



National Anti-Corruption Hotline Toolkit



Public Service Commission 2006

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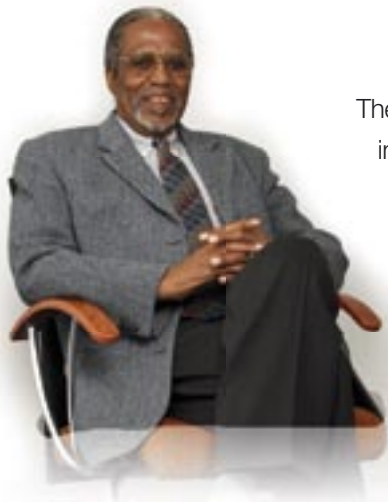
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Foreword by Chairperson



The Public Service Commission (PSC) has pleasure in presenting this Toolkit on the National Anti-Corruption Hotline for the Public Service (NACH) for use by stakeholders in the respective National, Provincial and Local Government Departments.

The NACH, an initiative arising out of the South African government's national anti-corruption strategy, is managed by the PSC. In order to ensure the integrity of the hotline it is of utmost importance that all role players understand and take ownership of the process. The Toolkit is therefore designed to facilitate the effective use and implementation of the NACH. The toolkit encompasses, amongst others, principles underlying the management of the hotline, how the hotline functions and the role of departments in the management of hotline referrals.

It is important to emphasize that through the NACH the attainment of a high standard of professional ethics in the work place is promoted by empowerment of the silent majority to speak out in respect of issues that breed unethical practices and erode the integrity of a healthy Public Service.

I therefore trust that you will find this toolkit useful in dealing with the cases reported via the NACH. It should assist in contributing towards the effective, efficient and economical use of public resources as well as raising public confidence in government's attempts to combat corruption.

Prof S S Sangweni

Chairperson: Public Service Commission

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CHAPTER 1

Introduction

1.1 Background

Public confidence is important to the smooth functioning of a government. A government cannot function effectively if the public believes that its officials are corrupt, even if they are not.

There are increasing expectations from the public that government should promote good governance and high standards of integrity in the public service. Every government is therefore obliged to put mechanisms in place that would promote an understanding that it is functioning with integrity.

The South African government has committed to confront corruption head on and is making significant inroads in the fight against corruption. In this regard government has adopted and implemented a Public Sector Anti-Corruption Strategy to prevent and combat corruption. A comprehensive legislative and infrastructural framework has been put in place by Government and this framework has been operationalised with the involvement of all spheres of society (e.g. the public sector, private sector and civil society). This legislative framework includes the Prevention and Combating of Corrupt Activities Act (Act 12 of 2004), the Protected Disclosure Act, no. 26, of 2000, the Promotion of Access to Information Act no. 2 of 2000 and the Promotion of Administrative Justice Act, no. 3 of 2000. Cabinet has also prescribed the minimum anti-corruption capacity required by all departments. This includes, amongst others, the development of an integrated anti-corruption strategy, the capacity to both prevent and investigate corruption and the final resolution thereof through disciplinary and other control measures.

A key strategy adopted by Government to prevent and combat corruption is the establishment of the National Anti-Corruption Hotline for the Public Service (NACH) in September 2004. It is an initiative of the South African Government aimed at promoting and encouraging reporting on corrupt practices. The NACH is a simple, yet highly effective management tool designed to enable concerned employees (whistleblowers) in the public service, the public, as well as third parties associated with the public service, to actively participate in the reporting of corruption.

It is a visual and physical manifestation to the general public and state employees of Government's express commitment to fight corruption. One of the key obstacles faced in the fight against corruption is the fact that individuals are often too intimidated to speak out or "blow the whistle" on corrupt and unlawful activities they observe occurring in the workplace, despite being obliged to do so in terms of their conditions of employment as well as the Code of Conduct for the Public Service. Often those who do report corruption are victimized and intimidated, and have little recourse. However, callers to the NACH are guaranteed anonymity.

The hotline is managed by the Public Service Commission (PSC). The aim with the establishment of the NACH was to create a central database for the reporting and monitoring of alleged corruption in the Public Service and to avoid "forum shopping" by complainants which leads to the duplication of investigations and resources.

The PSC does recognize, however, that to sustain the integrity and credibility of the hotline, departments will have to play a much more

Chapter 1: Introduction

active and speedy role in the finalization of reported cases to ensure that the public gets the necessary feedback. The PSC has therefore deemed it necessary to develop a toolkit to facilitate the effective use and implementation of the NACH.

1.2 Purpose of the Toolkit

The toolkit is primarily intended to assist departments in understanding the operation of the hotline, the processing of case referrals and the requirements on departments to investigate and provide feedback. However, it will prove useful to all other stakeholders in their understanding of how the NACH operates in an integrated and holistic manner.

This toolkit does not represent a policy. It offers useful guidelines on how cases are received via the NACH and how they should be dealt with by departments. The establishment of the NACH has put a huge responsibility on departments in respect of their handling of allegations of corruption and on their investigative capacity. Better understanding of the NACH, through this toolkit, will help departments meet their expected requirements and should go a long way in successfully pursuing cases of corruption reported via the NACH, and therefore satisfy the expectations of the public.

1.3 Key objectives of the Toolkit

The objectives of this toolkit are to assist departments in managing the cases reported via the NACH in such a way that the typical pitfalls that could be experienced are avoided. This toolkit therefore endeavors:

- To promote the effective use of the NACH by all stakeholders.
- To provide information on how the hotline system functions in order to maximize departments' efforts in dealing with cases reported via the NACH.
- To outline the process of case referrals to departments.
- To provide assistance on the requirements of feedback to be provided by departments.

Ultimately, meeting of these objectives should reinforce the integrity and credibility of the NACH. The central reporting of corruption cases will lead to the establishment of one national database on the reporting of corruption. This in turn will lead to a coherent recording of disclosures and help to detect trends in corruption within departments resulting in better information to address corruption more effectively. The NACH will also lead to less duplication of resources through the previous proliferation of hotlines by departments and as such will eradicate “forum shopping” by potential whistle-blowers.



CHAPTER 2

Principles guiding the
functioning of the hotline

The functioning of the hotline is guided by underlying principles.

These principles -

- indicate what is expected to ensure the credibility of the hotline;
- outline the commitments of stakeholders in the operation of the hotline; and
- guide the nature of disclosures that can be made and pursued.

2.1 Credibility of the hotline processes

The integrity of the hotline is based on the credibility of the organisation managing it and the processes and principles that guide investigation and reporting on cases referred by the hotline. It is very important that the NACH achieves a reputation of professionalism that will provide assurance to employees and the public that all information will be confidentially handled and that anonymity will be maintained. The handling of cases by the PSC and by investigating departments must therefore be done in such a manner that inspires confidence.

The success of the Hotline will be measured by its effectiveness and efficiency to unearth corruption in all its permutations and degrees of sensitivity, intensity and prevalence. If the Hotline fails to assist to either restore or build public confidence in public institutions and the legitimacy of the State, the Hotline can never be regarded as a success regardless of its operational efficiency. Similarly it must contribute to change the conduct and behaviour of both persons entrusted with responsibilities in public office and that of public officials.

In general the National Anti-corruption Hotline may also become an integral part of the investigative process. The Hotline will be the first

Chapter 2: Principles guiding the functioning of the hotline

and probably the most important contact with the complainant/whistle-blower and if this first voluntary contact is handled in a professional and supportive manner, it will facilitate the gathering of solid information and intelligence that will eventually fast-track the investigation process, ensure swifter and more successful finalisation of investigations, disciplinary hearings and criminal trials. As such the Hotline will establish itself as a valuable resource to the investigating agencies. Departments as investigative agencies will have to build the necessary investigative capacity to manage referrals from the hotline.

2.2 Principles guiding the Public Service Commission in managing the hotline

The PSC has deemed it important to have guiding principles relating to its management of the Hotline. These principles are not exhaustive but should be regarded as service standards against which the operations of the various components can be measured and held accountable.

2.2.1 The PSC -

- is responsible for the management of the NACH and performs its functions independently, impartially, without fear or favour in the interest of the maintenance of effective and efficient public administration;
- promotes the highest standard of professional ethics in managing the NACH;
- is responsive to Government in providing frank, honest, comprehensive, accurate and timely advice;

- will ensure that the rules of administrative justice are adhered to during its case referral and investigations; and
- will provide information that enables stakeholders to make informed decisions.

2.2.2 The Call Centre -

- will ensure a safe, anonymous 24 hour service;
- will make sure that the trustworthiness of the service is enhanced/ advanced by maintaining strict confidentiality of all information and accept calls without favour or prejudice;
- will make sure that the hotline is reliable and will not collapse under excessive caller response;
- will enable callers to use any official language to make a disclosure either by telephone, fax, e-mail or the web-enabled system (however reports will only be transmitted in English);
- will provide sufficient and accurate information for referral;
- will provide feedback to the callers via a unique tracking reference number (where they request this) by reporting back to them on progress achieved timeously;
- will provide information that enables the Case Management System to execute their duties properly; and
- will keep original documents according to record-keeping protocols for government.

Chapter 2: Principles guiding the functioning of the hotline

2.2.3 The Case Management Centre-

- will provide accurate information that enables stakeholders to make informed decisions;
- will maintain confidentiality of allegations of corruption reported via the NACH when referring cases to Departments;
- will maintain the integrity of the database;
- will ensure that Departments receive cases timeously and provide feedback within a reasonable time-frame; and
- provide a trend analysis on corruption.

2.3 Obligations of departments

Having committed itself to the principles in paragraph 2.2 above the PSC believes that departments have obligations in respect of their role in the NACH. Essential requirements from departments are that they will:

- keep a database of all referred cases;
- ensure confidentiality of all information referred;
- investigate disclosures as effectively and speedily as possible;
- provide timeous feedback to the PSC in writing in order to maintain the integrity of the NACH with callers and the public;
- observe existing protocols of referral as agreed to with the PSC; and
- liaise with the PSC on a regular basis in order to ensure the smooth running of the NACH.

2.4 Obligations of whistleblowers

In considering the principles that guide the operation of the hotline it is also important to reflect the following obligations of those who make disclosures to the hotline:

- Only corruption-related cases relevant to the public service may be reported (a full discussion of the nature of disclosures is provided in Chapter 4).
- The whistleblower must be reasonably sure that factual information is reported to the Hotline.
- Information of a frivolous nature should not be reported (i.e. information referred to the NACH which is only based on hearsay or perception and that has no factual or evidentiary basis).
- Whistleblowers should not use the Hotline to pursue personal agendas.

It is important to note that there are no rewards for making a public interest disclosure, even if the disclosure is proved to be true. Disclosures are made in the interest of good governance and the promotion of a corruption free society.



CHAPTER 3

Functioning of the hotline

3.1 Introduction

Having considered the principles that inform the operation of the Hotline, it is important to understand how the Hotline functions on a day to day basis. This Chapter of the Toolkit indicates in detail the processes in each of the NACH's components, the obligations of departments in terms of feedback and the protocols as agreed to.

3.2 Understanding the functions of the hotline

The components that ensure the effective operation of the Hotline are integrated to ensure the fluent processing of complaints lodged by the public. The main components are as follows –

- **The Call Centre**

This is the centre where all the calls are received from the public and routed to the Case Management Centre at the OPSC for further attention. The operation of the call centre is currently outsourced to a service provider. The referral protocol is discussed in detail in the Toolkit.

- **The Case Management Centre (CMC)**

The CMC receives cases of allegations of corruption from the Call Centre and is responsible for the analysis and referral of all cases to departments as well as providing feedback to callers via the call centre. Specific protocols have been agreed to with the referral of cases to departments.

In addition to the components of the Hotline, departments themselves have specific responsibilities in investigating cases and providing

feedback to the Hotline. *Figure 1* provides an overview of the Hotline systems and feedback process: See page 15

It is important for the functioning of the hotline that these processes and protocols are adhered to. As the hotline is still in an early stage of implementation, some of these processes and protocols may have to be revisited after consultation with stakeholders.

3.3 How the call centre functions

- The call centre is the first point of contact for persons who make a disclosure to the NACH. It is not only important to understand how the call centre operates but also to make persons who call into the call centre aware of what to expect from call operators when making a call.

Anti-Corruption Hotline

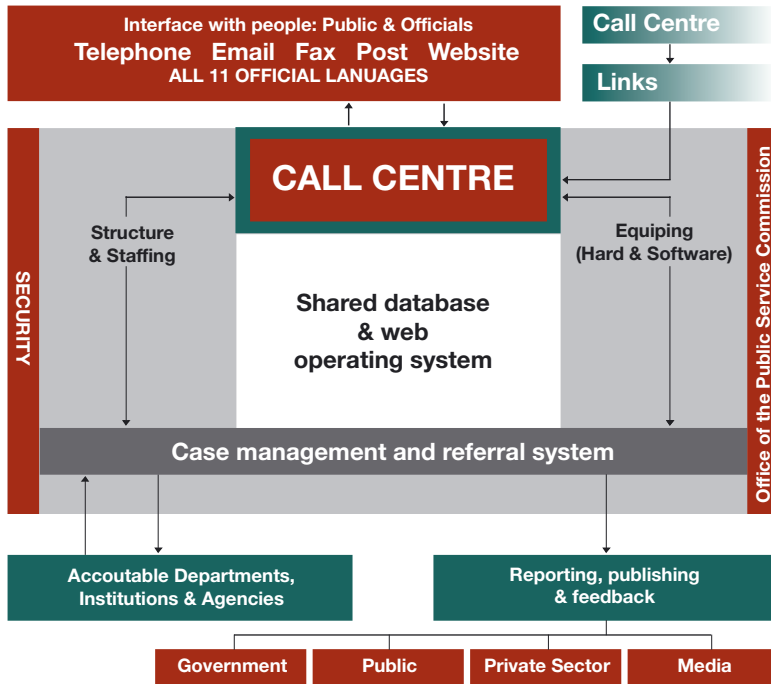


Figure 1: System Overview and Feedback Process

- When a caller calls in by telephone, a call operator will answer and record the disclosure made on a special template designed for this purpose.
- When receiving the case, the call operator will immediately issue a database reference number. The caller is given such a number for purposes of requesting feedback. The reference number is issued according to the year, month, date and time at which the case has been received.

Chapter 3: Functioning of the hotline

- Cases are classified as either confidential, urgent or routine. As part of ensuring the privacy of information, copying and printing of additional copies of information of cases received is limited or restricted. This is a measure to limit access to the case reports and thereby ensure the confidentiality of information and documents. Great caution is used in talking about information with anyone on the phone and with transmitting any information by phone or fax. If there is any need for the transmitting of any information by fax, the line used has an encrypted facility for security purposes.
- According to the template cases are prioritized according to its urgency or sensitivity and the case management centre is informed accordingly. The name(s) of the alleged perpetrator(s), if known, is recorded on the template in order to assist the investigators in their investigation.
- The call operator will, by means of a special list of questions, prompt the caller to obtain as much information as possible about the allegation/s. It is important therefore for callers to be able to assist the investigative process by giving as much factual information as possible. Allegations which involve particular departments in the respective locations are indicated as such with respect to town, city and province.
- Once all the information has been obtained, the call operator forwards the information for quality control.
- Thereafter, the information is sent by secure data-link to the Case Management Centre at the Office of the Public Service Commission (OPSC).

- All information received by fax or e-mail, are entered onto a template to ensure that it is captured on the database. Both the fax or e-mail disclosures will also be linked to unique database reference numbers.
- Once the call operator has submitted the information, it is stored on the case management database and they have no further access to it.
- All callers are given a unique reference number for feedback purposes. This reference number is also used as the database reference number for the storage of the disclosure. Feedback is therefore obtained by calling the hotline number and by quoting the reference number, in order to obtain progress with respect to the case.
- The call centre registry receives documents and enters these in a “Documents Received Register”. Documents are scanned into a “pdf” format and entered onto the database system. Original documents are sent to the CMC. If the document is accompanied by a reference number the data is entered against that special case. If there is no reference number, a new reference number is allocated. The call operator then extracts information from the document and enters this on the template for transmission to the CMC.

It is important to note that there is no way for the call operator to trace calls. The anonymity of the callers is guaranteed unless they are willing to provide this to the call centre. Call operators are also not able to manipulate the data either once it has been entered onto the system. This guarantees the authenticity of the information provided.

3.4 The Case Management Centre - Case Referral

- The Case Management Centre (CMC) at the OPSC downloads all information transmitted via the secure data-link from the call centre.
- Cases are then analysed in order to determine their priority and/or sensitivity.
- Urgent/sensitive cases are fast-tracked to the relevant departments or agencies.
- Routine cases are processed in the normal way to the respective departments or agencies for further handling. Cases are sent with a covering letter addressed to the respective Directors-General in line with the protocols as discussed in paragraph 3.4. All cases are processed within 24 hours from receipt at the CMC and submitted to the Commission for the approval of the referral letters. Urgent and sensitive cases are collected or hand delivered. Certain departments have made arrangements to physically collect their cases at the OPSC. Urgent and sensitive cases to Provincial Departments are sent to secure fax lines as nominated by these Departments.
- In the referral report to departments, feedback on progress is requested in order to enable the CMC to provide such feedback to the call centre. The timeframe for feedback is 40 days and departments are requested to quote case reference numbers in their feedback. It is important to note that it is not expected of departments to finalise investigations in the forty days but to report on progress.

- The referral of any information of corruption for investigation considers the following:
 - The sensitivity of the information received: The information is classified as either restricted, confidential, secret or top secret.
 - The department involved: The official involved determines to whom and at what level the investigation should take place and more importantly, who should be informed of the contents of the report.
 - The scope of the report: The scope of the report will not only determine the classification of the report but will also determine who must be informed of the contents of the report, e.g. the appropriate department.
 - Additional information received pertaining to the case is forwarded to the concerned department as soon as possible.

The case referral process is visually displayed in *figure 2 (Page 20)*

- Existing protocols for case referrals
 - In order to maintain the confidentiality and speedy referral of cases, there was a need for specific protocols because of the unique requirements of provinces and departments. According to a Cabinet decision all departments had to develop a minimum anti-corruption capability by July 2004. For this reason some departments requested that the respective anti-corruption units be copied on cases referred to them. In the provinces, the anti-corruption function is centred in the Offices of the respective Directors-General. Specific protocols have therefore

Case referral process

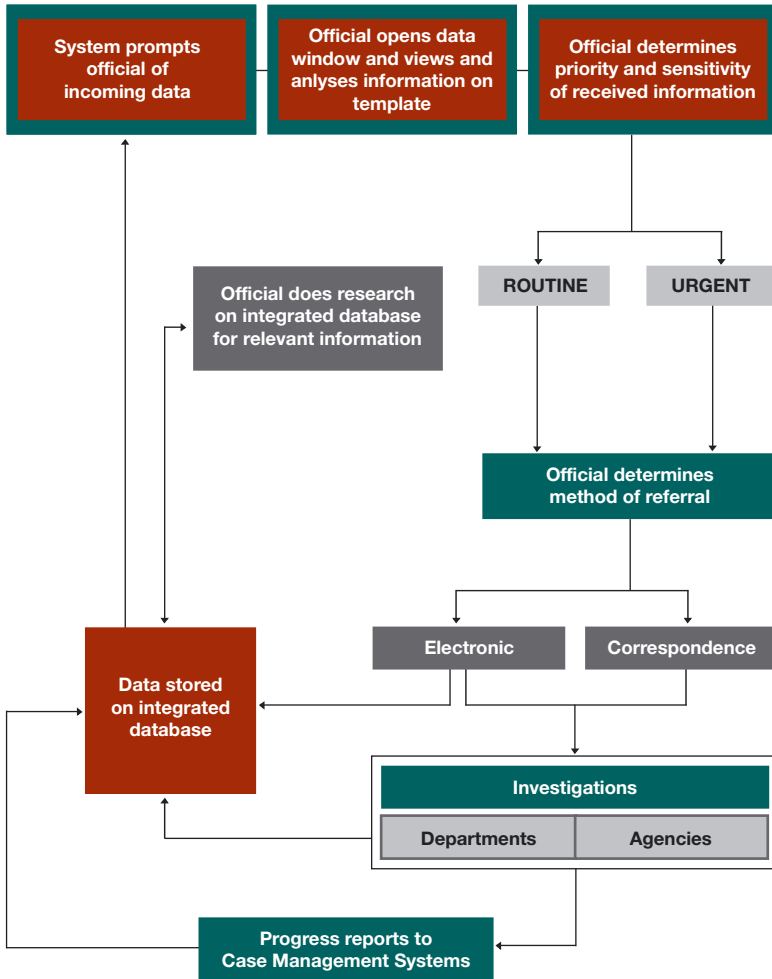


Figure 2: Case Referral Process

been agreed in terms of the referral of cases to provinces and departments:

- All provinces (excluding Gauteng)

Corruption cases reported via the NACH are referred to the Directors-General (coordinators of anti-corruption activities) in the provinces for referral to the relevant Provincial Department(s).

- National Departments (excluding those separately listed)

Corruption cases reported via the NACH are referred to the appropriate Directors-General. In a case where there is a responsible anti-corruption unit, the letter to the respective Director-General also includes the name of the person in charge of the unit in order to speed up investigations.

- Gauteng Province

Corruption cases reported via the NACH are referred to the Gauteng Shared Services Centre. Feedback will also be received from the Gauteng Shared Services Centre.

- Department of Safety and Security

Corruption cases reported via the NACH are referred to the South African Police Services or the Independent Complaints Directorate (ICD). Such cases implicate police officers involved in corruption.

- Department of Provincial and Local Government (DPLG)

Corruption cases reported via the NACH relating to Councillors/ Mayors or Traditional Leaders are referred to the Department

of Provincial and Local Government. Cases of corruption relating to municipal employees are referred to the relevant Local Government Department in the Province via the Director-General in the respective Provinces. In terms of section 106 of the Local Government Municipal Systems Act, Act No. 32 of 2000, the respective MEC's for Local Government are responsible for investigation of corruption cases in respect of municipalities in the Provinces.

- **Elected officials**

Corruption cases reported via the NACH relating to the various Legislatures, members of the Executive, Parliamentarians, etc, are directed either to the National Prosecuting Authority, the Public Protector, the National Intelligence Agency or the Auditor General for investigation depending on the nature of the allegation.

- **Service delivery complaints emanating from the hotline**

Although the Hotline was set up for the reporting of corruption, cases on service delivery are being reported to the Hotline (approximately 34% of all cases logged). Attempts are being made to refer callers reporting service delivery cases to appropriate institutions/call centers. This is done by operators at the call centre. In the interim, however, there is an obligation on the PSC to refer such cases to departments in order to ensure feedback to the hotline. Cases are generally referred directly to the departments involved, and to institutions that have been created to address such complaints, such as the Judicial Inspectorate of Prisons (the Judicial Inspectorate of Prisons deals with complaints by prisoners).

3.5 Investigation of cases by Departments

The investigation of cases by departments is discussed in detail in Chapter five of this toolkit. However, It should be noted that:

- Departments investigate referred allegations of corruption with a view to report back to the CMC.
- Where necessary cases may be referred to an appropriate agency for investigation.
- All investigations should be executed as speedily as possible.
- The experience levels of the designated employees to follow up on cases of allegations of corruption reported via the NACH must be sufficient to enable them to:
 - demonstrate knowledge of the issue under discussion;
 - evaluate the complaints being raised;
 - launch an appropriate investigation.

3.6 Feedback Process from Departments to the Case Management Centre

- Departments are requested to provide the necessary feedback to the case management centre via the PSC which in turn logs such feedback onto the database. Feedback on progress with the investigation of cases by departments is required within 40 days from receipt of the referral from the PSC. Thereafter feedback must be provided on each case in 40 day intervals until the case is finalized. Requirements in respect of feedback is dealt with in detail in Chapter 5.

Chapter 3: Functioning of the hotline

- All feedback logged onto the system enables the call centre to provide feedback to the caller. The system makes provision for the operator to give the following feedback:
 - Cases referred to the relevant department/agency for investigation;
 - Investigation in progress;
 - Investigation complete – referred for prosecution;
 - Investigation complete – no prosecution possible due to insufficient evidence;
 - Action taken against perpetrator (e.g. Disciplinary action, suspension etc.); or
 - Other milestones indicating levels of progress.

3.7. Feedback to the call centre

- Feedback is received from departments at the Case Management Centre.
- This feedback is captured on the database and referenced against the database reference number of the case concerned.
- This information is then sent to the call centre via the secure data-link.
- Callers are then able to quote their unique reference number against which the call centre is able to provide any feedback on the case.



CHAPTER 4

How to make a disclosure to
the National Anti-Corruption Hotline

Chapter 4: How to make a disclosure to the National Anti-Corruption Hotline

4.1 Introduction

Having established how the hotline functions, it is important to reflect what can be disclosed to the Hotline, by whom and how. It is first of all important to emphasize that, as its name suggests, the Hotline is designed for the reporting of allegations of corruption in the public service.

The Hotline was not established for the reporting of public service-related service delivery complaints or personal grievances. It was also not established to deal with complaints regarding the private sector. Receipt of such complaints clogs the Hotline and impedes the effectiveness of its functioning.

4.2 What may be disclosed?

The causes of corruption can be linked to socio-economic conditions, whilst political approaches influence the way in which corruption is perceived. The problem of corruption cannot be left unresolved, particularly because it is intolerable and harmful to the entire society. Against this backdrop, this Toolkit addresses the manifestations of corruption in an analytical, forensic and legalistic manner. The operational implementation of the hotline is based on the legal approaches and definitions of the Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004) and the manifestations as outlined in the National Anti-Corruption Strategy.

The following disclosures may be made (this list contains examples only and is not exhaustive):

- Transgression of prevailing legislation or prescripts would amount to corruption. In particular:

- Non-compliance with the requirements of the Public Service Act and Public Service Regulations.
- Non-compliance with the requirements of the Public Finance Management Act and Treasury and Tender Board Regulations.
- All other transgressions of the Code of Conduct for the Public Service as contained in Chapter 2 of the Public Service Regulations.

Chapter 4: How to make a disclosure to the National Anti-Corruption Hotline

- Corruption in its many manifestations as depicted in *figure 3*:

Manifestations of corruption

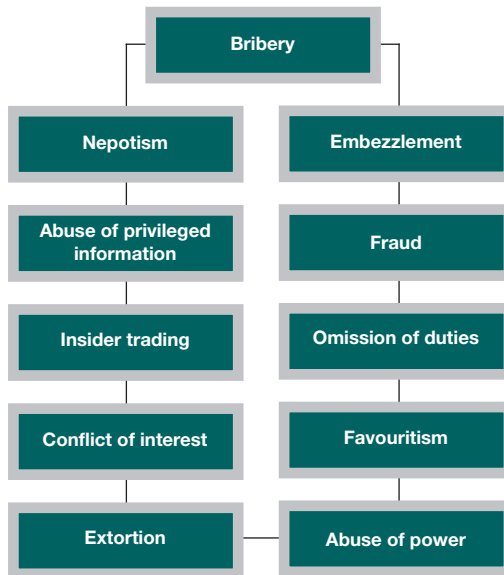


Figure 3: Manifestations of corruption

- The Prevention and Combating of Corruption Activities Act (No. 12 of 2004) define the following general offences of corruption in terms of Chapter 2(3):
 - If a person acts, personally or by influencing another person so to act, in a manner:
 - (i) that amounts to the:
 - illegal, dishonest, unauthorized, incomplete, or biased or

misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation.

- (ii) that amounts to:
 - the abuse of a position of authority;
 - a breach of trust; or
 - the violation of a legal duty or a set of rules.
 - (iii) designed to achieve an unjust result; or
 - (iv) that amounts to any other unauthorized or improper inducement to do or not to do anything, is guilty of the offence of corruption.
- Specific offences include offences in respect of corrupt activities relating to:
 - public officers;
 - foreign public officials (which will ensure that South Africa is in line with the OECD Convention on the bribery of foreign public officials and that South African business and parastatals act ethically, particularly on the African continent where South Africa is the largest single investor);
 - agents;
 - members of the legislature;
 - judicial officers;
 - members of the prosecuting authority;

Chapter 4: How to make a disclosure to the National Anti-Corruption Hotline

- witnesses;
- contracts;
- procuring and withdrawal of tenders;
- auctions;
- sporting events;
- gambling games or games of material chance;
- receiving or offering unauthorized gratification by, or to be party to, an employment relationship;
- the acquisition of private interests in a contract, agreement or investment of a public body;
- unacceptable conduct relating to witnesses;
- intentionally interfering with, hindering or obstructing investigations into an offence; and
- being an accessory to, or after, an offence, or an attempt, conspiracy and/or inducement to another person to commit an offence.

4.3 Who can make a disclosure?

- Anyone – whether the person works in the public sector or not.
- Anyone who knows of any misconduct which is against the public interest.

The person is obliged to provide sufficient information to permit investigation of the allegations.

4.4 How is a disclosure made?

To ensure maximum access to the call centre, allegations may be reported in any of the eleven official languages. Disclosures may also be made anonymously.

A disclosure may be made by using any of the following methods:

- **Telephone:** 0800 701 701 toll free number.
- **Fax:** 0800 204 965 toll free number.
- **Post:** Kwa-Zulu Natal 582, Umhlanga Rocks 4320.
- **E-mail:** integrity@gobodohotline.co.za

or

- “Walk-in” disclosures may be made at any of the following Offices of the Public Service Commission (“walk-in” disclosures refer to the reporting of allegations of corruption in person to designated officials of the OPSC):

Chapter 4: How to make a disclosure to the National Anti-Corruption Hotline

HEAD OFFICE

Director General

Private Bag x 121
Pretoria
0001

Commission House

Cnr. Hamilton and Ziervogel
Streets
Pretoria
0083
Tel: (012) 328 7690
Fax: (012) 321 3348

NATIONAL ANTI-CORRUPTION HOTLINE CENTRE

Director: Professional Ethics
Research and Promotions (PERP)
Mr Roderick Davids
Tel : (012) 352 1123
Fax: (012) 321 3348

Deputy Director: PERP
Mr. Johannes Mudau
Tel: (012) 352 1123
Cell: 082 763 3550

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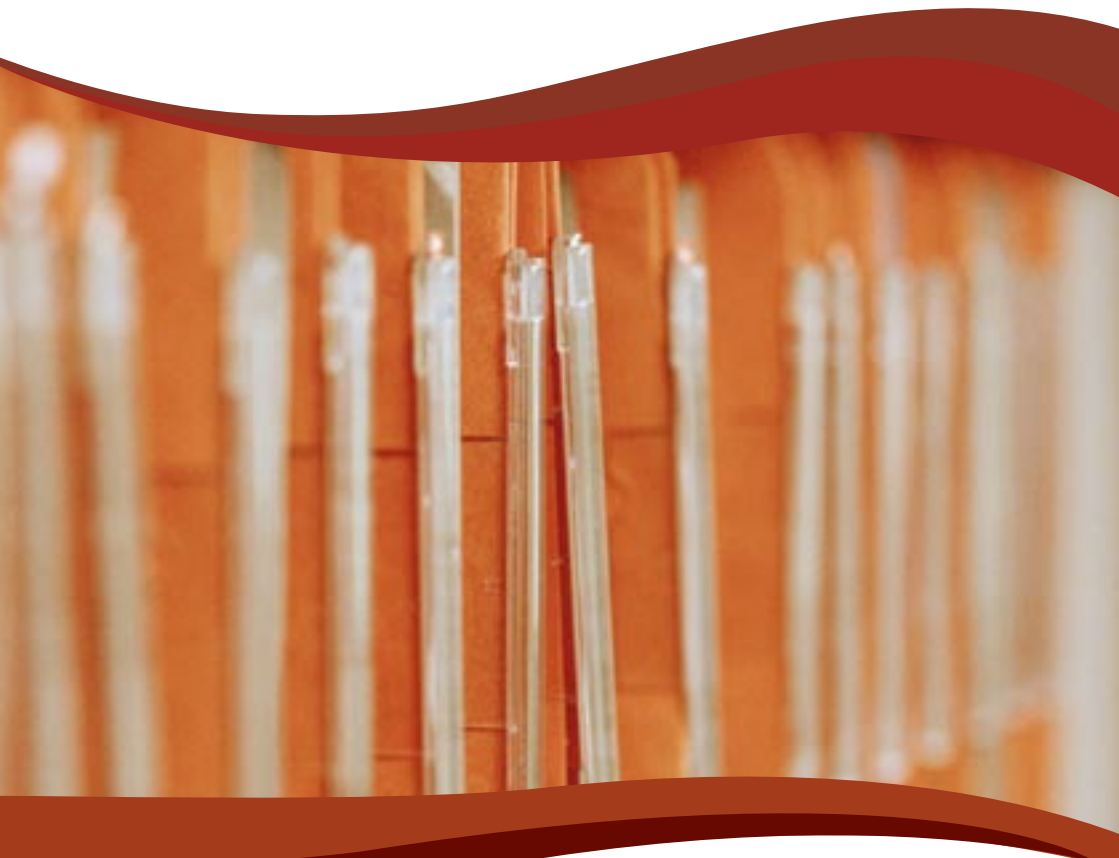
Chapter 4: How to make a disclosure to the National Anti-Corruption Hotline

The person making the disclosure needs to give as much information as possible in order to improve the possibility of both a successful investigation and prosecution. This is of particular importance where a caller prefers to remain anonymous as there may not be another opportunity for further contact.

4.5 How are callers/whistleblowers to the NACH Protected?

- The law prohibits legal action being taken against whistleblowers because they have made a disclosure which is protected by the law.
- Callers/whistleblowers can make a disclosure anonymously without anyone knowing their personal details.
- The information provided will be kept confidential both at the call centre and at the case management centre. Limited access is allowed for officials only who work at these venues.
- Contact details are only provided to investigators where callers request to be contacted for further information.
- Because of the security protocols of the system, no person can be victimized for making a disclosure in good faith. The call centre operators are all security-vetted and access to the centre is limited. Similarly, access to the CMC is controlled and limited. Communication with Departments is done in a secure and confidential manner.
- In accordance with section 3 of the Protected Disclosures Act, Act, No. 26 of 2000, no employee may be subjected to occupational detriment by his or her employer on account, or partly on

account of having made a protected disclosure. If a disclosure is protected it means that any “occupational detriment” that the employee who made the disclosure subsequently suffers as a result of the disclosure will attract a legal remedy. People who are victimized in breach of the Act, whether they are dismissed or not, can refer a dispute to the Commission for Conciliation, Mediation and Arbitration for conciliation and thereafter to the Labour Court. People who are dismissed for making a protected disclosure can either claim compensation up to a maximum amount of two years salary or reinstatement. People who are not dismissed but who are disadvantaged in some other way as a result of making a protected disclosure can claim compensation or ask the court for any other appropriate order.



CHAPTER 5

Guiding principles for the investigation of hotline referrals

All cases referred to departments for investigation should be investigated as thoroughly and as speedily as possible. Failure to execute adequate investigations, as well as inordinate delays on the part of departments will lead to a lack of confidence in and seriously impact on the credibility of the NACH. In handling hotline cases departments must ensure that they-

- have appropriately skilled personnel;
- appropriately categorise the cases referred to them;
- follow a suitable investigative methodology;
- ensure that cases are referred to the correct authorities where required; and
- provide regular and comprehensive feedback to the Case Management System.

In addition, departments must comply with the minimum anti-corruption capacity requirements as prescribed by Cabinet which provides as follows:

- developing an integrated anti-corruption strategy;
- how to prevent corruption;
- how to detect corruption;
- how to investigate corruption; and
- how to resolve corruption through disciplinary and other control measures.

Chapter 5: Guiding principles for the investigation of hotline referrals

5.1 Handling of cases by departments

Cases are referred to departments for further handling and investigation. During the investigation process departments are expected to liaise with the case management system on a regular basis with respect to feedback required and any other information they may need if this can be provided.

5.1.1 Classification of cases

Once a case has been received, the official designated by a department to manage the investigation of hotline cases should analyse the case and determine -

- whether the case falls within the mandate of the department concerned;
- whether the case is urgent, sensitive or routine;
- the security classification to be attached to the case;
- whether depending on the above, the case should be referred to another agency (to be discussed in paragraph 5.2);
- whether the case should be investigated internally; and
- the required level and security classification of the investigator to handle the case.

The classification of cases by the Case Management Centre is discussed in paragraph 3.4, page 11. A decision may also be taken as to whether a case should be investigated at all. The following cases may not be investigated:

- Cases that fall outside the jurisdiction of the Public Service;
- Cases that should more appropriately be dealt with in terms of another process, e.g. grievance procedures;
- Cases of a frivolous/ vexatious/tactical nature or those which seek to abuse the complaint rules of the Public Service; and
- Allegations in which a critical factual gap exists, rendering the likelihood of a successful conclusion unlikely, doubtful or impossible (e.g. no or inadequate description of persons(s) involved).

5.1.2 Skills and levels of staff

- It is important that the skills, interests and expertise of staff should match the inherent requirements of an investigating officer for corruption-related cases. For example, if transgression of human resource prescripts (for example the deliberate and unlawful allocation of higher salaries by practitioners to themselves and others) is the main thrust of a case then staff should possess adequate experience and knowledge of the national and departmental human resource management policy framework.
- It is appropriate that the management of hotline case investigations occurs at a senior management level. These managers must be knowledgeable of organizational operations, administrative procedures and prescripts in the department.
- Training of officials is the responsibility of the respective stakeholder departments.

Chapter 5: Guiding principles for the investigation of hotline referrals

5.1.3 The investigative process

The following principles of conducting investigations could guide departments (Source: PSC Protocol Document for Conducting Public Administration Investigations):

- Write the report as the investigation proceeds.

Immediately commence with the outline of the report, and build up the report as the investigation proceeds. In this way, missing elements will be identified upfront, instead of at the end of the investigation.

When drafting the report it should be kept in mind that it may be subject to access under the Promotion of Access to Information Act, Act No. 2 of 2000.

- Draft an investigation plan.

Once all available documents have been perused, the investigating officer should have enough information at hand in order to proceed with the investigation. The investigation should have clear objectives and time frames, in order to ensure that the investigation is completed timeously and effectively. This process will also ensure that no unplanned or uncoordinated actions are taken, and that adequate resources are available to conduct the investigation.

- Analyse available documentation.

At the commencement of the investigation, a clear understanding of prescripts and regulations relevant to the case must be obtained. All available documentation should be analysed to identify points for clarity, and in order to identify outstanding information.

- Set up a filing system

All documentation should be catalogued in order to organize documentation received. Original documents should be secured and numbered sequentially. Keep record of where the documents were found and/or in whose possession it was.

Comments, cross-references, and highlighting sections on a document should be made on copies of the original documents. Do not write on the original documents. This approach will be of assistance if the matter goes for a disciplinary hearing or to a Court of Law.

- Plan interviews:

(i) Identify persons to be interviewed.

- Obtain name, position, and contact particulars of individual.

(ii) Prepare questionnaires to utilize as guidelines during the interview.

- Get the team to prepare questions to be utilized.
- Decide what information is required from the interviewee, and ensure that questions are prepared to elicit the necessary information.
- Formulate the questions as simply as possible.
- It is best to start an interview with open questions that will elicit broad narrative responses. This gives the interviewee an opportunity to express his/her opinion.

Chapter 5: Guiding principles for the investigation of hotline referrals

- After this process, probing questions should be asked to elicit more information.
- (iii) Physical preparation for interviews.
 - Establish the date and time of the interview(s).
 - Determine the venue for interview(s). Consider whether the interview(s) should take place in the interviewee's own environment, or in a neutral place.
 - Notify interviewee(s) in writing of interview(s) and of documents s/he should bring to the interview(s).
- Conduct interviews and obtain outstanding documentation.
 - (i) At the commencement of the interview, inform the interviewee of the following:
 - The purpose of the interview.
 - Confirm basic information with the interviewee.
 - If the interview is recorded, advise the interviewee accordingly.
 - Request the employee to provide positive identification.
 - (ii) Preferably affidavits should be taken with every person with whom an interview is conducted.

In terms of section 6 of the Justices of the Peace and Commissioners of Oaths Act, Act No 16 of 1963, the Minister may, by notice in the Gazette, designate the holder of any office as a commissioner of oaths for any area specified in such notice.

In terms of Government Gazette No 19033, dated 10 July 1998, item 49, officers in the Administrative, Professional, Clerical, Technical or General A and General B Divisions of the Public Service occupying a post with a salary scale the minimum notch of which is equivalent to or higher than the minimum notch of salary level 2 applicable to the Public Service, are designated to be commissioners of oaths.

(iii) General guidelines to consider during interviews:

- Do not apologise for questions. The interviewee will expect questions that might make him/her uneasy, but be sensitive.
- Do not be scared to probe deeper for more information.
- Finish one area/concept first before moving on to another.
- Start with easy, non-threatening questions.
- Observe the interviewee's body language/posture, which can indicate various emotional states, such as confidence, depression and defiance.

(iv) When accepting documents as evidence, the following should be taken into consideration:

Public documents are documents-

- which have been drawn up by a public official in the execution of a public duty;
- which are intended for public use; and
- to which the public has a right of access.

Chapter 5: Guiding principles for the investigation of hotline referrals

They may be proved by means of an examined copy or extract, or what purports to be signed and certified as a true copy or extract by the officer into whose custody the original is entrusted.

Official documents are documents that are in the custody or under the control of a State official by virtue of his/her office. These documents are protected from production in court because their removal would hinder and delay their official use, would make it impossible for others to consult them, and would subject them to the risk of loss and damage. For this reason the original official documents can only be produced by order in criminal and civil proceedings.

- Review information obtained during interviewing process and documentation.

Determine whether documentation obtained will be required for evidence, rebuttal of arguments, other reasons, or whether they can be returned.

- Verify information obtained during the investigation with stakeholders.

Interaction with stakeholders takes place in the form of consultation on the findings made, in order to verify information in the report. This will ensure that by the time a recommendation is made, there is some consensus with regard to certain issues pertaining to the investigation.

Should it be necessary, re-interview witnesses.

- Obtain legal opinions

A legal opinion may be required in respect of any investigation. This can be obtained from the Office of the Chief State Law Advisor (Source: Public Service Commission Protocol Document on the Conducting of Public Administration Investigations).

5.1.4 Key requirements for investigating NACH cases

- All officials working in the case management and referral system as well as investigating cases from the NACH must have at least a Secret security clearance. The vetting responsibility of security clearance is within the mandate of NIA.
- Investigating officials must maintain the strictest confidentiality and should only make available information related to allegations (to a third party) for the purposes of completing the investigation.
- A record of all referred cases must be kept (including copies of documentation referred to other agencies for investigation). This is a requirement in terms of Cabinet's decision on minimum anti-corruption capacity to be established in all Departments.
- A database of all cases received from the NACH should be properly maintained for purposes of reporting progress with respect to the investigation of cases to the CMS.
- Investigations must be conducted as thoroughly and as speedily as possible in order to give timeous feedback to the CMC.

Chapter 5: Guiding principles for the investigation of hotline referrals

5.2 Referral to other Agencies

In cases where referral to other more appropriate institutions is considered, the mandates of these institutions should be taken into consideration in order to facilitate an informed decision. Table 1 provides an overview of institutions that cases may be referred to:

Table 1: Appropriate institutions for the referral of cases

Nature of case	Agency to refer to	Contact details
All criminal acts of corruption, including any matter that falls within the ambit of S34 of the Prevention and Combating of Corrupt Activities Act	SAPS	Closest police station/ SAPS Anti-Corruption Unit or police commissioner. Reports made in terms of S34 of the Prevention and Combating of Corrupt Activities Act must be in accordance with the guidelines published by the National Commissioner in Government Gazette No.26552 of 16 July 2004
Impacts on security of State or the integrity of a Department	National Intelligence Agency	Director-General: National Intelligence Agency Private Bag x87 Pretoria,0001 Tel: (012) 427 4000 Fax: (012) 427 4651

Nature of case	Agency to refer to	Contact details
Request is made when an audit is required in a matter that involves public funds	Auditor-General	Auditor General PO Box 466 Pretoria, 0001 Tel: 426 8000 Fax: 426 8333
Serious cases of malpractice or maladministration in State Institutions, especially where public funds are involved and can be recovered civilly.	Special Investigating Unit (SIU)	Head: SIU P.O Box 893 East London, 5200 Tel: (043) 726 9705 Fax: (043) 726 9261
Serious cases of corruption relating to members of the Executive, Legislature or elected officials.	National Prosecuting Authority	National Director of Public Prosecution Private Bag x 752 Pretoria , 0001 Tel :(012) 845 6000 Fax: (012) 843 2758

When referring a case to an appropriate institution, departments should follow the following processes:

- Draft a report that includes a description of the offence and the particulars of suspect(s) or witness(es). This report will serve as reference point for the records of both the referring and the receiving agencies.
- Collect exhibits and other corroborating documentation that is available. This is for the record of both the referring and the receiving agency, especially if there is a threat that evidence might be tampered with.

Chapter 5: Guiding principles for the investigation of hotline referrals

- Collect any other information that is available and may be of help to an investigator.
- Identify the agency to which the case can be referred. The matter can first be discussed telephonically or in a meeting with the chosen agency.
- Formally refer the case to the chosen agency with due consideration to the security classification attached to the investigation of the relevant case.

5.3 Requirements for feedback

- To ensure that the Anti-corruption hotline meets the expectations of its stakeholders, feedback in the whole process is very important.
- Feedback is not only a management tool to monitor progress of a referral, but also to give feedback to the complainant.
- When a caller requests feedback on a report, the system logs such a request against the initial reference number provided.
- The CMC keeps a log of such requests and it is their responsibility to give feedback against the reference number provided via the secure data-link to the call centre.
- Once Departments receive cases from the NACH, they must acknowledge receipt to the PSC.
- Departments should adhere to the 40 day timeframe for feedback on the progress of the investigation. It is important to give feedback on the status of the case to the PSC.

- In a case where the department found no wrongdoing emanating from the allegation having conducted an investigation, a report needs to be presented to the OPSC detailing the reasons why the allegation was unfounded.
- If the PSC is not satisfied with the outcome of the case, the matter can be referred back to the department for further investigation.
- Departments must use the case reference number when providing their feedback to the CMC in order to update the system.
- The following feedback format for use by departments has been adopted and provided electronically:

Chapter 5: Guiding principles for the investigation of hotline referrals

Table 2: Feedback template to be used by departments

Name of Department	Case Reference no.	Name of Investigator	Nature of Allegation(s)	Status of case	Date of receipt of case
Correctional Services	9920041019123720	Albert Zulu	Theft of office equipment at X Prison in Limpopo Province	Investigation is in progress or Investigation complete-referred for prosecution or Investigation complete-no prosecution due to lack of evidence or Disciplinary case is currently underway or Public funds are recovered-officials involved dismissed or Other relevant milestones with respect to the investigation	01/09/2005



CHAPTER 6

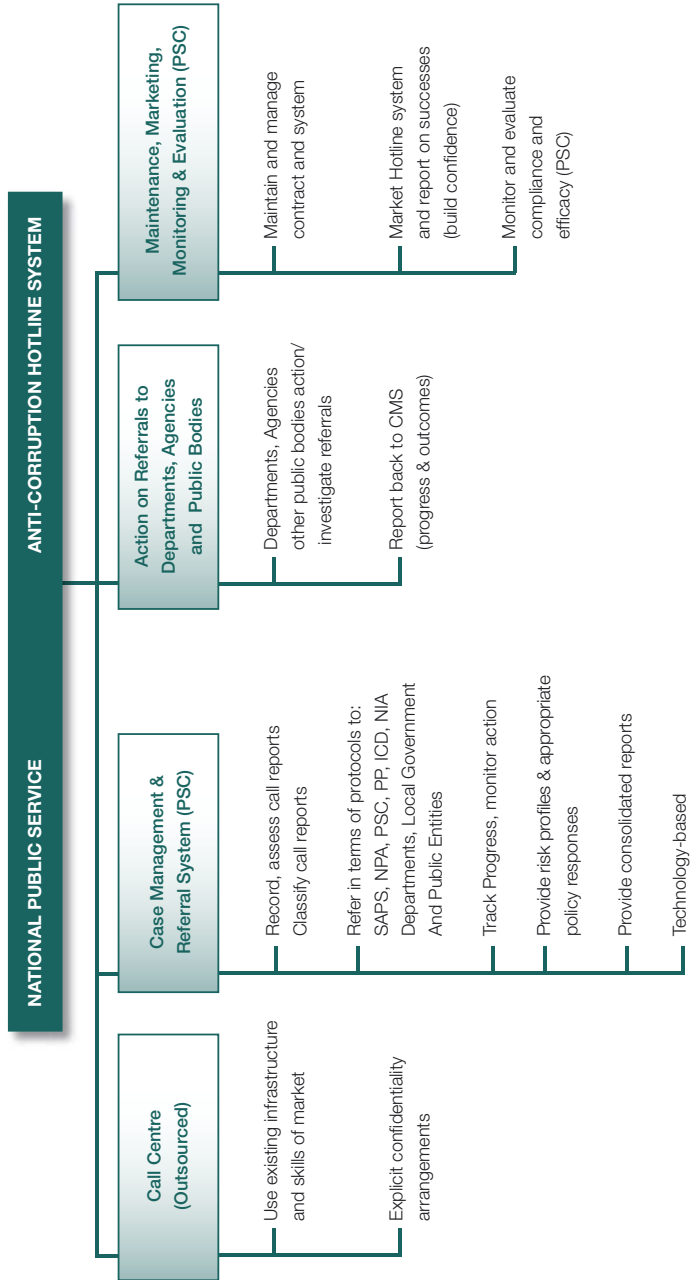
Conclusion

Chapter 6: Conclusion

It is trusted that this exposition of the processes, principles and protocols that guide the functioning of the hotline will assist departments/institutions in the handling of their hotline cases. As indicated, some of the processes and protocols may require amendment in future after the necessary consultation. However, the Toolkit should provide a sound basis for the effective operation of the hotline.

As discussed in Chapter 2 of this Toolkit it is of the utmost importance that the hotline achieves a high level of credibility for its potential users. This will only be achieved if the principles as outlined and processes and protocols as described are strongly adhered to.

A: Overall schematic representation of the National Anti-corruption Hotline



Glossary

CMC	Case Management Centre
DPLG	Department of Provincial and Local Government
ICD	Independent Complaints Directorate
JIOP	Judicial Inspectorate of Prisons
MEC	Member of Executive Council
NACH	National Anti Corruption Hotline
OPSC	Office of the Public Service Commission
OECD	Organization for Economic Co-operation and Development
PSC	Public Service Commission
SAPS	South African Police Service
SIU	Special Investigating Unit



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