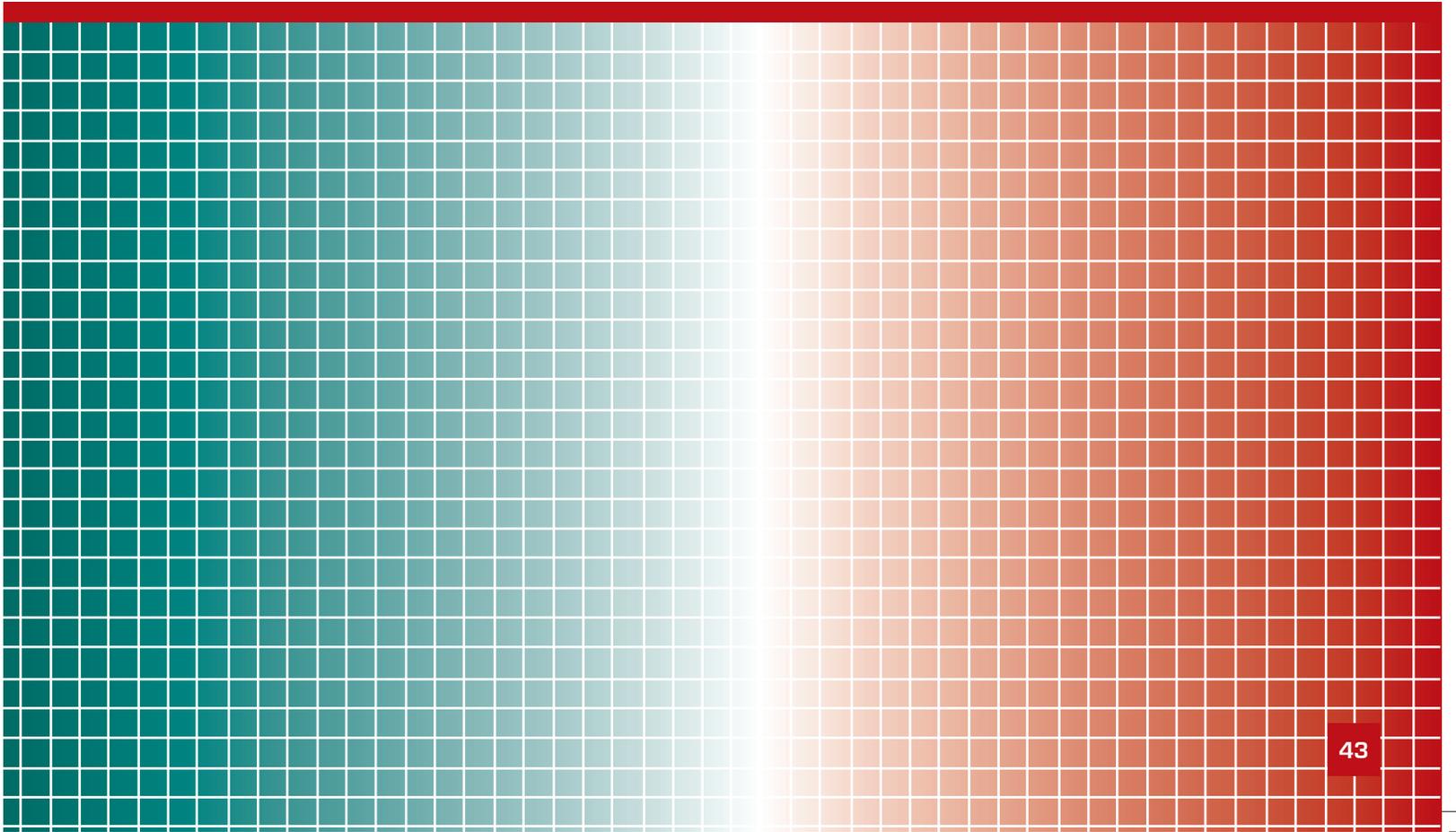
The PSC took note of the information provided by the departments with respect to coordination, integration and enhancement of investigative capability in the Public Service and subsequently recommends the following:

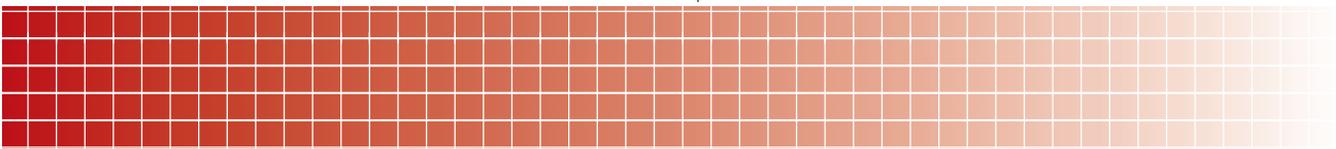
- The creation of a Risk Management Unit within each department comprising technical, investigative, prosecutorial and forensic auditing expertise. The unit could provide constant evaluation of fraud and corruption risks.
- The Minimum Anti-Corruption Capacity Requirements directs that Anti-Corruption Investigative Units must be established within departments. The PSC found that Anti-Corruption Investigative Units established in departments at the provincial level are dysfunctional. The PSC, therefore, recommends that, as a matter of urgency, provinces must establish centralised Anti-Corruption Investigative Units. Failure to do so will impact negatively on the success of the NACH and will erode efforts to build integrity within the Public Service. The Anti-Corruption Investigative Units will also ensure that there is proper coordination of cases in provincial departments and also ensure that evidence is not tampered with and cases are thoroughly investigated.
- The Offices of the Premiers in the Provinces must commit as much resources as possible to the investigation of corruption. In particular, Integrity Management Unit should be created through the appointment of appropriately skilled persons and through the training of officials in the discipline of Forensic Investigation. Failure to do so will impact negatively on the success of the NACH and will erode efforts to build integrity within the Public Service. The Integrity Management Unit will also ensure that there is proper coordination of cases in provincial departments and also ensure that evidence is not tampered with and cases are thoroughly investigated.
- The investigative capacities in the local sphere of government, which is currently fragmented, needs coordination and integration. The PSC is of the view that more attention should be devoted to the prevention of corruption and to identifying and eliminating systemic regulative and organisational gaps that create corruption-prone environments. Preventive actions should focus on reforming regulatory frameworks to reduce discretionary powers of municipal officials and open government measures such as increased transparency of decision-making procedures and public participation.
- The PSC is of the view that departments and public entities must conduct an in- depth assessment of its fraud risk management frameworks and strategies. The outcome of such assessment could prevent over-investment in sub-optimal anti-fraud areas.



Chapter Five

Conclusion





This assessment of the PSC on the most common manifestations of corruption and its related risks in the Public Service points to the fact that more could be done in combating and preventing corruption if strategies, structures and anti-corruption capabilities are well co-ordinated.

The improvement of investigative capacity inevitably means that government must commit as much resources as possible to address capacity constraints in relation to the investigation of cases of alleged corruption. The PSC is of the opinion that improving investigative capacity would result in a higher rate of feedback and, therefore, enhance government's resolve to combat and prevent corruption.

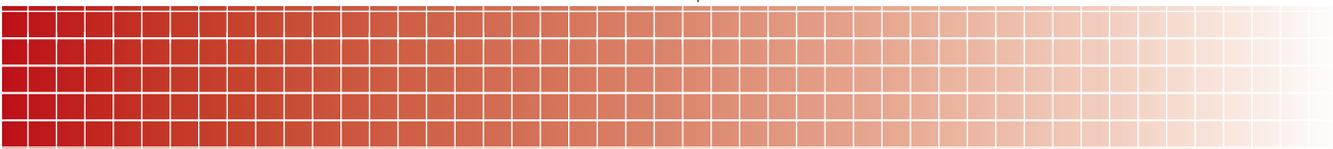
Preventing corruption is a core element in fighting and minimising it. Consideration must, therefore, be given for the introduction of structural reforms or key strategies as well as incentives to prevent corruption. This may include simplified administrative procedures and oversight controls, quick and effective redress, effective risk management and community involvement in the fight against corruption. The country at large may benefit as a result.

It is trusted that the recommendations contained in this report will assist departments in the effective and efficient prevention and combating of corruption thereby ensuring that government's efforts to root out corruption is not treated with disdain.



Appendix A: Definitions of corruption

Nature of cases	Description of allegation
Abuse of government owned vehicles	<ul style="list-style-type: none"> • Officials using Government-owned vehicles without permission or for private purposes and driving GG vehicles recklessly and at high speed. • Theft of petrol arising from the use of Government-owned vehicles.
Procurement irregularities	<ul style="list-style-type: none"> • Officials disclosing classified information to contractors or service providers. • Officials awarding government tenders without following policies and procedures. • Tenders awarded to friends and family members.
Alleged RDP related corruption	<ul style="list-style-type: none"> • Bricks and equipment meant for building RDP Houses are used to erect houses of certain councilors and municipal officials for personal benefit and some are stolen by members of the community. • Certain municipal officials and Councillors are allegedly selling or renting RDP houses out to members of the public for personal benefit. • RDP houses used as taverns and occupied by illegal immigrants. • RDP housing projects not being completed. • Housing officials are paid bribes to ignore the use of inferior materials in the construction of RDP houses.
Appointment irregularities	<ul style="list-style-type: none"> • Appointments of persons without following policies and correct procedures. • Appointments of friends and family members to various positions in the department. • Fraudulent Matriculation Certificates are presented to the department by officials when applying for positions.
Social grant fraud	<ul style="list-style-type: none"> • Submission of false information by members of the public in order to qualify for a pension, child or disability grant. • Creation of "ghost" social grant beneficiaries by officials for personal benefit. • Beneficiaries fraudulently receiving child grants on behalf of non existing children through obtaining fraudulent ID's from Home Affairs. • Fraudulent receipt of child grants on behalf of deceased children. • Fraudulent receipt of child grants for a child whose father is paying maintenance. • A person fully recovered from illness and able to work but still accessing disability grants. • A person assisted by a doctor to receive disability grants. • Beneficiary is employed, or spouse or both are employed. • Forged papers and receiving benefits for children not staying with the beneficiary. • Obtaining clinic cards or birth certificates fraudulently in order to qualify for a grant. • A person who does not qualify to receive grants but was assisted by court officials or social workers to obtain documents to access grants.
Identity document fraud	<ul style="list-style-type: none"> • Officials from the Department of Home Affairs fraudulently selling South African identity documents, passports, death, birth and marriage certificates to foreign nationals in return for money.
Unethical behaviour	<ul style="list-style-type: none"> • Officials coming to work late or being absent from work without permission. • Unprofessional conduct or behaviour of officials e.g. Violation of the Code Conduct for the Public Service.



Nature of cases	Description of allegation
Criminal conduct	<ul style="list-style-type: none">• Assault of inmates by prison warders or by prison gangs at the instigation of certain prison warders.• Members of the public reporting suspected terrorists or bomb-threats.• Criminal acts by members of the public as well as 419 scams (e-mail based fraud).• Police being reported for stealing fire arms for private use.• Certain teachers stealing government furniture at schools.• Officials stealing government computers.• Nurses stealing medicines at hospitals.
Mismanagement of Government funds	<ul style="list-style-type: none">• Senior managers giving unlawful instructions to junior officials.• Financial statements that are not audited.• Receipts not issued for school fees received.• Lack of proper bookkeeping.• Signing of blank cheques by school principals.• No proper management of school funds and depositing of funds into certain school principals' accounts.• Teachers getting salaries (ghost workers) from Education Departments although they are not employed at schools.
Other	<ul style="list-style-type: none">• Departments or officials for poor service

