

DEPARTMENT OF SOCIAL DEVELOPMENT

ANTI-CORRUPTION AND FRAUD POLICY

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social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA



PREFACE

The Constitution of the Republic of South Africa (1996) and a range of statutory provisions and specific legislation provide the broad framework and founding principles for anti-corruption in South Africa

Recognition of the rule of law, and the accountability and transparency of Government, are founding principles of the Constitution, which also provides for the establishment of oversight bodies that play a role in supporting accountability and transparency of the public and private sectors. Various pieces of legislation have been developed to give greater legal effect to the principles of accountability and transparency contained in the Constitution.

South Africa is a signatory to various international conventions and treaties that commit the country to implement a range of interventions aimed at reducing corruption. These conventions include the United National Convention Against Corruption (2003), the Organisation for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997), the African Union Convention on Preventing and Combating Corruption (2003), the Southern African Development Community Protocol against Corruption (2001), and the United Nations Convention against Transnational Organised Crime (2000) and its associated Protocols. Further, South Africa is an active participant in relevant intergovernmental bodies and forums, such as the Group of '20s (G20's) Anti-Corruption Working Group and the Financial Action Task Force (FATF), and is implementing various FATF recommendations.

Policy proposals for reducing corruption and improving accountability and transparency of the public and private sectors are articulated in the National Development Plan. The National Development Plan contains proposals for building a resilient anti-corruption system through strengthening the protection of whistle-blowers; developing greater central oversight over the awarding of large tenders or tenders with long duration; and empowering the tender compliance monitoring office (now the Chief Procurement Officer) to investigate corruption and the monetary value of tenders. It also outlines proposals for strengthening the accountability and responsibility of public servants as well as judicial governance and the rule of law.

The Anti-Corruption Inter-Ministerial Committee (ACIMC) was established in June 2014 and is mandated to coordinate and oversee the work of state organs aimed at combating corruption in the public and private sectors. The Committee is convened and chaired by the Minister for Planning, Monitoring, and Evaluation in the Presidency, and comprises the Ministers of Justice and Correctional Services, State Security, Police, Cooperative Governance and Traditional Affairs, Public Service



and Administration, Finance, Home Affairs, and Social Development. The Committee also provides strategic direction for the operational activities of the multi-agency Anti-Corruption Task Team.

In 2014 the Anti-Corruption Inter-Ministerial Committee expanded the role of the Anti-Corruption Task Team, which is the central body mandated to give effect to the Government's anti-corruption agenda. Guided by the Anti-Corruption Inter-Ministerial Committee and Anti-Corruption Task Team Executive Committee, this collective of government stakeholders is mandated to implement Government's anti-corruption agenda and programmes. The task team currently consists of representatives from the National Prosecuting Authority, the Asset Forfeiture Unit, the Directorate for Priority Crime Investigation ("Hawks") in the South African Police Service, the Special Investigating Unit, the South African Revenue Service, the Office of the Accountant-General and the Chief Procurement Officer in the National Treasury, the Financial Intelligence Centre, the National Intelligence Coordinating Committee, the State Security Agency, the Presidency, the Department of Justice and Constitutional Development, the Department of Public Service and Administration, and the Government Communication and Information System.

Important oversight bodies include the Public Service Commission (mandated to provide oversight of the public service); the Public Protector (investigating and redressing maladministration and abuse of power in state affairs); the Independent Police Investigative Directorate (mandated to provide oversight of policing); the Inspector-General of Intelligence (oversight of intelligence services); and committees tasked with executive and government oversight in Parliament, the provincial legislatures and local government councils.

The South African Government has developed several strategies, campaigns, and frameworks to specifically reduce corruption and support ethical practice in the public sector. These include the National Crime Prevention Strategy, 1996; the Batho Pele programme, aimed at supporting an ethical and citizen-orientated public service that was first developed in 1997 and relaunched under a dedicated campaign in 2004; the Public Service Anti-Corruption Strategy, 2002, and mechanisms resulting from the strategy, such as the development of guidelines for minimum anti-corruption capacity in public service departments and entities; the development of the Financial Disclosure Framework for managers in the public service; the development of a Public Service Integrity Management Framework; and the Local Government Anti-Corruption Strategy, which was approved in May 2016.

The Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004 – PRECCA): PRECCA is the centerpiece of anti-corruption legislation in South Africa. It criminalises corruption and defines corruption in a way that accords with common understandings of the term bribery.

The Protected Disclosures Act, 2000 (Act No. 26 of 2000) is intended to protect whistle-blowers in an organisational setting who uncover illegal or dangerous



activities from suffering occupational detriment. It specifies what avenues to follow when disclosing such information, and in protecting whistle-blowers from any retaliation from an employer. The Witness Protection Act, 1998 (Act No. 112 of 1998) establishes the structures, rules, and procedures for the protection of people who have to testify in court. The Office for Witness Protection is located in the NPA.

Relevant Acts dealing with financial and organised crime: Several Acts covering financial and organised crime are relevant to the fight against corruption. These include, but are not limited to, the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and the International Cooperation in Criminal Matters Act, 1996 (Act No. 75 of 1996).

Promotion of Access to Information Act (PAIA), 2000 (Act No. 2 of 2000): The Act gives effect to provisions in the Constitution providing for access to information, including Section 32 of the Bill of Rights which declares that “everyone has a right of access to any information held by the state”. PAIA contains extensive provisions delineating the nature and extent of this right, including provisions regarding the publication of information held by the government, and the procedures and rules surrounding requests for unpublished information. The Act, therefore, establishes an important framework for facilitating transparency and public scrutiny of government and private sector behavior.

Promotion of Administrative Justice Act (PAJA), 2000 (Act No. 3 of 2000): Administrative action in terms of the Act is an action undertaken by national, provincial or local government, the police, army, or parastatals that involve these entities making a decision (or failing to take a decision) that affects a person's rights. The Act gives effect to Section 33 of the Constitution, i.e. the right to administrative action that is lawful, reasonable, and procedurally fair, as well as the right to be provided with written reasons in circumstances where one's rights are adversely affected by administrative action. Significantly, where corruption is suspected, in tendering, for instance, this is an important mechanism for adversely affected parties to acquire more information.

Public finance management and procurement legislation: Legislation associated with setting out the “rules” for financial management, planning, reporting, oversight, and accountability (and associated requirements for compliance) in the public sector are particularly important components of the anti-corruption framework, as they govern how public monies are managed and accounted for. These include the Public Finance Management Act, 1999 (Act No. 1 of 1999, updated April 2010) (PFMA), which covers national and provincial departments and public entities and SOEs, and the Municipal Finance Management Act, 2003, (Act No. 56 of 2003) (MFMA), which covers local government. The Acts also provide for instances where the National Treasury may investigate non-compliance with the Acts, and in what way it may take steps to remedy such situations. The Acts also outline the responsibilities of “accounting officers”, i.e. the head of a department in the case of national and provincial governments, the municipal manager in the case of local



government, and the Chief Executive Officer (CEO) in the case of a public entity. The PFMA requires government departments to each develop and implement a

Fraud Prevention Plan. According to the Act, fraud prevention plans have to be included in the risk management strategy of government bodies. The Preferential Procurement Act, 2000 (Act No. 5 of 2000) sets out the framework for procuring entities to establish measurable specifications and conditions in accordance with which tenders can be evaluated and accepted.

Through requiring the use of objective criteria the Act aims to limit discretion, and thereby strengthen controls and improve monitoring of areas or processes vulnerable to corruption. Reforms to the procurement system are already underway, and new legislation is in the process of being drafted to support this

Additional legislation and codes regulating the conduct of public servants: The Public Service Act, 1994 (Act No. 38 of 1994), applicable to employees of the national and provincial government, and the Public Service Regulations of 2016 contain, among others, provisions related to conditions of employment, terms of office, disciplinary mechanisms and termination of employment, as well as specific provisions to bolster anti-corruption and integrity management efforts, such as to prevent conflict of interest. All public service employees are expected to comply with the Public Service Code of Conduct as contained in the Public Service Regulations. The regulations prohibit the acceptance of gifts, prohibit employees from doing business with the state or being a director of a company doing business with the state, make it mandatory for public servants to report suspected corruption, prohibit nepotism (favouring of friends or family) in the conduct of their work, and require all members of the senior management service (SMS) to disclose their financial interests to their respective ministers by April 30 each year for submission to the PSC. The executive authority is then to engage with the employee to ensure these conflicts are removed – and if they are not, the executive authority must institute disciplinary measures. The new Public Administration Management Act, 2014 (Act No. 11 of 2014) contains further provisions regulating public servants conducting business with the state; provides for the establishment of the National School of Government (which has a potentially important role to play in the training relevant to anti-corruption); establishes a Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit; and provides for the Minister to set minimum norms and standards for public administration and to establish an Office of Standards and Compliance to ensure compliance with minimum norms and standards in the public service.

The Public Service Anti-Corruption Strategy (PSACS) was particularly important for bolstering the legislative framework to fight corruption and establishing policies, norms, and guidelines for supporting anti-corruption and integrity management work in the public service. The PSACS proposed a review of the legislative framework surrounding corruption and the consolidation of this framework into a new corruption act. The PSACS also suggested that departments foster a minimum capacity to fight corruption, and pointed to the need for mechanisms to coordinate the numerous government entities involved in anti-corruption initiatives. The



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PSACS called for the improvement of management policies and practices related to areas such as the management of employment, discipline, procurement, risk,

information and finances; the establishment of a comprehensive system of professional ethics; as well as greater stakeholder participation. It also suggested that these initiatives should all be underpinned by training and education programmes.

Public Service Anti-Corruption Strategy and other mechanisms implemented in the public service. The Public Service Anti-Corruption Strategy was developed in 2002 by a team led by the DPSA. Covering all those working in national and provincial government departments and entities, it advocated a mix of preventive and combative measures. It proposed a review of the legislative framework surrounding corruption and the consolidation of this framework into a new corruption act. It suggested that departments ensure a minimum capacity to fight corruption, and pointed to the need for mechanisms for the coordination of the numerous government entities involved in anti-corruption initiatives. The strategy called for the improvement of management policies and practices related to areas such as the management of employment, discipline, procurement, risk, information, and finances.

It called for the establishment of a comprehensive system of professional ethics, as well as greater stakeholder participation and greater access for reporting on suspected cases of corruption by whistle-blowers. It called for the blacklisting of businesses and individuals prohibited from doing business with the state; and that all these initiatives should be underpinned through ongoing awareness, training, and education programmes (DPSA, 2002).

In 2003 Cabinet approved the implementation of the Minimum Anti-Corruption Capacity (MACC) Requirements. Within one year of the publication of the MACC, departments were expected to have put these measures in place to strengthen the capacity required to prevent and combat corruption. These include departments establishing fraud prevention plans, developing systems for detecting and reporting corruption, investigating allegations of corruption, and instituting disciplinary measures against those found guilty of corruption, as well as forwarding cases to law enforcement.

The Batho Pele Programme was launched in 2004. It aimed to build a more citizen-focused and compliant public service. The Eight Principles of Batho Pele ("People First") outline principles that should guide the work of all public servants. The programme involved the dissemination of information to citizens about their rights to fair and professional treatment by public servants, and awareness-raising sessions with public servants.

The DPSA has recently introduced the Public Service Integrity Management Framework. The Framework includes the strengthening of policies on the acceptance of gifts, tightening up the regulations on the disclosure of financial interests and assets of state employees, placing restrictions on remunerative work



outside the public service, makes proposals on a cooling-off period for post-employment in the public sector (although it does not make these mandatory), and establishes Ethics Officers to be appointed in departments. Claimed contradictions between stipulations regarding the acceptance of gifts contained in the Senior Management Service Handbook and PRECCA also need to be resolved.

South Africa has developed a fairly comprehensive legislative framework for combating corruption, ranging from the Prevention and Combating of Corrupt Activities Act, through other legislation dealing with financial and organised crime, public finance management, and procurement legislation, to legislation promoting the public's access to information held by the public and private sectors. As mentioned previously, South Africa is also a signatory to several international conventions and treaties.

VISION

The Department of Social Development aims to create a professional working environment and deliver an efficient, effective and economic and professional service free of corruption and fraud.

MISSION

The mission of the Department is to develop a culture of zero tolerance to corruption and fraud thereby stamping out corruption and fraud at every level within the Department.

The objectives of the Anti-Corruption and Fraud Prevention Policy are

- (a) To install a culture of zero tolerance to corruption and fraud within the Department
- (b) To re-enforce existing regulations aimed at prevention and detection of corruption and fraud;
- (c) Create awareness to all employees, outside service providers, and suppliers to the Department to get buy-in in the fight against corruption and fraud;
- (d) To take appropriate corrective action against perpetrators; and
- (e) To improve or implement the necessary controls on fraud risk areas

Annexure A explains the Department's Anti-Corruption and Fraud Prevention (ACFP) Plan. The Anti-Corruption and Fraud Prevention (ACFP) is a dynamic strategy that will continuously advance as the Department's circumstances change.

Annexure B explains the Department's Anti-Corruption and Fraud Response Plan, the plan that provides details of how the Department of Social Development and its



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employees should respond to all incidents or suspected incidents of corruption and fraud.

Annexure C explains the purpose of Protected Disclosure (Whistle-Blowing) Procedure is to provide a means by which staff is able to raise concerns with the appropriate line management, or specific appointed persons in the Department, where they have reasonable grounds for believing that there is fraud and corruption within the Department. The Protected Disclosures Act, Act 26 of 2000, which became effective in February 2001, provides protection to employees for disclosures made without malice and in good faith, in defined circumstances. In terms of the Protected Disclosures Act employees can blow the whistle on fraud and corruption in the working environment without the fear of suffering an occupational detriment as defined by the Act. The Department of Social Development (DSD) management encourages staff to raise matters of concern responsibly through the procedures laid down in this policy.

The Anti-Corruption and Fraud Prevention (ACFP) Policy is intended to curb all forms of corruption and fraud within the Department. The main purpose of the policy is to demonstrate the attitude of the Department towards all forms of corruption and fraud through re-enforcement of existing regulations aimed at prevention, detection, investigation and resolution to corruption and fraud.

ADOPTION OF THE POLICY

This policy was adopted on the 20 day of September 2021 by:

Mr Linton Mchunu

Acting Director-General: Department of Social Development

Date: 20/09/2021



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ANTI-CORRUPTION AND FRAUD POLICY



ANTI-CORRUPTION AND FRAUD POLICY



1. DEFINITION OF CONCEPTS USED IN THIS DOCUMENT:

1.1 Anti-Corruption and Fraud Policy

The Anti-Corruption and Fraud Policy is the departmental policy document that forms part of the Anti-Corruption and Fraud Prevention (ACFP) Strategy as required by the Treasury Regulations and the Public Service Anti-Corruption Strategy requires departments to address the following:

- (a) Fraud
- (b) Abuse of power
- (c) Embezzlement
- (d) Conflict of interest
- (e) Bribery
- (f) Favouritism and nepotism
- (g) Extortion
- (h) Insider trading/abuse of privileged information

This policy will apply to all forms of corruption, fraud, theft, and maladministration or suspected irregularities.

1.2 Head of Office

The Head of Office is any person responsible for a Branch/Chief Directorate/ Directorate or Unit within the Department

1.3 Risk and Ethics Committee

The Risk and Ethics Committee (ESC) is the operational committee on Anti-Corruption and Fraud Prevention is appointed by the Director-General to assist the Director-General, who is the custodian of the Anti-Corruption and Fraud Prevention (ACFP) strategy, to develop, implement and maintain an effective Anti-Corruption and Fraud Prevention (ACFP) strategy to curb corruption and fraud within the Department. This is the committee that is established in accordance with regulation 23 of the Public Service Regulations, 2016 an Ethic Steering Committee was established in the department of the 24 March 2017 and the Public Finance Management Act (Act no 1 of 1999) and is the Steering Committee on Anti-Corruption, Fraud and Prevention Strategy.

1.4 Employee



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The term employee refers to any person who is in the employ of the Department of Social Development including people appointed on contract.

1.5 Outside Service Provider

An outside service provider is any person or company that has agreed with the Department to provide a service to or on behalf of the Department.

The Department of Social Development fully supports the key transformation priorities of Batho Pele and the Anti-Corruption Summit resolutions, which are, among other things;

- (b) Economic, efficient, and effective use of resources;
- (c) Maintenance of a high standard of professional service ethos and
- (d) Transparency and accountability.

The Government, as the curator for public funds, pledged to take responsibility for these funds by passing legislation to ensure economic, efficient, and effective utilisation of public resources. The Public Finance Management Act 1999, (Act 1 of 1999) as amended is aimed at:

- (a) Modernising the system of financial management;
- (b) Enabling public sector managers to manage, but at the same be more accountable;
- (c) Ensuring the timely provision of information;
- (d) Eliminating waste and corruption in the use of public assets

In terms of paragraph 3.2.1 of the Treasury Regulations, the Accounting Officer must ensure that a Fraud Prevention plan is developed and fully operational. The purpose of the plan is to establish, implement and communicate a culture of zero tolerance to fraud and all forms of corruption. It is also aimed at reinforcing the Department's principle of strict adherence to the highest standard of ethical conduct as required by Batho Pele.



1.6 Mandate

This policy derives its mandate from the following legislative prescripts:

Public Finance Management Act, 1999 (Act of 1999) as amended
Treasury Regulations, as amended
Public Service Act, as amended
Public Service Regulations, as amended
Protected Disclosure Act, 2000, as amended
Prevention and Combating of Corrupt Activities (Act, 12 of 2004)
Labour Relations Act, 1995 as amended
The Promotion of Access to Information Act (No. 2 of 2000)
The Promotion of Administrative Justice Act (No. 3 of 2000)
The Financial Intelligence Centre Act (FICA) (No. 38 of 2001)

2. BACKGROUND

- 2.1 It is the intention of the Accounting Officer, Top Management, and all officials of the Department of Social Development to curb all forms of corruption and fraud, hence the development and adoption of the Anti-corruption and Fraud policy. The Accounting Officer has, in terms of Section 38(c) (ii), a responsibility to take effective and appropriate action to prevent unauthorised, fruitless, and wasteful expenditure and losses resulting from criminal conduct. Paragraph 3.2.1 of the Treasury Regulations provides for the development of the Fraud Prevention Plan to assist the Accounting Officer in the discharge of this responsibility.
- 2.2 This policy is intended to demonstrate the attitude of the Department towards all forms of corruption and fraud through re-enforcement of existing regulations aimed at prevention, detection, and responding to fraud.
- 2.3 The policy strives to enforce a culture of zero tolerance to corruption and fraud by all employees of the Department and all individuals associated with it.



3. SCOPE OF THE POLICY

- 3.1 The policy applies to all persons associated with the Department including:
- (a) Employees of the Department;
 - (b) Outside Service providers contracted to the Department and
 - (c) All suppliers to the Department.
- 3.2 The policy applies to all forms of irregularities related to corruption, fraud and maladministration and/ or suspected irregularities.

4. POLICY STATEMENT

It is the policy of the Department of Social Development to adopt a zero-tolerance attitude towards corruption, fraud and all forms of irregularities. The Department, through the Accounting Officer, is committed to the investigation of all cases and suspected cases of fraud and corruption with the Department appropriately and professionally, and with due integrity. The Department also pledges to ensure that appropriate action is taken where proper evidence of fraud exists. In achieving this objective, the Department is fully committed to the following statements:

- 4.1 All forms of corruption and fraud are expressly prohibited, including fraud for the benefit of the Department.
- 4.2 All suspected fraudulent activities should be viewed in a very serious light and be appropriately investigated.
- 4.3 Fraud is a dismissible offense and could lead to civil or criminal prosecution.
- 4.4 It is ultimately the responsibility of management to identify potential areas of risk and ensure that systems of internal control are maintained to deter and detect fraudulent conduct.
- 4.5 The responsibility for detecting fraud rests with all employees of the department.
- 4.6 Knowledge of fraudulent conduct by any staff member should be appropriately reported. Failure to report such knowledge could result in disciplinary proceedings being instituted against perpetrators.



- 4.7 Staff should ensure that allegations of fraud and corruption have substance, as such allegations made with reckless regard for their truth or falsity could result in the perpetrator of such allegations being subjected to disciplinary action and/ or legal claims by individuals accused of such misconduct.
- 4.8 Staff members are prohibited from any forms of reprisal against other staff members who have reported suspected fraudulent activities in terms of this policy. Intimidation of investigators by staff members is strictly prohibited and could constitute a dismissible offence and/ or civil and/or criminal prosecution.
- 4.9 All employees suspected of fraud will be treated consistently without regard to position, past performance or length of service.
- 4.10 Investigations into suspected fraud should be carried out free of interference or undue influence by any other staff member. Interference with investigations by any staff member could lead to disciplinary proceedings being instituted against the perpetrators.
- 4.11 Staff is compelled to furnish such information, documents, answers to questions or other evidence that may be necessary to satisfactorily conduct an investigation. Failure to co-operate could result in disciplinary action.
- 4.12 Management reserves the right to suspend with or without pay an employee who is suspected of being involved in fraudulent activities in terms of the relevant prescripts, provided there is evidence to support the suspicion.
- 4.13 Management, through the Accounting Officer, undertakes to ensure that monetary resources are available and adequate to fund the services of external specialists to assist in investigations where this is deemed necessary.
- 4.14 Management undertakes to ensure that the contents of this policy are brought to the attention of all staff members and outside service providers of the Department of Social Development including new appointees.



5. RESPONSIBILITIES OF ACCOUNTING OFFICER AND OTHER OFFICIALS IN THE DEPARTMENT

Section 38 of the Public Finance Management Act (PFMA) provides that the Head of the Department, as the Accounting Officer, must take effective and appropriate steps to:

- 5.1 Prevent unauthorised, irregular, fruitless and wasteful expenditure and losses resulting from criminal conduct.
- 5.2 He/She must take effective and appropriate disciplinary steps against any official in the service of the department who:
 - (b) contravenes or fails to comply with a provision of this Act; commits an act which undermines the financial management and internal control system of the department; or
 - (c) makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure."
- 5.3 Section 45 of the Public Finance Management Act (PFMA) provides for the responsibilities of other officials in the departments. This section requires that an official in the department-
 - (a) "must ensure that the system of financial management and internal control established for the department is carried out within the area of responsibility of that official;
 - (b) is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility;
 - (c) must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorised, irregular, fruitless and wasteful expenditure and any under-collection of revenue;
 - (d) must comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 44; and
 - (e) is responsible for the management, including the safeguarding, of the assets and management of the liabilities within that official's area of responsibility".



The above indicates that the responsibility for the economic, efficient and effective use of public resources rests with every official within the department. It is the responsibility of every official in a department to ensure that measures are taken to prevent fraud and corruption and all forms of criminal conduct that may lead to the loss of public assets.

6. ACTIONS CONSTITUTING FRAUD, CORRUPTION AND MALADMINISTRATION

Actions constituting fraud, corruption and maladministration collectively refer to, but are not limited to:

- (a) Any dishonest, fraudulent or corrupt act;
- (b) Theft of funds, supplies or other assets;
- (c) Financial misconduct in as far as handling or reporting of money, financial transactions and other assets;
- (d) Receipt of money in exchange for Departmental information;
- (e) Unauthorised disclosure of classified information to outside parties;
- (f) Irregular acceptance, request or offer of anything of material value to or from contractors, suppliers, or other persons providing services to the Department;
- (g) Embezzlement of funds;
- (h) Irregular destruction, removal or abuse of records, furniture and equipment;
- (i) Deliberately omitting or refusing to report or act upon reports of any such irregular or dishonest conduct;
- (j) Bribery;
- (k) Conspiracy to commit fraud;
- (l) Failure to complete/maintain records and/or properly manage all departmental resources; and
- (m) Failure to disclose financial interests.

7. RESPONSIBILITY TO CONDUCT INVESTIGATIONS

The Head of Office should ensure that all incidents of fraud and corruption are investigated in accordance with the Fraud Response Plan.

8. REPORTING CORRUPTION AND FRAUD

It is the responsibility of all employees of the Department to report all incidents of corruption and fraud or similar conducts relating to actual or potential financial losses. The reporting procedures are dealt with in detail in the Response Plan.



9. RECOVERY OF LOSSES

- 9.1 Head of Office are also required to ensure that losses or damages suffered by the Department as a result of an omission or commission of an act of corruption and fraud on the part of an employee are recovered from such an employee if he/she is liable. Heads of Office should assist the Chief Financial Officer in determining liability.

10. CONFIDENTIALITY

- 10.1 All information relating to irregularities that is received and investigated by the Head of Offices will be treated confidentially. The progression of the investigations will be handled confidentially and will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information.
- 10.2 No person is authorised to supply any information concerning the issues covered within this policy to the media without the verbal/written authority of the Director-General of the Department.

11. PROTECTION OF WHISTLE BLOWERS

- 11.1 An employee who suspects or reports any conduct that constitutes fraud and/ or corruption that he/she has witnessed or is aware of, may remain anonymous should he/she so require.
- 11.2 There will be no retaliation by management against an employee who in good faith reported an incident or suspected incident of fraud and corruption.



12. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS

Head of Office are required to review the existing controls in respect of all reported incidents for adequacy and effectiveness. This should be succeeded by the implementation of improved controls within a reasonable period to prevent the recurrence of similar irregularities. The Directorate: Internal Audit and Directorate: Internal Control should guide the department with the implementation of internal control mechanisms. The mechanisms should be universally adopted in the Department.

13. TRAINING, EDUCATION AND AWARENESS

The Directorate: Sector Education and Training is responsible for the initial and continued training of all employees. It is, however, the responsibility of all Heads of Office to ensure that employees under their supervision are made aware of and receive appropriate training and education concerning this policy.

14. ADMINISTRATION

14.1 Section 38 (2) (a) of the Public Finance Management Act (PFMA) and Paragraph 3.2.1 of the Treasury Regulations stipulate that the Accounting Officer is the custodian of this policy. The Anti-Corruption and Fraud Strategy (ACFS) as well as the Risk Management Committee (RMC) support him/ her in the implementation of this strategy.

14.2 The Risk and Ethics Committee (ESC) is responsible for the administration, revision, interpretation and application of this policy. The Risk and Ethics Committee (ESC) is responsible for the implementation, monitoring and ongoing review of the policy. The Risk and Ethics Committee (ESC) will make recommendations to the Accounting Officer on amendments to be made to the policy after a thorough review has been conducted.

15. GLOSSARY OF TERMS

| | | |
|------|---|--|
| PFMA | : | Public Finance Management Act, 1999 (act 1 of 1999) as amended |
| ACFP | : | Anti-Corruption and Fraud Prevention |
| ESC | : | Risk and Ethics Committee |
| DG | : | Director-General |
| CFO | : | Chief Financial Officer |
| HO | : | Head of Office |



16. REFERENCES

1. Public Service Act (Act 103 of 1994)
2. Public Service Regulations issued by the Department of Public Service and Administration
3. Disciplinary Code and Procedure for the Public Service issued by the Department of Public Service and Administration.
4. Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA) as amended
5. Treasury Regulations issued by the National Treasury
6. Protected Disclosure Act (Act 26 of 2000)
7. Prevention and Combating of Corrupt Activities (Act, 12 of 2004)
8. Public Service Anti-Corruption Strategy
9. Minimum Information Security Standards, by the National Intelligence Agency
10. Anti Corruption Capacity Requirements

ANNEXURE A: ANTI-CORRUPTION AND FRAUD RESPONSE PLAN



ANNEXURE A

ANTI-CORRUPTION AND FRAUD RESPONSE PLAN



1. DEFINITION OF CONCEPTS USED IN THIS DOCUMENT:

1.1 Anti-Corruption and Fraud Response Plan

The Anti-Corruption and Fraud Response Plan is the plan that provides details of how the Department of Social Development and its employees should respond to all incidents or suspected incidents of corruption and fraud.

1.2 Head of Office

The Head of Office is any person responsible for a Branch/ Chief Directorate/ Directorate or Unit within the Department

1.3 Risk and Ethics Committee (ESC)

The Risk and Ethics Committee (ESC) is appointed by the Director-General to assist the Director-General, who is the custodian of the Anti-Corruption and Fraud Prevention (ACFP) strategy, to develop, implement and maintain an effective Anti-Corruption and Fraud Prevention (ACFP) strategy to curb corruption and fraud within the Department. This is the committee that is established in accordance with regulation 23 of the Public Service Regulations, 2016 and the Public Finance Management Act (PFMA) (Act no 1 of 1999), and is the Steering Committee on Anti-Corruption, Fraud and Prevention (ACFP) Strategy

1.4 Employee

The term employee refers to any person who is in the employ of the Department of Social Development including people appointed on contract.

1.5 Outside Service Provider

An outside service provider is any person or company that has agreed with the Department to provide a service to or on behalf of the Department.

2. PURPOSE

The purpose of the Anti-Corruption and Fraud Prevention (ACFP) Plan is to support the Anti-Corruption and Fraud Prevention (ACFP) Policy and should not be seen as a separate document.



3. BACKGROUND

- 3.1 Fraud and corruption are unacceptable as well as avoidable acts that might have serious adverse effects on the Department. Such acts might seriously damage the corporate image of the Department if left unattended.
- 3.2 It is therefore the intention of the Department of Social Development to do damage control as soon as an incident of fraud and corruption has been reported. This plan conforms to the Public Service Regulations and is intended to reinforce them.

4. RESPONSIBILITY FOR REPORTING AND REPORTING PROCEDURES

- 4.1 It is the responsibility of all employees of the Department to report all incidents of corruption and fraud or similar conducts relating to actual or potential financial losses to the Head of Internal Control and the copy of the report to the Head of Office. The reporting should take the following form:

Note: Only the Chief Financial Officer, after consultation with the Director-General, should report incidents of corruption and fraud to the South African Police Service (SAPS).

National Treasury circular, Duty to Report Known or Suspected Corrupt Transactions dated 6 September 2011. the Prevention and Combating of Corrupt Activities Act, no 12 of 2004 ("PCCA") was introduced to provide for the strengthening of measures to prevent and combat corruption and corrupt activities.

In terms of section 34(1) of the PCCA, any person who holds a position of authority and who knows or who ought reasonably to have known or suspected that any person has committed: an offence under Parts 1, 2, 3 or 4 or section 20 or 21 of Chapter 2 of the PCCA (in so far as it relates to offences under Parts 1 to 4); or the offence of theft, fraud, extortion, forgery or uttering a forged document; involving an amount of R 100 000 (one hundred thousand rand) or more, must report such knowledge or suspicion or cause such knowledge or suspicion to be reported to any police official. Failure to report such knowledge or suspicion will render the person guilty of an offence in terms of section 34(2) of the PCCA.

In addition to the requirement to report to a police official in terms of section 34(1) of the PCCA, Treasury Regulation 125.1 issued in terms of the Public Finance Management Act, no 1 of 1999 (PFMA) further requires that when it appears to officials of departments and



constitutional institutions that the State has suffered losses or damages through criminal acts or possible criminal acts or omissions, the matter must be reported in writing to the accounting officer of the institution as well as to the South African Police Service. Failure to comply with the provisions of Treasury Regulation 12.5.1 will constitute grounds for financial misconduct.

- 4.2 The Head of Office should report in writing all acts or suspected acts of corruption and fraud to the Chief Financial Officer immediately or within 24 hours.
- 4.4 In cases of criminal offences, the Chief Financial Officer should report all incidents of corruption and fraud to the South African Police Service (SAPS) immediately after investigating and acquiring factual evidence of the actions of fraud.
- 4.5 Heads of Offices should report all incidents of corruption and fraud within 48 hours to the Sub-directorate: Labour Relations after a decision to instigate disciplinary action has been taken.
- 4.6 All verbal reports should be followed by detailed written reports to be submitted within seven days after the discovery of such an incident.
- 4.7 The Head of Office should report the following information within 48 hours to the Sub-directorate: Labour Relations:
 - (a) The name and rank of the employee against whom proceedings should be instituted;
 - (b) The disciplinary charges, indicating the misconduct the official is alleged to have committed;
 - (c) Any sanction imposed on the official; and
 - (d) Any further action to be taken against the employee, including criminal charges or civil proceedings.
- 4.8 The Risk and Ethics Committee (ESC) should report, quarterly, on the following with regard to criminal matters to the DG on Fraud Prevention:
 - (a) All incidents of fraud and corruption that took place within a specific month;
 - (b) What disciplinary action has been taken;
 - (c) Progress with regard to the cases reported to the South African Police Service:
 - (i) The name of the person against whom criminal proceedings were instituted. In the case of an employee



- of the Department, the name and rank of the employee against whom criminal proceedings were instituted;
- (ii) The outcome of the criminal court case. In the case of a guilty verdict, the sanction imposed on the person who was found guilty; and
- (iii) Any further action to be taken against the person, including civil proceedings.

5. WHAT TO REPORT

- 5.1 Reasonable care should be taken in dealing with suspected corruption and/or fraud to avoid unfounded allegations, premature notice to persons suspected of fraud or corruption, disclosure of suspected fraud to others not involved with the investigation and violation of a person's legal rights. Accordingly, a supervisor faced with fraud or corruption should not confront the suspected employee, attempt to further investigate the matter or demand restitution and should not discuss the case with anyone other than the Head of Office or the Chief Financial Officer.
- 5.2 False allegations, made by employees with malicious intent will not be tolerated. Firm disciplinary action will be taken against an employee who made false allegations.

6. DEALING WITH FRAUD AND CORRUPTION

The Department is committed to the application of aggressive measures to deal with fraud and corruption. The following plan will therefore be applied.

6.1 Training

Training will be provided to all employees of the Department to educate them as to what is fraud and corruption as well as on ways and means of preventing, detecting, responding to and prevention of recurrence. The training will be aimed at sensitising employees of their apparent lack or inadequate knowledge of control measures that render them vulnerable to fraud and corruption.

Training is an integral part of proactive fraud prevention and detection. Training should be provided to employees throughout the Department.

6.2 Internal control

The development and implementation of adequate and effective control measures decrease the risk of exposure to fraud and corruption. Each Head of office or supervisor should embark on a control self assessment exercise to determine the susceptibility of



his/her unit to fraud and corruption. The Directorate: Internal Audit be consulted for guidance and support concerning this exercise.

6.3 Investigation

The responsibility to conduct investigations rests with all Head of Office within the Department. The Heads of Offices should benefit from the advice and support of the following units within the Department:

- (a) Directorate: Internal Audit;
- (b) Sub-directorate: Internal Control;
- (c) Sub-directorate: Labour Relations;
- (d) Directorate: Human Resources Management;
- (e) Directorate: Legal Services;
- (f) Security Services; and
- (g) The Risk and Ethics Committee (ESC).

Care should always be taken to ensure that investigations on corruption and fraud are conducted systematically to protect the Department's corporate image. The Directorate: Internal Audit has a responsibility to guide fraud investigations within the Department. This will require the training of Fraud Investigators. The following training is recommended:

- (a) Proactive Fraud Auditing;
- (b) Forensic Interviewing and Auditing;
- (c) Fraud Risk Management;
- (d) Dealing with Fraud and
- (e) Process of Corruption.

7. RESOLUTION

The Department adopted a culture of zero tolerance against all forms of corruption and fraud. In conformation with the Anti-Corruption and Fraud Policy, the Department adopted, punitive action will be taken against any employee, outside service provider or supplier to the Department who is involved or commits an act of fraud or corruption. The following punitive measures should be applied:

7.1 Internal disciplinary action

The PSCBC Resolution no 2 of 1999 prescribe the disciplinary measures applicable to the Public Service. Government employees who are found to have committed or were involved in an act of corruption or fraud will be subjected to punitive measures as prescribed in the above-mentioned resolution.



7.2 Criminal prosecution

Employees, outside service providers and suppliers to the Department who were found to have been involved in any form of corruption or fraud will be reported to the South African Police Service (SAPS) and be subjected to criminal prosecution. This will, however, be done after the Head of Office has obtained all evidence regarding the involvement in corruption or fraud. Also note that only the Chief Financial Officer, after consultation with the Director-General, will report cases to the SAPS.

7.3 Civil action

In cases where employees, outside service providers and suppliers are involved in fraud or corruption resulting in loss of State funds, the Department should institute civil action against the perpetrators. This will be done to recover the total amount lost or the total cost of the loss.

7.4 Blacklisting of outside service providers

Outside service providers making themselves guilty of fraud and corruption will be removed from the Department's database. They will further more be barred from business with the Government through the Treasury. Outside service providers may also be reported to the South African Revenue Service.

8. CO-OPERATION BY STAFF MEMBERS

- 8.1 All employees of the Department are expected to adhere to the requirements of the Public Service Code of Conduct, the ethics and the policy statement in the Fraud Prevention policy. The success of this policy is dependent on the cooperation and commitment of all employees and persons associated with the Department.
- 8.2 Staff members should be vigilant to the possibility of corruption and fraud as defined in the Anti-corruption and Fraud Prevention (ACFP) policy and should at all times be aware of their responsibility in assisting in the prevention and detection of fraud.
- 8.3 Where fraudulent activities are suspected, they should be reported immediately.
- 8.4 All staff members are required to co-operate fully with the investigators during the investigation.



8.5 During the investigations, all staff members are required to treat the matter confidentially and to provide information to investigators only. No public statements should be made unless sanctioned by the Director-General and/ or Minister.

8.6 Failure to abide by the above requirements will constitute a disciplinary action.

9. GLOSSARY

PFMA : Public Finance Management Act, 1999 (act 1 of 1999)
as amended

ACFP : Anti-Corruption and Fraud Prevention

ESC : Risk and Ethics Committee

DG : Director-General

CFO : Chief Financial Officer

HO : Head of Office

ANNEXURE B: ANTI-CORRUPTION AND FRAUD PREVENTION PLAN



ANNEXURE B

ANTI-CORRUPTION AND FRAUD PREVENTION PLAN



INTRODUCTION

- 1.1 The **Public Service Anti-corruption Strategy** advocates that the fight against corruption be conducted in an integrated and coherent manner. This Strategy recognises the importance of detection, prevention and combating; it recognises that solid management practices are as important as the laws that allow investigation and prosecution. The national Cabinet approved the Strategy in 2002. One of the requirements of the Strategy is that departments and organisational components establish the requisite capacity to prevent and combat corruption in their spheres of operation.
- 1.2 This strategy is aimed at fighting corruption in an holistic and preventative manner. It contains the following proposals:
- (a) Review and consolidation of the legislative framework relating to corruption.
 - (b) Increased institutional capacity. This includes the need for departments to create a minimum capacity to fight corruption
 - (c) Improved access to report wrongdoing and protection of whistle-blowers and witnesses.
 - (d) Prohibition of corrupt individuals and businesses.
 - (e) Improved management policies and practices.
 - (f) Managing professional ethics.
 - (g) Partnerships with stakeholders.
 - (h) Social analysis, research and policy advocacy.
 - (i) Awareness, training and education.
- 1.3 The Public Finance Management Act, 1999 (act 1 of 1999) (PFMA) as amended represents a fundamental break from past regime of opaqueness, hierarchial systems of management, poor information and weak accountability. One of the key objectives of the Act is to eliminate waste and corruption in the use of public assets. Section 38 of the Public Finance Management Act (PFMA) outlines the general responsibilities of Accounting Officers. These responsibilities include, among others, the following
- (a) Ensuring that the Department has and maintains effective, efficient and transparent systems of financial and risk management and internal control.
 - (b) Is responsible for the effective, efficient, economic and transparent use of departmental resources.
 - (c) Must take effective and appropriate steps to prevent unauthorised, irregular, fruitless and wasteful expenditure as well as all other losses resulting from criminal conduct.



Department of Social Development Anti-Corruption and Fraud Policy

- (d) Is responsible for the management, including the safeguarding and maintenance of the departmental assets.
 - (e) Must take effective and appropriate disciplinary action against any official in the service of the Department who
 - (i) Contravenes or fails to comply with provisions of this Act;
 - (ii) Commits an act which undermines the financial management and internal control system of the Department;
 - (iii) makes or permits an unauthorised, irregular, fruitless, or wasteful expenditure.
- 1.4 This document explains the Department's Anti-Corruption and Fraud Prevention (ACFP). The Anti-Corruption and Fraud Prevention (ACFP) is a dynamic strategy that will continuously advance as the Department's circumstances change.
- 1.5 The terms "corruption" and "fraud" in this document include, but are not limited to the following acts:
- (a) Any dishonest, fraudulent, or corrupt act;
 - (b) Theft of funds, supplies, or other assets;
 - (c) Financial misconduct relating to handling or reporting of money, financial transactions, and other assets;
 - (d) Receipt of money in exchange for divulging Departmental information;
 - (e) Unauthorised disclosure of classified information to outside parties;
 - (f) Irregular acceptance, request, or offering of anything of material value to or from contractors, suppliers, or other persons providing services to the Department;
 - (g) Embezzlement of funds;
 - (h) Irregular destruction, removal, or abuse of records, furniture and equipment;
 - (i) Deliberately omitting or refusing to report or act upon reports of any such irregular or dishonest conduct;
 - (j) Bribery;
 - (k) Conspiracy to commit fraud;



- (l) Acts of financial misconduct contemplated in terms of sections 81 to 85 of the Public Finance Management Act;
 - (m) Incidents of unauthorised, irregular or fruitless and wasteful expenditure as defined in the Public Finance Management Act (PFMA); and
 - (n) Any similar or related irregularity
- 1.6 Prevention is better than cure - particularly when it comes to corruption. Preventing corruption costs far less than investigating it, holding disciplinary inquiries and taking cases to court. It is also good governance practice to focus on maintaining high standards of organisational ethics and managing potential risks in a proactive manner

COMPONENTS OF THE ANTI-CORRUPTION AND FRAUD PREVENTION (ACFP) PLAN

The primary objective of the Anti-Corruption and Fraud Prevention (ACFP) Strategy is to change the attitudes of all employees, outside service providers and suppliers to the Department towards corruption and fraud. The first step in bringing about such change of attitude is by creating awareness. Awareness is created through education and communication.

Awareness is the most important pillar for the sustainability of the Anti-Corruption and Fraud Prevention (ACFP) Strategy. Awareness can be likened to a tall central pole supporting a circular tent with shorter poles supporting its perimeter. The tent itself represents the Anti-Corruption and Fraud Prevention (ACFP) Strategy in totality; the central pole is the awareness component, and the perimeter poles are the other components. If the awareness (central pole) fails, the whole strategy (tent) will collapse. If one of the other components (perimeter poles) fails, the whole strategy will become shaky. If more than one of the other components fails, the whole strategy will be in danger of collapse.

However, the above analogy is not intended to detract from the assumption that all the other components are equally essential, individually and collectively, for the success of the Anti-Corruption and Fraud Prevention Plan (ACFP).

The list of the components of the Anti-Corruption and Fraud Prevention Plan (ACFP) that follows below, is therefore headed by "creating awareness", as this is central to the whole strategy, and all the other components depend on each other for the fulfillment of the Anti-Corruption and Fraud Prevention (ACFP) Strategy.

The following are components of the Anti-Corruption and Fraud Prevention Strategy (ACFP):

- (a) Corruption and fraud awareness in general, and awareness of the Anti-Corruption and Fraud Prevention Plan and its components in particular,



Department of Social Development Anti-Corruption and Fraud Policy

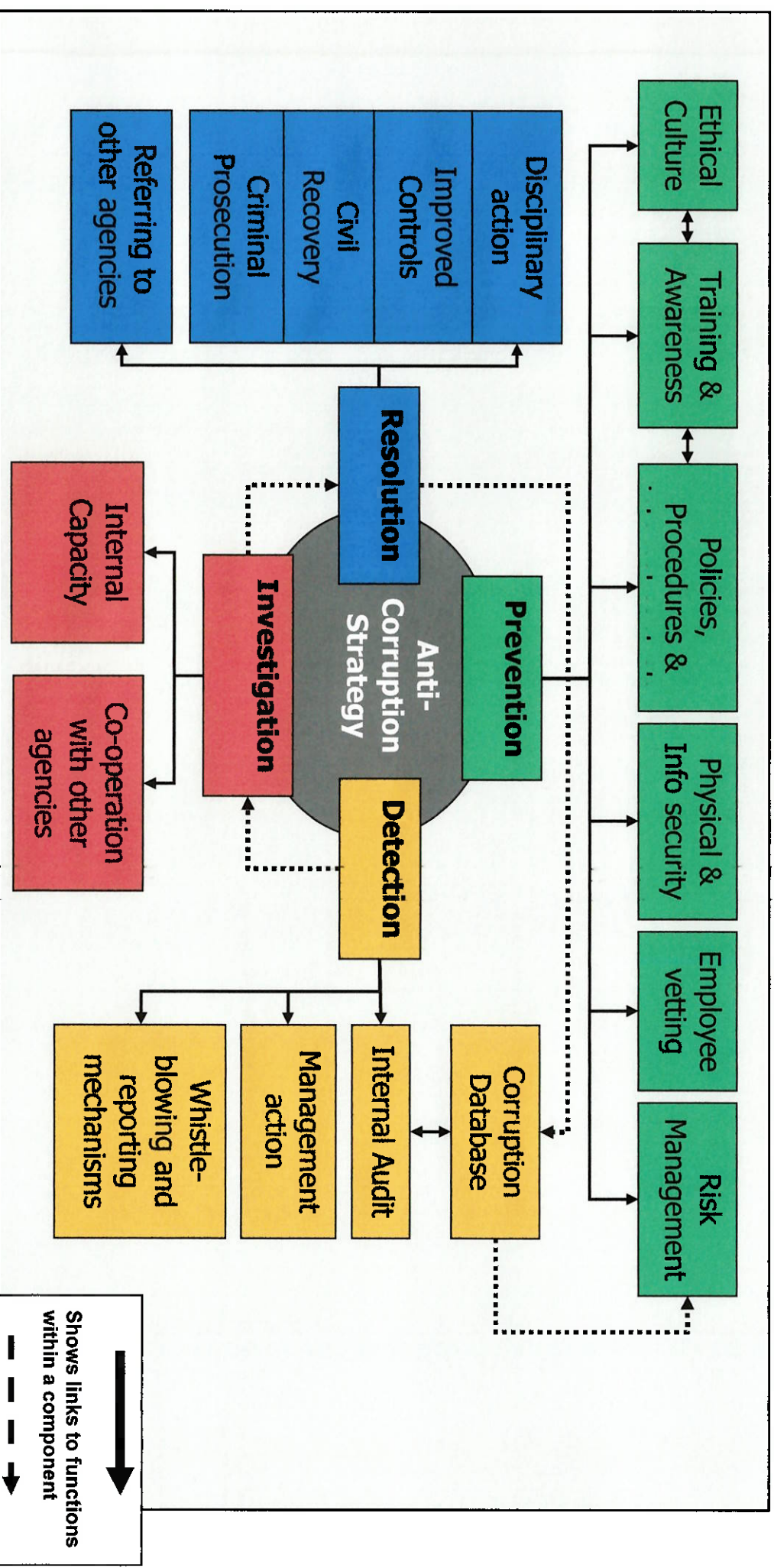
amongst employees, outside service providers and suppliers to the Department;

- (b) Re-enforcement of the Government and Department's policies, procedures, regulations and other prescripts.
- (c) The Disciplinary Code and Procedure;
- (d) Implementation of proper internal controls to prevent and detect corruption and fraud;
- (e) Effective Internal Audit Function;
- (f) Effective management and mitigating risks are identified in the risk assessment and an annual review of the risk assessment.
- (g) A Code of Ethics and Business Conduct (the "Code") containing a set of values to which management believes, and requires their employees to subscribe to;
- (h) Adoption of the Anti-Corruption and Fraud Prevention (ACFP) (the "Policy"), as well as an Anti-Corruption and Fraud Prevention (ACFP) response plan outlining comprehensive steps for the proper investigation and resolution of reported and detected incidents and allegations of corruption and fraud;
- (i) An anti-corruption and fraud prevention hotline for anonymous reporting of corruption and fraud;
- (j) Physical and information security management; and
- (k) Ongoing maintenance and review of the Anti-Corruption and Fraud Prevention (ACFP) Strategy.

The following diagram illustrates the components of the Anti-Corruption and Fraud Prevention (ACFP) Strategy.



DSD ACEFP STRATEGY OVERVIEW



FOUR MAIN COMPONENTS;

PREVENTION/ DETECTION/ INVESTIGATION/ RESOLUTION



1. AWARENESS

This is the cornerstone of the ACFP Strategy and is divided into two sub-divisions, namely:

- (a) Education; and
- (b) Communication.

An Anti-Corruption and Fraud Prevention (ACFP) Awareness programme, facilitated by the Departmental Risk and Ethics Committee, will be developed in collaboration with the Chief Directorate: Communication. The main principles underpinning the awareness programme for the Department will be the following:

- (a) Enforcing a culture of good ethics;
- (b) Training and Education regarding good ethics, and the Department's stance to prevention, combating, detection and investigation of corruption and fraud; and
- (c) Creating awareness of anti-corruption and fraud prevention through:
 - Education of employees regarding anti-corruption and fraud prevention; and
 - A communication campaign.

1.1. Education

1.1.1. Development of Education and Awareness Manual

The Directorate: Sector, Education and Training will develop, in collaboration with the Risk Management Committee, an Anti-Corruption and Fraud Education and Awareness Manual that contains fundamental principles of the Anti-Corruption and Fraud Prevention (ACFP) Strategy for adoption by the Risk and Ethics Committee. A schedule of "red flags" will be developed and attached to the awareness manual to assist with awareness.



1.1.2. Awareness presentations

The objectives of the presentations will be the following:

- (a) To enable Managers to understand the Policy in detail, the objectives of the Anti-Corruption and Fraud Prevention Policy, and to consequently creating awareness within their ranks in order to make staff aware of the Anti-Corruption and Fraud Prevention Policy; and
- (b) To create awareness and understanding amongst staff at all levels of the Code and Policy, the objectives of Anti-Corruption and Fraud Prevention Policy, and to encourage them to contribute towards the effective application of the Anti-Corruption and Fraud Prevention strategy.

The following formal strategies have been identified for the awareness presentations:

- (a) Education workshops will be held where the Directorate: Sector, Education and Training will train Heads of Office on anti- corruption and fraud prevention.
- (b) The Directorate: Sector, Education and Training will co-ordinate regular information sessions for all other officials within the Department. The existing forums will be utilised as much as possible.

Targeted forums for the presentations referred to in the above paragraph will include the following:

- (a) Policy Forum meetings;
- (b) Chief Directorate and Directorate meetings;
- (c) Any other identified management meetings and forums;
- (d) Staff meetings;
- (e) Induction of new staff; and
- (f) Meetings aimed exclusively at creating awareness.



1.2 Communication

1.2.1 Objectives

The objectives of communicating anti-corruption and fraud prevention are:

- (a) To create awareness amongst employees, outside service providers and suppliers to the Department in order to inculcate a culture of zero tolerance towards corruption and fraud; and
- (b) To ensure that there is no uncertainty amongst employees, outside service providers and suppliers to the Department concerning policies and procedures that shape the Department's stance towards corruption and fraud.

1.2.2 Communication Strategies

The following communication strategy will be considered for development:

- a) Publication of ACFP brochures and pamphlets

The Chief Directorate: Communication will develop pamphlets containing information about the Code of Ethics and the Anti-Corruption and Fraud Prevention (ACFP) Policy as one of the "quick wins" to communicate the Anti-Corruption and Fraud Prevention (ACFP) strategy to all employees, outside service providers and suppliers to the Department. These pamphlets will be distributed at all levels to ensure that awareness regarding Anti-Corruption and Fraud Prevention (ACFP) reaches all the stakeholders.



b) Use of public material such as banners and posters.

Banners and posters will be printed and hung in offices and on corridors in full view of all persons visiting the Department.

d) Any other strategies created by the Risk Management Committee

Members of the Risk and Ethics Committee (ESC) will be continually on the lookout for new and creative strategies to create and stimulate awareness. Corruption and fraud awareness will form part and parcel of the communications programmes within the Department.

2. GOVERNMENT AND DEPARTMENTAL POLICIES AND PROCEDURES

2.1 Finance and Procurement

2.1.1 Fundamentally, all employees of the Department must comply with the principles inherent in the Public Finance Management Act, 1999 (act 1 of 1999) as amended (PFMA) and the supporting Treasury Regulations. The Internal Control Unit, under the direction of the CFO, will oversee the implementation of financial policies and operating procedures that support the principles of the Anti-Corruption and Fraud Prevention (ACFP) and the Treasury Regulations.

2.1.2 All employees, outside service providers and suppliers to the Department are expected to adhere to the applicable provisions of the Anti-Corruption and Fraud Prevention (ACFP), the Departmental Financial Guidelines and all other departmental and relevant government prescripts.

2.1.3 The following financial and procurement policies amongst other were identified and will be implemented to curb corruption and fraud related to financial and procurement administration:

- (a) Gift policy;
- (b) Transport Guidelines;
- (c) Subsistence and Travel policy;
- (d) Cellular Policy;



- (e) Telephone policy;
- (f) Asset management policy;
- (g) Transport & Accommodation Policy;
- (h) Entertainment Policy;
- (i) Provisioning Administration Policy; and
- (j) Security Policy.

2.2 Human resources policies and practices

2.2.1 All employees must comply with the provisions of the Public Service Act and the supporting Public Service Regulations. The Departmental Fraud Risk assessment identified fundamental risks related to Human Resource Management within the Department.

The following policies were developed and implemented to manage the identified risks that might expose the Department to corruption and fraud:

- (a) Recruitment;
- (b) Remunerative work outside the Public Service;
- (c) Performance Management and Development System;
- (d) Part-time bursary;
- (e) Working Hours;
- (f) Resettlement;
- (g) Overtime;
- (h) Termination of Service;
- (i) Training and Development; and
- (j) Leave policy

2.2.2 All employees, outside service providers and suppliers to the Department are expected to adhere to the provisions of the above policies and any other relevant government prescripts.



2.2.2 The Department is committed to applying effective human resources policies, systems and procedures. The Department has developed a detailed Human Resource Management strategy, which will be a useful tool in managing the risks identified in the Risk Assessment process.

2.2.4 Further more the Department is committed to complying and meeting the requirements specified in the Minimum Information and Security Standards (MISS) developed by the State Security Agency ("SSA") and the Minimum Physical Security Standards (MPSS) developed by the South African Police Service ("SAPS"). The Minimum Information and Security Standards (MISS) prescribes that thorough pre-employment and security clearance screening for all employees in sensitive positions should be done.

3. DISCIPLINARY CODE AND PROCEDURE

The Department intends to as follows:

- (i) Consistent application of the disciplinary procedures as set out in the Disciplinary Code issued in terms of the Public Service Co-ordinating Bargaining Council Resolution No.2 of 1999 against all transgressors;
- (ii) Application of the Code to all transgressors, irrespective of race, political and/ or religious affiliation, gender and rank.

4. INTERNAL CONTROLS TO PREVENT AND DETECT CORRUPTION AND FRAUD

This section is divided into two components, namely:

- (a) Design and implementation of internal controls, and
- (b) Training of employees in internal control.

4.1 Design of Internal Controls.

The policies, procedures, rules, regulations and other prescripts of the Department prescribe various controls, which, if effectively implemented, would limit corruption and fraud within the Department. These controls may be categorised as follows, taking into cognisance elements of overlapping:



(a) Prevention controls

These are divided into two sub-categories, namely, authorisation and physical control.

(i) Authorisation

All transactions require authorisation or approval by an appropriate responsible person.

The limits for these authorisations are specified in the delegations of authority of the Department.

(ii) Segregation of duties.

Different activities involved in processes should be assigned to different people within the unit. This will mean that the work of one person is independently checked by the work of another.

(b) Detection controls

These are divided into four categories, namely Arithmetic/ Accounting, Physical, Supervision and Management.

(i) Arithmetic/ Accounting

These are basic controls regarding the recording of information that ensures the proper recording, processing, appropriate authorisation, accuracy and reliability of transactions.

Such controls include checking the arithmetical accuracy of the records, the maintenance of proper records, reconciliation, control accounts, and accounting for documents.

(ii) Physical

These controls relate to the physical security of all departmental resources. Their similarity to preventative controls lies in the fact that these controls are also designed to limit access. The fundamental element of physical security is access control. This refers to access to the building, offices and the departmental parking area. The following measures, amongst others, will be applied:



- (a) Searches of persons and equipment employing metal detector or X-Ray machine will be conducted;
- (b) Departmental identity cards will be worn at all times;
- (c) All visitors' particulars will be recorded;
- (d) Visitors will be positively identified;
- (e) Hazardous objects will be declared at the security reception before access is granted; and
- (f) Any other measures that the Security Division deem necessary to apply.

(iii) *Supervision/ Independent checking*

This control relates to the day-to-day supervision by responsible officials of the performance of activities within their areas of responsibility.

(iv) *Information management*

The Department will implement the following measures to ensure proper management of information:

- (a) All classified information will be kept under lock and key or in a fireproof safe.
- (b) Security clearance of all employees will be done.
- (c) All outdated and unused documents containing classified information will be shredded.
- (d) Communication within the Department should be done electronically as much as possible.
- (e) Passwords should be changed from time to time.
- (f) Use of encryption equipment to encrypt classified information.



(v) Segregation of duties

- (a) One of the fundamental controls is the separation of those responsibilities or duties which would, if combined, enable one individual to record and process a complete transaction, thereby providing him/ her with the opportunity to manipulate the transaction irregularly and commit fraud.
- (b) Segregation of duties reduces the risk of intentional manipulation or error and increases the element of checking.
- (c) Functions that will be separated include those of authorisation, execution, custody, and recording and, in the case of computer-based accounting systems, systems development and daily operations.
- (d) Placed in the context of fraud prevention, segregation of duties lies in separating either the authorisation or the custodial function from the checking function, and from the execution function.

(vi) Risk Management

- (a) A Risk Management Assessment every year for the Department has been conducted. The risk assessment process identified several risks that may expose the Department to corruption and fraud.
- (b) All managers within the Department are expected to implement appropriate controls to mitigate and manage identified risks. The Internal Control Unit within the Department will provide advice concerning the design and implementation of appropriate controls.
- (c) The Directorate: Internal Audit monitors the implementation of internal controls in the areas identified to ensure that a noticeable improvement is achieved and report to the Risk Management Committee.



4.2 Implementation of Internal Controls

Training is fundamental to the implementation of internal controls. The Internal Control Unit, in collaboration with the Directorate: Sector, Education and Training, will embark on a training exercise to educate officials on Internal Controls. The following methodology will be applied.

- (a) Managers should always be on the look out for any suspicious behaviour that might result in corruption and/ or fraud. The Internal Control Unit will provide the necessary assistance.
- (b) The Internal Control Unit will develop an Internal Control Module and distribute it to officials within the Department.

5. EFFECTIVE INTERNAL AUDIT

The Department established the Internal Audit Function within the Department to conduct reviews of the adequacy and effectiveness of internal controls.

The Directorate: Internal Audit will apply the following measures:

- (a) Regular internal audits will be conducted.
- (b) Surprise audits will be conducted from time to time.
- (c) Forensic Audits will be conducted as and when necessary.

The audits to be performed will cover the following areas:

- (a) Safeguarding of assets;
- (b) Checking (supervisory controls);
- (c) Utilisation of staff;
- (d) Compliance with legislation, policies, regulations and any other governments and departmental prescripts; and
- (e) Economic, efficient and effective utilisation of departmental resources.

5.1 Ongoing risk assessment

The Department acknowledges the fact that it faces diverse business risks from both internal and external sources.



The DG will monitor the implementation of the fraud risk assessment to ensure that the Department takes action to manage and mitigate the identified risks.

The Directorate: Internal Audit will review the Risk Assessment annually to reconfirm risks.

6. RISK AND ETHICS COMMITTEE (ESC)

Another initiative to seek out corruption and fraud within the Department is the establishment of the Risk and Ethics Committee (ESC). The members of the Committees will always be on the look out for any suspicious behaviour that might result in corruption and/or fraud.

The Risk and Ethics Committee shall perform the following functions:

- a) Ensure that ethics and anti-corruption policies are drafted and adopted.
- b) Ensure implementation plans are developed to give effect to the policies.
- c) Monitor the implementation of the plan.
- d) Monitor the resolution of corruption cases.
- e) Report to MANCO/EXCO and relevant external stakeholders (DPSA and PSC) on implementation progress and resolution of cases.
- f) Evaluate the effectiveness of the Department's ethics management programme from time to time, and bring about changes in the implementation plan or policies in line with their findings.
- g) Elevate significant ethics issues to the Head of Department.

To support the development, implementation and maintenance of the Anti-Corruption and Fraud Prevention Policy, the Risk and Ethics Committee has been established within the Department. The objectives of the Departmental Risk and Ethics Committee are the following:

- (a) To develop and facilitate the implementation of the Anti-Corruption and Fraud Prevention Strategy; and
- (b) To maintain and review the Anti-Corruption and Fraud Prevention (ACFP) Strategy on an ongoing basis.

7 CODE OF CONDUCT ("THE CODE")

The key to integrity in any organisation is "accountability". It will be expected of each employee within the Department to willingly accept responsibility for his / her decisions and actions.

The ethical principles contained in the Code of Conduct for the Public Service apply to all Government employees. The Code of Conduct



for the Public Service as set out in the Regulations to the Public Service Act, will, therefore, be adopted *verbatim*. The Code is another component of the strategy,

8. ANTI-CORRUPTION AND FRAUD PREVENTION (ACFP) POLICY (“THE POLICY”)

- 8.1 The Anti-Corruption and Fraud Prevention (ACFP) Policy was developed, consulted and approved by senior management of the Department. The Policy contains the stance of the Department towards corruption and fraud. The policy also outlines the response mechanisms in place to report, investigate and resolve incidents of corruption and fraud that might take place within the Department.
- 8.2 The awareness sessions outlined earlier on are designed to educate employees with regard to the Policy of the Department relating to fraud, corruption, theft and maladministration as defined in Section I of the document.

9. ANTI-CORRUPTION AND FRAUD HOTLINE

- 9.1 The Department’s Anti-Corruption and Fraud Prevention (ACFP) will utilise the Public Service Commission hotline 0800 701 701. The hotline is designed to achieve the following:
 - 9.1.1 To deter potential fraudsters by making all employees and stakeholders aware that the Department is not a soft target, as well as encouraging employee participation in supporting, and making use of this facility. To encourage hesitant whistleblowers, the caller does not pay for the call;
 - 9.1.2 To raise the level of awareness that the Department is serious about corruption and fraud;
 - 9.1.3 To detect incidents of fraud through the encouraging of whistleblowers to report incidents that they witness;
 - 9.1.4..To assist the Department in managing the requirements of the Protected Disclosures Act by creating a channel through which whistleblowers can report irregularities that they witness or which come to their attention. Anonymous persons are also encouraged to report to the hotline. If a whistleblower wishes to have his/her identity kept confidential, the hotline will also provide for this; and



9.1.5. To further assist the Department in identifying areas of fraud risk so that preventive and detective controls can be appropriately improved or developed.

- 9.2 The departmental Internal Audit will monitor the effectiveness of the hotline in terms of the reports it receives and the level of awareness throughout the Department.

10. Physical security and information security

Physical security

The Department has identified the lack of adequate security measures as a fundamental risk. The focus is to manage and safeguard the physical assets of the Department. An asset management system shall be established and maintained to continuously identify and evaluate the exposure of assets to risk to minimise losses and/ or damages.

Access control is essential to ensure that the personnel, property and information in the Department is safeguarded. So this entails the following:

- (a) Access Control is multifunctional. The different levels must be applied in accordance with the needs of the department, regarding the protection of equipment, patrolling and monitoring of the building;
- (b) Security officials control access to the building by monitoring and identifying people and equipment before they are allowed access;
- (c) The Head of the institution is responsible for the enforcement of the provisions of the Control of Access to Public Premises and Vehicles Act (Act 53 of 1985). The purpose is to safeguard the building under the control of Government Departments;
- (d) Section 2(2) of the act entails the furnishing of information, the furnishing of identification, declarations concerning hazardous objects and the contents of any suitcase, briefcase, handbag, bag, etc, the subjection of persons to electronic examinations and the handing over of any hazardous objects to the security official.



Department of Social Development Anti-Corruption and Fraud Policy

Removal of Official Property: The procedures as set out in the Security Policy of the Department must be followed in the event of removal of the Departmental property from the premises. The request/ application for the removal must be approved by the official's Head of the Component or the acting Head.

Office Security: Offices must be kept locked at all times when the occupant leaves the office, even for a short period of time.

The functional performance of the various security measures and procedures is primarily the responsibility of each and every member of the Department, irrespective of rank. The head of each Directorate, Sub-Directorate, Division, Section or Sub-section (all termed as component, hereafter) must ensure that all personnel, assets and information under his/her control are safe and secure at all times and that the relevant procedures are adhered to and that any discrepancies are reported timeously to the Departmental Security Manager.

Information security

The Department will adhere to the Minimum Information Security Standards (MISS) Policy as developed by the National Intelligence Services concerning the handling of classified information, (documentation and electronic information). This Policy will be used as a guideline to effectively secure restricted information. The following are fundamental "quick wins" that will be implemented.

- (a) Passwords will be changed regularly;
- (b) Unused documentation will be shredded;
- (c) Computers must be shut down if left unattended;

Violation of the above measures, whether deliberately or negligently, will constitute a punishable offence.

The Departmental Operational Committee will monitor the implementation of the above measures.

ONGOING MAINTENANCE AND REVIEW

The Departmental Risk Management Committee (RMC) will be responsible for the ongoing maintenance and review of the Anti-Corruption and Fraud Prevention (ACFP) Strategy. This will include:



Department of Social Development Anti-Corruption and Fraud Policy

- (a) Reviewing and effecting appropriate amendments to any component of the strategy as and when necessary;
- (b) Ensuring that ongoing communication strategies are developed and implemented; and
- (c) Developing and overseeing the implementation of additional strategies to motivate buy-in and create awareness.

GLOSSARY OF TERMS

| | | |
|------|---|--|
| PFMA | : | Public Finance Management Act, 1999 (act 1 of 1999) as amended |
| ACFP | : | Anti-Corruption and Fraud Prevention |
| RMC | : | Risk Management Committee |
| DG | : | Director-General |
| CFO | : | Chief Financial Officer |
| HO | : | Head of Office |

REFERENCES

1. Public Service Act (Act 103 of 1994)
2. Public Service Regulations issued by the Department of Public Service and Administration
3. Disciplinary Code and Procedure for the Public Service issued by the Department of Public Service and Administration.
4. Public Finance Management Act, 1999 (Act 1 of 1999) as amended
5. Treasury Regulations issued by the National Treasury
6. Protected Disclosure Act (Act 26 of 2000)
7. The Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
8. Anti-Corruption Summit Resolution
9. Minimum Information Security Standards, by the National Intelligence Agency.

**ANNEXURE C:
PROTECTED DICLOSURE
(WHISTLE-BLOWING)**



ANNEXURE C

PROTECTED DISCLOSURE (WHISTLE-BLOWING) PROCEDURE



THE PROTECTED DISCLOSURE PROCEDURE

1. INTRODUCTION

1.1 The Department of Social Development recognises the fact that:-

- (a) Criminal and other irregular conduct within the Department of Social Development is detrimental to good, effective, accountable and transparent governance within the Department of Social Development and can endanger the economic stability of Department of Social Development and have the potential to cause social damage;
- (b) There is a need for procedures in terms of which employees may, without fear of reprisals, disclose information relating to suspected or alleged criminal or other irregular conduct affecting Department of Social Development;
- (c) Every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace; and
- (d) Every employer has a responsibility to take all necessary steps to ensure that employees who disclose such information are protected from any reprisals as a result of such disclosure.

2. OBJECTIVES OF THE PROCEDURE

2.1 The Protected Disclosures Act came into effect on 16 February 2001. To remain in compliance with the Act, the Department of Social Development will:-

- (a) Strive to create a culture that will facilitate the disclosure of information by employees relating to criminal and other irregular conduct in the workplace in a responsible manner by providing clear guidelines for the disclosure of such information and protection against reprisals as a result of such disclosure and
- (b) Promote the eradication of criminal and other irregular conduct within the Department of Social Development.

2.2 The procedure is intended to encourage and enable staff to raise concerns within the Department of Social Development rather than overlooking a problem or blowing the whistle to inappropriate channels.



2.3 Furthermore the procedure aims to:-

- (a) Provide avenues for staff to raise concerns and receive feedback on any action taken;
- (b) Inform staff on how to take the matter further if they are dissatisfied with the response; and
- (c) Reassure staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.

3. SCOPE OF THE PROCEDURE

3.1 There are existing grievance procedures in place to enable employees of the Department of Social Development to raise grievances relating to their employment. This procedure is intended to cover concerns that fall outside the scope of grievance procedures. These concerns indicated in the Act, are the following:-

- (a) That a criminal offence has been committed, is being committed or is likely to be committed;
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) That the health or safety of an individual has been, is being or is likely to be endangered;
- (e) That the environment has been, is being or is likely to be damaged;
- (f) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, Act 4 of 2000; or
- (g) That any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed.



3.2 Underpinnings of procedure

This procedure stems from the Department of Social Development recognition that –

- (a) whistle-blowing (disclosure of information regarding unlawful or irregular conduct) is not to be looked upon as “informing in the negative, anonymous sense”, but rather as constituting a positive key tool for promoting individual responsibility and organisational openness, transparency and accountability;
- (b) whistle-blowing is an early warning system to avert possible risks to the Department, enabling it to find out when something is going wrong in time to take the necessary and appropriate corrective action;
- (c) the fostering of a positive whistle-blowing culture is a critical element in the success of any risk management system and by promoting better risk management, the Department can also help its *employees* to prevent the need for more regulation and intervention by regulators and legislators;
- (d) by positively encouraging whistle-blowing, it stands a far better chance of demonstrating that it is properly run and managed;
- (e) the existence of a working whistle-blowing procedure can be pivotal in the legal cause, in determining legal liability and in setting the penalties, the courts may well take account of whether a whistle was blown and, if not, why not; and
- (f) effective whistle-blowing can only be achieved by way of affording protection to *bona fide* whistle-blowers, not penalising them on account of the *disclosures* made *in good faith* and maintaining the confidentiality of information so disclosed by them.

4. PROTECTED DISCLOSURES ACT

4.1 Section 2 of The Protected Disclosures Act clearly defines the “*Objects of the Act*” as follows:

- (a) To protect an employee from being subjected to an *occupational detriment* on account of having made a protected disclosure;



- (b) To provide for **remedies** in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- (c) To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her colleagues, other stakeholders and employer.

4.2 This procedure is developed based on the principle objects of the Protected Disclosures Act, which encourages employees to disclose any acts of misconduct without fear of any recriminations or reprisals.

Harassment or Victimisation

- 4.3 Department of Social Development acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity. Department of Social Development will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith. Any act of harassment or victimisation should be reported to the Head of Department, alternatively to the Manager: Internal Audit Unit. This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted as a result of their whistle-blowing.

Confidentiality

- 4.4 Department of Social Development will do its best to protect an individual's identity when he/she raises a concern and does not want their identity to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the employee may be required as part of the evidence.

Anonymous Allegations

- 4.5 Department of Social Development encourages employees to put their names to allegations. Concerns expressed anonymously are difficult to investigate; nevertheless, they will be followed up at the discretion of the Department of Social Development, in consultation with the Internal Audit. This discretion will be applied by taking into account the following:-

- (a) the seriousness of the issue raised;



- (b) the credibility of the concern; and the likelihood of confirming the allegation.

False Allegations

- 4.6 Employees or other parties must understand the implications (resources and costs) of undertaking investigations and should therefore guard against making allegations, which are false and made with malicious intent.

WHO CAN RAISE A CONCERN?

- 4.7. Any member of staff who has a reasonable belief that there is corruption or misconduct relating to any of the protected matters specified above may raise a concern under the procedure detailed. Concerns must be raised without malice, in good faith and not for personal gain and the individual must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.
- 4.8. The issues raised may relate to a manager, another member of staff, a group of staff, the individual's own section or a different section/division of the Department. The perpetrator can be an outsider, an employee, a manager, a customer or an ex-employee. You may even be aware of a system or procedure in use, which may cause the DSD to transgress legal obligations.

5. REPORTING OF CONCERNS

- 5.1 For some minor issues (e.g. personal use of Department of Social Development equipment etc.), employees should normally raise the concerns with their immediate supervisor/ manager. In general, however, the whistle-blowing procedure is expected to be used for potentially more serious and sensitive issues (e.g. fraud and corruption).
- 5.2 The first step will be for the employee to approach his/her immediate supervisor/ manager unless he/she or senior management is the subject of the complaint, in which case the Internal Audit should be informed. Should the complaint be found by the manager to be substantiated, he/she will consult with the Internal Audit on whether the matter should be investigated internally or referred to the appropriate external body (e.g. the South African Police Services (SAPS)).



- 5.3 Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible should be set out and the reason why the individual is particularly concerned about the situation. Those who are uncomfortable to put their concern in writing can telephone the Public Service Commission Hotline number **(0800 701 701)**. The earlier the concern is reported, the easier it is to take action and initiate recovery procedures where necessary.
- 5.4 Employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- 5.5 Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit.

6. HOW THE COMPLAINT WILL BE DEALT WITH

- 6.1 The action taken by the Department of Social Development will depend on the nature of the concern. The possible actions to the matters raised may, among others be to:-
- (a) investigate internally by forensic investigations division of the Internal Audit; and/or
 - (b) refer to the SAPS or other relevant law enforcement agency.
- 6.2 In order to protect individuals and the Department of Social Development, initial inquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.
- 6.3 Some concerns may be resolved by agreed action without the need for investigation.
- 6.4 Department of Social Development will write to complainants who have identified themselves:- •
- (a) Acknowledging that the concern has been received; and
 - (b) Informing them whether further investigations will take place, and if not, why not.



- 6.5 The amount of contact between the body investigating the issues and the persons raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.
- 6.6 Department of Social Development accepts that employees need to be assured that the matter has been properly addressed. However, the progression of investigations will be handled confidentially and will not be disclosed or discussed with any persons other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of suspected persons who are subsequently found innocent of wrongful conduct.

7. CREATING AWARENESS

- 7.1 In order for the procedure to be sustainable, it must be supported by a structured education, communication and awareness programme.
- 7.2 It is the responsibility of all heads of department and managers to ensure that all employees are made aware of, and receive appropriate training and education concerning the Whistle Blowing procedure.

8. ADMINISTRATION

- 8.1 Department of Social Development has overall responsibility for the maintenance and operation of this procedure and will be supported by the Internal Audit and Security Management in maintaining a record of concerns raised and the outcomes (but in the form which does not endanger confidentiality).

8.2 Definitions

In this procedure, unless otherwise indicated, -

‘derivative misconduct’ means “the offence (misconduct) of not informing”: It is a term given to an employee’s refusal to divulge information that might help his or her employer identify the perpetrator of some other misconduct – it is “derivative” because the employee guilty of that form of misconduct is taken to task, not for involvement in the primary misconduct, but for refusing to assist the employer in its quest to apprehend and discipline the perpetrator(s) of the original offence;



disclosure' means any *disclosure* of information regarding any conduct of the DSD or an *employee* of the DSD, made by an *employee* who has reason to believe that the information concerned shows or tends to show one or more of the following:

- (a) That a criminal offence has been committed, is being committed or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) that the health or safety of an individual has been, is being or is likely to be endangered;
- (e) that the environment has been, is being or is likely to be damaged;
- (f) unfair discrimination as contemplated in the *Promotion of Equality and Prevention of Unfair Discrimination Act*, Act No. 4 of 2000; or (g) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed.

'employee' means –

- (a) any person, excluding an independent contractor, who works for the DSD and who receives, or is entitled to receive, any remuneration;
- (b) any other person who in any manner assists in carrying on or conducting the business of the DSD;

'employer' means the DSD;

'impropriety' means any conduct which falls within any of the categories referred to in paragraphs (a) to (g) of the definition of '*disclosure*'



‘occupational detriment concerning the working environment of an employee means -

- (a) being subjected to disciplinary action;
- (b) being dismissed, suspended, demoted, harassed or intimidated;
- (c) being transferred against his or her will;
- (d) being refused transfer or promotion;
- (e) being subjected to a term or condition of employment or retirement which is altered or kept altered to his or disadvantage;
- (f) being refused a reference, or being provided with an adverse reference, from the DSD;
- (g) being denied appointment to any employment, profession or office;
- (h) being threatened with any of the above; or
- (i) being otherwise adversely affected in respect of his or her employment, profession or office, including employment opportunities and work security.

9. GLOSSARY OF TERMS

| | | |
|----------------|---|--------------------------------------|
| PFMA | : | Public Finance Management Act |
| ACFP | : | Anti-Corruption and Fraud Prevention |
| RMC | : | Risk Management Committee |
| DG | : | Director-General |
| CFO | : | Chief Financial Officer |
| HO | : | Head of Office |
| INTERNAL AUDIT | : | Internal Audit Unit |



10. REFERENCES

ANTI-CORRUPTION LEGISLATION

Parliament has passed various laws and regulations to support the government's fight against corruption, including:

THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT (NO. 12 OF 2004)

As mentioned, this Act provides the legal definition of corruption and creates a range of offences. It also allows for people found guilty of certain offences (such as those related to tenders) to be 'blacklisted' and it requires senior officials to report corrupt activities.

In 2004, Parliament passed the Prevention and Combating of Corrupt Activities Act, 2004 with the object to:

- a) provide for the strengthening of measures to prevent and combat corruption and corrupt activities;
- b) provide for the offence of corruption and offences relating to corrupt activities;
- c) provide for investigating measures in respect of corruption and related corrupt activities;
- d) provide for the establishment and endorsement of a Register to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts
- e) place a duty on certain persons holding a position of authority to report certain corrupt transactions;
- f) provide for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities, and
- g) provide for matters connected therewith.

THE PROMOTION OF ACCESS TO INFORMATION ACT (NO. 2 OF 2000)

This Act gives effect to Section 32 of the Constitution (Access to Information) by setting out how anyone can get access to information held by the state. By so doing, it promotes transparency and prevents the government from operating in secret.

The objectives of the Act are-

- (1) to give effect to the constitutional right of access to-
 - 1. any information held by the State; and
 - 2. any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) to give effect to that right-



1. subject to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance; and

2. in a manner which balances that right with any other rights including the rights in the Bill of Rights in Chapter 2 of the Constitution.

(3) to give effect to the constitutional obligations of the State of promoting a human rights culture and social justice, by including public bodies in the definition of 'requester', allowing them, amongst others, to access information from private bodies upon compliance with the four requirements in this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;

(4) to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and (5) generally, to promote transparency, accountability and effective governance of all public

and private bodies by, including, but not limited to, empowering and educating everyone -

1. to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;

2. to understand the functions and operation of public bodies; and

3. to effectively scrutinize, and participate in, decision-making by public bodies that affects their rights.

THE PROMOTION OF ADMINISTRATIVE JUSTICE ACT (NO. 3 OF 2000)

This Act gives effect to Section 33 of the Constitution (Just Administrative Action). It ensures that decisions that affect the public are taken in a way that is procedurally fair and it gives people the right to request written reasons for decisions they disagree with. In this way, it creates greater transparency - people may be less tempted to act corruptly if they know they will have to explain themselves to the public.

The objectives of the Act are:

a) to give effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the Constitution of the Republic of South Africa, 1996; and to provide for matters incidental thereto;

b) to promote an efficient administration and good governance; and

c) to create a culture of accountability, openness and transparency in the public administration or in the exercise of public power of the performance of a public function, by giving effect to the right to just administrative action.



THE PROTECTED DISCLOSURES ACT (PDA) (NO. 26 OF 2000)

The PDA (often called the 'Whistleblowers Act') was passed to encourage employees to disclose information about unlawful and irregular behaviour in the workplace. It offers protection from victimisation for 'whistleblowers', as long as they meet the requirements and follow the procedure set out in the Act. This act was under revision at the time of the compilation of this booklet (January 2006).

The objectives of this Act are

- a) to protect an employee, whether in the private or the public sector, from being subjected to an occupational detriment on account of having made a protected disclosure;
- b) to provide for certain remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- c) to provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her employer.

THE PUBLIC FINANCE MANAGEMENT ACT (PFMA) (NO. 1 OF 1999)

Purpose

- a) To regulate financial management in the national government and provincial governments;
- b) To ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively;
- c) To provide for the responsibilities of persons entrusted with financial management in those governments; and
- d) To provide for matters connected therewith.

The Act provides for the establishment of an accounting officer for a department, trading entity or constitutional institution responsible for:

(1) ensuring that that department, trading entity or constitutional institution has and maintains -

- a) effective, efficient and transparent systems of financial and risk management and internal control;
- b) a system of internal audit under the control and direction of an audit committee complying with and operating following regulations and instructions prescribed in terms of sections 76 and 77 of the PFMA;
- c) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and
- d) a system for properly evaluating all major capital projects prior to a final decision on the project.

(2) is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution;



- (3) is responsible for the management, including the safeguarding and the maintenance of assets, and the management of the liabilities, of the department, trading entity or constitutional institution;
- (4) on the discovery of any unauthorized, irregular or fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods or services, also to the relevant tender board;
- (5) must take effective and appropriate disciplinary steps against any official in the service of the department, trading entity or constitutional institution who contravenes or fails to comply with the Act;
- (6) must comply, and ensure compliance by the department, trading entity or constitutional institution to any liability for which money has not been appropriated.

An official in a department, trading entity or constitutional institution are responsible for:

- a) ensuring that the system of financial management and internal control established for that department, trading entity or constitutional institution is carried out within the area of responsibility of that official;
- b) is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility;
- c) must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorized expenditure, irregular expenditure and fruitless and wasteful expenditure and any under of collection due;
- d) must comply with the provisions of the PFMA to the extent applicable to that official, including any delegations and instructions in terms of section 44 of the PFMA; and
- e) is responsible for the management, including the safeguarding, of the assets and the management of the liabilities within that official's area of responsibility.

TREASURY REGULATIONS ISSUES IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999

The regulations stipulate that:

1. The accounting officer or accounting authority of an institution to which these regulations apply must ensure that officials implementing the institution's supply chain management system are trained and deployed following the requirements of the Framework for Minimum Training and Deployment issued by the National Treasury.
2. An official in the supply chain management unit who becomes aware of a breach of or failure to comply with any aspect of the supply chain management system must immediately report the breach or failure to the accounting officer or authority, in writing.

All role players to comply to ethical standards



- (1) All officials and other role players in a supply chain management system must comply with the highest ethical standards to promote -
 - (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and fairly and reasonably.
- (2) The National Treasury's Code of Conduct for Supply Chain Management Practitioners must be adhered to by all officials and other role players involved in supply chain management.
- (3) A supply chain management official or other role players –
 - (a) must recognize and disclose any conflict of interest that may arise;
 - (b) must treat all suppliers and potential suppliers equitably;
 - (c) may not use their position for private gain or to improperly benefit another person;
 - (d) must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act;
 - (e) must be scrupulous in their use of public property; and
 - (f) must assist accounting officers or accounting authorities in combating corruption and fraud in the supply chain management system.
- (4) If a supply chain management official or other role players, or any close family member, partner or associate of such official or other role player has any private or business interest in any contract to be awarded, that official or other role players must –
 - (a) disclose that interest; and
 - (b) withdraw from participating in any manner whatsoever in the process relating to that contract.

The Financial Intelligence Centre Act (FICA) (No. 38 of 2001)

This Act creates the Financial Intelligence Centre and was designed to combat money laundering.



Improving professional ethics

Various initiatives have also been launched to improve the level of professional ethics in the public service, including:

The Public Service Code of Conduct

This code of conduct sets the standards of integrity for public servants.

The Batho Pele (People First) Principles

These 8 principles set out the required levels of professional ethics in the public service in terms of service delivery.

PUBLIC SERVICE ANTI-CORRUPTION STRATEGY

In 2002, Cabinet approved the Public Service Anti-corruption Strategy to be implemented over five years. The Strategy contains nine strategic considerations that are interrelated and mutually supportive. These are:

1. Review and consolidation of the legislative framework;
2. Increased institutional capacity;
3. Improved access to report wrongdoing and protection of whistleblowers and witnesses;
4. Prohibition of corrupt individuals and businesses;
5. Improved management policies and practices;
6. Managing professional ethics;
7. Partnership with stakeholders;
8. Social analysis, research and policy advocacy; and
9. Awareness training and education.