

# **RESPONSIBILITY, ACCOUNTABILITY AND ETHICS: THE CASE FOR PUBLIC SERVICE LEADERSHIP**

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## **ABSTRACT**

**T**he existence of bureaucratic power cannot be overstated in the public sector. It is also important to note that the irresponsible exercise of that power arouses public concern. This article examines the responsibility of public servants or those who serve the public through the power they exercise, and assesses the ethical standards that they bring to their recommendations and conclusions. The article begins by explaining the importance of administrative responsibility and examines the interrelated issues of administrative accountability, public service ethics, and the public interest. The paper further contends that the “responsible” bureaucrat is commonly perceived as one who pursues such issues as accountability, integrity, neutrality, efficiency, effectiveness, responsiveness, representativeness, and equity in the procurement of good governance in the public domain.

## **INTRODUCTION**

The quest of the public for responsibility and accountability in government has been stimulated in most democratic states. Some of these have been triggered by events involving illegal or unethical activities by both politicians and bureaucrats. Discussion of incidents of political espionage, conflicts of interest, and disclosures of confidential information have revealed that both the members of the public and students of Public Administration disagree among themselves as to what constitutes irresponsible conduct, who should assume blame for particular cases, and what penalty should be paid for such misconduct.

## ADMINISTRATIVE RESPONSIBILITY

The scope and complexity of government activities have become so great that it is often difficult to determine the actual – as opposed to the legal or constitutional – locus of responsibility for specific decisions. Although political executives (e.g. cabinet ministers) are held responsible for personal wrongdoing, they are not expected to assume responsibility by way of resignation or demotion for acts of administrative subordinates about which they could not reasonably be expected to have knowledge. Yet, it is frequently impossible to assign individual responsibility to public servants for administrative transgressions because a variety of public servants have contributed to the decision-making process. The allocation of responsibility in government has been complicated even further by the interposition of political appointees or temporary officials between political executives and permanent public servants.

While the involvement of political executives in unlawful or questionable activities has drawn much public attention to the issue of political responsibility, the status of administrative responsibility has also become a matter of increasing anxiety. While elected officials make the final decisions on major public policy issues, public servants have significant influence on these decisions and also have authority to make decisions on their own that affect the individual and collective rights of the citizenry.

The growing concern about the preservation of administrative responsibility is shared in varying degrees by all major actors in the political system – whether they be political executives, legislators, judges, interest group and mass media representatives, members of the general public, or public servants themselves. As a result of efforts by these various actors to promote responsible administrative conduct, the decisions of public servants are subject to an almost bewildering assortment of controls and influences. Actual or apparent conflict, or convergence, of public duty with private or personal interest has been the cause of numerous scandals or unethical conduct for those in the public office, occasionally with serious repercussions.

### Conventional theories

The traditional concepts of administrative responsibility may be explained by reference to the celebrated debate between Carl Friedrich and Herman Finer. Both Friedrich and Finer (1935:337) correctly identified the source of burgeoning bureaucratic power as the rapid expansion of government's service and regulatory functions. However, they disagreed vehemently, on the most effective means of guarding against abuse of administrative discretion so as to maintain and promote responsible administrative conduct. Their disagreement was, in large part, an outgrowth of their differing conceptions of the capacity of political systems to adapt to change, and of the proper role of public servants. To achieve administrative responsibility, Finer (1935:337) placed primary faith in controls

and sanctions exercised over public servants by the legislature, the judiciary, and the administrative hierarchy. In his insistence on the predominant importance of political responsibility (i.e., responsibility to elected officials), he claimed that the political and administrative history of all ages had shown that sooner or later there is an abuse of power when external punitive controls are lacking.

Friedrich relied more heavily on the propensity of public servants to be self-directing and self-regulating in their responsiveness to the dual standard of technical knowledge and popular sentiment. While he admitted the continuing need for political responsibility, he argued that a policy is irresponsible if it was adopted without proper regard to the existing sum of human knowledge concerning the technical issues involved or without proper regard for existing preferences in the community, and more particularly its prevailing majority. Consequently, the responsible administrator is one who is responsive to these two dominant factors: technical knowledge and popular sentiment.

Friedrich (1935:3-7) asserted also that parliamentary responsibility is largely interactive and certainly ineffectual and that the task of clear and consistent policy formation has passed into the hands of the administrators and is bound to continue to do so. Finer admitted this difficulty but stressed the necessity of reemerging the several deficiencies of political control over administrative officials. He believed that the means of legislative control should be improved. He argued further that officials should not determine their own course of action, rather, the elected representatives of the people should determine the course of action of public servants to the most minute degree that is technically feasible.

Finer (1941:335-50) presented an excellent summary of both his position and his critique of Friedrich's stand in his explanation of the two definitional positions of administrative responsibility. First, responsibility may mean that X is accountable for Y to Z. Secondly, responsibility may mean an inward personal sense of moral obligation. In the first definition the essence is the externality of the agency of persons to whom an account is to be rendered, and it can mean very little without that agent having authority of X, determining the lines of X's obligation and the terms of its continuance or revocation.

The second definition puts the emphasis on the conscience of the agent, and if an individual commits an error, it is an error or when recognised by his/her own conscience and the punishment of the agent will be merely the twinges thereof. Finer described the sum of Friedrich's arguments as moral responsibility, as opposed to his own emphasis on political responsibility. Friedrich's contention that administrative responsibility can be more effectively elicited than enforced raises a critical issue for contemporary discussion of the subject. He believed that responsible conduct depends to a large extent on sound work rules and effective morale. To this end, he suggested that the environment of government employment be changed, public servants were to be granted the right to organize into staff associations and to bargain collectively with the government.

Furthermore, responsibility for technical knowledge could not be assured unless public servants were permitted to discuss policy issues publicly. He noted that in matters of vital importance the general public is entitled to the views of its permanent servants. Finer (1935) argued for the preservation of the official's anonymity in order to avoid bringing himself and his colleagues into partisan contempt.

An understanding of the Friedrich-Finer debate is an essential foundation on which to construct the subsequent discussion. It raises several of the major issues of administrative responsibility still being debated by contemporary scholars, albeit in a vastly different social and political environment. The strength of Finer's approach lay in his recognition of the continuing need for political controls over the bureaucracy. Its primary weakness lay in his failure to anticipate the inadequacy of these controls to ensure administrative responsibility in a period of ever-accelerating political and social change. The strength of Friedrich's argument rested on his awareness of the deficiency of solely political controls. Its major weakness lay in the difficulty of reconciling conflicts between the two criteria of technical knowledge and popular sentiment.

### **Criticisms of the conventional theories**

The Friedrich (1935) and Finer (1936) approaches to understanding conflict of interest have been subject to a number of critiques, and alternative interpretations have been formulated. Their approaches have remained the major contending ones, however, and most writers on administrative responsibility have referred to the Friedrich-Finer debate with a view to supporting, attacking, or updating one or both sides of the argument. In more recent years, these traditional notions of administrative responsibility have come under attack.

Michael Harmon (1971), for example, argues that both Finer and Friedrich, despite their differences, take a negative view of human nature, and of administrators in particular, because they agree that without the checks instituted by either the law or the processes of professional socialization, the resultant behaviour of administrators would be both selfish and capricious. Harmon looks to the existentialist's notion of self-development and self-actualisation as a basis for a new theory of administrative responsibility. Officials are expected to become much more actively engaged in the initiation and promotion of policy. Harmon (1971) however, fails to reconcile this increased participation with the conventional idea that administrators' decisions should be guided by values and goals of elected politicians within the constraints of the law and the administrative hierarchy.

Theodore Lowi (1969:298) writing in the context of the United States, recommends that the Supreme Court declare "invalid and unconstitutional any delegation of powers to an administrative agency that is not accompanied by clear standards of implementation." This call to the legislature to specify in more precise terms the course of action of public servants is complemented by a plea for early and frequent administrative rule-making.

Rather than primarily on case-by-case adjudication under a statute delegating broad powers in vague language, bureaucrats should formulate rules that provide standards for the adjudication of cases under that statute. Harmon (1971) and Lowi (1969) offer a different but related version of the Finer-Friedrich debate.

## **Objective and subjective responsibility**

Mosher (1968: 7–10) provides a broader, more inclusive classification than the Friedrich-Finer categories by making a distinction between objective responsibility (or accountability) and psychological or subjective responsibility. According to his widely accepted definition, objective responsibility connects the responsibility of a person or an organization to someone else, outside for some thing or some kind of performance. It is closely akin to accountability or answerability. If one fails to carry out legitimate directives, he is judged, responsible, and may be subjected to penalties.

Psychological or subjective responsibility; by way of contrast, focuses not upon to whom and for what one is responsible (according to law the organization chart) but to whom and for what one feels responsible and lives responsibly. This meaning, which is sometimes described as personal responsibility, is more nearly synonymous with identification, loyalty and conscience than it is with accountability and answerability. (Mosher 1968:7).

Thus, administrative responsibility can be viewed as a broad concern that includes administrative accountability. The presence of subjective or psychological responsibility is more difficult to discern than that of objective responsibility, but there is some evidence of its existence and its influence. The questions commonly asked about the accountability of public servants are: Who is accountable? To whom is accountability owed? For what is accountability owed? By what means can accountability be achieved? (Kernaghan and Langford 1990).

The current emphasis on accountability is a result of both the need to strengthen accountability in government generally and the broad interpretations that the word accountability has gradually acquired. In viewing financial management and accountability, accountability must be seen as the activating, but fragile, element permeating a complex network connecting the government upward to Parliament and downward and outward to a geographically dispersed bureaucracy grouped in a bewildering array of departments, corporations, boards and commissions. This position portrays well the breadth of meaning currently given to the notion of accountability in government. It is, however, too sweeping a definitional position to be useful in operational terms; moreover, it covers the accountability of both politicians and public servants, whereas the primary concern is with public service accountability.

A narrower and a more useful working definition of administrative accountability could be the obligation of public servants to be answerable for fulfilling responsibilities that flow from the authority given them. While internal accountability is a process which holds public servants answerable to their line superiors for their own actions and the actions of their subordinates. External accountability, by implication, holds public servants answerable to the public as well. The normal channel, through which this requirement is satisfied, is the minister.

The definition of administrative accountability draws attention to the critical fact that public servants are directly accountable only to a limited number of political actors, and that to hold public servants accountable, one must be able to exercise authority over them. Indeed, a more useful distinction than that between internal and external accountability is that between direct and indirect accountability. Public servants are directly accountable only to political and administrative superiors, to the courts, and to any internal governmental authorities (e.g., central agencies) to which accountability is required by law or the administrative hierarchy. They are not directly accountable to the legislature, to pressure groups, to the news media, or to the general public. However, they are generally required to explain their decisions and actions to these entities, and they may feel a sense of psychological or personal responsibility toward them.

Enforcing accountability for the exercise of bureaucratic power has become more difficult as most public services have continued to grow in size and as their responsibilities have grown in complexity. The decision making process in government is often so lengthy and complicated that it is difficult to single out those public servants who should be held responsible for specific recommendations and decisions. Another obstacle on the road to accountability is the wide range of authorities to which public servants are deemed to be accountable for while, in general, it is agreed that public servants are accountable first of all to their minister; in practice public servants receive directions, rewards, and penalties from a variety of sources. This is one of the major differences between the public and private sector administration.

Subsequent discussions will show that governments have an impressive array of mechanisms to promote administrative accountability. Reformation of these mechanisms in most systems have included the restructuring of the Cabinet committee system (e.g. the use of policy committees with substantial decision-making powers); an expansion in the number and size of central agencies (e.g. cabinet secretariats, treasury and management boards); changes in the legislative committee system (e.g., new committees and revised procedures); a strengthening of the role of auditors and adoption of a comprehensive auditing system.

## CONFLICT OF INTEREST

According to Williams (1985:6) conflict of interest denotes “a situation in which an employee has a private financial interest sufficient to influence, or appear to influence, the exercise of his/her public duties and responsibilities”. The concept is applicable not only to situations where a conflict of interest actually exists, but also where it appears to exist. A charge of conflict of interest may arise not only when public duty clashes with private interest, but also when they appear to converge. This conflict of convergence is invariably reduced to the specific interest: the interest of the elected office bearer or appointed employee in the proper administration of his/her office; and his/her interest in his/her own private financial affairs.

A conflict of interest exists when a public employee’s public responsibilities clash, or appear to clash, with his/her private economic affairs. In its narrowest and perhaps crudest sense, conflict of interest refers to a set of circumstances in which a public employee uses his/her government position, either overtly or covertly, in such a way as to achieve personal monetary gain. In its broadest sense, it refers to any situation in which an employee’s public responsibility and private interests conflict and does not suggest that the clash has been resolved to the advantage of the private rather than the government interest (Mafunisa 2003: 5).

The above definitions explore three key elements. First, there is a private financial or economic interest, but it could also be another sort of interest, for example, providing advantage to a family member. In actual fact, there is nothing wrong with pursuing private financial interest; for example, joining a new employer to improve the family’s living conditions. The problem comes when this private interest comes into conflict with the second feature of the definitions, “public duties/responsibilities”. Public employees and political office bearers have their responsibilities because of their offices. They should know that they must put public duties before their private interest. Third, conflict of interest interferes with public duties of public functionaries in that objectivity and judgement are likely to be compromised.

### Concern about conflict of interest

A primary reason for concern about conflicts of interest is that they reduce public trust and confidence in the integrity and impartiality of public functionaries. In this respect, the appearance of a conflict of interest can be damaging as an actual conflict (Kernaghan and Langford 1990:139). Once in discussing his code of conduct, President F. Kennedy (in Frier 1969:3-4) remarked, “even though a technical conflict of interest ... may not exist, it is desirable to avoid the appearance of such a conflict from a public confidence point of view”. This view is also supported by Williams (1985:6) who remarks that even if no financial gain accrues to the employee involved other aspects of the conflict of

interest dilemma do create problems and attracts criticism, e.g. the problem of competition for the public functionary's time has been recognized. There is also the criticism that a multiplicity of outside interests may pre-empt an unduly large amount of the time and energy public functionaries have available to think about and perform their duties. Media coverage of incidents and allegations of conflict of interest have stimulated this public concern, which in turn have prompted many politicians to seek out cases of actual or apparent conflicts of interest involving their political opponents with a view to using adverse media coverage for political advantage.

Increased concern in contemporary society about conflicts of interest has come about in large part from the realization that public employees now have more opportunities to put private benefit before public duty. These opportunities arise from the increased scale and complexity of government and the expansion of bureaucratic power in the policy process. The slow growth in government means that public employees now have fewer opportunities for promotion and that their jobs are likely to be less permanent. The detrimental effect of these developments on morale has been aggravated by the relatively low public image of the public service. That is one of the reasons that more public employees should feel less committed to their jobs and that they should increasingly engage in activities for remuneration outside government as a hedge against losing or quitting their job. In some cases, public employees may feel that the financial rewards from serving the public are so inadequate that they are justified in using their public office for private gain (Kernaghan and Langford 1990:139-140).

## **Categories of conflict of interest**

To understand the implications of conflict of interest, several lenses will be used to analyse the case in question. Different categories of conflict of interest will be identified and discussed.

- **Using inside knowledge and influence**

Within the South African Public Service, and with special reference to Stipulation C.5.4. the Code of Conduct for Public Servants (PSC: Undated) does not allow an employee to use or disclose any official information for personal gain or the gain of others. In many situations a public employee can make access to inside knowledge a source of potential profit. At the local sphere of government, the director of city planning potentially could profit from knowing for example where new sewer facilities are to be constructed or what land is likely to be rezoned. Such knowledge has significant financial implications for land purchasers. There is a temptation to provide friends or relatives with this invaluable information before it is made public. Public employees often become silent partners and profit from



these transactions, either in exchange for the information they provide or as a gratuity for their tacit manipulation of events to make such transactions possible. According to Murphy, *et al* (1981:496), some public employees argue that it would be foolish not to take advantage of inside knowledge gained as bystanders, but it is immoral and illegal to actively influence decisions, which could favourably affect their own pocketbooks.

Often public employees can avoid conflict of interest by recusing themselves from situations in which personal interests are involved. In judicial circles, for example a judge may recuse himself/herself because he/she was prosecuting attorney on a case now before him/her on appeal. Similarly, a professional employee may disqualify himself/herself when he/she is called upon to make decisions affecting a firm for which he/she formerly worked or where he/she is a director (Mafunisa 2003:7).

- **Self-dealing**

Self-dealing refers to a situation where one takes an action in an official capacity which involves dealing with oneself in a private capacity and which confers a benefit on oneself. The notion of self is expanded to include one's spouse, family members, and business partners. An obvious example of self-dealing is a public employee who awards a contract to a company which he/she owns (Kernaghan and Langford 1990:142). In an actual case, four tenders were submitted to the former Department of Development Aid for R2, 6 million worth of earthworks. It emerged that three of the tenders were fictions and the fourth (successful) tender was signed in the maiden name of the wife of the public employee responsible for awarding the contract (Pickard Report 1992:45 & 47).

- **Outside employment**

Outside employment refers to the work or activity in which an employee engages outside normal working hours for additional remuneration. While such activity may be conducted on a full-time basis, it usually involves part-time work and includes a wide variety of activities such as working for a non-governmental organization (NGO), running a business, or consulting. Conflict of interest problems arise when outside employment (or moonlighting) of public employees clash with the performance of their official duties (Mafunisa 2003: 8).

More specifically, moonlighting may need to be restricted:

- if the activity is in direct competition with the employer
- if the employee's work performance is affected

- if the employer's property is being used to engage in the activity
- if confidential information is being used by the employee
- if the employee is using his/her position to solicit business or
- if the employee's activity could be perceived by the public to be a conflict of interest (Kernaghan and Langford 1990:147).

Stipulation C.55 of the Code of Conduct for Public Servants (PSC: Undated) does not allow public employees to, without approval, undertake remunerative work outside his/her official duties or use equipment for such work.

### • Post-employment

The scope of private interests considered relevant to the conflict of interest debate varies, extending from the fundamental level of interest the employee possesses while holding office to encompass interests discussed when taking office, interests their families have and interests acquired on leaving office. Economic interests for public functionaries are likely to arise on retirement or resignation, where there are potential opportunities for using confidential information or expertise obtained in public office, or influencing policy either for their own benefit or for that of their prospective employer (Williams 1985:8-9). Kernaghan and Langford (1990:149) describe post-employment as subsequent employment or future employment. It constitutes conflict of interest when public employees use, or appear to use, information and contracts acquired while in government service to benefit themselves or others after they leave office.

Among other variations of conflict of interest, the post-employment problem is one of the most difficult to regulate. The difficulty arises in large part from the fact that the persons being regulated are former public employees; once public employees have left the government service, the range of penalties that the government can apply to them is more limited. In the Canadian federal government, ministers and public employees are responsible for ensuring that former public employees do not take advantage of their previous positions (Kernaghan and Langford 1990:150).

Addressing a media briefing in Pretoria, President Mbeki (*The Star*, July 27, 2001:1) stated that the government is working on new regulations that would clarify the role of employees involved in negotiation of huge contracts and to limit corruption. He cited as an example any Cabinet minister, who could leave the government to join a field in the private sector, which operated in an area covered, by the minister during his/her term. Such a move, Mbeki stated, could be viewed as corruption since the minister would have participated in the award of tenders to a firm that he/she later joined. The legislation will make it impossible, for instance, for a for-

mer Minister of Defence to join the arms industry after leaving the government. The new regulations were being drafted in the light of the controversies emanating from the arms deal probe as “the issues that had been raised were relevant and needed to be addressed”.

- **Influence peddling**

Influence peddling is the practice of soliciting some form of benefit from individuals or organizations in exchange for the exercise of one’s official authority or influence on their behalf. It is closely related to the practice of accepting gifts. However, it is a more active form of conflict of interest in that it involves the solicitation of benefits (Kernaghan and Langford 1990:145).

## LEADERSHIP AND PUBLIC SECTOR ETHICS

**L**eadership has been defined in various ways. Some of the striking definitions of leadership are reconfigured as follows to mean:

- interpersonal influence, directed through communication toward goal attainment
- the influential increment over and above mechanical compliance with directions and orders
- an act that causes others to act or respond in a shared direction
- the art of influencing people by persuasion or example to follow a line of action
- the principle dynamic force that motivates and coordinates the organization in the accomplishment of its objectives
- a willingness to take the blame.

Ethical leadership also include activities such as transmitting information to workers, formulating of a mission, objectives and plans, and explaining these to subordinates, giving orders and instructions, supervising work, taking steps to improve performance, disciplining workers and dealing with conflict. In short, leadership is a duty that is performed by someone who is in charge of the activities of others. In its simplest form, leadership is the relationship and interaction between a superior and a subordinate. Given the big challenges confronting leaders in the public service today, a need exists to develop new skills of leadership and the same time, and to be in a position to address the salient issues of conflict of interest. Technical or functional skills are no longer sufficient. Leaders are required to be strategic, to lead beyond boundaries, and importantly to keep sight of the vision ahead with their feet firmly on the ground.

## **The components of leadership**

It is clear that leadership is a complex management activity. Particular components of leadership are authority, power, influence, delegation, responsibility and accountability. Authority is the right of a leader to give orders and demand action from workers. Power however, refers to the ability of a leader to influence the behavior of others without necessarily using his/her authority. Influence is the ability to apply authority and power in such a way that workers take action. At times the task of a leader might also be passing his/her authority on to a subordinate to do something on his/her behalf. This is called delegation and entails subdividing a task and passing a part on to a worker with the necessary authority to execute it. The final part of leadership is accepting responsibility and accounting for it. To maintain effective leadership, one must keep a delicate balance of the different leadership components. For example excessive authority may lead to an autocratic leadership style, which could influence and undermine the motivation of others in the organization.

## **The importance of leadership**

The performance of any organization should be directly related to the quality of its leadership. The point of contention is that effective managers will lead their institutions to greater heights of achievement, productivity and ultimately prosperity if they are effective leaders as well. It is in the public service that effective leadership is most needed. But it also has to be understood what difference is between a manager and a leader. Effective managers are not necessarily good leaders. Managers are bearers of authority assigned to them by an organized structure that is the authority and right to organize and lead the activities of others. This entail giving orders and ensuring they are carried out. A leader, can get results without coercion. Such an individual is a leader because he/she has specific traits and a power base, consults his/her followers in particular matters and motivates them to co-operate and working out of there own free will.

## **Leadership and ethics in public institutions**

Public sector ethics could be identified by the notion of conflict of interests as is perceived within public sector domains. Although this definition poses a narrow and somewhat sceptical view of the issue, "we are swept up in an orgy of concern about the intersection between the private interests of public office holders and the performance of their duties..." (Langford and Tupper 1003:2). On effective leadership, Hanekom (1981:10) states that leadership effectiveness not only depends on the leader, but is also to the largest possible extent dependent on the contributions made by the group member. Their contributions are based on the extent to which the leader is successful in obtaining the co-operation of the group members towards identifying themselves with their common

objectives. Hanekom (1981:6-7) then defines leadership based on effectiveness as follows:

*“Action by and execution of certain activities by an agent who formally has the right of authority, and/or has the power, to influence or to persuade subordinates to act in such a way that they will perform to the best of their physical and mental abilities to effectively attain those objectives identified by the agent”.*

The most common way of measuring leader effectiveness is the extent to which the institution performs its tasks successfully and attains its objectives. In a definition of leadership, French (1987:100) states that effective leadership, within the context of organizations, is an interactive process of influencing individuals and group behaviour toward the attainment of the enterprise’ objectives. In many cases objective measures of performance such as productivity, are available. In other cases one can look at the effective carrying out of duties and responsibilities. All of these can be accomplished within the template of an effective governance infrastructure.

## PROMOTING ETHICAL LEADERSHIP IN THE PUBLIC SECTOR

The following are some of the measures for promoting ethical leadership in the public sector.

### Public Protector

The enabling legislation of the Office of the Public Protector is found in Section 181-183 and 193-194 of Chapter 9 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996). National legislation regulating the Office is found in the *Public Protector Act, 1994* (Act 23 of 1994). The Act embroiders on the Constitution by spelling out that mal-administration, abuse of power, improper conduct, undue delay, and an act resulting from improper prejudice to a person, may be investigated. The Office measures its effectiveness in respect of whether recommendations in a particular case are followed. It has been found that whilst the government does act in most cases, it does not always follow the recommendations, particularly with respect to politicians:

*“Where the recommendations are against public servants we get full backing from parliament (sic). But where those recommendations are against political office bearers the majority party closes ranks. That doesn’t happen too often. It’s a pity that it works like that because it does the image of the office harm”* (PSC, 2001:20).

To this end, it can be argued that those who are found to be corrupt or involved in conflict of interest must be punished to make the recommendations of the Public Protector effective in curbing conflict of interest; and also to promote public confidence in the functioning of the Office (Mafunisa 2003:15-17).

## **Public Service Commission (PSC)**

The PSC's main role mandated by the Constitution, 1996 is that of effective oversight and monitoring of the public service. It is responsible for investigating, monitoring and evaluating the organization and practices of the South African public service. It derives its mandate from Section 195 and 196 of the Constitution, 1996. Section 195 of the Constitution, 1996 sets out the values and principles of public administration that must be promoted by the Public Service Commission. Some of these values and principles include that:

- a high standard of professional ethics must be promoted and maintained
- services must be provided impartially, fairly, equitably and without bias and
- public administration must be accountable.

The PSC (2001:24) recognizes that corruption is a problem at all spheres of government and as such has established the Chief Directorate: Professional Ethics and Risk Management. The role of this Directorate is to identify and address the weaknesses and vulnerability of state management systems and highlight the possibilities these offer for abuse by individuals and syndicates. In particular, financial disclosures by senior public service managers reveal that conflict of interest is a major issue for monitoring and raising awareness.

During 1999 the PSC (2001:25) conducted an investigation into dismissals as a result of misconduct (between 1996-1998). Out of a total of 2247 cases, 1077 were finalized and 1170 are in the process of being finalized. Almost 90% (964) of employees were found guilty and as punishment 238 of those were dismissed from the public service and the rest received sanctions other than dismissal. Of the finalized cases, 281 were corruption related. One hundred and two employees out of the 238 employees (42,8%) dismissed from the public service were dismissed in respect of corruption related transgressions including fraud, embezzlement and bribery.

**Table 1: Corruption-related dismissal cases 1996-1998 (Source: PSC, 2001:25-26).**

<b>Corruption Variables</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>Total</b>	<b>%</b>
Fraud/Misappropriation/Embezzlement of funds	13	20	26	59	57,84
Theft	9	14	11	34	33,33
Acceptance of Commission or fee (bribes) to carry out or not to carry out official duties			9	9	8,83
<b>Total</b>	<b>22</b>	<b>34</b>	<b>46</b>	<b>102</b>	<b>100</b>

From the above table, it is clear that it is difficult to prove and then dismiss employees on account of bribe-related activities. Nevertheless, the Commission has played an important role both in terms of putting the issue of corruption on the agenda by initiating conferences and establishing the Anti-Corruption Forum. The creation of the Investigations component for corruption-related cases is a new development and will need to be monitored to ensure its effectiveness.

## **Whistle-blowing**

One way for fighting conflict of interest is by informing members of the public about deviant behaviour not expected of public functionaries. Members of the public should also be sensitized about the provisions of the Code of Conduct for Public Servants (PSC: Undated), the Code of Conduct for municipal councillors and that for municipal employees provided for by the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000) even enable them to serve as effective whistle-blowers. Kernaghan and Langford (1990:94) define whistle-blowing as encompassing both the disclosure or surreptitious leaking to persons outside the organization of confidential information concerning a harmful act that a colleague or superior has committed, is contemplating, or is allowing to occur. Both members of the public could play a role in reporting incidents of conflict of interest to the offices of the Public Protector, Auditor-General, PSC, National Prosecuting Authority, South African Police Services Anti-Corruption Unit, amongst others. However, it must be noted that whistle-blowing must come with whistle-protection as a safety device and mechanism.

To the public employee, serving as an effective whistle-blower is risky and costly. The price public employees must be willing to pay for reporting their senior's involvement in conflict of interest include victimization; harassment; social ostracism; dismissal; re-assignment to obscure, uninteresting and menial duties; being overloaded with extraordinary amounts of work and unexpected demands; exclusion from the institutional "grapevine" of informational communication and frequent transfer. The continuous les-

son to be learnt is that if a significant number of employees stand up against conflict of interest, they can contribute to the fight against conflict of interest. The mass media should play a crucial role in exposing senior employees who victimizes their juniors for their fight against conflict of interest. Reports by the mass media such as newspapers could deter public functionaries in general from engaging in unethical conduct for fear of exposure.

## CONCLUSION

From the above discussion, it can be argued therefore that the study of public ethics cannot be limited to government circles alone. Neither can this area of study be limited to the notion of corruption and conflict of interests alone. It must involve the relationships between citizens and their governments and all attempts must be made to “de-spoil” any negative image of a corrupt public sector. The study of Public Administration with bi-focal lenses of government and ethics must embrace all of the dilemmas identified by a government’s code of ethics and behaviour. All of these must be adequately spelt out through an organized information platform. If information is to be considered to be an important determinant of power, then rules about effective government and ethical behaviour must be shared among elected officials and those responsible for the execution of the affairs of the state.

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