AN EVALUATION OF THE PUBLIC SERVICE ANTI-CORRUPTION STRATEGY IN THE DEPARTMENT OF ARTS AND CULTURE

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DEDICATION

This study is dedicated to my family whom I hold close to my heart. Thank you for all the support and understanding through this journey.

Thank you to the God of Mount Zion!

To God be the glory!!

ACKNOWLEDGEMENTS

I would like to thank God for always showering me with blessings and the wisdom He bestowed me on this path. With Him all things are possible.

My gratitude goes to all the people who supported me through this journey. Your support is highly appreciated and it motivated me. You always reminded me of the goal ahead and to persevere until the end, and I thank you for that. To my mother, I thank you for always being there for me always. No words can describe how grateful I am to have you in my life. To my late father, I wish you were still alive to witness this journey because I know it would make you a happy man. May your soul rest in eternal peace and in your honour I will study further and make you proud wherever you are because I know you are watching over me.

To the School of Public Management and Administration (SPMA) faculty and staff, I would like to say thank you for the opportunity you have granted me to study at such a prestige University from junior degree unto this stage. This has been a humbling experience for me and an opportunity of a lifetime. I am richly blessed to be part of the school's Alumni. A big thank you to Professor Natasja Holtzhausen, you are a blessing from God to all students. You are a motivator, a parent, and a leader to all. You see the best in a person even when they feel down. You are correctly placed in your career, you change lives, you teach. That is one of the greatest wealth a person can ever ask for. May God grant you all the wisdom on this earth to continue the wonderful and professional job that you are doing and continue touching lives.

ABSTRACT

The study aims to evaluate the implementation of fraud and anti-corruption strategies and policies with particular reference to the Department of Arts and Culture. The misuse of public funds by greedy individuals is alarming. Allegations of corruption are increasingly implicating to government officials and high ranking officials, which leads to a lack of good governance in the public sector and lack of trust by the ordinary citizens of this county in their leaders and the government systems that are in place. Government has capacitated itself with human resource capital to ensure that service delivery improves and that the country is steered into the right direction both socially and economically. Government has also put in place anti-corruption strategies for the public service that public servants must adhere to in order to ensure that corruption is curbed, but with all the systems and process in place the public service still finds itself having to deal with cases of corruption and misuse of funds. The DAC is a national department and subscribes to the anti-corruption strategies of government.

The purpose of this study is to evaluate the implementation of anti-corruption strategies in the Department of Art and Culture by analysing current fraud prevention strategies and policies. This research study analyses and assesses current methods used to combat corruption in the DAC and systems and methods to monitor corruption in the public service and with the possibility of benchmarking those new approaches for use by the DAC. The study emphasises the roles of employees and senior managers in the DAC and also looks into issues of professionalism and moral behaviour as one of the tools that can assist in curbing the problem of corruption. The research method used in this study to unsure that the objectives of the study are achieved is a qualitative research approach. A desk top method and referring to textbooks, articles and journals was the method that was utilised. The findings of the study proved that even though the DAC is commended for developing and putting in place anti-corruption strategies and policies there are still challenges in terms of implementation. As a result, the study made some recommendations after the numerous arguments with regards to the subject

matter were presented. This is done in an effort to ensure that there is effective policy implementation and adherence to the rule of law.

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ACRONYMS

BRICS   Brazil, Russia, India, China, South Africa

COSATU   Congress of South African Trade Unions

DAC   Department of Arts and Culture

DG   Director-General

DPME   Department of Planning Monitoring Evaluation

DPSA   Department of Public Service and Administration

FICA   Financial Intelligence Centre Agency

GPG   Gauteng Provincial Government

GPOA   Government's Programme of Action

MDG   Millennium Development Goals

NDP   National Development Plan

NPC   National Planning Commission

NPM   New Public Management

PAD   Public Administration

PAR   Public Administration Reform

PFM   Public Finance Management

PFMA   Public Finance Management Act

POCA   Prevention of Organised Crime Act

PSRMF   Public Sector Risk Management Framework

SONA   State of the Nation Address

UNDP   United Nations Development Programme

CHAPTER ONE

GENERAL INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

The public service is an important employer in South Africa as it employs more than a million people in all spheres. The political heads as elected officials are entrusted by the public with the authority to lead and guide the nation to growth and to implement an effective, efficient and development-oriented public service that takes care of the well-being of all citizens of the country. For government to achieve such goals it needs people who are dedicated, reliable, hard-working and honest as public servants, people who put the interests of the public first.

Regardless of the capacity that the public service has, it still finds itself with the problem of non-service delivery in all spheres of government. Reasons of non-service delivery are primarily as a result of inefficiency, unskilled personnel, poor management and political deployment of unqualified cadres. The other reason for non-service delivery and inefficiency in the public service is corruption. Corruption is a serious obstacle to the achievement of government programmes. It erodes government's legitimacy because it hampers the effective delivery of public goods and services. It limits economic growth because it reduces the quantity of public resources, discourages foreign investments and savings, and impedes on the efficient use of government revenue.

South Africa is a country that has possibilities of growth and development. It is part of Brazil, Russia, India, China partnership, the G8 nations and is seeking a permanent seat in the United Nations Security Council and it still seeks to attract more investors to invest in the country so that there are job opportunities for the unemployed. It also seeks to improve on infrastructure and social services, but investors do not always want to invest in a country with high levels of corruption. President Jacob Zuma announced in his 2011 State of the Nation Address (SONA) the Government's Programme of Action

(GPOA) with all its plans that are aligned to the five priorities of government which are education, health, rural development and land reform, creating decent work and fighting crime. He also mentioned that government will continue to improve the performance of the state in various ways including fighting corruption and also invited interventions by other stakeholders like COSATU's Corruption Watch to assist government in combating corruption. He invited the participation of provinces to work together with government to improve governance, systems and administration (Zuma 2011:1-15). In his SONA 2013 the President also urged the private sector to assist government in the fight against corruption so that it can be tackled in all sectors (Zuma 2013:1-16). President Zuma mentioned in his 2014 SONA that cases of corruption and maladministration have been reported through the National Anti-corruption Hotline and have been referred to government departments for further handling and investigation. Government has recovered more than R320-million from perpetrators through the National Anti-corruption Hotline. According to the president fighting corruption in the public service is yielding results (Zuma 2014:10-12).

Government established the National Planning Committee (NPC) to take a broad, independent and critical view of the challenges and opportunities facing South Africa. In his SONA 2013 President Zuma announced that on 15 August 2012 the NPC handed over the National Development Plan (NDP). The aim of the plan is to eliminate poverty and reduce unemployment and inequality by 2030. One of the mechanisms that the committee believes can assist the country in achieving these goals is by promoting accountability and fighting corruption. Chapter 14 of the NDP states that evidence gathered by the NPC indicates that South Africa suffers from high-levels of corruption that undermine the rule of law and hinder the state's ability to effect development and socioeconomic transformation. The performance of state systems of accountability has been uneven and enabling corruption to thrive (National Development Plan 2011:401).

According to Minderman, Raman (2012:8) the development of a country is hampered because corruption perpetuates poverty, leads to flight of capital,

promotes inequality, and harms sustainability. At executive level of government corruption compromises public sector efficiency, distorts public spending, undermines the redistributive functions of the state, diverts public finance, reduces public revenues, distorts decision making, lowers moral of public servants, and reduces quality and quantity of public service delivery.

Given the background of the issue of corruption and its negative impact on the public service, the purpose of this study is to evaluate the implementation of fraud and anti-corruption strategies and policies in DAC. Current fraud prevention strategies and policies will also be analysed. Chapter one as an introductory chapter will focus on the basis of the research, why it should be conducted, the motivation, the problem statement and objectives of the research. It will also outline the clarification of different concepts with the aim of making it easier to understand the main important concepts that one should take into consideration when going through the research.

1.2 Motivation for the study

The Department of Arts and Culture (DAC) is a national government department that is responsible in terms of the Constitution of the Republic of South Africa, 1996 for fostering nation building and social cohesion, and for the promotion of the arts, culture and heritage sectors in South Africa. The mandate of the Department is to preserve culture and ensure that everyone has the right to use language and participate in the cultural life of their choice. This mandate is aligned to the 1996 Constitution South Africa which states that "everyone has the right to freedom of expression". Section 30 of the 1996 Constitution states that "everyone has the right to use language and to participate in the cultural life of their choice, but no one exercising these rights may do so in manners inconsistent with any provision of the Bill of Rights" (Annual Report 2013/2014:24).

The DAC describes itself as a "thriving arts, culture and heritage sector contributing to sustainable economic development, leveraging on partnerships for a socially cohesive nation" (https://www.dac.gov.za/8-2-1-vision-mission-values). The mission of the DAC is "to enhance job creation by preserving,

protecting and developing arts, culture and heritage to sustain democracy and the nation" (https://www.dac.gov.za/8-2-1-vision-mission-values) and the Annual Report (2013/2014:23). The strategic outcome oriented goals of DAC as outlined in the Annual Report (2013/2014:23) is as follows:

- create meaningful jobs in the sector;
- introduce and implement training programmes that are aimed at developing employees and other stakeholders in the sector;
- improve the accessing of information by citizens and other stakeholders and ensure that they have access to accurate, reliable and current information by allowing access to libraries, archives and language services;
- establish language diversity in a manner that accommodated cultural expression by communities;
- develop and implement policies, and comply with legislative promulgation that will protect and preserve the arts, culture and heritage sector;
- Improve the capacity of the sector through reasonable and sustainable development; and
- ensure that the public sector and arts institutions and stakeholders share the same vision, have a common mandate and work towards the same principles of good governance and accountability.

The DAC views South Africa as a country where all citizens have a right to practice their culture without being victimised and criticized. Its core business is to develop and promote arts and culture in South Africa and mainstream its role in social development, develop and promote the official languages of South Africa and enhance the linguistic diversity of the country. It is also to develop and monitor implementation of policy, legislation and strategic direction for the identification, conservation and promotion of cultural heritage.

1.2.1 Key measurable objectives of DAC

The Department has put in place the following measurable objectives to ensure that its vision is achieved (https://www.dac.gov.za/8-2-1-vision-mission-values):

- develop and review policies and legislation, and develop monitoring and evaluation systems that will assist in coordinating and supporting national strategic programmes;
- policy formulation, legislation and unbiased funding should influence the facilitation and increase of access to a broader participation in the arts sector;
- develop policies, and legislation that aims to promote and promote the 11 official languages. For example the development of language policy;
- develop training for grassroots arts practitioners in cultural industries economic activities to ensure access and unrestricted participation;
- implement heritage policies and legislation to ensure that the heritage landscape is transformed as an advocate for nation building and social cohesion; and
- Improve the capacity of the sector through reasonable and sustainable development; and
- manage and regulate institutions effectively to ensure transparency and good governance is archives, records management, published information, and a heraldic and symbolic inheritance of the nation.

The Department's primary role is policy making in terms of arts, culture and heritage. Its programme is implemented through a network of 27 institutions. These institutions are funded by the Department and are allowed to run programmes that enrich and develop South African culture and heritage. Through these institutions the Department wishes to fulfill its mandate of nurturing South Africa's heritage and diverse cultures. Its success relies on a patriotic, effective and efficient cadre of public servants that understand how to translate government policies and legislation, behave ethically by

distancing themselves from corrupt activities, and ensuring that they turn programmes into tangible benefits.

1.3 Research objectives

According to Kumar (2011:50-224) Objectives are the goals that are set out to be attained in the study. The objectives inform the reader of what the researcher wants to achieve through the study and they must be worded clearly and specifically. There are two types of objectives which are main objectives and sub-objectives. The main objective is an overall statement of the thrust of the study, and the sub-objective is the specific aspect of the topic that is to be investigated within the framework of the study. The aim of the study is to achieve the following research objectives:

- To conceptualise corruption in public administration.
- To review the public service mechanisms in place to prevent corruption.
- To explore the current fraud prevention models adopted by DAC.
- To determine whether there are enough mechanisms in place to curb fraud in the DAC.
- To provide recommendations about remedies that can be put in place to ensure effective and efficient implementation of fraud prevention and control policies.

Having outlined the research objectives above then main research objective is to identify if there are sufficient mechanisms in DAC for fraud and corruption prevention and control. The main research objective is aligned to the main research question which is whether mechanisms for fraud and corruption prevention and control are sufficient in the DAC.

1.4 Research questions

Policies can be less effective if they are not properly implemented or not adhered to intentionally or unintentionally. This could be as a result of policies being misinterpreted by employees or that employees do not adhere to the rule of law. The conceptualisation of the policies is important as it assists in

assessing the systems that are in place to prevent fraud in DAC and whether they are effective. The main question to be addressed therefore is that are the mechanisms for fraud and corruption prevention and control sufficient in the DAC? This question is posed with an understanding that the public service has anti-corruption strategies in place which government departments must follow and use as guidelines to develop their internal anti-corruption strategies.

Focus must be on the following secondary research questions which will serve as guidance in the research process with the aim to provide answers to the main research question as defined above:

- What public service mechanisms are in place to prevent corruption?
- What are the current fraud prevention models that have been adopted by DAC?
- What remedies can be put in place to ensure proper implementation of policies?

The research main research question is aligned to the main research objective in order identify the problem areas with the aim to evaluate them and positively contribute to the effective implementation of fraud and anti-corruption strategies and policies within DAC.

1.5 Literature Review

The aim of literature review is to determine what has been written on the issue of corruption, its prevention and policy implementation. This literature study will include a review of a selected body of international literature as well as research that has been conducted in South Africa. Local publications will be reviewed first, followed by a review of international publications.

1.5.1 Review on selected South African publications on issues of corruption

A collection of South African publications on the issue of corruption was selected. The introduction of the National Development Plan (NDP) by the

South African government shows indicates the determination of government about eradicating corruption in the public sector. Chapter 14 of the NDP is about fighting corruption. The NDP states that to overcome corruption and lack of accountability in society requires political will, sound institutions, a solid legal foundation and an active citizenry that holds public officials accountable. The vision of NDP is to have a South Africa that as zero tolerance for corruption by 2030. This long term goal is also aimed at building a leadership that has integrity and high ethical standards (National Development Plan 2011:401-410).

According to Webb (2010b:6-7) the term 'corruption' often takes on a broad meaning representing different phenomenon. Corruption could be defined as any intentional and unlawful conduct or behaviour by a person entrusted with responsibilities in the public office which violates his or her duties as a public official and which is aimed at obtaining undue gratification of any kind for him or herself or for others. These forms of corruption are criminalised by the Prevention and Combating of Corrupt Activities Act, (Act 12 of 2004). This Act was established to provide for the strengthening of measures to prevent and combat corruption and corrupt activities and investigations thereof.

Figure 1.1 Types of corruption

https://preview.tinyurl.com/y8ycotfu
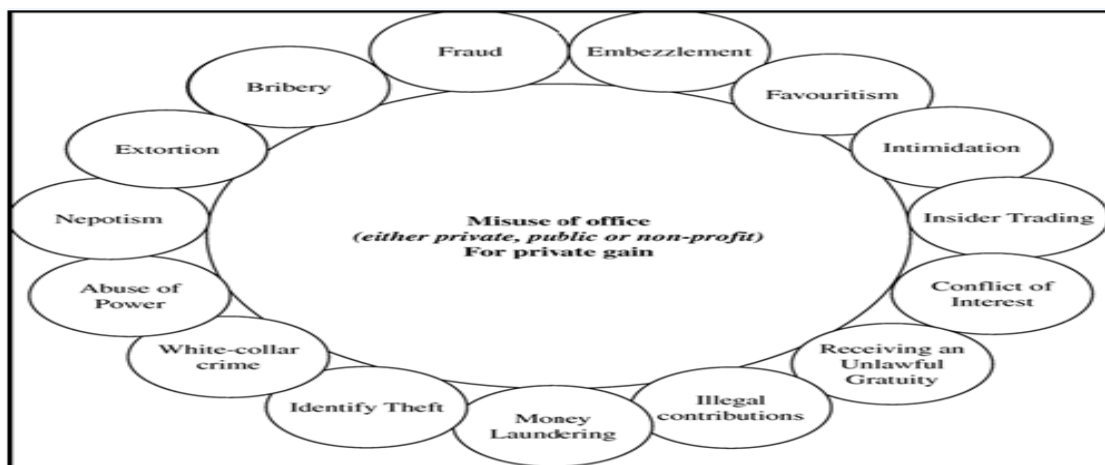
Corruption most often lies at the intersection of the public and private sectors; they are the basic forms of corruption which in a real sense occur within the broader forms of corrupt practices (Mussie 2016:8). There are various types of corruption that have been experienced in the Department and fraud is one of them. According to Brytting, Minogue and Morino (2011:31) fraud has traditionally been understood as something that criminal individuals commit. From a legal perspective, an individual can miss some important insights into the nature of fraud if focus is solely on the perpetrator and ignore the role played by the organizational structure or by the social system surrounding fraud.

Dye (2007:308) describes the word corruption as a Latin verb *corruptus* (to break); it means broken object conceptually, corruption is a form of behaviour that departs from ethic, morality, tradition, law, and civic virtue. Former Public Protector Thuli Madonsela in her speech "Corruption and Governance Challenge: The South African Experience," (2010) describes corruption as an act that involves the abuse of power for private gain. It is important when attempting to deal with corruption to put more focus on the human element. Politicians and public servants must behave in an ethical manner that will not damage the reputation of government and should always put the interests of the general public first. Public servants must conduct themselves in accordance to the *Batho Pele* principles and the Public Service Code of Conduct and Ethics.

Corruption has spiralled out of control over the years with public servants being implicated in various kinds of corruption activities. This rise has prompted academics such as Webb (2010) and Habtemichael (2009) to research on public sector corruption and its economic and social effects. Kolthoff (2013:161) postulates that research on corruption to date has focused on the scope of the problem and the causes situated in differences between countries and organisations. Such research, although it has led to important conclusions, does not answer the question of why in an organisation, a specific employee engages in unethical behaviour and the other employee does not. Research is also conducted on various elements and sources of

corruption and issues of accountability and poor leadership. In a document published by Parliamentary Liaison Office on Corruption in the Public Service (2009:1-3) it is specified that South Africa is faced with a problem of corruption, particularly in the public sector and fighting corruption must therefore be a top priority of government. The document aptly notes that it is not so much the absence of legislation to deal with corruption in the public service that is the problem, but rather the lack of enforcement of existing rules and regulations.

Naidoo (2017:73) states that events of corruption do not provide methical evaluations as to why they occur within the broad organisational structures of the public service but occur conspicuously in the assessments of governance, performance and capacity of the South African public service. A proper application of corruption prevention measures such as the Public Service Anti-corruption Strategy (2002) is meant to assist in the decrease of corrupt activities and help establish an effective public service. Ssonko (2010:3) argues that integrity; transparency, accountability and professionalism are crucial reforms to protecting public resources, enhancing public sector performance and strengthening the government's role in orchestrating development and providing basic services. Government has attempted to give the public service a transformation with the introduction of the *Batho Pele* (People first) principles. The *Batho Pele* principles are initiatives that have been put in place in an effort to mordenising the public service to enhance the quality delivery of goods and services to the public by improving efficiency and accountability. The principles are also used to imply the dissolvement of government organisations that are deemed corrupt or obsolete.

According to Habtemichael (2009:1) corruption is not identifiable as a single act; it manifests itself in many forms. It is not an umbrella concept that incorporates all unethical behavior, which can make the effort to curb it untenable; there are specific acts such as bribery and fraud that can be categorised as corrupt. Kolthoff (2013:162) explains that it is instructive to distinguish between two different interpretations of the term 'corruption'- one narrow, one broad. The narrower interpretation of corruption defines it either

as behavior which deviates from the formal duties for private, pecuniary or status gains; or violates rules against the exercise of certain types of private influence. The broader definition of corruption, in contrast, encompasses all violations of moral norms and values, including violations of integrity, which positions it closest to the original Latin *corruptus*, meaning 'damaged' or 'bad'. The magnitude of corruption is not the same in every instance.

Ruhiinga (2009:1090-1100) describes corruption in the perspective of public choice theory. Public choice theory provides an appropriate context within which to explore corruption in the public sector. Individuals, including political office-bearers and public officials are driven by self-interest and attempt to maximize on every opportunity that presents itself. The relationship between the private sector and public sector on issues of service delivery also plays a role in the rise of self-enrichment by individuals. There are various remedies to curb corrupt behaviour in the public service such as ethics education and training public servants and political office bearers, exemplary ethical behaviour by political office-bearers and senior managers, codes of conduct and ethics. The Code of Conduct is a document that also guides public servants in terms of how they should conduct themselves in the workplace. The manual emphasizes that in order to promote a high standard of professional ethics in the workplace public servants should be encouraged to think and behave ethically.

Uys (2014:115-118) states that there is a difference between the code of ethics and the code of conduct. A code of ethics attempts to shape and reflect an organisational culture. It presents the ethical framework by which management intends to manage the organisation. It is a legal compliance document, it deals with likely 'unknowns', but emphasises principles rather than prescriptions. Whereas a code of conduct is an internal document designed to make officials explicitly accountable to the organisation and the law. It is detailed and prescriptive. It may include sections that aim to address issues of conflict of interest, occupational health, or gifts and benefits. The idea is that should the code be comprehensive, then there will be more consultation and greater commitment from employees. According to

Gildenhuys (2004:13) ethics represents principles or standards of human conduct which is sometimes referred to as moral and it essentially deals with what is right and wrong, good and bad and acceptable and unacceptable. Corruption is both bad and unacceptable in all aspects, economically and socially. It is important to note that individual behavior plays an important role in activities of corruption. An effective and efficient public service is easily undermined by poor ethics and corruption.

Habtemichael (2009:iii) also indicates that corruption is unlikely to be eliminated as it is part of human nature. The effort against it is aimed at controlling it and reducing it to a minimal level. It affects all sectors in society, international organisations and all socio-economic formations. It manifests itself in various forms, including bribery, embezzlement, favoritism, extortion, conflict of interest, political bargains, abuse of discretion and power. New forms of corruption and mechanisms emerge in response to various anti-corruption programmes. Lumumba (2011:3) states that corruption has posed a serious challenge to many countries, with particular reference to Africa as a continent. Africa is a continent that is rich with mineral resources but it is trailing behind all the other continents in development.

Corruption becomes a norm if the chances of being caught and severely punished are low. Officials will often think that there is nothing wrong with committing fraud if they are not caught and punished. They will take it that it is a generally accepted behaviour in the department. It is important for Senior Managers to ensure that effective fraud and corruption prevention risk management strategies and staff awareness programs are established in the department so that officials can be well informed about the consequences that they may face when they are involved in the acts of fraud and corruption. Makhooane (2011:3) articulates that a fraud and corruption policy should have a statement forbidding the illegal conduct of fraud and corruption.

Rangata (2008:2) states that although the South African government has been instrumental in systems to fight corruption, practical problems have increasingly emerged over the years. The most notable problems are: insufficient coordination of anti-corruption work within the South African public

service and among the various sectors of society, poor information about corruption and the impact of anti-corruption measures and agencies, and the impact of corruption on good governance.

The government has put the following legislative measures in place to regulate fraud and corruption:

- The Public Service Ant-Corruption Strategy was introduced in 2002 to address corruption in the public service, and as part of the implementation strategy cabinet in 2003 Cabinet recommended that all organisations with the public service must put in place minimum levels of anti-corruption strategies, as a result the in 2006 the Department of Public Service and Administration (DPSA) published a guidebook called the Anti-Corruption Capacity Requirements. The booklet provides guidelines on how to create minimum anti-corruption capacity. The booklet emphasises that the Public Service Anti-Corruption Strategy must require departments to address the following: Fraud, bribery, embezzlement, abuse of privileged information, favouritism, nepotism, extortion, insider trading, and abuse of power (Anti-Corruption Capacity Requirements 2006:5-7).

- The purpose of the *Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)* is to provide for the strengthening of measures to prevent and combat corruption, and to provide for investigative measures in respect thereof. It is also to provide for the establishment and endorsement of a Register aimed at placing restrictions on people convicted of corrupt activities; and to ensure that people in positions of authority report acts of corruption, and those matters receive extraterritorial jurisdiction attention.

- Part 2: 4 (1) of the Act stipulates offences in respect of corrupt activities relating to public officers as any (a) public officer who, directly or indirectly, accepts of agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; (b) or any person who, directly or indirectly gives or agrees or offers to give any gratification to a public officer, whether for the benefit of that public officer or for the benefit of another person.

- To avoid conflict of interest officials must disclose their designated interest to the employer. Chapter 3:c(1) of the *Public Service Regulations, 2001* states that every designated employee shall disclose to the relevant executing authority, particulars of all her or his registrable interests for a particular financial year. This is a process that must be handled by the Risk Management Directorate to avoid employees being registered in companies that may gain from government. They may be in a position to manipulate the procurement system.

Section 45 of the *Public Finance Management Act, 1999 (Act 1 of 1999)* states that an official in a department:

- Must ensure that the system of financial management and internal control established for that department is carried out within the area of responsibility of that official;
- Is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility;
- Must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;
- 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
- Is responsible for the management, including the safeguarding of assets and the management of the liabilities within that official's area of responsibility.

Within this context the purpose of this study is to evaluate the implementation of fraud and anti-corruption strategies and policies in DAC. The fraud prevention strategy of the Department is formulated in line with the South African legislation and the following statutes were examined for relevance and to avoid contradictions to policy:

- Public Finance Management Act, 1999 (Act 1 of 1999)

- The Protected Disclosures Act 2000 (Act 26 of 2000)
- Financial Intelligence Centre Act, 2001 (Act 38 of 2001)
- Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)
- Prevention of Organised Crime Act, 2004 (Act 29 of 2004)

The DAC fraud prevention strategy is based on the following pillars: Prevention, detection, investigation and resolution. Its primary objective is to deter the likelihood that fraud may occur. The intention of this objective is to increase corruption prevention efforts at departmental level by putting focus on identifying controls to alleviate the three conditions that have to occur before fraud can take place. Those conditions are opportunity, rationalisation or justification, and pressure. To alleviate these conditions at implementation level it would be appropriate to refer to the concept of ethics management.

The issue of corruption cannot be addressed without considering ethical behavior. According to the *Explanatory Manual on the Code of Conduct in the Public Service (2002:7)*, in order to promote a high standard of professional ethics in the workplace, public servants should be encouraged to think and behave ethically. Nagiah (2012:viii) postulates that a code of conduct is usually aspirational in that it describes core ethical values that should guide employees in their behavior and ethical decision-making. Sindane (2009b:500) rightly notes that public administration deals mainly with people. Hence there is a need for public administrators to have a thorough knowledge of values and a deep-rooted concept of right and wrong.

The implementation of ethical and anti-corruption measures in the public service is faced with challenges such as non-compliance and lack of enforcement of legislation. It is for this reason that Public Sector Integrity Management Framework has been put in place. The aim of introducing the Public Sector Integrity Management Framework is to enhance the integrity management methods and standards in the public service and also to promote ethical conduct. The framework is aligned to policies, legislation and related instruments that are put in place for employees to adhere to when addressing issues of fraud and corruption. For example section 7 of the

Framework outlines the alignment of the code of conduct for public servants in national and provincial departments, in line with chapter 2 of the Treasury Regulations, 2001, as amended (Public Sector Integrity Management Framework 2006:4-15).

Fourie (2009(a):628-637) refers to ethical conduct as a cornerstone of public sector procurement. Corruption sets in when pubic officials are, for example, paid rent in order to circumvent restrictions in terms of quotas, import restrictions or excise duty, to secure a contract, to permit a monopoly over a contract or to limit competition. Officials could then position themselves in areas where they can be bribed for various decisions or services or to turn a blind eye on certain illegal practices. Corruption undermines both development and democracy. The issue of integrity is also important. The OECD Global Forum on Public Governance (2009:9) defines integrity as the "application of generally accepted values and norms in daily practices". It goes on to define integrity management as "the activities undertaken to stimulate and enforce integrity and prevent corruption and other integrity violations within a particular organisation".

1.4.2 Review on selected international publications on issues of corruption

Fletcher and Herrmann (2012:2) articulate that as the international community strives to meet its Millennium Development Goals (MDGs), tackling corruption has been firmly on its agenda. Over the past decade visible attempts have been made to collectively counter this threat, including the creation of several international conventions and treaties in this policy area. It is in this context that there has been a growing interest in the subject of corruption, internationally, as well as a burgeoning workforce of professionals tasked with fighting corruption in their perspective fields. This includes for example, counter corruption specialists in public and private sector organisations, investigative and policing personnel with roles in counter corruption and policy/law makers with responsibilities for countering corruption.

According to Della Porta and Vannucci (2012:9) corruption is considered a sign of friction between various subsystems, and in particular of the survival of the old values and traditional institutions during transitions to economic development and political democratisation. In this approach, corruption is said to have a number of positive functions, "oiling" blocked bureaucratic and political mechanisms that would otherwise hinder development, mordenising the political system, lessening resources to political violence, and favoring social integration and economic capital formation. It follows that (a) since corruption contributes to the attenuation or solution of dysfunctional political and social processes that are its hidden generators, it tends to be a temporary and self-extinguishing phenomenon; and (b) in more developed countries, corruption is a residual or marginal component of political processes, caused by a few "black sheep," with few adverse consequences. In advanced liberal democracies in particular, the rule of law, the information function of the media, and the political control exercised by citizens should prevent corruption from passing low physiological thresholds.

Ssonko (2010:8) suggest that corruption threatens the economic and political fortunes of developing countries the most. Bribery, conflict of interest and illegal deals impose heavy costs on the economy while distorting development policies and undermining confidence in public institutions. Corruption endures in the public sector because public officials are either unwilling or unable to address it forcefully. In corrupt endemic societies, corruption touches the highest levels of government and many senior officeholders will not be motivated to work against it (Akpanuko 2012:28).

According to Lawal (2007:1) corrupt practices span a wide spectrum, ranging from petty corruption whereby bribes are required before normal bureaucratic procedures are accomplished, to a point whereby considerable sums of money are paid in return for preferential treatment or access. It is worse in countries where institutions, such as the legislature and judiciary are weak, where the rule of law and adherence to formal rules are not rigorously observed, where political patronage is standard practice, where independence and professionalism of the public sector has been eroded and where civil

society lacks the means to bring public pressure to bear. Once corruption becomes entrenched its negative effects multiply. It induces cynicism because people begin to regard it as a norm. It undermines social values because people find it easier and more lucrative to engage in it. It erodes governmental legitimacy because it hampers the effective delivery of public goods and services. It limits economic growth because it reduces the amount of public resources, discourages private investment and saving and impedes the efficient use of government revenue and development assistance funds. Different types of corruption are identified as grand (political), petty (administrative), or state capture. Corruption is not evenly distributed either; in some cases it is incidental, in others systematic, or institutional (systemic) (Habtemichael 2009:1).

Ethics management has developed from being a compliance based approach to integrity based approach. Maesschalck (2004:21-22) proposes that the compliance-integrity approach continuum is the dominant framework for conceptualising approaches to ethics management. The compliance approach to ethics management emphasises the importance of external controls on the behaviour of public servants. It prefers formal and detailed rules and procedures, and ultimately aims at a situation in which ethical choices that are made by individuals are based on choosing to follow the right way of doing things and adhere to the rules, or infringe the rules on purpose or oversight. The integrity approach focuses on internal control- self-control exercised by each individual public servant. These two approaches do not constitute a simple dichotomy but should be seen as the opposite ends of a continuum, and in practice they should always be combined and considered and considered complementary. Geiger (2010) suggests that an organisation can only maintain ethical standards by upper management setting ethics as a top priority. Accordingly, management needs to embrace strong ethics while enforcing tough standards for all employees from executive managers down to the lowest levels of employment. An ethical organisation can strengthen its resolve to behave responsibly only by developing its ranks into ethical professionals. An ethical professional will contemplate what harm his or her

actions can cause the company, co-workers, customers, and communities in which the organisations it operates.

In a presentation that focuses on fighting corruption in Africa, Lumumba (2011:5) postulates that the root cause of corruption vary from place to place depending on the political, social, economic and cultural circumstances. In Africa, some of the identifiable causes of corruption include the negative colonial legacy, poor leadership and lack of ethical values, greed and selfishness, and nepotism. There is lack of public participation, accountability and transparency, and political will. Weak judicial system and constant insecurity and conflict are also identified. These factors affect the development of Africa as a continent that is rich with minerals that are needed and purchased globally.

Brytting, Minogue and Morino (2011:38-39) articulate that in some countries, more than in others there are more lenient or even cynical attitudes towards the private use of common resources, in particular with respect to people in power. The correlation between poverty and corruption is generally accepted and often demonstrated. The costs of corruption are borne by the poor and powerless, while the benefits are enjoyed by the rich and powerful. Paradoxically, the corrupt, rich and powerful 'bribe payers' might be nationals of countries that enjoy a low level of perceived public sector corruption.

Although the study will not be focusing in issues of good governance, it should be noted that corruption has a negative effect on it. Hegte (2011:1) states that good governance is a fundamental right of a citizen and democracy. Such governance includes factors such as transparency and accountability. It also includes values such as justice and equity. Good governance implies an administration that is sensitive and responsive to the needs of the people and is effective in coping with emerging challenges in society by framing and implementing appropriate laws and measures. It includes strict rules of accountability. Corruption and poor governance help explain why increased funding allocations, such as those aimed at meeting the United Nations Millennium Development Goals (MDGs), have not necessarily translated into

improvements in human development indicators, particularly in Africa (Africa Development Indicators 2010:1).

Fletcher and Herrmann (2012:35-36) postulate that determining causes and consequences of corruption is not an easy task because it is likely to involve the complex interplay of several factors. For example, it may occur within particular arrangements which have other weaknesses. In this instance, therefore, it would be difficult to isolate corruption as an independent variable and determine links between cause and effect. Difficulties, notwithstanding, it is generally agreed that the incidence of corruption is 'a result of the strength of incentives, the range and scale of opportunities, the availability of means and the risks of punishment.

Any form of corruption may be regarded as an act of misconduct in the public service. Nicholls, Daniel, Bacarese and Hatchard (2011:154-158) articulate that misconduct in the public office is committed when the holder of that public office acts, or omits to act, in a way which is contrary to their duty. That duty may be one imposed either at common law or statute. They further articulate that many public office holders are given extensive powers in the expectation that these will be exercised for the public good. Such privilege of power brings with it obligation: it must be exercised conscientiously, without fear or favour, and without being used as a tool for illicit gain. In the event that a position of trust is breached, the common law therefore singles out the public office holder for sanction in a way in which the holder of a non-profit office or position is not.

According to Akpanuko (2012:24) public sector bribery, fraud, and other forms of corruption have become leading concerns for legislators around the globe, as the diversion of public funds undermines control of the public purse and robs public policies of resources to ensure sustainability development. Detailed policies are required to give specific guidance to employees on how to act in order to be in compliance with the organisation's anti-corruption policy and how to counter specific forms of corruption.

1.6 Problem statement

The former Director-General (DG) of the Department of Arts and Culture, Mr Sibusiso Xaba received an allegation from a whistle-blower regarding fraud and corruption in the Department. The allegations involved a DAC official and a service provider on irregular proceeding when appointing a service provider for tender. Investigation findings proved that the Department appointed a service provider to render a service even though there is no evidence that the service provider submitted a proposal in respect of tender DAC06/11-12, and another finding is that the service provider intentionally misled the Department by submitting a proposal on the letterheads of another company with almost a similar name (BIG Internal Audit Investigation Report Financial year 2013/14:1-7). The former Director-General referred the matter to Internal Audit and Risk Management for investigation. The former DG also mandated Internal Audit to appoint Business Innovation Group (BIG), which is a co-sourced audit firm, to conduct an investigation into the allegations. During the initial stages of the investigation the team discovered that there appeared to have been some irregularities that occurred during the tender process for the appointment of a service provider. The former DG then mandated the team to expand the investigation to include the tender process followed (BIG Internal Audit Investigation Report Financial year 2013/14:7).

In June 2000, the former Minister for Public Service and Administration Geraldine Fraser-Moleketi announced that, as part of the implementation of the anti-corruption strategy, the qualifications of all public servants would be verified, starting with those of the officials in the Senior Management Service (SMS). In terms of a Cabinet decision of January 2002, each Accounting Officer must, for his or her department the verification of candidate's citizenship, qualifications, and previous employment history are conducted before they are employed. The Accounting Officer must also ensure that the candidate's criminal records are checked. Effective public service delivery is dependent on the quality and competence of public servants employed (Oversight Report on the Verification of Qualifications in the Public Service 2007:vii). Employees with appropriate qualifications and skills help to shape

the policies of the Public Service and can also ensure that such policies are successfully implemented. Therefore, it is important for government departments to appoint people with appropriate qualifications and skills to meet the expectations and demands of the positions they hold. Producing fraudulent qualifications is an act of misconduct and can lead to disciplinary actions being instituted against employees. Fraudulent qualifications can impact negatively on service delivery as they may lead to the appointment of incompetent and dishonest officials. Hence the Public Service appointed the services of organisations such as KROLL Personal Credential Verification to verify qualifications of all employees to ensure the authenticity of their qualifications (Oversight Report on the Verification of Qualifications in the Public Service 2007:viii & 2).

In 2009 the Minister of Arts and Culture approved the submission for the process of verifying the qualifications of employees. Following the outcome of the verification process, it was established that some employees produced fraudulent qualifications and misrepresented themselves during their appointment. Disciplinary actions were taken against them and they were charged with misconduct for submitting fraudulent qualifications and misrepresenting themselves to the Department (Submission: Verification of Qualifications for DAC Employees by KROLL Personal Credential Verification: 2009).

This study will provide clarity on the types of corruption and the consequences of corrupt activities prevalent to DAC, as well as to describe the policies on corruption prevention within DAC and how they can be enhanced. The study will also outline the policy responses to the prevention of corruption by outlining the regulations that have been put in place by government and the current policy framework on fraud and corruption prevention of the Department of Arts and Culture.

It is evident from the BIG Report findings that the official in DAC did not adhere to the rule of law. Supply Chain Management processes and procedures were not followed as required when appointing a service provider for tender. The act illustrates an individual's choice to violate ethical principles

by omission or commission. This study will determine whether DAC anti-corruption strategies and policies are developed in a way that employees can understand and apply accordingly; or whether they are ambiguous, unclear and not in line with legislative prescripts as set out by government on corruption prevention. This will be conducted by conceptualising public service mechanisms. In so saying the study aims to positively contribute to the effective implementation of fraud and anti-corruption strategies and policies within DAC.

1.7 Research methodology and data collection technique

According to Crowe and Sheppard (2010:1) research methodology is often described as the overall philosophy underpinning research, whereas research methods are the practical guidelines or techniques used to produce research. Silverman (2013:123-124) suggests that research methods can be used in research based on either qualitative or quantitative methodologies. Methods are techniques which take on a specific meaning according to the methodology in which they are used. Methods cannot be always 'right' or 'wrong', only more or less appropriate (Silverman 2013:6). Kumar (2011: 32-33) explains that going through the literature acquaints the researcher with the methodologies that have been used by others to find answers to research questions similar to the one the researcher is investigating. A literature review tells the researcher if others have used procedures and methods similar to the ones that the researcher is proposing, and what problems have been experienced. By becoming aware of the problems the researcher will be better positioned to select a methodology that is capable of providing valid answered to the research questions.

There are two types of research methods and those are qualitative and quantitative methods. Qualitative research methods are appropriate for particular types of research. They can convey a richness and intensity of detail in a way that quantitative research cannot. Qualitative research methods allow for much more detailed investigation of issues (Nicholls 2011:3). Quantitative research involves figures, statistics and measures.

Quantitative studies are well structured, have been tested for their validity and reliability, and can be explicitly defined and recognised (Kumar 2011:103).

The type of research methodology that will be used for this study is qualitative research. The reason for the use of this methodology is because qualitative research is descriptive by nature and can be associated with the human or social sciences. Public Administration is a social phenomenon and it can therefore be associated with qualitative research. Based on the research topic that seeks to explore ways of combating corruption in the DAC it is important to indicate that the effectiveness of policies and measures of combating corruption can only be explained through descriptive theoretical research as opposed to quantified methods. The problem associated with corruption needs to be interpreted and explained and that can only happen by means of qualitative methods. The aim of the study is to assess anti-corruption strategies and policies of DAC and to be able to achieve that national legislation must be analysed first so as to get an understanding of where the process of developing strategies and policies starts; then the analysis will be narrowed to departmental level, in the case of this study it is the Department of Arts and Culture. This is the funnel approach technique.

For the actual analysis and observations of the research objective to take place and in order to collect reliable and valuable information various methods will be used. Those methods are the reviewing of literature relevant to corruption by using the desk top method and referring to textbooks, articles and journals. Qualitative research can be described as a creative act. The advantages of qualitative research methods are that they allow the human in the process to be seen and heard. They are suited for sensitive issues that might require probing for more information and ideal for generating a hypothesis that might be tested using qualitative methods (Nicholls 2011:6-8). No sampling or interviewing will take place during the study; a desktop research will be conducted. It should also be noted that the candidate conducting the research is employed in the Department of Arts and Culture.

1.8 Limitations to the study

The scope of the study will be limited to public sector corruption, and focus will be on the Department of Arts and Culture as a government organisation and the specific legislation that are recommended and put in place by national government, and the policies that are put in place by the Department in line with the specific recommended legislation. The study does not focus on local government. The Public Finance Management Act, 1999 (Act 1 of 1999) and the Public Service Act, 1994 (Proclamation 103 of 1994) does not apply to local government therefore the Local Government Anti-Corruption Strategy will not be analysed. There was no empirical work done and focus was put on one national department which is the Department of Arts and Culture thus the focus cannot be a generalised one. No sampling or interviews will take place; a desktop research will be conducted.

1.9 Ethical considerations

The approval for ethical clearance of the study was granted on 09 June 2016. The approval was granted with the conditions that the candidate abide by the principles and parameters set out in the application and research proposal in the actual execution of the research. The approval also means that the candidate must adhere to the Code of Research and Ethics of the University of Pretoria under the Faculty of Economics and Management Sciences. The approval also means that the Plagiarism Prevention Policy must be adhered to.

1.10 Clarification of concepts

It is important to define the critical concepts of the research in order to outline a clear picture of what the research contents entail. The research is based on a study of Public Administration as a discipline; the terms and concepts are used daily and must therefore be clarified as to how they fit into the research.

1.10.1 Public Administration

According to Denhardt, Denhardt and Blanc (2014:10) Public Administration is concerned with the management of public programmes. Public administrators work at all levels of government, and they manage non-profit organisations, associations, and interest groups. Public Administration as a discipline is one of the social sciences and it finds its application in political, social, economic and particular physical environment. It studies human beings engaged in administrative and managerial duties in organs of state (Thornhill and van Dijk 2010:95-110).

The research is conducted within the field of Public Administration as a discipline and aims to increase knowledge and awareness as to how fraud and corruption affects the day to day running of government and how negatively it impact of public administration as a function and also as a discipline

1.10.2 The public service

The public service can be regarded as services that are provided to the citizens of South Africa by the South African Government. All government departments are regarded as a public service. The services are provided directly by the public sector. Services such as basic health, education water and housing, safety and security are the basic human rights that the public sector provides for the public.

Section 197(1) of *the Constitution of the Republic of South Africa, 1996* states that States that the public service of the Republic falls within the public administration and its formulation and structures must be in line with legislation. The public service must also implement the policies of government in a lawful manner. The South African public must have faith in the public sector that it will be able to provide services to them without being bias or favouritism, that all will be treated equally before the law and according to the South African Constitution.

1.10.3 Public servants

Public servants are officials employed by government to work and administer the programmes of government. They are employed to provide services to the general public in various government departments. Different government departments provide different services and therefore require human resources to execute those services.

Chapter 10 of the 1996 Constitution, section 195(1)(a) states that "public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- A high standard of professional ethics must be promoted and maintained"

Public servants have a responsibility to conduct themselves in an ethical manner and according to the Code of Conduct. The Code of Conduct, 4.1.2 states that "an employee puts the public interest first in the execution of his or his duties". Therefore it means any employee who commits corruption does not qualify to be a public servant because he or she will be having selfish agendas to fulfil at the expenses of other taxpayers.

1.10.4 Policy

Cloete and de Coning (2008:4) define policy as a statement of intent. Policy specifies the basic principles to be pursued in attaining specific goals. A policy process includes the initiation, design, analysis, formulation, dialogue and advocacy, implementation and evaluation. There are three types of policies which are public policy, private sector policy and departmental policy. In this research departmental policies and legislations will be used in order to proper processes and procedures are followed when employees perform their tasks.

1.10.5 Fraud

The document on Blow the Whistle on Fraud and Corruption (2007:2) defines fraud as an unlawful and intentional making of a misrepresentation which

causes actual and or potential prejudice to another. The use of the term is in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. Fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

1.10.5 Ethics

According to Amundsen (2009:6) ethics refers to principles by which to evaluate behaviour as right or wrong, good or bad. Ethics refers to well based standards of right and wrong, and prescribe what humans ought to do. Ethics are continuous efforts of striving to ensure that people, and the institutions they shape live up to the standards that are reasonable and solidly based. Gildenhuys (2004:14) defines ethics as the study of a moral code and the decisions one makes in one's relationships to others. He also refers to ethics as a set of moral principles; it is a personal thing that cannot be enforced.

1.10.6 Accountability

Accountability is an obligation and willingness to accept responsibility for one's actions. Peters (2007:16) state that the simplest form of accountability is the requirement for an administrative organisation to render an account of what it has done. The accounting may be financial, or it may be expressed in terms of the services provided and the successes and failures of the program. In either case it involves making public what has been done in the public name. This form of accountability is about transparency, about making it possible for actors outside a public organisation to identify, and question what has happened.

1.10.7 Corruption

Shah (2007:234) defines corruption as the exercise of official powers against public interest or the abuse of public office for private gain. Public sector corruption is a symptom of failed governance.

Nicholls, Daniels, Bacarese and Hatchard (2011:1) explain corruption as a word that is derived from the Latin word *'corruptus'* meaning to break. Its derivation emphasises the destructive effect of corruption on the fabric of society and the fact that its popular meaning encompasses all those situations where agents and public officers break the confidence entrusted to them.

1.11 Preliminary framework of the research

The chapter outline for the study will be as follows:

Chapter 1 is an introduction chapter with an overview of the study. It will outline the basis of the research, why it should be conducted, the motivation, the problem statement and objectives of the research. It also outlines the clarification of different concepts that are discussed in the proposal with the aim of making it easier to understand the main important concepts that one should take into consideration when going through the research.

Chapter 2 will focus on literature review, and the review of the scholarly perspectives on Public Administration. It will also look at various scholarly definitions and interpretations of corruption and strategies to combat corruption in order to locate the research within a particular theoretical paradigm. The chapter will also include definitions of concepts of the study relating to Public Administration, corruption and the strategies implemented by the DAC to combat corruption. Various scholars' perspectives and inputs on fraud and corruption, causes of corruption, the implementation of strategies to combat corruption, and the challenges faced by the public service, with particular reference to DAC with regards to corruption will be discussed.

Chapter 3 will explain the public service mechanisms in place to prevent corruption. The focus will be to detail the anti-corruption strategies that the public service has adopted to assist government departments to identify, detect and combat fraud and corruption.

Chapter 4 the policy framework of the DAC will be explored. The Fraud Prevention Policy, Strategy, the Fraud Prevention Implementation Plan, and

the Investigation Policy will be described. An analysis of another Department's anti-corruption strategies will be conducted to determine similarities in framework of establishing anti-corruption strategies.

Chapter 5 will be a recommendations and concluding chapter. It will focus on exploring the remedies to combat fraud and corruption and how the DAC can enhance education and awareness on policy and corruption to employees.

1.12 Conclusion

This research study analyses and assesses the current methods used to combat corruption in the DAC and systems and methods to monitor corruption in the public service and with the possibility of benchmarking those new approaches for use by the DAC. The study emphasises the roles of employees and senior managers in the DAC and also looks into issues of professionalism and moral behaviour as one of the tools that can assist in curbing the problem of corruption.

Corruption in contemporary South Africa has spread to a systemic level, as evidenced through national and international research, official government statements and media. The misuse of public funds by greedy individuals is alarming. Allegations of corruption are increasingly implicating to government officials and high ranking officials, which leads to a lack of good governance in the public sector and lack of trust by the ordinary citizens of this beautiful county to their leaders and the government systems that are in place.

CHAPTER TWO

CONCEPTUALISING CORRUPTION IN PUBLIC ADMINISTRATION

2.1 Introduction

Public Administration is generally understood to be the practical phase of the discipline engaging government functions. For government processes to be understood the theoretical framework of the discipline would need to be learnt, which entails the embodiment of Public Administration. The generally understood role of public administration consists of the provision of services and regulations of relations in society. The maintenance of law and order, citizen's security, social welfare, education, poverty eradication, and offering basic services to the citizens engage the attention of public administration in the modern administrative state. Shafriz, Russell and Borick (2013:6) describe public administration as government in action-the management of public affairs or the implementation of public policies. They also allude that public administration cannot persist from political factors that affect it. The political factors that affect it are the ones that make it public-and they make public administration different from business administration.

For the public service to achieve its objectives there must be good governance in public administration. Frderickson, Smith, Larimer and Licari (2012:263) refer to the theory of good governance as an intellectual project indigenous to public administration. Legislation that is put in place must be adhered to at all times to avoid the mismanagement of funds, fruitless and wasteful expenditure, and corruption. Corruption finds its way into an organisation based on the mindset of those within the organisation. It is the practices and manner by which business is conducted that corruption erupts in an organisation. If a rule is just bent ever so slightly then it will attract opportunities for corruption and manipulation of systems and procedures (Sims, n.d:1).

The objective of this chapter is to define the content of the subject of Public Administration and to what extend corruption features as a sub-field of study.

The other objective of this chapter is to conduct a literature review and determine what has been written about public administration and corruption. Various publications from South Africa and internationally on corruption, ethics, accountability and Public Administration have been perused. The study is not focused only on the phenomenon of corruption, but also with the implementation of anti-corruption legislation and policies, and ethics policies in preventing corruption from occurring in the first place. Koenane and Mangena (2017:68-71) highlight that ethics and accountability play an important role in promoting good governance. When discussing the issue of good governance the issue of ethical principle always comes to light because good governance cannot be discussed without mentioning ethics. Ethics are an important part of the social and political philosophy. A lack of good relations between ethics and politics result in possible political decline which leads to lack of accountability, corruption and lack of competence in public administration. A perspective of the nature of government systems in South Africa will be reviewed, with the focus being on national government since the Department of Arts and Culture is a national department.

2.2 Public Administration as an academic discipline

There is a requirement to conduct an assessment conducted of the historical perspectives of the study of Public Administration in order to understand the roles and functions of government. According to Shafritz and Hyde (1992:11-24), and Patil (2011:1), Public Administration as a discipline is more than a hundred years old and over the years it has passed through several phases of development. Credit for initiating Public Administration as a discipline goes to Woodrow Wilson who was a teacher of Political Science and a former American President. An essay published by Woodrow Wilson in 1887 during the time he taught at Bryn Mawr College, makes a revolutionary argument for a professional centralised administration in the United States of America. Introducing a novel distinction between politics and administration, Wilson demands a bureaucracy that would govern independently from the elected branches of government. In doing so, he walls off the founding principles of consent of the governed and the separation of powers from the emerging

science of administration (The Heritage Foundation, n.d:1) Patil (2011:1-4) outlines the history of Public Administration and divides it into the following periods:

Period 1 (1887-1926) was known as public administration dichotomy, *i.e.*, a separation of politics and administration. In the essay that he published Wilson argued that administration exists beyond the conventional sphere of politics and that the administrative questions are not political questions. He also argues that the fact that the practical science of administration is finding its way into academic courses shows that there is still more to know about administration. Administration is a part of government that includes government action. The executive, the operative, the most visible part of government, and it is as old as government itself. It is the purpose of administrative study to determine what government can do effectively and appropriately, and how it can do these appropriate things with the greatest cost efficiency or the lease energy (Wilson 1887:3).

Period 2 (1927-1937) was known as the Principles of Administration period. It is a period where Public Administration products were in demand in both government and private sector and public administration also demanded a great amount of respect at the time. During this period the principal belief was that there were some principles of administration which were the responsibility of the scholars at the time to discover and apply to enhance efficiency and economy of Public Administration. Business school administrative practitioners partnered together to combine the systematic aspects of management. Public Administration was regarded as a science. America's great depression contributed to the development of administration as a science. This period was regarded as the golden period of principles in Public Administration's history (Patil 2011:1-2).

Period 3 (1938-1947) was regarded as the era of challenge. In this period the main focus was the promotion of Human Relationship Behaviour Approach to the study of Public Administration. It is in this era that the notion of administrative contrast was forbidden. The argument was that administration could not be alienated from politics because of the role it played in politics.

The principle of administration was equally challenged and was regarded as a proverb and naturalistic facilities were criticised because of its dependence on official structures of the organisation. Administration is not only focused on policy decisions but also with the formulation of policy (Dwevedi 2014).

Period 4 (1948-1970) was known as a period for Public Administration as Management. During this period Public Administrationists started to explore the administrative science or generic management as an alternative. This option became a practical alternative for a substantial number of scholars in public administration. Management is a field that includes leadership, planning, budgeting, motivation, decision making, organisation theory and behaviour, human resource management, communication, management information systems, auditing, productivity, and marketing. Management thinking, many originating from the business schools adopted the alternative model of management. Scientific management and principles gave way to administrative management science. Catheryn Seckler-Hudson (1955) is one of the writers who identified the policy and political implications within the settings of Public Administration but gave primary weight to the problems of Public Management. She argued that management is the effective utilisation of human resource material to reach the known goal (Patil 2011:2-3 and Dwivedi 2014).

From 1960 organisational development as management function increased rapidly. As a focus it was a substitute for political science for other Public Administrationists. As a field of study, organisational development was engraved in social psychology and values. It was also centred on the democratisation of bureaucracies in both private and public sectors, and the self-actualisation of employees. Public administrationists who were younger at the time viewed organisational development and values as systems that offer a suitable capacity of research within the management framework. There was a possible consideration of values of democracy, genuine concerns could be raised and academic accuracy and scientific methods were practiced (Patil 2011:2).

Period 5 (1971 and continuing): The National Association of Schools of Public Administration (NASPA) was established in 1970. It was also a period of the formation of "public administration". Its establishment presented a detachment from political science to management science by public administationists. It was also a period of the formation of "public administration". There has been progress made in the field of organisational theory and information science and also in improving the techniques and methods that are applied in public administration. This period was also a period of the formation of "public administration". In 1968 a conference on the New Public Administration was held and attended by young Public Administrationists. The conference was funded by Dwight Waldo. The aim of the conference was to scrutinise the efficiency, budgeting, and administrative practices that were used previously. The issues addressed focused on ethics, values, employee development, client and bureaucracy relations, technology, violence and urbanism. The dominant character of the New Public Administration was that of morality. The New Public Administration is regarded as an introduction of independence from political science and management (Patil 2011:3).

In the 1990's a new managerial approach to Public Administration was discovered in the form of the New Public Management (NPM). The new approach was reform-orientated and aimed to improve public sector performance. It started from the principle that, traditional, bureaucratic organised Public Administration was not working and subsequently the public lost faith in government. Former Vice President of the United States of America Al Gore adopted the New Public Management through the National Performance Review. The 1993 report titled "From Red Tape to Results: Creating a Government that Works Better and Costs Less", required a new customer service contract with the people, a new assurance of effective, efficient and responsive government. It advocated for the competition of service organisations, putting customers first, creating dynamics and using them to solve problems, empowering employees to be more productive and produce results, decentralisation of decision making and power, streamlining budget processes, decentralising personnel policy, and streamlining procurement. NPM is now becoming a dominant managerial approach and its

strategic concepts are now the standard language of Public Administration. The culture of Public Administration, as opposed to role-bound, focused on inputs rather than results, and process driven is changing to be flexible, entrepreneurial, problem solving and enterprising (Patil 2011:4). NPM was more successful in New Zealand.

Vyas-Doorgapersad (2011:235-238) states that The advancement of the New Public Administration to the New Public Management has raised analytical questions and influenced academic debate amongst scholars. The questions raised were focused on whether the New Public Administration (NPM) should be considered as a new model; whether there's a difference between NPM and Public Administration (PA); and whether NPM and PA afford different methods or complement one another. It can also be argued that comparing the existing methods in public administration strengthens the future of the field and does not erode it. Theoretical innovations may be effective when competitive methods are permitted to coincide with each other. Vyas-Doorgapersad (2011:235-238) continues to explain that NPM is a conceptual thought system that established on ideas that are gathered from the private sector and incorporated into the public sector. It is an improved public sector transformation that is moving away from the repressive, autocratic and conservative paradigm of public administration that followed top-down hierarchies and signifies a paradigmatic shift from the old system of public administration.

Nel (2015b:83-93) elaborates that NPM (1970-1990s) denotes from public service reforms that have been practiced in developed countries. NPM is dependent on specific governance model that is different from old-fashioned public administration. Current public administration approaches are directed towards governance approaches to reform, influencing countries to experience a change in the amount of, and patterns of amendment of reform approaches. Reforms should propose a proactive method to transforming public organisations into more effective and vibrant for meeting different challenges including the demand for socio-economic development and security in the long term.

According to Kuye (2005:525) modern concepts of Public Administration have synergy with interdisciplinary paradigms. As learning strategies are diversified, there must be a move away from mechanic paradigms in Public Administration into those of elaboration and collaborations in the discipline. Frederickson et al. (2012:3) allude that over the Public administration has advanced additional efficient forms of inquiry about the elements of organisational behaviour, public management, and public policy implementation over the years. The developments have contributed positively in enhancing trust in understanding public administration. According to Clapper (2007:12) there are possible factors that may enhance academic and public service practitioner collaborations. Some of those factors are academic standing of public servants and attempts to promote efficiency, effectiveness and good governance. Clapper (2007:12) explains that many public sector incumbents, particularly at senior management levels, hold senior degrees and have some academic background and experience; traits that stand them in good stead in relation to academic endeavours. Clapper suggests formal and informal discourse academics and practitioners in order to manifest hopes for improving governance, with a clear understanding that the primary solution towards achieving this goal lies in the cooperation and collaboration between academics and public service practitioners while including other role players according to situation demands. The relationship between Public Administration as a discipline and public administration as a function of government is vital and the DAC should invest in the academic field of Public Administration from employees at lower level positions up to senior management so as to enhance the effectiveness, efficiency and good governance.

2.3 The nature of government systems in South Africa

South Africa is a democratic country which consists of three spheres of government and a judicial system that is independent. All spheres of government which are national, provincial and local have legislative and executive authority in their own scope, and are described in the 1996 Constitution as distinctive, interdependent and interrelated. The reason for

such division is to prevent power from being centralised in one division of government as that may result to an abuse of power and manipulation of systems (Mphaisha 2017:78). Section 40 (1) of the Constitution of South Africa, 1996, describes the three sphere system of government. Cloete and Thornhill (2005:113) explain that It is necessary and required by government for all spheres to apply principles of co-operative government and intergovernmental relations when executing their tasks as required by section 41 of the Constitution. Effective government is unavoidable through these principles and it is essential for the three spheres of government and other state organs to co-ordinate their activities according to the requirements and provisions of the 1996 Constitution of South Africa.

Madumo (2011:22) states that it is important to recognise the historical background of a country in order to understand the characteristics of a system of government. According to Maphunye (n.d:2-4) South Africa's societal history is dominated by the use of political power to obtain socio-economic resources. The apartheid government obtained political power in 1910 and used it to establish itself politically, economically, culturally and socially. The African National Congress (ANC) tabled its goals that were meant to transform the public service after ascending to power in 1994. Policies were developed with the aim of resolving challenges that were facing the new public service at the time. One of the serious challenges that the new government faced was the tenacity of racial actions and attitudes in the public service. Another challenge was the persistence hierarchy, rule-bound practices, and unskilled employees. It is for these reasons that the government published the White Paper on the Transformation of the Public Service in 1995. The White Paper detailed an overall policy framework that would assist in the transformation of the public service so that it could be relevant to the practices of the new democracy.

According to Thornhill (2008a:59) South Africa required total transformation of its organisations after the 1994 democratic elections. Transformation of the organisations was meant to strengthen their capabilities. The intention of the transformation was to undo the legacy of the past and systematic racial

discrimination, especially in terms of administrative structure, culture and practices. After the 1994 democratic elections the apartheid era process and procedures of the public service could no longer be in use because they were not regarded as suitable for a democratic country (Maphunye n.d:2). Similarly, from 1994, the newly elected democratic government under the control of the ANC were mostly returning from exile and inexperienced in matters of government. Particularly so with regard to their initial inability, the new role players did not fully understand public finance and accountability and were thus not in a position to rectify the shortcomings and mal-administration of the previous regime. As a result, a major crisis developed in several of the key delivery departments of most of the provinces and even in the national government (Bekker 2009:2-3).

Section 197 (1) of the 1996 Constitution of South Africa states that The public service is a function within public administration which must function for the republic and be structured according to the national legislation. It must also implement lawful policies of government. This section does not refer to the public service specifically and has caused confusion in governments assertions and media statements, in particular when an official is referring to another part of government services and not the other (Maphunye n.d:3). According to Mafunisa and Dzengwa (2007:765) Public Administration denotes to activities of public administration theory. Consequently it can be inferred that Public Administration is an academic discipline where public administration is studied. In this regard Public Administration promotes the explanation of the country's structure as outlined by government systems. The focus of this dissertation is on the Department of Arts and Culture as a national department, which is a sphere responsible for policy development and implementation of Language Services, Cultural Development, Heritage, Social Cohesion and Nation Building, Geographical Name Changes, and National Archives. According Maphunye (n.d:6) public policy-making seems to be centralised according to structures of the powerful national departments. This is noticeable on finances because national government influences policy making to an extent that provincial governments cannot independently raise their own taxes or incomes.

2.3.1 The functions of public administration

According to Cornell (2010:1) Public administration is the governance of public organs and is performed at all spheres of government. The major concern administration is organising policies of government and its programmes in a manner that will allow work activities to be handles correctly for the benefit of society and other governing bodies. Public administration also gives attention to public servant's conduct and provides rules and regulations in relation to how they must execute their tasks. The impact of management on performance in public organisations is a key question in public administration (Nicholson-Crotty and O'Toole jr 2010:1-18). South African public administration, according to Madumo (2011:23) is influenced by political processes. The connection comes from the acceptance that public administration is focused mostly on the achievement of objectives which are largely politically determined. Political office bearers make administrative decisions on behalf of government. Political strength leads to democratic principles, which must be fulfilled through the rendering of services. To ensure an effective, efficient and economical performing public administration as a fundamental for an action oriented government depends on the following generic administrative functions:

2.3.1.1 Human Resource Management (HRM)

According to Heathfield (2016:1) HRM is an organisational function that deals with the recruitment and management of, and providing guidance for the officials in the organisation. It provides leadership and advice for dealing with issues related to employees and it is also a strategic and inclusive managerial approach of managing employees and managing the cultural environment of the organisation. The traditional functions of HRM of personnel, administration, and transactional roles are being outsourced in some organisations which means that HRM is moving away from old the old traditional way of doing things. HRM must add value to the strategic use of employees and ensure that recommended and implemented programmes for employees impact the organisation in a positive measurable way. An HRM that is effective enables employees to play an effective role and be productive

to the overall objective of the organisation and the achievement of the organisations goals and objectives. Human Resource Management is outsourcing the traditional administration, transitional and personnel roles with the aim of fazing them out completely, and is moving towards adopting a strategy that ensures that employees are utilised in a strategic manner and that programmes that are recommended and implemented for employees have a positive measurable impact on the organisation.

According to Van Dijk (2003:41) Human resource management can be described as a function that allows for suitable people are employed according to their potential and utilised accordingly. HRM relates to the actual provision, placement and utilization of employees, and includes comprehensive areas which are functionally focused actions (like recruitment and selection, retention, and transfers) and administrative actions that afford a framework for training management. Employees are regarded as an integral part of the organisation. For an organisation to perform excellently and effectively in requires a human resource that is content. Kahn (2008a:87) elaborates that people are a valuable resource in the public service and play an important role in determining the quality of services that is rendered to the South African citizens. The manner in which senior managers in the public service manage their staff execute HRM practices will determine the level at which employees perform their tasks and utilise their competencies skills and capabilities to improve their performance. Good HRM practices result in progressive outcomes in an organisation and improve the performance of employees which increases the effectiveness and efficiency of the organisation.

2.3.1.2 Public Finance Management

Fourie (2017(b):272-273) describes Public Finance Management (PFM) as a flow of actions that include budgeting, control, accounting, reporting, monitoring and evaluation. An all-encompassing financial management system is essential in the achievement of government's strategic goals and objectives and necessitates a clear sequence of procedures that will cater for various role players and foster good relations. According to Selepe (2009:59)

financial management is a system that ensures that limited financial resources and are utilised effectively in order to achieve government goals and receive value for money. It is an integral function of management. It is important to regulate public funds because government must account for all revenue that is collected from the citizens by way of taxes. The Public Finance Management Act, 1999 (Act 1 of 1999) was promulgated to regulate the public service funds and to promote good governance. The national and provincial government spheres are regulated by the PFMA and another sphere of government which is local government is regulated by the Municipal Finance Management Act, 2003 (Act 56 of 2003). The DAC is a national government and is regulated by the PFMA.

2.3.1.3 Work procedures

Madumo (2011:25) explains that Systems and processes of work are established on the concept that each act performed by an employee involves a single-minded but logical and organised method. The effect of an environment is important in ensuring that an organisation achieves its goals in this instance; hence the principle of reviewing the approaches and processes so that it becomes easy for the organisation to adapt to them constantly. As a generic function systems and processes of work rely on the information contained in policies and its objectives, and assists in the promotion of enforcing policies in the organisation. This implies that the functions of policy-making, finance, organising and human resource management must be developed before developing work processes and procedures. Work procedures must be clearly outlined for each duty so as to ensure that all employees in the organisation understand the policy objectives. The Risk Management Directorate is a custodian of the Anti-Corruption Strategies of DAC and must ensure that policies and procedures for fraud and corruption prevention are in place and are adhered to by all employees.

2.3.1.4 Control

Sokhela (2017:1090) explains that control involves monitoring and evaluation of organisational activities. Management must monitor the progress of the

organisations performance towards the achievement of set goals and ensure that the organisation is performing in line with the set procedures so as to reach its set destination within the prescribed time frame. Selepe (2009:63) states that in the public sector control is practices to make sure that there is accountability to the public in all the actions that the authorities failed to perform so as to ensure transparency in government systems. This means that people will be clear on what government is supposed to do so that their interests and well-being are realised. There are standards and measures that should be put in place by an organisation in order to measure control. Government uses the system of control to regulate the functions they must execute in ensuring effective and efficient delivery of service. Control manifests as a result of proper implementation of policies (Madumo 2011:26). The DAC has a Monitoring and Evaluation section that measures the Department's performance on a quarterly basis. The performance of the various branches is monitored in relation to the targets set and whether and whether control systems were adhered. If the targets were not achieved then the reasons for deviations must be given.

2.3.1.5 Organising

According to Sokhela (2017:109) organising involves structuring human and other resources that are essential to execute organisational plans and to determine the best systems for aligning the activities and resources. Madumo (2011:26) describes organising as a multipurpose method that involves different activities that include driving an organisation into various sections which successively implement hierarchical levels and the chain of command. Through organising direction, scope and meaning can be provided to a group's performance as prescribed by the characteristics that involve the process of organising. The process of organising involves:

- identifying tasks;
- classifying the clustering of tasks;
- assigning responsibilities; and

- the allocation and managing of powers and formation of responsibilities Madumo (2011:26).

It is the responsibility of branch managers of DAC to ensure that posts in their Directorates are filled with qualified and competent human resources. Senior managers ensure that the job description designed meet the criteria of the post. This ensures that the correct tasks and responsibilities are assigned to the right people.

2.3.1.6 Policy-Making

Policy can be described as a goal-oriented function that is meant to improve impending situations. A policy highlights the basic principles that should be followed in order to achieve set goals. Policy is usually encrypted in the management of applicable projects and programmes and should interpret society's values. Policy is described as a statement of intent or an action plan to change apparent problems into future solutions. Successful policy management and facilitation includes not only the full scope of policy intent, policy action and policy assessment, but also close cooperation between a comprehensive set of governmental, private sector and civil society players during this process (Cloete and de Coning 2008:4).

The Practical Guide to Policy Making in Northern Ireland (2005:1-4) describes policy making as a critical function of government whereby it interprets its political vision into programmes that will turn into desired deliverables. Madue (2016(b):118) explains that public policymaking is an action that is continuous that is performed by senior public servants and lawmakers. It is a recurring process of policy development, adoption, implementation, evaluation, and terminating policies that are no longer relevant. Developing policies entails having to make a choice between alternatives and goals. A decision must be made between developing a policy that is decision-centric, which means that the policy is focused on decision making processes, and goal-driven policies, which means that the policy is focused on the outcomes that must be achieved.

Madumo (2011:27) explains that a policy is the final produce of a process of decision making that classifies various options among available alternatives. Accordingly policy decisions can be vigorous or inactive, with the decision not to take action being the final one. Extensive writing on public policy regards policy making as a mechanism that is utilised to ease social problems. The document on Making Public Policy Stick-Policy Implementation Literature Report (2011:1) states that government promotes and implements public policy through a combination of complementary actions such as legislation, budget decisions, public statements, directions to public sector agencies, and initiatives established with the private sector and non-governmental organisations. Changes in public policy have an effect on public sector organisations that are involved with the implementation of policy. Policy is developed through policy agenda setting. It is a process that recognises the policy making process (Madumo 2011:27).

According to Cloete and de Coning (2008:87) policy agenda setting is an intended process of planning at which policy matters are determined, where challenges are described and prioritised, support from stakeholders is mobilised and those who are expected to make decisions are lobbied to take suitable action. The policy process normally starts with the identification of a policy issue or problem by one or more stakeholders in society, who feel that the status quo detrimentally affects them or another segment of society. Policy agenda setting aims at focusing attention on selected policy issues and trying to ensure that those issues receive the attention that is needed according to the agenda setters. Policy agenda firstly determines and prioritises what policy issues are addressed. Secondly, it determines who influences or controls the policy making process; and thirdly, how stakeholders influence the policy agenda. Public officials are expected to apply and operationalize policy unquestionably, giving effect to bureaucratic loyalty and focusing on implementation rather than policy making (Clapper 2007:11). The Risk Management Directorate in DAC is responsible for the formulation of the Fraud Prevention Policy and the Investigation Policy. The formulation of the policies includes consultation with employees within the department, external stakeholders, and research.

2.4 Corruption a sub-field in the Public Administration discourse

According to Webb (2009a:9) corrupt activities take place in various forms in government. For example public servants can diverge from the correct recommended way of doing things, choose which legislation to adhere to and which one not to, deal with clients in a biased manner and not treat them equally, and also not take their job serious and become negligent. Corruption also has a negative effect on service delivery because public resources are sometimes channelled to projects that they were not initially allocated for, which results in situations where the citizens' lives not improving and poverty remains the order of the day. Such actions results in the citizens losing trust in the public service.

Acts of corruption result in an organisation recruiting unqualified employees because jobs are offered to incompetent, unskilled and inexperienced individuals. Failure to adhere to Human Resource (HR) policies when recruiting staff encourages corruption to flourish. The consequences of failing to adhere to HR policies are damaging to an organisation that holds itself out as having high ethical standards and the public service is sector that has legislations in place such as the *Batho Pele* (People first) Principles and the Explanatory Manual on the Code of Conduct for the Public Service 2002 (2002) which are aimed at promoting high standard of professional ethics and enhance service delivery. When HR practices are not adhered to, the impact ripples throughout the workforce and surrounding community and this eventually affects the ability of organisations to render services to the public and also destroys trust between the public and public sector organisations and harms the reputation of the organisation. Hence it is important to verify qualifications of employees when recruiting to ensure that an organisation does not appoint incompetent employees and/or employees do not provide fake qualifications. The verification of qualifications is an initiative by government to prevent the submission of fraudulent qualifications by employees and it is part of the Public Service Anti-Corruption Strategy, Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), and Fraud Risk and Prevention: Volume 6 regulatory framework.

Government introduced a national anti-corruption campaign in 1997. This campaign advanced to a National Anti-corruption Summit in April 1999, where all parts of society (public and private) committed themselves to creating sectorial anti-corruption strategies (Public Service Anti-Corruption Strategy 2002:6). In 2002 the DPSA introduced the Public Sector Anti-Corruption Strategy with a suggestion that an inclusive and cohesive approach to fighting corruption be established. This was done also through other initiatives and support from other departments. The anti-corruption strategy has been developed to give effect to the stated commitment of government to fight corruption in the Public Service. This suggested strategy includes nine considerations that are interrelated and commonly supportive and two of the considerations that will also be reviewed in this research are improved management policies and practices, and awareness and training. Fundamentals of a good anti-corruption strategy exist in the South African public service as compared to international practices; therefore there is a need for a modified strategy that addresses issues of corruption in a cohesive manner.

Masiloane and Dintwe (2014:180-198) state that theories that have been tested and proved to be successful in dealing with corruption should form the cornerstone of any corruption strategy. However, the propositions of these theories still need to be aligned with the Constitution, the human rights and the Rule of Law. An anti-corruption strategy should be an implementation tool of the existing legislation and needs to be simple and understood by all concerned. It should be seen to simplify pieces of legislation which may have been developed at a macro-level thus making the implementation of such laws possible and easy to realise.

Having such strategies in place can ensure that South Africa attracts foreign investment and those investors who are already in the country can expand their investment. If companies perceive the country to be corrupt then they may be reluctant to invest. The occurrence of corruption debatably influences the economic environment by creating a significantly higher risk levels and uncertainty in economic transactions. Uncertainty presents itself in the context

of individual economic transactions and in heightened fears about future developments in the broader economic environment. This fear and uncertainty converts to condensed business growth and condensed gross domestic product (Boham and Asamoah 2011:1).

According to Majila, Taylor and Raga (2017:88-89) combating corruption is of essential importance to many countries and they have come up with innovative ways to deal with corruption by introducing anti-corruption agencies, organisations and legislation. The anti-corruption legislation and agencies have been created to monitor ethics in the public service and transparency in decision making. South Africa is one of the countries that has developed anti-corruption systems and created agencies that will alleviate corruption. It also adopted a multi-agency approach in an attempt to curb corruption. These anti-corruption agencies are the constitutional and oversight bodies, and the criminal justice agencies. Examples of oversight bodies are the Office of the Public Protector and the Auditor-General. These bodies are responsible for the auditing of public accounts, financial statements and reporting, investigations, and financial management of all public sector organisations. Examples of the criminal justice agencies are the South African Police Anti-corruption Unit, the Commercial Crimes Unit, and the Special Investigating Unit (SIU). These bodies are responsible for the investigation of commercial crime cases, allegations of corruption in the police service, allegations of corruption in the public service, and combating corruption by prosecution. These agencies are created to lead in the fight against corruption and put strategies in place to combat corruption.

The document on Preventing Corruption in Public Administration: Citizens Engagement for Improved Transparency and Accountability (2012:1) states that the consequences of corruption on of public administration organisations can be exceptionally damaging. If corruption can be perceived as a way of operations in the public sector or its organisations then the damage becomes more than the loss of misallocated and misused resources. The impartial and unfair distribution of public resources will impact negatively on Public Administration as it runs the risk of losing its capability to be effective and the

trust of the citizens. The document also states that many public managers have no experience or training before taking management position, hence there is need to build the professionalism of public administrators so that they act competently and ethically.

According to Cascarino (2013:120) one of the most powerful controls in terms of fighting fraud is the implementation of an official code of conduct. The code does not necessarily impose ethical behaviour but should be viewed as a command tool to express the organisational requirements in instances where decisions regarding ethics must be taken. The South African Public Service has developed and put in place an Explanatory Manual on the Code of Conduct for the Public Service (2002) is a useful guide to ethical impasses in the public service. It states that for an organisation to encourage high standard professional ethics public servants must be motivated to think and behave as such. The manual can be used to train employees on ethics. The code is the foundation upon which professionalism is built, in that it is a set of in-house rules of conduct which regulates members of a specific professional group (Nagiah 2012:21). Codes of ethics provide standards for proper conduct for employees and serves as a quality assurance statement to the public. According to Disoloane (2012:45-46) the code of ethics is a mechanism that is put in place to task employees to identify themselves with the principles of professional values that define their appropriate behaviour when rendering services for the good of the public.

Codes of ethics and codes of conduct, according to Disoloane (2012:43) are found anywhere-in government and the state, in non-governmental organisations, professional associations, and in large corporates involved in international business. The development of a code of ethics can be a tangible sign that an institution is thinking about business ethics and work ethics. An organisation can have a formal code of conduct and ensure that it is effectively communicated to all employees and that it is complied with and monitored (Brytting et al. 2012:149). Nagiah (2012:20) explains that a code may be a combination of a legal framework which provides for legal obligations and corresponding sanctions and ethical framework which

describes core values which an organisation must adhere to. It also explains what values are expected from employees and describe their legal obligations.

An effective code, according to Nagiah (2012:22-23), is an important fact of a modern system of internal control. It informs employees in writing how they are expected to behave and it causes compliance. Thus, it prevents management from being accused of not providing guidelines to employees. According to Disoloane (2012:43-44-46) one of the reasons the code must exist is that they encourage a certain work ethic and encourage politicians within government to behave in an ethical way. The code should also identify the ethical principles and values that are considered as the basis of an organisation. Attention to ethics in a professional setting guides not only corporate leadership and management on how they should act, but also the entire staff. The code of conduct must comprise ethical standards that an organisation obligates itself to, both as an organisation and as a constituency.

Mills (2012:2-3) argues that in order to be able to prevent something an understanding of how it occurred must be sort. Corruption impacts on social, moral and economic aspects and can be defined in various ways. Definitions of corruption can therefore be considered as working definitions because they differ in the purposes they are used for. Corruption must be defined broadly so that it serves the general anti-corruption policy purposes. The current definition used internationally of corruption is "the misuse of entrusted power for private gain", purposefully omitting the public sector environment. The definition can be applied to conduct on any side that is affected by corrupt transaction or that involves an ordinary citizen acting on their own. The rise of the New Public Management has introduced a system of public private partnership and government contracting out their services.

Von Maravic and Reichard (2003:84-130) ask a question does New Public Management foster corruption? Irene S. Rubin answers that although New Public Management does not promote any forms of corruption it does promote the partnerships with the private sector especially in situations where there will be competition between the two sectors. For the New Public Management

to achieve its objectives it requires partnerships by way of contracting and it would be companies that do not possess the required first-hand experience, avoiding labour regulations and trying to save costs. Contractors face the challenge of bribing officials in the public service before they can be presented with an opportunity to bid for tenders or receiving contracts. The outsourcing of government work results in contractors having to push by any means to win contracts which in some instances results in bribery of officials and raising their prices to maximise their profits. This leads to contractors delivering poor service to the public as they had spent all their time, energy and money persuading public officials to appoint them to do the work. Rubin further responds that the NPM strategy is good however it is practiced in a world that is dishonest and opens up opportunities of corruption in tendering and contracting systems.

The document on Preventing Corruption in Public Administration: Citizen Engagement for Improved Transparency and Accountability (2012:x) highlights that for more than 20 years practitioners, policy makers, researchers and theorists have studied, measured, described, classified and defined corruption in the political science, law, economics and philosophy disciplines. Prevention responses have predominantly applied law enforcement methods; but focusing only on law enforcement capacity to prevent corruption applies a prevention model that relies on an incomplete diagnosis of corruption. Insights from many more disciplines now contribute to the perception of corruption. Various theories such as organisational theory, social psychology, regulatory theory, and business ethics contribute to the corruption endeavour. These disciplines indicate roles for citizens beyond penalties and compliance. Better understanding of the relationships between corruption and social factors, such as human rights, gender equality, press freedom, social trust and the effectiveness of other organisations not within public administration, also indicate the importance of the people's role in curbing corruption in public administration. The public service hasn't been capable of avoiding corruption and its negative outcomes, government departments and public entities are always facing corruption scandals and receiving qualified audit reports, and for this reason combating and preventing

corruption has become an urgent objective of government. The policy initiatives of government to deal with corruption are pursued.

2.5 Contextualising corruption in public administration

The aim of a literature review is to determine what has been covered on the discipline of Public Administration, and corruption in public administration. The literature study includes a review of the international literature as well as research that was conducted in South Africa. Apaza (n.d:45) argues that scholars have studied the problem of corruption from different perspectives, especially economics. Administrative corruption, in particular, needs further study. In this section local and foreign publications will be reviewed in a random selection to get an understanding of what authors in various parts of the world have written about the subject Public Administration and corruption in Public Administration.

Kuye (2005:528) postulates that Public Administration is a term used to describe the study of selective matters of the tasks that are related to behaviour, conduct and protocol of the affairs of the administrative state. Conduct and behaviour are associated with human beings and they speak to morality and ethics. Apaza (n.d:45) argues that managing ethics is a crucial aspect of public management. Coordinating accountability and anti-corruption measures plays a key role in developing coherent policy in this field. The phenomenon of corruption and the prevention thereof are two complicated issues and it is important to have a combination mechanisms that will include accountability and effective law enforcement measures that will assist in success of corruption prevention. There must be proper mechanisms of control as a way of assuring accountability and preventing corruption. Controlling corruption in public administration is highly dependent on accountability and the quality of bureaucracy. Thus, in countries with highly accountable public organisations low levels of corruption can be expected. In this vein, for effective prevention of corruption, greater attention must be devoted to developing policies and procedures quality and ethical standards, systems of transparency, and effective law enforcement mechanisms. The premise for ethics of administrators in an organisation can be afforded by the

rationalisation of a public sector organisation. Based on the rationalisation there can be an outline of what officials should desist from doing. If the rationalisation of the public sector organisation is to serve some public value then this rules out acts that enrich individuals or the organisation at the expense of attaining that value for the broader community (Victoria 2009).

2.5.1 Public Administration Reform and Anti-corruption

Public Administration is studied globally and research on the subject is conducted to try and improve on the process and procedures of the subject, but less developed countries are yet to improve on their systems of Public Administration and Management. Macchiavelli (2000:729) Public administration developments are not possible in countries that are faced governments that are embedded with greed and lack of accountability. Such patrimonial governments which are not interested in enhancement and efficiency disadvantage public administration reforms as they risk losing control and gain prospects plundering the economy. It is incorrect to therefor suggest that all governments are interested in the enhancement of the economy of their country and the effectiveness of the public service. Developing countries have common situations for positive attempts to enhance public administration and one such common situation is vision. A comprehensible and long-term vision is obligatory. It is essential for government to outline its efficient, right-sized and response administration objectives. The objectives must provide an enabling environment for the private sector to do business and at the same time defending public interest. Without a comprehensible and detailed public administration vision there will be pragmatic temporary support from external role players, and random reform acts will stop. Citizens must also play a critical role in defining the vision and conduct of government organisations and policies (Machiavelli 2000:730-731).

In order for the public sector to minimise corruption it needs to have a strong policy formulation and implementation framework. The document on Corruption, Public Administration Reform and Development: Challenges and opportunities as Vietnam moves towards Middle-income, published by UNDP

in 2009 under the guidance of Dr Martin Gainsborough as team leader, focuses on the issue of corruption and in particular the relationship between anti-corruption and Public Administration Reform. In this research close attention was given to both academic and policy literature on Public Administration Reform and Anti-corruption studies. The report argues that corruption and related deficiencies in public administration are principally organised in nature, they can indicate a certain organisational reasoning or stimulus which is constant and continuous. Hence, as time progresses any sort of mediation to rectify problems tends to be opposed or undermined because the reasoning of the system necessitates that this do so. This explains the relatively poor performance of Pubic Administration Reform and Anti-corruption work are done. For the problem to be addressed it is important to have a clear understanding of the internal mechanisms of the system in order to target intercessions in an effective manner, and to predict the methods in which future modifications may be curbed. This understanding is not always reflected in policy literature (Gainsborough, Dinh, Phu'o'ng 2009:4).

In order to understand how Public Administration Reform (PAR) and anti-corruption link an explanation must first be provided in their context. To reform means to amend or improve what is wrong, corrupt or unsatisfactory. It is about redressing wrong doing and improving systems without altering the fundamentals of the system and overthrowing it completely. Aligning administrative processes, reconfiguring, applying and evaluating public policies and programmes, reorganising the organisational function's and the administrative structure, catering for the training needs of public administration and improving the quality of providing quality service also forms part of Public Administration Reform (PAR). The document on Public Administration Reform, published by the UNDP as a practice note, outlines New Public Management (NPM) as part of the evolution of Public Administration reform. As part of reform or improvement especially in developing countries NPM strives to pull back the role of government by applying management principles from the private sector into government organisations. The dynamic distribution of the instrument to the developing

countries was seen as an attempt to colonise developing countries was seen as an effort to colonise development administration with homogeneous, western methodology to PAR. The language of NPM, client focused principles, separating policy making from implementation, and using the private sector to provide services continues to direct current thinking about Public Administration Reform (Gainsborough, Dinh, Phu'o'ng 2009:4-27).

Anti-corruption is a strategy designed to eradicate or prevent dishonest or fraudulent conduct, especially in a political environment. Corruption happens in both the public and private sectors and through their partnerships, therefore the strategy should aim to reduce and prevent corruption in both these sectors and increase society's awareness and ethics. Anti-corruption strategies must include a range of corruption responses such as prevention, detection, investigation solution mechanisms. The existence of law enforcement organisations is critical in ensuring that internal capacities of organisations are enhanced to combat corruption (Naidoo 2017:73) According to Macchiavelli (2000:770) anti-corruption form part of good governance and requires that it be addressed in the framework of public management developments. Accountability, transparency and the rule of law must be enhanced when improving public management. Focus must also be put on specific public administration areas where corruption challenges are greater.

In attempting to clarify the link between Public Administration Reform and Anti-corruption, Gainsborough et al. (2009:10) explain that Even though Public Administration Reforms and anti-corruption work in collaboration with each other they do not focus on similar areas. For example the anti-corruption function has a wider scope that the PAR because corruption is a sector wide problem and does not only occur in the public service. PAR focuses on service delivery by the public service, however there is a need to incorporate anti-corruption strategies and PAR to avoid overlap of duties from both functions. Public Administration is one of the mechanisms that foster public and private sector relations and the citizens; it is therefore important to support Public Administration Reform and Anti-corruption in order to attain high-level objectives.

2.5.2 Corruption prevention in public administration

In many cooperation countries, less capable public administrations do not perform their roles to the full, since they are neither development nor citizen orientated. In many circumstances corruption is a widespread and deeply rooted problem. This prevents administrations from delivering public goods and services efficiently and effectively. Corruption is sometimes attributed to weak points in the systems that are exposed by processes, procedures and structures of within the public service and administrative organisations. Through corruption potentials of development are not properly utilised, public funds are wasted and processes of democratic consolidation are jeopardised. In an attempt to elaborate on what is known about corruption in Public Administration, the report on Preventing Corruption in Public Administration: Citizen Engagement for Improved Transparency and Accountability (2012:7) elaborates on the diagnostic challenge. The report explains that early classification of corrupt behaviour suggested two types of corruption: grand and petty. These are fundamentally unlawful transactions separated from each other by the amount of benefit discussed, the position of the public official involved (in high, or low, political or administrative) and the amount of damage acquired by the corrupt act. A better understanding of corruption has made its classification more confusing. Grand and petty corruption can also be classified as administrative or political, incidental, systematic or systemic, passive or active, a way, or fact of life, well-organised or chaotic, administrative corruption or state capture.

Masiloane and Dintwe (2014:180-193) suggest that the epidemic levels of addressing corruption remains inadequate and ineffective. This is in part caused by the complexities and sophistication of the framework which seems to complicate their implementation. This state of affairs is further aggravated by the lack of competence amongst the managers in the public sector in ensuring that the provisions of these frameworks are fully understood and observed by all stakeholders. Leaders within the management levels of government must set an example when it comes to dealing with corruption. This also refers to political leaders who should speak against corruption and

be seen to be acting against the perpetrators of corruption. The political leadership in government and other government institutions cannot continue to advocate that they believe in the practice of clean governance it without the support and political will to deal with the issue of corruption. Creating agencies and developing policies and strategies that are focused on dealing with corruption cannot succeed if senior managers criticise the decisions of the courts and other tribunals when their colleagues are involved in corruption. Negative comments by political leadership in criticising the outcomes of independent bodies such as the Public Protector overshadow all of government's efforts in ensuring that it succeeds in the establishment of an intense and profound anti-corruption strategy.

According to a report published by the Council of the Baltic Sea States Working Group on Democratic Institutions, Latvian Presidency on Corruption Prevention in Public Administration (2008:1-8), in every country public administration faces a risk that some public officials may choose to abuse their official position in order to gain personal advantage, in other words, involve in corruption. Countries vary in their approaches to the prevention of corruption. The broader distinction is between countries that have integrated corruption control principles mostly in the mainstream legal framework of the public administration and countries that, in addition, have adopted explicit corruption prevention policies. Countries have a set of constitutional principles, which represent ground for maintaining integrity in the public service. These principles include, for example, the rule of law, freedom of expression, access to information. South Africa as an emerging economy is always looking at ways to deal with corruption and benchmarking with other countries to learn about their anti-corruption strategies. For example there are regulations put in place to deal with corruption in South Africa, which stipulates general administrative procedures, the functioning of the public service, public procurement procedures, auditing processes and procedures. Moreover South Africa, like other countries has criminalised corruption. This is also illustrated in section 3.2 of the Corruption Prevention in Public Administration (2008:1-8), where it is specified that Finland and Sweden have anti-corruption networks and have developed anti-corruption policies,

promoting the detection, investigation and prosecution of corruption related offences. The purpose of the networks is also to improve awareness about corruption issues and trigger the development of risk analysis.

Preventing corruption in public administration is also related to citizen engagement and participation. The report on Preventing Corruption in Public Administration: Citizen Engagement for Improved Transparency and Accountability (2012:x-xiv) explains the importance of citizens to be engaged in preventing corruption. It explains that citizens are the best sources available to policy makers for understanding the context of corruption. They can bring knowledge of the types of corruption and corruption risks as well as the challenges for implementing anti-corruption policy that exists in the context. Citizens form the social values and expectations that help or hinder anti-corruption strategies and, importantly, they may also be perpetrators of corruption which need to be discouraged. Citizens interact with government in various ways. They use public services, consult or lobby, monitor or scrutinise, they are regulated commercial relationships such as for the procurement of goods and services by government. These factors make citizens an important factor in policy making and corruption prevention.

The report also explains that citizens must be encouraged to be accountable and assist the public sector to prevent corruption through information and communication technologies. The specific mechanisms identified for providing citizens with the resources to observe and hold public administration accountable include, amongst others making government information more easily accessible, such as about expenditure of public funds and disclosure obligations of officials such as asset declarations, but also routine facts about the cost of services and the proper roles of public officials; and also building the capacity of citizens and civil society to participate effectively in all the roles that they have with government whether reporting corruption, complying with regulations, receiving services or as commercial partners.

According to Dintwe (2013:559) developing an effective anti-corruption strategy starts with the organisation's understanding of employees' thoughts and knowledge about corruption. This component of an anti-corruption

programme is not focused on the accuracy of statistics of corruption but on how employees feel about corruption in the organisation. It is important for an organisation to quantify employee perceptions about corruption and the level at which it is in the organisation. Gathering knowledge and information about issues of corruption will assist the organisation to develop effective anti-corruption strategies. According to The Anti-Corruption Capacity Requirements (2006:3) the understanding of most people of the word corruption is broader and includes maladministration, abusing resources, fraud, and theft. It is important to address the risks of this nature from occurring. An organisation should recognise the imperativeness of anti-corruption strategies or reforms to protect individuals from continuing to perform corrupt acts (Akinola and Uzodike 2014:39). The DAC currently has in place procedures for the prevention, detection, investigation, and resolution of corrupt behaviour. The procedures are defined as anti-corruption pillars.

Another measure in the development of an effective anti-corruption strategy is to ensure compliance with the code of conduct. According to Disoloane (2012:92-93) a Code of Conduct aims to accomplish a principal function to curb corruption and unethical behaviour that may be performed by public servants or political heads. It must be identified as the most critical mechanism for the fight against corruption. It is an ideal measure to use to control and minimise indiscretion and corrupt behaviour and can also serve as an aid to government in its legitimacy. Manyaka and Sebola (2013:79-80) advocate for the importance of promoting ethical conduct in the public service. The reason is that the public service is regarded as the integral part of the country's service delivery and public servants are the main role players in the execution of mandate of the public service. Public servants implement public policies and are accountable for their actions in the organisation, to their seniors, the legislature and the citizens. The DAC relies on the Explanatory Manual on the Code of Conduct for Public Servants (2002) to guide employees on ethical behaviour.

Nagiah (2012:33) argues that in order to ensure compliance with the code of conduct it is important to understand what the organisation wants to achieve

i.e. its goals and objectives. The process of creating a code improves awareness and can also determine whether the code has the support of the employees. If the employees are consulted and allowed to contribute to the creation of the code, it will give them a sense of ownership, which will encourage compliance. *Section 4.1.4 of the Explanatory Manual on the Code of Conduct for Public Servants (2002:13)* states that employees should strive to be familiar with and abide by all legislative and other directives relevant to his or her conduct and duties. For employees to be able to serve the public and the government they must know their job content, and the policies to abide by. Manyaka and Sebola (2013:79) explain that in performing their duties public servants exercise discretionary powers in their everyday work. They interact with citizens, they are responsible for public resources, and contribute to policy making functions, and are responsible for the interpretation and application of legislative frameworks and policy governing the administration of government function.

2.5.3 Policy implementation in Public Administration

The implementation of policy is of paramount importance to the public sector. Policies turn into programmes when, by imposing actions, the primary conditions are created. Implementation refers to executing, accomplishing, fulfilling, producing, and completing a task (Brynard 2005:3-4). Policy implementation is a frequently fragmented and interrupted process and not just a coherent and continuous one. Problems related to implementation include all the role players getting involved in ensuring that there is proper implementation; it is not only a management problem. Implementation is an ongoing decision-making process where key role players who face pressures from interested groups and opposing parties must ensure that the implementation process goes unhindered despite their complex policy and organisational contexts (Mthethwa 2012:36).

According to Brynard and De Coning (2006:194) there are five key variables to understanding policy implementation which are known as the 5C Protocol. They are described as an attempt to making sense of the complex nature of

the policy implementation process as each of the five variables are linked to and influenced by the other. The following are the 5C Protocols:

- **Content**

According to Brynard and De Coning (2006:196) there are three types of policy contents which are, distributive, regulatory, and redistributive. Policies that are distributive form public goods for the general well-being of the public and have a financial bearing. Policies that are regulatory identify rules and regulations of behaviour with punitive measures for compliance failures; and policies that are redistributive aim to amend allocations distributions of wealth or power of some individuals or groups at the expense of others.

- **Context**

According to Reddy and Govender (2017:168) there is a significant variance in how policy planners and anticipated recipients understand the context at which policy will be implemented. Policy planners do not have the knowledge of the history, challenging claims, and attachment of meaning of the beneficiaries of the policy. This result in a divergence of people's understanding of their daily challenges and technical mediations that are in place to improve them. To add to the mandatory documentation and data that informs planning, historical data that is appropriate about the field must be collected as it could afford an important of following certain goals or resolving injustices of the past. Brynard (2005:17-18) postulates that context refers to institutional context. The context variable is shaped by the larger context of social, economic, political and realities of the system. It is an endeavour to highlight the primary concern as to how this influences the process of implementation, mainly through the organisational passage at which implementation must pass, as well as the support of clients and coalitions. Brynard and De Coning (2006:198) explain that "a context-free theory of implementation in unlikely to produce powerful explanations of or accurate predictions".

- **Commitment**

According to Paul (2010:17) it is not possible to legislate commitment from implementers to perform their duties to ensure that implementation of policy is successful. Other measures are required to ensure that they corporate. This includes participatory support from other stakeholders. The responsibility of implementation should be put on the desk of the agencies which understand the objectives and goals of the policy. Having said that, successful implementation of the policy cannot be guaranteed. Brynard (2005:18) explains that even if a policy can be logical and pass the costs and benefits analysis, and possess the correct contents to address the issues it has been designed for, it still requires those assigned with the responsibility to implement it to have the will and ability to do so; unless that is the case then nothing positive will happen.

- **Capacity**

Capacity is categorised into two aspects which is the tangible and intangible categories. Tangible capacity means the availability of and access to resources that can be relatively easily identified and quantified. Examples of such capacities are human, financial, material, and technological. Intangible capacity refers to resources which are not easily identifiable or quantifiable. Examples of such capacities are motivation, leadership, and commitment. Effective leadership is one of the important intangible resources that are required by an organisation to achieve its goals (Brynard and De Coning 2006:199). Leaders must be committed to the organisation's goals and be able to detect when there is a need for change. They must have extensive knowledge of the organisation, be able to learn from their mistakes, power-sharing, skilful, and have the ability to develop other employees (Paul 2010:18).

- **Clients and coalitions**

The support of clients and outside coalitions is important for an organisation in order to ensure that it builds a common understanding with interest groups

and other stakeholders who participate in the implementation of policy. Any misunderstanding between the organisation and affected role players can result in a negative response in the implementation process (Brynard 2005:20). According to Brynard (2005:21) communication can also form part of the implementation variables. Through communication people will have the required and accurate information at their disposal. Brynard further stipulates that communication can be regarded as a sixth implementation variable as it forms an important part of all the above mentioned variables.

According to Macchiavelli (2000:739) the first obligation to have an effective administrative tool in place is to outline the policy directives and decisions and communicate them clearly. It is required that an organisation be able to make consistent decisions that are affordable and easily implemented. It is also important to enhance transparency in the policy process and being able to predict certain occurrences in order to avoid negative influences and decisions by senior political officials that will undermine the objectives of the organisation. Cloete and de Coning (2008:4) define policy a plan of action to change an apparent challenge or problem into a solution for the future. A policy outlines the fundamental principles that should be followed in order to achieve specific objectives. Policy defines society's values and incorporates them in the management of relevant programmes and projects. Public policy can be categorised as a dynamic, complex and interactive system through which public problems are identified and countered by creating new public policy or reforming existing public policy.

Public problems differ and they require different policy responses. Public problems that influence public policy making can be of economic, social, or political nature. Each system is influenced by different public problems and requires different public policies. Cloete and de Coning (2008:4) postulate that the policy process has several phases. These include initiation, design, analysis, formulation, dialogue and advocacy, implementation and evaluation. Policy analysis is the structured analysis of the scope and variables that influence public policy and is also an essential part of policy management.

Policy management refers to a deliberate method of dealing with policy issues and processes from start to finish.

Madue (2016(b):131-132) describes policy implementation as an action that is undertaken by government in formulating an actual of intent to do something, or stop doing something, and the eventual influence of that action. It is the adaptation of physical and financial resources into tangible service-delivery outputs aimed at achieving policy objectives. Policy implementation involves all activities that must take place to achieve the planned objectives of that particular policy from its formation to realisation. Implementation is the last step of policy making. It is in this step where policy makers put into effect their intentions, objectives and actions.

Policymaking is an integral part in an organisation. An organisation must develop policies that will enable it to manage its resources effectively (Kahn 2016b:38). Officials tasked with the responsibility of executing the policies must have a clear understanding of it so that they can do justice to the implementation process. For an organisation to ensure that the officials understand the policy it must ensure that policies are written in an understandable unambiguous language so that the officials can be able to interpret it. Policies are often crafted in a language that is used in the legal fraternity which poses a problem to the implementers because they may experience challenges in interpreting and understanding the language used. A well implemented policy assists resolving the challenges that the policy was initially developed to address so that the lives of those affected can be improved (Madue 2016:134).

According to Cloete and de Coning (2008:137) policies imply theories. Policies become programs when, by authoritative action, the initial conditions are created. Implementation is the capacity to forge successive relations in the fundamental sequence so as to achieve the anticipated outcomes. For the purpose of their book, Improving Public Policy they have regarded implementation as the adaptation of primarily physical and financial resources into solid service-delivery outputs in the form of facilities and services, or into other concrete outputs aimed at achieving policy objectives. Successful

implementation is the final acid test for a policy to be successful. Policy implementation is a multifaceted concept, attempted at various levels of government and pursued in conjunction with the private sector, civil society and NGOs (Cloete and de Coning 2008:135).

According to a policy literature report published by the State Services Authority, Making Public Policy Stick (2011:1) it is the responsibility of government to endorse and implement public policy by means of combined complementary actions. Such actions comprise of public statements, budget decisions, legislation, public sector agency directives, and private sector initiatives and non-governmental organisations. Governments will discard or review a policy to suit the changes that may occur, new challenges, and community needs. Public sector organisations involved in policy implementation must evolve with the evolution of public policy.

2.6 Conclusion

The Department of Arts and Culture is a public sector organisation established to render services to the public and artists in particular by means of developing policies that are aimed at regulating the arts industry and service the needs of the artists. It is established under the Public Service Act, 1994 and regulated by the Public Service Regulations, 2001 and the Public Finance Management Act, 1999 (Act 1 of 1999); therefore Public Administration a key governance method in the day to day running of the Department. Without public administration, the government cannot operate and manage own activities effectively and efficiently. Administration plays a vital role for delivering and distributing the public services to all corners of the country. Having said that, it is important to analyse the subject of Public Administration with reference to the Department of Arts and Culture, and it is also important to analyse the implementation of public policy because public policy is what governs the operations of the Department.

For purposes of clarity this chapter was divided into four sections. The first section introduced Public Administration as an academic discipline, the history of Public Administration, and the objective of the whole chapter. The second

section described corruption as an emerging subject in Public Administration. Literature from various authors and documentation was reviewed and the negative effects of corruption in the Public Administration discourse were described. Corruption has social, moral and economic effects, it is important to clarify how other authors view the effects of corruption in Public Administration. In chapter 3 the funnel approach will be applied. The corruption prevention measures and policy responses as set out by the South African government will be reviewed. The policy responses as set out by government influence departmental strategies on corruption prevention and the funnel approach demonstrates that by starting with a review of national government legislation before departmental policy responses.

CHAPTER THREE

POLICY RESPONSE TO THE PREVENTION OF CORRUPTION

3.1 Introduction

Chapter two focused on defining the content of the subject of Public Administration and to what extend corruption features as a sub-field of study, and conducting a literature review of what has been written about public administration and corruption. It was also highlighted that the study is not focused only on the phenomenon of corruption, but also with the implementation of anti-corruption legislation and policies, and ethics policies in preventing corruption from occurring in the first place. Law and order are important in all societies and are essential for the development, production and growth of a country. A society that obeys the law is able to plan for the future, have a safe working environment and act faithfully when conducting business. Order refers to stability in a modern society; the assurance this nature takes precedence when there are laws in place. Laws are rules and regulations that are binding to citizens and can be imposed by the justice system. Laws provide limitations so that citizens can realise when they are committing an offence. One of the main objectives of law is to protect citizen's basic rights which give them the freedom to live daily (The Importance of Law in Our Society-GCSE Law 2015). In particular, Chapter Two of the Constitution of the Republic of South Africa, 1996 focuses on the Bill of Rights. The Bill of Rights is the foundation of South Africa's democracy. It protects human rights and upholds the democratic values of human dignity, freedom and equality.

In order for a country to safeguard the rights of its citizen's written legislation, the current government and its public entities should prioritise policies and procedures. Policies and procedures are the strategic connection between the vision of the organisation, and its daily functions. Policies and procedures that are drafted correctly provide employees with a clear understanding of their roles and responsibilities within the prescribed limits. Policies and procedures allow management to guide operations without constant management

intervention (Welling 2011:1). An example of such a framework that will be reviewed for the purpose of this chapter is the Public Service Integrity Management Framework (DPSA 2013), Gauteng Provincial Government (GPG) Anti-Corruption Strategic Framework (2009). It is noted that this study is not about a provincial or a local government organisation but it is focused on the Department of Arts and Culture which is a national department. The *Public Service Anti-Corruption Strategy (2002:6)* in its formation is inclusive of local government and other public entities which have contributed in ensuring that the there is a roll-out of the strategy in all spheres of government.

Different countries have developed legislative frameworks on fraud prevention. The Report on the Implementation of Fraud Prevention Plans in the Public Service makes use of countries like Australia and the United Kingdom as examples. The report states that the Australian Financial Management and Accountability Act (1997) require that the heads of government agencies develop and implement a 'fraud control plan'. The Act states that the Australian government's 'fraud control policy' is revised regularly taking into account the changes taking place in the environment in which its agencies operated. This requirement shares the same elements with South Africa's planning processes, which includes the undertaking of risk assessments, allocation of responsibilities and mechanisms for implementing fraud prevention strategies, and reporting mechanisms. The South African fraud prevention guidelines and regulatory frameworks governing fraud prevention in the Public Sector compares with those of developed countries such as Australia. The experiences of the developed countries on fraud prevention display that fraud prevention plan emerge from similar legislative and policy processes to that of South Africa (Report on the Implementation of Fraud Prevention Plans in the Public Service 2007:17). A Detailed Fraud Prevention Plan 2010/11 can be used as an example to support what is explained in the report.

Johnston (2011:1-3) explains for anti-corruption strategies to be stable there should be solid government, social and political organisations in place and there must be trust between the people and government. The strategies will

become unstable and ineffective if there is lack of the elements mentioned above. Too much expectations by citizens from government or by government from the citizens can also have an adverse effect on government systems. Corruption is problematic even in developed countries that have sound organisational support and the political will. Even in such countries there has been minimal success in curbing corruption. For reform to be a success it requires that trust be created between government and citizens particularly in countries that were faced with conflicts or civil war and are now entering democracy stages. In such countries corruption cannot be easily controlled and if systems are poorly executed it may be difficult for government to attain goals.

Masiloane and Dintwe (2014:180) argue that despite the existence of policy frameworks pertinent to fraud and corruption in the South Africa's public sector, the statistics and reports of corrupt activities in government remain epidemic. The enhancement of pieces of legislation such as the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), and the Public Finance Management Act, 1999 (Act 1 of 1999), to mention but a few augured a positive turning point in corruption after the advent of democracy. However, amid those legislative ramifications, little positive results have been recorded 23 years into the democratic dispensation. Masiloane and Dintwe (2014:180) continue to argue that due to what appears to be legislative deficiency and inadequacy of investigation agencies such as the Hawks, the Public Protector and other oversight bodies, corruption continues to emasculate public accountability leading to a continuous subversion of public interests for personal gain.

According to Widzinski (n.d:1) management should consider its overall compliance with laws and regulations that an organisation must abide by from national, provincial and local levels of government. This compliance can be related to taxes, financials and other laws. The operational need of the organisation must be reviewed to ensure that the policies and procedures will allow the organisation to be successful in meeting its objectives. This can be in the form of financial date such as monthly financial reporting, or the

adherence of financial management legislation. For the purpose of this chapter financial legislation such as, and not limited to the Public Finance Management Act, 1999 (Act 1 of 1999) will be reviewed. Recognising and assessing risk is also a management responsibility and is a key element in developing policies and procedures. The more detailed the documentation to mitigate risk is can be an indication of management's risk threshold. In this chapter both the policy framework for corruption prevention and its manifestation within the Department of Arts and Culture will be considered, focusing on Risk Management as a custodian of Anti-Corruption Strategies of the Department.

Madue (2016(b):131) advocates the importance of the implementation of policy decisions. There must be procedures and processes that are put in place that will enable the policy statement to be put into action so as to achieve the objectives of the policy makers. For policy implementation to be a success and achieve the desired goals set by the policymakers it relies on how the challenges will be addressed by the policy. It is important to ensure clarity of the law and its understanding by the implementers when implementing policy. Policy implementation also depends on the competence and financial resources available to those who must administer it, different political factors like the support from the public, socio-economic conditions, and the responses and support that is received from groups that are directly affected by the policy. The legislative structures also play an important role in policy implantation because they exercise oversight of the Executive by holding the agencies tasked with implementing policies to account. It is the constitutional mandate of the legislatures to ensure that the implementing agencies account to legislative committees such as the Standing Committee on Public Accounts with the aim to review whether policies were adhered to and properly implemented. Using the funnel approach, the corruption prevention measures, reviewed in this chapter will display how the various pieces of legislation that have been put in place by national government have an impact on the establishment of departmental policies and anti-corruption strategies as will be outlined in Chapter Four.

3.2 Public Service Act, 1994 (Proclamation 103 of 1994) as amended by Act 30 of 2007

In order to set out some of the important laws for employment in the public service in South Africa, particularly with regard to the terms of office, disciplinary hearings, retirement and dismissal of public member, government has put in place the Public Service Act, 1994 (Proclamation 103 of 1994). The Act applies to all officers and employees who were, are and are to be employed in the public service, whether they are working in the country or not. The purpose of the Act is to make provision for the organisation and administration of the public service of the republic, give effect to the regulation of the conditions of employment, terms of office, discipline, retirement and resignation of public servants, and other related matters. The laws of the Act vary. For example: for people working for the state schools and other educational institutions, employees are governed by other employment conditions *(Summary of the Public Service Act, 1994 (Proclamation 103 of 1994)-ESST, n:d:1).*

The Minister of Public Service and Administration is responsible for the implementation of the Act, and he or she may suggest policies and changes related to the following aspects of public service:

- Functions and organisational structure;
- Employment practices (including promotion, human resource management and training);
- Information management and technology; and
- Transformation and reform.

The Minister must seek the approval of the treasury before making any determinations (or changes) that involve expenditure. The Minister must also abide by the relevant regulations in the Labour Relations Act, 1995 (Act 66 of 1995), and must be given access to relevant official documents by heads of departments or officers in the public service *(Summery of the Public Service Act, 1994 (Proclamation 103 of 1994)-ESST, n.d:1).*

The review of the Act is conducted because of the fact that it is the main regulation on which all public servants are appointed and through it other legislations that are designed to manage the conduct and responsibilities of public servants such as the Public Service Resolution 3 are developed. The DAC employees are appointed under the Act and they are required to abide by the public policies that have been designed by the public service. Chapter 7, section 7(b) of the Act gives authority to the accountability of a head of department to manage his or her department efficiently and effectively, proper utilisation of staff, employee training, proper utilisation and care of state resources, maintain discipline, upholding sound fair relations, and also perform functions that may be prescribed. In order to interpret the Act practical terms the Public Service Regulations, 2001 have been developed and they should be read in conjunction with the Public Service Act. The employees in DAC are appointed under chapter 4, section 9 to 15. The chapter makes provision for the DAC as a national department to appoint people in a prescribed manner and to ensure that qualified and proper personnel are appointed.

The Public Service Act, 1994 (Proclamation 103 of 1994) was amended in 2007 as the Public Service Amendment Act, 2007 (Act 30 of 2007). The amendment was influenced by the fact that some organisational and human resource arrangements in the Public Service Act, 1994 (Proclamation 103 of 1994) did not sufficiently address internal efficiencies and service delivery issues. The Act did not adequately regulate staff deployment; the re-employment of dismissed of officials due to misconduct; it did not meet the required standards which results in the deterioration of human resources management processes which results in legal disputes which are costly to government; and different interpretations in legislation resulted in legal disputes and were complex and in conflict with other legislation. The Public Service Amendment Act, 2007 (Act 30 of 2007) was established to enhance human resource management framework with the aim to improve the mobility of staff in the public service; align the conditions of service that are not working under the Public Service Act, 1994 (Proclamation 103 of 1994); and

improve service delivery *(Public Service Amendment Act, 2007 (Act 30 of 2007:1-2)*.

3.3 Prevention of Organised Crime Act, 1998 (Act 121 of 1998)

The aim of the act is to initiate organised crime combating measures, and to also initiate laws that are aim to combat crime and gang related acts, focusing specifically on money-laundering and racketeering, and illegal business activities. Crimes related to gangs, money-laundering or racketeering can be prosecuted in terms of the Act, even if the crime was committed before the Act came about, or if it was committed by a South African in another country (Summary of the Prevention of Organised Crime Act, 1998 (Act 121 of 1998), no.d:1). The Act also provides for the recovery of the proceeds of unlawful activities, the civil confiscation of criminal property that was used to commit the crime, and the proceeds gained as a result of unlawful actions, or property that is owned or controlled by, or monitored on behalf of a terrorist entity or it alliances *(Prevention of Organised Crime Act, 1998 (Act 121 of 1998:1) (POCA)*. The DAC formulated the Fraud Prevention Strategy (2015) in line with the legislation passed by the South African government on fraud prevention. The Prevention of Organised Crime Act, 1998 (Act 121 of 1998) forms part of the legal framework of the DAC Fraud Prevention Strategy (2015).

3.4 Public Finance Management Act, 1999 (Act 1 of 1999)

The *Public Finance Management Act, 1999 (Act 1of 1999:1)* has been put in place as a regulation to manage funds at national and provincial government level. The Act is part of a broader strategy on improving financial management in the public service and it outlines procedures to be followed when dealing with public funds and how to manage assets, liabilities and expenditure efficiently and effectively. It establishes the duties and responsibilities of government officials in charge of finances. The aim of the Act is to promote sound financial management and accountability in public service organisations *(Summary of the Public Finance Management Act, 1999 (Act 1 of 1999) (with amendments), n.d:1)*. The Act undertakes an

incorporated approach to improving the quality of financial management in the public service. Unlike the previous Exchequer Act that focused on rule-driven approach to financial management, the PFMA has adopted a different approach on financial management and focuses on outputs and responsibilities *(Public Finance Management Act, 1999 (Act 1 of 1999:i).*

Madue (2007:306-311) states that The PFMA can be utilised as a mechanism to hold people accountable because it embodies a culture of accountability. It also embodies a culture of openness and transparency, and promotes value for money in public administration when procuring goods and services in the public service. Organisations must be judged based on their service delivery capabilities and must also be held accountable for their actions. South Africa is always introducing new initiatives and policies that aim to attain sustainable development and the PFMA is one such initiative because introduces an inclusive mechanism of financial management in the public service that enhances the previous mechanisms whereby accountability was undermined due to a difference in the application of legislation in various entities. The PFMA is aligned to the International Financial Reporting Standards therefore it is important that it is complied with.

According to Kahn (2016b:47-48) public finance management should be regarded as a technique which assists in decisions that have to be taken on what needs to be done with what resources. It is a technique that should be applied in monitoring operations in the organisation. The aim of the Public Finance Management Act, 1999 (Act 1 of 1999) is to evaluate outputs and outcomes instead of processes and inputs. It is the responsibility of heads of departments to ensure their departments perform efficiently, effectively and economically, not just adhering with a vote. All departments and constitutional institutions must appoint an accounting officer to ensure that money is managed effectively, efficiently and transparently *(Summary of the Public Finance Management Act, no1 of 1999 (with amendments), n.d:1).*

According to Madue (2007a:306-307) the 1996 Constitution of South Africa plays an important role in creating solid financial management in the public service. Sections 213 and 215 to 219 of the 1996 Constitution legislates

public sector financial management with the intent to give effect to the PFMA and the sections of the constitution as mentioned above, and to outline principles that should govern public sector financial management. *Section 38 (1)(b) of the Public Finance Management Act, 1999 (Act 1 of 1999:45)* emphasises that by introducing the new financial management mechanisms in the South African public service meant that it now became a necessity by law to have an effective financial management.

Madue (2007a:307-309) further explains that the PFMA forms part of a wider strategy of government to enhance public sector financial management. It is encompassed in government's approach to improve the quality of financial management by introducing relevant financial management systems, proper mechanisms for control of financial mismanagement and creating proper arrangements for accountability for budgetary management. The aim of financial management is to provide public service managers with support in the execution of service delivery by ensuring efficiency and economy in providing services so that the needs of the community attained with the limited distributed resources. Managers must be accountable and be able to manage finances within the set financial management framework. Heads of Departments must appoint Chief Financial Officers as part of the management team to manage the organisation's finances. Senior managers and other employees at lower levels must familiarise themselves with the PFMA and its requirements. It should not only be viewed as legislation relevant to financial managers only.

Section 38 of the PFMA, 1999 (Act 1 of 1999:45) states that the head of department of a government organisation must make sure that the organisation has and maintains *inter alia* efficient, effective and transparent financial management and risk management structures and internal controls; and a fair, equitable, transparent and cost effective suitable procurement and provisioning system. Section 38 (c)(ii) of the PFMA expects of the head of department to take effective and suitable steps in preventing unauthorised, irregular, fruitless and wasteful expenditure and losses as a result of criminal actions which includes corrupt acts. Madue (2007(a):310) explains that

Compliance with the PFMA is a challenge just as with other policies of government. For example after every financial year government department under spend and money is being sent back to National Treasury. This happens despite the fact that the PFMA regards under-expenditure as financial misconduct. Under-expenditure affects service delivery negatively. Complying with the PFMA is important even though it advocates for effective, efficient and economic financial management in government departments. The issue of non-compliance can be associated with poor policy implementation and lack of knowledge of processes and procedures and that is evident is departments that are having a challenge complying with the PFMA and are always criticised by the Auditor-General for poor performance and financial mismanagement.

Section 38 (g)-(h) of the *PFMA, 1999 (Act 1 of 1999:46)* obliges the accounting officer to report any fruitless and wasteful expenditure in writing to National Treasury, and to also take effective and suitable disciplinary steps against public servants who disregards or fails to comply with what the Act requires, behaves in a manner that that commits actions that undermine the financial management and internal control system of the organisation, or gives a go-ahead for an unauthorised expenditure, irregular expenditure or fruitless or wasteful expenditure. Section 81 (1) of the Act emphasises that an accounting officer who does not comply with section 38 of the Act, and allows for unauthorised or irregular expenditure or fruitless and wasteful expenditure to occur, commits a financial misconduct. An accounting officer or any other public servant may be charged with financial misconduct and investigations can be conducted and be subjected to disciplinary and/or criminal processes.

Keeping a history of financial transactions, or record keeping, is important in financial management because it through proper record keeping management that a department can be able to trace transactions and be able to account with evidence. Section 40 of the PFMA expects the accounting officer to keep complete and comprehensive financial records of the department, compile yearly financial statements in line with the generally recognised accounting practices; and submit financial statements to the Auditor-General and to the

National Treasury within two months after the financial year *(Summary of the Public Finance Management, 1999 (Act 1 of 1999) (with amendments), n.d:3).*

The DAC as a national government department is legislated by the PFMA to ensure that proper financial processes and procedures are in place and are adhered to by all employees. The PFMA also forms an integral part of the anti-corruption strategies. The DAC Risk Management Framework (2016) was developed with the legal mandate derived from section 38 of the PFMA which indicates that it is the responsibility of the accounting officer to create and maintain transparent, efficient and effective financial risk management systems and proper financial controls. The accounting officer must also maintain an internal audit system that will be controlled and directed by the audit committee (DAC Risk Management Framework 2016:4).

3.5 Promotion of Access to Information Act, 2000 (Act 2 of 2000)

The aim of the *Promotion of Access to Information Act, 2000 (Act 2 of 2000:1)* is to put into practice the constitutional right of access to information that is in the possession of the State and any information that another person is in possession of and may be required for the exercise or protection of any rights. The Act applies to all records held by public and private bodies. It does not apply to records that are being used in criminal or civil proceedings. It also does not apply to Cabinet Ministers and committees, members of parliament or of the provincial legislature, courts and certain investigative tribunals. Section 32 of the 1996 Constitution enshrines the right of access to certain information, and the Promotion of Access to Information Act (PAIA) gives effect to that right. Access to information will be granted once certain requirements have been met. The Act also recognises that the right of access to information may be limited if the limitations are reasonable in an open and democratic society *(Summary of the Promotion of Access to Information Act, 2000 (Act 2 of 2000), n.d:1).*

The Manual on the Promotion of Access to Information Act, 2000 (Act 2 of 2000) (2016:3) published by the Financial Intelligence Centre states that the objective of the Act is to outline the significance of access to information in a

democracy by promoting a culture of accountability and transparency. The Act entails that the private and public sector develop a manual that defines the nature of records they possess, and processes that need to be adhered to when people need to access information. The Act emphasises the importance of confidentiality of information by highlighting that information should not be disclosed unless if the person accessing the information is affected or it is an authorised representative who wants to access it.

3.6 Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)

The *Promotion of Administrative Justice Act, 2000 (Act 3 of 2000:1)* also known as PAJA aims to make the administration effective and accountable to people for their actions. Together with the 1996 Constitution it embraces the *Batho Pele* (People First) principles and promotes South Africans citizens' rights to justice administration. Section 33 of the 1996 Constitution guarantees that administrative action will be reasonable, lawful and procedurally fair, and it makes sure that people have the right to ask for written reasons when administrative action has a negative impact on them. Administrative action is the work of all government departments, security services and parastatals. Whenever any of these administrations make a decision that affects a person's rights, they are performing an "administrative action" *(Summary of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), n.d:1).*

According to Webb (2010b:140-141) the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) makes effective the principles of administrative law to allow people to introduce legal processes upon realisation that the administrator was not liable to act, or was biased, or acted in bad faith. The objective of the Act is to develop a culture or accountability, openness and transparency. The Act gives reviewing powers to the courts to study the decisions made by public servants and set them aside if it is found that the employees' actions did not uphold the principles of natural justice. Citizens have the rights and remedies to access the court of law and seek a review should public servants be suspected of improper behaviour. The Act deals only with administrative action or decisions that negatively affect a person's right. Thus, decisions that don't have an adverse impact on a person aren't

covered by the Act. However, decisions may have a positive impact on one person and a negative effect on a third party. The Act also protects the rights of a third party *(Summary of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), n.d:1).*

A document on the *Compliance with the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000) (n.d:2)* published by the Public Service Commission asserts that reviewing the ability of the Public Service to implement the PAJA provides useful insight into the current situation and extent to which human rights are being protected and promoted. It also states that the PAJA needs to be understood in the context of both the Constitution of the Republic of South Africa, 1996, with its Bill of Rights, and the history of the country, which makes the provision of equitable, quality services for all South Africans imperatives. The Act is a pioneering legislation that intends changing the way government interacts with the people it serves. It creates ways of enforcing the right to be treated fairly in administrative actions. Departments should develop an implementation strategy to address the elements that are hampering the effective implementation of PAJA if there are any.

3.7 Protected Disclosures Act, 2000 (Act 26 of 2000)

The *Protected Disclosures Act, 2000 (Act 26 of 2000:1)* provides for the processes that employees in the public and private sector should adhere to when they disclose information with regards to unlawful or irregular behaviour by employees or colleagues. It also makes provision for the protection of employees who disclose the information which is protected in terms of the Act. According to van Wyk, Heyns and van Heerden (2011:1-2) the Act places the responsibility on the employer to ensure that employees who make disclosures are protected from any reprisals and it also prevents employees from being fired by employers for coming forward to disclose. The employer cannot penalise or victimise an employee for coming forward and making a disclosure. Webb (2010b:140) expounds that the Act makes provision for an "employee or an employer, that is *inter alia* believed to be a criminal offence; a failure by a person to comply with any legal obligation; or harmful to the

health and safety of an individual- either in the public or private sectors. This Act thus protects the whistle-blower from being subjected to disciplinary action, dismissal, suspension, demotion, harassment and intimidation, and provides certain remedies for such occupational detriment". The Act, according to van Wyk, Heyns and van Heerden (2011:1-2) also "allows employers to designate independent parties to whom disclosures can be made. Thus the establishment of anti-corruption hotlines by employers reflect well on them as they are noticed to be actively complying with the ethos of the Act". The DAC adopted a Whistle-Blowing Policy which for which its development was influenced by the Act. One of the objectives of the policy is to protect the employee from any intimidation or detriment upon making a disclosure. This is highlighted in section 2(1)(a) of the Act.

3.8 Financial Intelligence Centre Act, 2001 (Act 38 of 2001)

The purpose of the *Financial Intelligence Centre Act, 2001 (Act 38 of 2001:1)* is to create a Financial Intelligence Centre and a Money Laundering Advisory Council that will ensure that money laundering acts are combatted, and enforce some responsibilities on organisations and people involved in money laundering activities. It is also aimed at amending the Prevention of Organised Crime Act, 1998 (Act 121 of 1998), and the Promotion of Access to Information Act, 2000 (Act 2 of 2000). *Section 2(1) of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001:4)* gives reason for the establishment of the Financial Intelligence Centre. It states that the Financial Intelligence Centre is established as a juristic person and is an institution outside the public service but within the public administration as envisaged in Section 195 of the Constitution of the Republic of South Africa. The Centre issues guidance notes in order to fulfil its mandate to monitor and provide guidance to accountable organisations, regulatory organisations and other people with regards to their performance, duties, and compliance with provisions of the Financial Intelligence Centre Act. Such guidance notes are provided as general information only, are non-binding and are not intended to replace FICA and the Money Laundering Control Regulations *(Manual on the Financial Intelligence Centre Act, 2001, 2010:3).*

Section 3(1) of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001:5) Act stipulates that the main aim of the Centre is to help with identifying the profits gained from unlawful actions and to combat money laundering. The other aims of the Centre are to make collected information accessible to investigating officers, the South African Revenue Services and the intelligent services so that they can implement laws and facilitate administration; and to share information with organisations that are doing a similar job or with a similar mandate in other countries with regards to money laundering. Legislation put in place with regards to the Act is in keeping with the worldwide trends aimed at curbing the proceeds of crime money laundering and the funding of terrorism. The Prevention of Organised Crime Act, 1998 (Act 121 of 1998) is an omnibus Act dealing with, among other things, money laundering, racketeering and criminal and civil forfeiture. FICA complements POCA and provides an administrative framework for combating money laundering. POCA and FICA apply to proceeds of unlawful activities which is much wider than proceeds of crime *(Manual on the Financial Intelligence Centre Act, 2001, 2010:3)*. The Investigation Policy of the DAC is formulated in line with legislative mandate as prescribed by government and the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) forms part of the legal framework of the policy.

3.9 Public Service Regulations, 2001 as repealed by the Public Service Regulations 2016

The Public Service Regulations, 2001 are derived from the Public Service Act, 1994 (Proclamation 103 of 1994) and should read in conjunction with the Act in order to have a clearer understanding of what the Act is about. It is an interpretation of the Act. The Regulations apply to all the people and organisations governed by the Public Service Act, and people in the employ of the Agency or the state educational institutions as long as they are not opposed to the laws that govern their employment *(Public Service Regulations 2001:10)*.

Chapter 1 Part II, sections A – D of the Public Service Regulations (2001:12-13) explains that the executing authority shall afford the head of department

suitable powers and authority in order for the head of department to manage his or her organisation effectively and efficiently. The head of department shall where necessary delegate suitable authority and powers to employees in the organisation as a way to empower them. An executive authority shall maintain the values and methods set out in the Regulations and make sure that the employees within the department comply with Regulations, collective agreements and any other statutory obligations; and deal instantly and effectively with any breach thereof. An executive authority or head of department shall execute his or her powers, duties, obligations in accordance with the regulations subject to conditional to the Labour Relations Act, 1995 (Act 66 of 1995) and applicable collective agreements. An executive authority or head of department shall also make sure that approval from Treasury is obtained beforehand for any decision that includes revenue expenditure. All the delegations, authorities and responsibilities of executives relate to the issues of conduct and the compliance to the code of conduct.

According to Webb (2010b:137-139) The Public Service Regulations, 2001 chapter 2 outlines procedures for ethical conduct in government departments. The code provides guidelines for ethical behaviour of public servants as well as how they should behave when executing their duties and private interests. The code of conduct does not allow for employees to uses their positions at the workplace to attain gifts and other benefits personally. It also requires from an employee to report corrupt actions, fraud maladministration, and nepotism. Chapter 3 of the Regulations states outlines that senior managers should declare their financial interests outside the public service. This process is called the Financial Disclosure. Failure to disclose may lead to dismissal. An employee who has been found to have benefitted financially and improperly by abusing his or her position and it is found that there was also conflict of interest may face disciplinary processes.

The Public Service Regulations, 2001 was repealed in 2016 and the Public Service Regulations, 2016 was introduced. The Public Service Regulations, 2016 is aligned with the Public Service Act, 1994 (Proclamation 103 of 1994) as amended by the Public Service Amendment Act, 2007 (Act 30 of 2007) to

provide for the regulation of, among others, the period of obligation for employees to continue with demployment after being seconded seconded; minimise offering employees higher salaries so as to do away with inequalities employees may experience after secondment; modify the provisions in relation to the Financial Disclosures and the Code of Conduct; introduce anti-corruption mechanisms; align the regulations with provisions of the amended Labour Relations Act, 1995 (Act 66 of 1995) and Employment Equity Act, 55 (Act 55 of 1998); and make provision for the summoning of witnesses to a disciplinary hearings and the costs attached to it *(Public Service Regulations, 2016:12-140).*

3.10 Treasury Regulations, 2002

The Treasury Regulations, 2002 were promulgated and came to effect in June 2000 with the aim to finalise the PFMA as a financial management regulatory tool. Treasury Regulations are developed in line with the PFMA. National Treasury should develop regulations that are additions of the Act in order to govern and control some financial matters as stated in Chapter 9 of the PFMA. The Treasury Regulations include*, inter alia*, internal control methods, budgeting, financial management, planning, asset management, accounting and reporting (Madue 2007(a):308-309). The National Treasury issues regulations concerning financial management for the institutions to whom the PFMA applies. These regulations cover issues such as the recovery of losses and damages and gifts or donations by or to the state, and any matter prescribed for departments in terms of the PFMA. These are published in the Government Gazette and are available on the National Treasury website *(Summary of the Public Finance Management Act, 1999 (Act 1 of 1999) (with amendments), n.d:4).*

Section 2.1 of the Treasury Regulations (2002:7) requires of organisations to have chief financial officer at senior management level. The Chief Financial Officer reports directly to the accounting officer. The responsibility of the CFO is to assist the accounting officer in executing the responsibilities recommended for Departments and Constitutional Institutions as stated in Part 2 of Chapter 5 of PFMA. These responsibilities refer to effective financial

management, executing of sound budgeting and budgetary control practices, the operation of internal controls and the timely production of financial reports.

Section 3.2 (3.2.1) of the Treasury Regulations (2002:9-10) obligates the head of department to make sure that a risk assessment is done frequently to detect developing risks in the organisation. A risk management strategy must be put in place to lead internal audit effort and priority, and to identify the skills expected from managers and staff to improve the management of risks and its controls. The strategy must include a fraud prevention plan. To ensure that the strategy is properly integrated into the culture of the organisation there needs to be effective and sound communication of the strategy to all employees. When employees understand the message they will be able to execute the strategy effectively. All organisations that bound by the regulations must have an internal audit unit in place. *Section 3.2 (3.2.5) of the Treasury Regulations (2002:9-10)* states that the aim, authority and responsibility of the internal audit functions must be officially described in an audit charter and be constant with the Institute of Internal Auditors (IIA) description of internal auditing.

In terms of *Section 4.1 (4.1.1) of the Treasury Regulations (2002:11)* the head of department must ensure that and investigation takes place upon receiving allegations of suspected financial misconduct acts by an employee. Should the allegations be confirmed the head of department must ensure that disciplinary measures are put in place according to the relevant regulations and prescripts (Labour relations processes and procedures) appropriate to the public service. *Section 4.1 (4.1.3) of the Treasury Regulations (2002:11)* further stipulates that as soon as treasury is alerted of an alleged financial misconduct that is supposedly committed by a head of department, it must make sure that the executive authority conducts an investigation into the allegations and if confirmed, ensure that disciplinary measures are put in place according to the relevant regulations and prescripts (Labour relations processes and procedures) appropriate to the public service. Making reference to Section 4.3 of the Regulations and the Report on Financial Misconduct for the 2007/2008 Financial Year (2009:8). Webb (2010b:136)

postulates that in accordance with the Treasury Regulations the accounting officer must report all financial misconduct disciplinary processes that have been concluded to the Public Service Commission, the Department of Public Service and Administration, and executive authority. Financial mismanagement relates to any form of behaviour by an accounting officer or employee of the department which leads to financial loss by theft, fraud, corruption, irregular, fruitless and wasteful expenditure. Such acts are considered to be financial misconduct.

3.11 Public Service Anti-corruption Strategy (2002)

According to the Anti-Corruption Minimum Capacity Requirements (2006:8-9) Departments should be strategy driven because a strategy provides a route for taking an organisation from where it is to where it wants to go. In the same way, an anti-corruption strategy is the route that an organisation should follow to reach its anti-corruption objectives. The anti-corruption strategies must consolidate an inclusive framework that is designed in line with four main constituencies which are prevention, detection, investigation, and resolution. Anti-corruption strategies in Departments should also focus on combating corruption in an integrated and preventative way and also focus on the following sections:

- consolidate and review corruption related legislative framework;
- enhance the organisation's capacity and develop the necessary capacity to fight corruption in Departments;
- enhanced access to report systems to allow for easy reporting of wrongdoing through whistle-blowing by witnesses;
- prohibition of corrupt individuals and business to do business with government;
- enhanced management of policies and procedures;
- the management of professional ethics; and
- enhance stakeholder partnerships, policy and research advocacy, training and education, and social analysis.

The South African government developed anti-corruption strategies that are aimed at ensuring governments communicated commitment to fighting corruption in the public service. The strategy signifies an additional step towards government's support and influence in creating the country's national anti-corruption strategy *(Public Service Anti-corruption Strategy 2002:6)*. According to the former minister of Public Service and Administration, Minister Collins Chabane (2014) the PSACS is considered a key driver of all anti-corruption initiatives in the public service. The strategy advocates that the fight against corruption be conducted in an integrated and coherent manner. It recognises the importance of solid management practices to prevent, detect, and combat corruption. Victoria (2009) explains that an anti-corruption endeavour should not attempt to do all this at once, but promote culture that seeks to curb corruption. Then public service, as a diverse sector of the South African society requires a properly designed strategy that tackles corruption issues as a whole, and should and comply with national, regional and international requirements *(Public Service Anti-corruption Strategy 2002:6)*.

The definition of corruption as provided for by the Public Service Anti-corruption Strategy documents is as follows: 'any conduct or behaviour in relation to persons entrusted with responsibilities in public office which violates their duties as public officials and which is aimed at obtaining undue gratification of any kind for themselves or for others'. The PSACS also provides the following examples as of corruption and bribery: embezzlement, fraud, extortion abuse of power, conflict of interest, insider trading, and abuse of privileged information, favouritism, and nepotism (Naidoo 2017:74). Though corruption seems to be described easily, it is essential to formulate a practical legal description so as to increase preventative and combating attempts that include appropriate organisation of responsibilities between organisations *(Public Service Anti-corruption Strategy 2002:9)*. The nature and extent of corruption is extensively written about in all spheres of government and the academic field. Government has put in place law enforcement and organisational control methods to curb corruption that includes different statutory, policy and organisational processes. One such statutory reform is the Prevention and combating of Corrupt Activities Act, 2004 (Act 12 of 2004).

The Act gives an extensive legal definition of corruption which applies in both the public and private sector (Naidoo 2017:73-74).

Anti-corruption strategies require sound state, social, and political institutions, and a minimal level of trust, both by government and among citizens. The absence of all or most of those assets is in part what defines fragility. Another key attribute is an "expectations trap", in which citizens expect very little of government and government demands very little of citizens, as long as they stay out of the way; in those situations fragility can become a persistent situation. Corruption is challenging enough in sound, established states; even where reform has enjoyed sound institutional support and broad political backing, success has been minimal and partial at best. Reform involves rebalancing stresses and capabilities so that the expectations can change in positive ways. Successful reform requires for trust to be built, both in those in government and among citizens, especially in the case of fragile situations originating in post conflict societies. In fragile situations corruption control may not only be extremely difficult but may also, if poorly conceived or executed, make matters worse by raising expectations that cannot be met, imposing unattainable performance targets upon public institutions, or weakening political linkages and social trust (Johnston 2011:1-3).

South Africa has elements of a good anti-corruption strategy in particular the public service. South Africa has a firm legislative, regulatory and institutional framework that was established since 1994 and it receiving support at political level. The public service has put in place proper management practices to ensure that government's resources are economically utilised. Those proper management practices comprise financial disclosures, modern management practices, unbiased procurement, the code of conduct, and a reformed labour relations system *(Public Service Anti-corruption Strategy 2002:6).* It should be the responsibility of public service managers to ensure that corruption prevention measures are adhered to and that responsibility and accountability should be outlined in the performance agreements. The PSACS lists the following as its objectives:

- to enhance the capability of organisations;

- advance employment applications in the public service;

- promote the management of risk;

- manage discipline in a work environment *(Public Service Anti-corruption Strategy 2002:11-19)*.

The *(Public Service Anti-corruption Strategy (2002:12-21)* outlines the following sub-objectives at the departmental level:

- to coordinate risk management;

- develop anti-corruption and fraud prevention policies;

- obtain and administer claims of corruption through whistle-blowing and other measures; and

- investigate claims of corruption and perceived risks at an initial level.

In terms of the management of discipline the PSACS identifies the following sub-objectives: the following sub-objectives are recognised by the PSACS in terms of the management of discipline:

- to recognise initial signs of lack of discipline;

- to enhance the accountability and capability of managers to coordinate discipline; and

- to motivate managers to take action against wrongdoing.

Other sub-objectives appropriate for organisations comprise of the promotion of a culture of whistle-blowing; and to communicate the significance of intolerance among employees for corruption as well as its adverse significances (Webb 2010b:133).

3.12 Preventing and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)

The purpose of the *Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004:1)* is to ensure that corruption prevention measures are strengthened, ensure that measures to investigate corruption are provided for,

and to provide for other offences relating to corruption and corrupt activities. It is also to make provision for the creation and approval of a Register so as to put some restrictions in place on individuals and businesses found guilty of tender and contract corruption and make members of the executive authority accountable to report corrupt actions. According to the Act corruption is considered a crime irrespective of whether it is committed by a public servant or someone working in the private sector.

Chapter 2 of the Act outline the wrongdoings in relation corrupt activities. Section 3 of the chapter outlines general offences of corruption as anyone who offers or receives any favour or bribe from someone indirectly or directly, hands out or proposes to afford any other person any favour or bribe, irrespective of it being for the benefit of that other person or for the benefit of another. Such persons are guilty of corruption and the Act makes provision for jurisdiction set beyond the territory in terms of the wrongdoings of corruption and wrongdoings relating to corrupt activities. According to chapter 5 of the Act there is a Register for Tender Defaulters that should be established and punishments against corrupt actions. Offenders can be fined any amount including an amount that equals five times the costs of the benefits that are equal to the offence. Offenders may also be imprisoned for a maximum of three years to life as punishment. The sentencing will depend on whether the verdict is handed by the Regional Court, Magistrate or High Court. The court may also direct that the convicted individual's information or enterprise be abridged in the Register of Tender defaulters in accordance with section 12 and 13 (Webb 2010b:141).

The National Anti-Corruption forum published a Guide to the Prevention and Combating of Corrupt Activities Act. The guide, titled Understanding the Prevention and Combating of Corrupt Activities Act explains the Act in detail and gives and overview of the Act, and it is part of the strategy of government to curb corruption. It has been developed to guide the public sector, the private sector, and members of the public on corrupt activities. Corruption affects the lives of South Africans negatively and the government has formulated and put in place legislation and policies with the aim of fighting and

preventing corruption in the public service and private sector inclusively, and the guide forms part of those laws. The Act emphasises government's necessity to ensure that information that is important is made available to the public, hence the necessity to create the guide *(Guide on the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), n.d:4).*

Guide on the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) (n.d:1-2) elaborates that corruption limits the country's ability to fight poverty; it affects the development of the economy negatively, undermines democracy and good governance and damages social values. Hence every effort to strengthen measures to prevent and combat corruption is important. The importance of such efforts is illustrated in the relationship that South Africa has with the United Nations when it comes to issues of corruption. The Act was developed with the aim to align South African law with the ones set by the United Nations Convention Against Corruption and the African Union Convention on Preventing and Combating Corruption. The responsibility of the United Nations is to develop international laws and it is expected of countries to commit to following the set laws by endorsing them. The United Nations and African Union adopted conventions in 2003 and ratified by South Africa in 2005. These conventions outline the following:

- take corruption prevention initiatives;
- broaden the scope of offense to include a wider category of corrupt acts;
- build relations and corporations with other countries to fight corruption; and
- enforce firm punishments for corruption *(Guide on the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) (n.d:1-2).*

South Africa has agreed to the two conventions and an example of such is the implementation of the Act. The act lays out various forms of corruption, all familiar-a person gives the other something to illegally and unfairly utilise their power to gain advantage for themselves or for somebody. The person suggesting the offer will be guilty of corruption and the two people involved will be guilty of corruption should the offer be accepted. Lengthy jail sentences or hefty fines may be imposed on people found guilty of corruption and may

be restricted, upon being found guilty, to be employed by government again. Acts of corruption involving R100 000 or more should be reported to the police by people in authority; if not they will also be considered to have committed a crime and found guilty *(Guide on the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), n.d:4-9).* The DAC Fraud Prevention Policy is applied in conjunction with the fraud prevention legislation as set out by the South African government and the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) forms part of the legal framework of the policy.

3.13 Public Administration Management Act, 2014 (Act 11 of 2014)

The purpose of the Act is to promote the basic values and principles governing the public administration referred to in section 195 (1) of the 1996 Constitution. It is also makes provision for:

- the transferring and seconding of employees in the public service;
- the rules and regulations for doing business with the state;
- the provision of training for the purpose of capacity building;
- the provision for the development of the National School of Government;
- encourage the utilisation of information and communication technologies in the public service;
- promote the development of the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit;
- allow the Minister the prerogative to minimum norms and standards for public administration;
- create the Office of Standards and Compliance with the purpose of ensuring that there is compliance with minimum norms and standards; and
- to the Minister the powers to develop regulations *(Public Administration Management Act, 2014 (Act 11 of 2014:2).*

Snell (2015:1) explains that the purpose of the Act, according to government, is to promote a high level of professional ethics and integrity among public servants. Snell further explains that billions are lost every year in South Africa

to procurement fraud. The Act will prohibit public officials doing business with the state, or acting as directors of companies that are contracted with government. A breach of this would constitute serious misconduct, and could result in the dismissal, as well as a fine and up to five years in prison. In addition, staff must disclose their financial interests, including shares, sponsorships, gifts, benefits or property. Failure to comply will constitute misconduct. *Section 30 (1) (3) of the Public Service Act, 1994 (Proclamation 103 of 1994:28)* states that Restricts employees from perming remunerative work outside their work for which they are officially employed. Employees must obtain written approval from the Head of Department first before they can engage in any remunerative outside their employment. The Head of Department must first assess and take into consideration reasonable factors that allow for the granting of the approval that the employee be given approval to perform duties outside employment. If the duties will not affect the employee's performance in the workplace and will not contravene the functions of the employee in the workplace and the code of conduct then the Head of Department may grant the approval. The DAC has in place a Policy on Remunerative Work Outside Employment and it is developed in line with the Public Service Act, 1994 (Proclamation 103 of 1994). The purpose of the policy is to regulate the performance of remunerative work by DAC employees outside the scope of their employment. The authority to grant approval to employees on performing remunerative work outside the department vests in the Director-General (Policy on Remunerative Work Outside Employment in DAC 2009:6).

3.14 Whistle-Blowing

Botha and van Heerden (2014:337) Refers to whistle-blowing as one of the available mechanisms that can discourage corrupt actions and has an integral role to play in the encouragement of transparency and the promotion of effective corporate governance in the organisation. Organisations must expose employees to the disadvantages of not reporting wrongdoing so that they encourage the number of people witnessing corrupt acts can be willing to report them to increase. Suspected fraud activities should be encouraged to

be reported to departmental heads, internal audit, and risk management. Internal reporting should not oblige a person to be in possession of extensive evidence before the organisation can be suspicious of any wrong actions or corrupt acts. In a situation where the people or the person doing the reporting suspects that a person may be involved in acts of fraud, another means of reporting that is not known must serve as an alternative (Cascarino 2013:127). According to the Gauteng Provincial Whistle-Blowing Policy (n.d:1-2), any staff member who has reasonable belief that there is corruption or misconduct may raise a concern in accordance with set procedures. Issues must be elevated in good faith without negative intentions, for the benefit of a majority, and not personal gain. Furthermore, Information that is disclosed and it allegations must be fully investigated.

Holtzhausen (2007a:1-2) postulates that one of the critical challenges in curbing corruption is the issue of non-legal protection. People are not free to report wrongdoing without the assurance of legal protection. The Protected Disclosures Act, 2000 (Act 26 of 2000) affords protection for people who may be intimidated or discriminated against in the organisation for reporting any acts of corruption. This Act plays an important role in the fight against corruption because it aims to encourage employees to report corrupt acts. The supposed benefits for whistle-blowing for the citizens should be reflected in its potential negative consequences. Managers and employees often dispute that executive authority should protect them from potential harassment, troublesome or violent clashes by other employees. Whistle-blowers are the managers and residents who wish to see wrongdoing non-existent. Managers would prefer for incidents of whistle-blowing to be directed through internal processes only but if it will not be effective then it will be benefiting no one.

The Gauteng Provincial Government has put in place a Whistle-Blowing Policy. The Gauteng Provincial Policy on Whistle-Blowing (n.d:iii) defines whistle-blowing as an act of informing the public or someone in authority about alleged dishonest or illegal activities (misconduct) occurring in a government department, a public or private organisation, or a company. It

also serves as a tool by which staff and stakeholders can raise concerns with relevant line management, or specific appointed persons in these institutions, where they have reasonable grounds for believing that there is fraud, corruption, or maladministration within the institution. The policy is designed to deal with concerns raised in relation to matters pertaining to fraud, corruption, misconduct and malpractice within the provincial government. Senekal and Uys (2013:32) postulate that in spite of supposedly comprehensive protective legislation, evidence suggests that whistle-blowers enjoy little effective protection. The policy makes reference to the Protected Disclosures Act, 2000 (Act 26 of 2000) and states that employees can blow the whistle on fraud and corruption in the working environment without fear of suffering an occupational detriment as defined by the Act (Gauteng Provincial Policy on Whistle-Blowing, n.d:1).

According to Holtzhausen (2013c:59-71) whistle-blower protection is in a constant state of uncertainty and concerns remain at policy and more specifically implementation level. Organisations must take steps towards developing a whistle-blowing culture. Clear procedures have to be put in place with regard to authorised disclosure the managers and public officials of the organisation have to understand and embrace what these procedures entail as part of their everyday work ethic. Once an organisation has established a whistle-blowing culture, it becomes more difficult to act in a wrongful manner because the culture is able to straighten out incorrect procedures whenever they may occur. A policy must be established within an organisation that gives explicit information on the prevention of organisational wrongdoing. A policy should be comprehensible as well as manageable for the organisation to undertake, because the whistle-blowing culture should state who is responsible for what to whom. Policies create the broad outline of what a whistle-blowing culture should entail. It then becomes important to develop the details of the type of mechanisms that should be in place to affect the policy that has been created.

The DAC has adopted a Whistle-Blowing Policy which was presented to the Risk Management Committee and approved on 26 April 2016. The policy was

developed to serve as a tool that employees and stakeholders can use to raise their concerns where they have reasonable grounds to believe that there is corruption, fraud or maladministration that is taking place in the Department (Whistle-Blowing Policy 2016:5). The policy has not yet been properly inducted to all employees so that they are trained on how to apply it. Risk Management as the custodian of the policy must ensure that employees are provided with awareness training on the policy document.

3.15 Anti-corruption Strategic Framework, 2009 (Gauteng)

South Africa has developed and put in place appropriate legislation for anti-corruption and policy frameworks that are aimed at guiding public servants conduct and behaviour and all other individuals who engage them and service providers. Although in 2002 the DPSA developed anti-corruption strategies for both national and provincial government, provinces are a different sphere and require additional designed strategies to address corruption matters. Provinces are therefore expected to develop their own strategic frameworks and implementation programmes on corruption that function as guidelines for departments to address anti-corruption daily (Gauteng Anti-corruption Strategic Framework 2009:7).

Gauteng as a provincial government has put an anti-corruption strategy in place. The strategy was approved in 2005 and revised and approved again in 2007 with the Gauteng Provincial Government Policy on Whistle-Blowing. The Gauteng Anti-corruption Strategy was put in place in 2009 and its purpose is to outline a holistic, integrative and pragmatic approach appropriate to enhance the attempts of government to increase the fight against corruption. These attempts comprise of detection, prevention and combating of fraud and corruption and referring serious case to special investigation units and/or agencies working together with the criminal justice system. The emphasis is on decreasing and eradicating the manifestation of corruption within the public service. The important result is to decrease cases of fraud and corruption and promote an ethical public service (2009 Gauteng Anti-corruption Strategic Framework 2009:7-9). The study is not focused on Provincial government but the analysis made is aimed at illustrating the importance of Anti-corruption

strategies in all spheres of government. The DAC currently has in place the Fraud Prevention Implementation Plan (2015/16) which outlines all planned fraud activities of the Department and the projected results on the implementation of the Fraud Prevention Policy and Strategies for a particular financial year.

3.16 The National Development Plan, 2011

The South African Government has introduced the National Development Plan (NDP) that aims to address various issues that impact on the economy and corruption is one of them. Chapter 14 of the NDP focuses on corruption and it states that corruption undermines good governance, which includes sound institutions and the effective operation of government in South Africa. Poor governance can critically undermine national development. South Africa needs an anti-corruption system that makes public servants accountable, protects whistle-blowers and closely monitors procurement. Accountability refers to institutionalised practices of giving account of how assigned responsibilities are carried out and public resources used. The efforts to eradicate corruption need to include the private sector and individuals by increasing public awareness and improving access to information (National Development Plan 2011:445-446**).**

There is an interconnection between good management practices and controls through checks and balances which can prevent any opportunity for corrupt practices. It is for this reason, according to Chabane (2014) the NDP responds by identifying four focus areas in which policies should be implemented to move towards an accountable state and zero-tolerance to corruption in the public service:

- building a resilient anti-corruption system;
- strengthening accountability and responsibility of public servants;
- creating an open, responsive and accountable public service; and
- strengthening judicial governance and the rule of law.

The South African government has established numerous agencies such as the Auditor-General and the Public Protector to fight corruption. Strengthening the anti-corruption systems require an enhancement of specialist resources of anti-corruption agencies and the political will (National Development Plan 2011:404-410).

3.17 Public Sector Integrity Management Framework, 2013

According to the Organisation for Economic Co-operation and development (2015:1-2) integrity is the foundation for good governance. Promoting integrity and combating corruption in the public service established the ground for the private sector and is important to upholding trust in government. Integrity means the application of values, principles and norms in the operations of the organisations that are conducted daily. Governments are under growing pressure from the public to use information, resources and authority for intended purposes. The public is always putting pressure on governments to ensure that they use resources, information and authority for planned services and tasks. The public service is faced with a number of challenges such as non-compliance and lack of enforcement when it comes implementing ethical and anti-corruption methods *(Public Sector Integrity Management Framework 2013:5).*

The DPSA has put in place a Public Sector Integrity Management Framework. *The purpose of the Public Sector Integrity Framework (2013:4-6)* is to tighten methods and principles of integrity management and uphold ethical conduct that can be influenced by financial interests, gifts, bribes, and remunerative work outside the organisation. There is a delay in ensuring that disciplinary processes are undertaken and that courses frustration in organisations as it seems like organisations delay in their response to prevent and combat corruption. This delay results in officials being on suspension for lengthier periods while still receiving their salary in full. There are also substantial irregularities in the kinds of sanctions that are being applied. When allegations of corruption are reported to the anti-corruption hotline they are referred back to organisations to make follow-ups, which is a challenge because organisations on their own do not have the capabilities to conduct

investigations and as a result investigations into the allegations end up not being completed. Whistle-blowers have lost confidence in blowing the whistle against unethical behaviour and corruption because of the ineffectiveness of the Protected Disclosures Act, 2000 (Act 26 of 2000) *(Public Sector Integrity Management Framework 2013:5).*

In order to accomplish a culture of integrity there must be logical attempts to update standards, provide guidance, and monitor and enforce them daily. It also entails governments to predict risks and apply effective preventative measures. Governments require effective information to monitor and evaluate the efficiency of the integrity systems and to strategically manage sections that might be at risk (Organisation for Economic Co-operation and Development 2015:2-3). The Public Sector Integrity Management Framework (2013:7-13) is the intervention for fighting corruption and promoting ethical conduct. The interventions are aimed at closing the policy gaps and strengthening the implementation of ethical and good governance methods. Some of the interventions are aimed at ensuring that public servants are restricted from asking or accepting gifts either directly or indirectly, of any value from any person; and to ensure that people who render services to departments do not offer gifts to public servants. Public servants are also required to disclose their financial interests and assets. Public servants must disclose information about their family members if the stand to gain from contracts offered by their department to the ethics officer and withdraw from partaking in any way in the process involving to the contract. If there is any change of the status of their financial on a regular basis.

3.18 Explanatory Manual on the Code of Conduct for the Public Service 2002

The Code of Ethics is an important legal requirement for the organisation as it plays a critical role in the management of individual behaviour. The document must include language that identifies in clarity the values and principles that all the employees in the organisation should adhere to. Furthermore appraisals and inputs must be attained from all employees in the organisation as they are also important role-players, including inputs from external

stakeholders. The code of ethics must be influential in creating an inclusive consciousness about corruption in the organisation and must define and review values that support adherence to relevant regulations (Mantzaris 2016:65-66).

In terms of the Constitution of the Republic of South Africa, 1996 the Public Service Commission has been given the authority to advance and maintain a high standard of professional ethics in the public service. The Code of Conduct was adopted in 1997 and officials in national and provincial government level were given workshops on the document. A practical guide to the Code of Conduct was also developed to generate a better understanding of its implications and applications *(Explanatory Manual on the Code of Conduct for the Public Service 2002:4)*. According to Raga and Taylor (2005:22) ethics are an important element of a public servant. Socio-political developments influence the constant changes in the public service. Government and communities cannot promote and implement ethical behaviour only by utilising the code of conduct or the enforcement of a plethora of legislation. Social mind-sets are often still intertwined in a micro-ethic paradigm.

According to Raga and Taylor (2005:22) the development of codes of conduct and promulgating other legislation such as to promote accountability will not prevent the occurrence of unethical behaviour if the citizens and public servants are not part of the process of the developing the systems and are not incorporated in dispositions, attitudes, and virtues for guiding human conduct. Sebola (2014:295) argues that the biggest challenge in the public service is corruption, which is a major form of unethical conduct because it deprives citizens of their basic rights to services. Officials should therefore act impartially, honestly, openly and transparently when rendering services to the citizens at all times. When accepting employment with government public servants should take into consideration the fact that they have an important and special duty to be open, fair and impartial when communicating with the public (Vyas-Doorgapersad and Ababio 2010:412).

Ethical behaviour and ethical thinking must be encouraged among public servants if government wishes to promote a high standard of professional ethics in organisations *(Explanatory Manual on the Code of Conduct for the Public Service 2002:7).* The environment that public servants operate in obliges them to strike a balance between their individual interests and those of the citizens they serve. The citizens have faith in them that they will serve as good agents who utilise public resources effectively and protectors of a special trust that the public has bestowed in them. The discretionary powers can often impact negatively on governance as they may be abused. It is for such a reason that the role of ethics in the administration of government functions should be understood (Manyaka and Sebola 2013:79). According to Cascarino (2013:119) concrete corporate governance processes require a proper outline the code of ethics of an organisation so that the management failures and that of employees can be dealt with and ensure that there is compliance with laws and regulations in the organisation. Disoloane (2012:93) explains that a code of conduct must describe what warrants good behaviour or integrity, and must be acknowledged as a reasonable guide to good conduct by most employees in the public service.

Raga and Taylor (2005:23) highlight that Ethics involves people's behaviour thus it needs changes in the senior manager's attitudes and behaviour amongst other employees and the public. The fundamental elements of a democratic society are ethical values and integrity as primary values and the rule of law. Public servants must exert discretionary competencies when they perform their functions and manage public funds on a daily basis. Section 4.1.1 *Explanatory Manual on the Code of Conduct for the Public Service (2002:9)* requires of an employee to be truthful and honour the Constitution of the Republic and adhere to it when performing his or her duties. Section 4.1.2 of the *Explanatory Manual on the Code of Conduct for the Public Service (2002:10-11)* requires of an employee to put the public's interests first when performing his or her duties. These values aim to protect the public authority against any inappropriate and illogical use of power by public servants, and also protect citizens as well. Public servants must themselves be protected

from any abuse or deviation of legislation or authority on public authority's or its officials bodies behalf (Raga and Taylor 2005:23).

According to Vyas-Doorgapersad and Ababio (2010:413) ethics includes society at large and is not only individuals alone. Section 4.2.5 of the Explanatory Manual on the Code of Conduct for the Public Service (2002:19) compels an employee to always be committed to rendering service in order to develop and uplift the lives of all citizens. The implementation of an ethical framework for social and economic development at early stages of service delivery implementation is of importance (Vyas-Doorgapersad and Ababio 2010:411). Raga and Taylor (2005:23) explain that ethical behaviour is important for an effective and established political-administrative authority, and the social and economic structures. Appropriate or moral conduct must be evaluated against some absolute criteria to which negative or positive values are attached. One such moral conduct is accountability. Sindane (2009b:495-496) explains that accountability as a conduct should scrutinise excuses and rationalisations by employees who are have violated set accountability standards by acting in an unethical manner and not achieving departmental goals.

Unethical behaviour and corruption undermines the effectiveness and efficiency of the public service. Government forfeits a lot of money that could be spent on service because officials can be offered bribes in order to give unfair advantages and special favours to non-qualifying service providers. Corruption can occur in situations where many people need service delivery and the resources are scares and that can have a negative effect on citizens. Corruption can occur at any bureaucratic level; it can start with senior managers, employees from other levels, services providers, or the general public. Employees, service providers and members of the public have an important role to play in being on high alert for, and reporting act of corruption. Senior managers have an important role to play in preventing, investigating and resolving fraud and corruption cases, but they ones more prone to the risk of getting involved or persuaded into corruption because they are the

decision makers and they understand the systems of the organisation (http://www.etu.org.za/toolbox/docs/govern/corruption.html).

Section 4.4.8 of the Explanatory Manual on the Code of Conduct for the Public Service (2002:44) requires of an employee honesty and accountability when utilising public funds, and the effective and efficient utilisation of public service property only for official and authorised purposed. The possibility exists that a person entrusted with privileged information and/or official funds may, at some point, wonder about using these for their own benefit. Sindane (2009b:496) postulates that proponents of conduct of accountability should be institutional and must have a normative purpose. The behaviour of managers and other employees must be influenced by the set accountability standards so as to ensure the effective and efficient execution of assignments of responsibilities, loyalty to the organisation and discipline.

Section 4.4.10 of the *Explanatory Manual on the Code of Conduct in the Public Service (2002:46)* expects of an employee when performing his or her official duties to report any acts of fraud, corruption, nepotism, maladministration and any act which that is regarded as an offence, or which is prejudicial to the interests of the public to the relevant authorities. Corruption can hamper economic competition and disturb free trade and the free market stability on which the economy is based (Raga and Taylor 2005:23). Government must put in place strategies that should promote ethical behaviour of employees and ensure that employees follow due processes so as not to government's service delivery agendas and economic growth (Sebola 2014:296). *Section 4.4.6 of the Explanatory Manual on the Code of Conduct (2002:42)* emphasises the point that an employee should declare his or her personal interest in any decision-making process or any official action which may end in him or her improperly gaining personally. Such employee must recuse himself or herself from the process. The Public Service Regulations, 2016 was amended to incorporate issues of anti-corruption and ethics management. *Section 13(a) to (k) of the Public Service Regulations (2016:29-31)* is on ethical conduct and concurs with section

4.4.10 of the Explanatory manual on the Code of Conduct in the Public Service.

Section 4.4.9 of the Explanatory Manual on the Code of Conduct (2002:45) states that an employee should promote sound, efficient, effective, transparent and accountable administration. Ethics must be viewed as an action that is continuous and not as a standard to obtain. Ethics is a management process that should be continuous and that upholds the work of government; it should not only concentrate on developing a set of rules or the code of conduct (Raga and Taylor 2010:23). Mfene (2013:6-8) states that accountability and professionalism cannot be separated because they are an integral part of ethical conduct in the public service. Accountability should be practiced internally within an organisation and externally to the public. Internal accountability should be practiced in bureaucracy which includes senior managers and all other employees, and external accountability must be practiced by political office bearers and account to the public about service delivery issues so that the public are kept abreast of government's work, processes and procedures.

The issue of compliance with international standards also applies to the issue ethics. Holtzhausen (2007a:83-84) postulates that South Africa is part of the global world and must adhere to global ethics. Global ethics are moral values that are shared worldwide to mend relations between countries, direct individual behaviour, guide the nations and organisations, and regulate decision making. A comprehensive globalisation describes the necessity for global and worldwide norms and values. Both the private and public sector require established instructions that can move them towards a positive direction that will enable them to meet society's expectations. Various industries and organisations have in place a code of conduct that guide their profession, but their must also align their code of conduct and practices to those on international standards.

3.19 Fighting corruption in Government

The National Development Plan (NDP) (2011:448-453) states that for an anti-corruption system to function effectively it needs adequate resources and staff with relevant skills and knowledge, exceptional legislative powers, information sharing that is of high level and well-coordinated, and functional independence. For government to fight corruption it must have in place well-resourced systems that operation without being interfered with; and the NDP suggests the following measures that can be implemented to build a resilient anti-corruption system:

3.19.1 Strengthening the multi-agency anti-corruption system

 For an anti-corruption system to be effective it needs adequate staff and resources with required skills and knowledge, exceptional legislative powers, information sharing that is of high level, coordination, and operational independence. Independence refers to ensuring that politics and political pressure do not interfere with the administration of government. A single-agency methodology will in essence not be effective because if that one anti-corruption agency encounters political pressure it will compromise the independence of the whole system. What is needed is a multiparty agency that will play an oversight role and provide checks and balances that are important in the South African framework and creates a systematic resistance against interference. Corruption is more prevalent when institutions of governance and public administration are weak or ineffective. Corruption is also described as evidence of institutional failure, specifically the failure of public administration in one or more of its agencies Public sector institutions play a role in preventing corruption and enforcing anti-corruption regulations (Report on Preventing Corruption Public Administration: Citizen Engagement for Improved Transparency and Accountability 2012:35).

According to van Niekerk and Olivier (2012:140) the successful implementation and application of the National Anti-corruption Framework is largely dependent on an effective institutional capacity. In South Africa there are multiple anti-corruption agencies with the mandate to investigate arrest

and prosecute corrupt activities. The 2011 National Development Plan also indicates that for the anti-corruption systems to be strengthened specialist resources in agencies need to be increased. More capacity should be created for corruption investigation-more funding is required to employ skilled personnel and sophisticated investigative techniques. Specialised teams of prosecutors and special courts should be created to advance the conclusion of corruption cases. Examples of agencies established to fight corruption in South Africa are the South African Police Services, Special Investigations Unit, the Assets Forfeiture Unit, National Director of Public Prosecutions and the Public Service Commission. Having stated the above, the DAC can use the above mentioned agencies when it wants to take further take appropriate interventions to resolve cases of fraud and corruption. These interventions could include, but not limited to disciplinary steps based on *Section 81(2) of the Public Finance Management Act, 1999 (Act 29 0f 1999:81)* which states that a public service official who is assigned powers and responsibilities in terms of section 44 is regarded as having committed an offence or financial misconduct if he/she willingly or purposefully fails to execute those powers or perform his/her duties accordingly. The DAC, as also recommended by the BIG report can take appropriate steps and lay criminal charges against service providers and employees who commit acts of fraud (Business Innovations Group Report 2014:23).

3.19.2 A social approach to combating corruption

Corruption requires all members of society to participate in dealing with it because it is a societal issue. It is important for citizens to be engaged in preventing corruption because they are part of the resources available to policy makers for understanding the context of corruption. Citizens can put forward the types of corruption, corruption risks, and the challenges that exist in the implementation of anti-corruption policies. Citizens form the societal values and expectations that can help or hinder anti-corruption strategies, and they may also be perpetrators of corruption who need to be discouraged (Report on Preventing Corruption Public Administration: Citizen Engagement for Improved Transparency and Accountability 2012:x). Citizens and

organisations in the private sector play a role on the supply side of corruption through offering bribes to government officials, for example through paying bribes for government contracts. South Africans should create a shift in attitude towards corruption and expose any acts related to corruption so that they can be investigated. Initiatives such as Corruption Watch provide an environment where people are able to report wrongdoing within both the public and private sector. Integrity, ethical conduct and anti-corruption should form part of any social compact.

3.19.3 Strengthening the protection of whistle-blowers

The main objective of the culture of whistle-blowing is to focus on illegal, criminal and irregular conduct. Wrongdoing should be highlighted and addressed in the organisation or with the affected person. Central to this is a creation of trust between government organisations, public officials and the public (Holtzhausen 2009b:234-235). While the Protected Disclosures Act, 2000 (Act 26 of 2000) provides protection, it does not do enough. The extent of the protection in the law is limited and the Act is restricted to occupational disservice which unnecessarily limits its execution to whistle-blowers in a regular permanent work relationship. The protection and conditional reprieve for implicated whistle-blowers in corruption acts is not clear as the Act does not include people in other commercial relationships with appropriate organisations. The Act does not guarantee immunity against civil or criminal liability for making a disclosure in good faith, and does not provide adequate security; and this could discourage people from reporting corruption. The report on Preventing Corruption in Public Administration: Citizen Engagement for Improved Transparency and Accountability (2012:xii) encourages the reporting of corruption by developing best practices in whistle-blowing that protect against retribution, provide advice and allow anonymity.

The NDP outlines the following as recommendations to address such gaps:

- The Protected Disclosures Act, 2000 (Act 26 of 2000) needs to be reviewed and an expansion of the whistle-blower protection scope outside the restrictions of the occupational impairment should be considered in the

review process. The review should also consider the permission for institutions apart from the Auditor General and the Public Protector and tighten systems to ensure whistle-blower protection.

- Regulation aimed at protecting the Act should be created and government should develop policies that will be aimed at ensuring that the Act is properly implemented.

Implementation of the recommendations will ensure the capacity of the organisation to curb corruption is enhanced and that whistle blowers have confidence in the Whistle-Blowing Policy and mechanisms that are in place that they will be protected from any intimidation or harm after reporting wrongdoing.

3.19.4 Improving oversight over procurement procedures for increased accountability

The NDP recommends programmes on the development of procurement systems that will aim to provide value for money and allow for an effective government. The NDP also recommends a structured and centralised tender review process with various preventative measures and processes that will allow for tenders that are advertised for a certain amount to be reviewed by the Parliamentary Committee on Public Accounts and the Auditor-General, and allowing for public hearing platforms that will provide oversight over the review and awarding of tender processes. As stated in the Business Innovations Group Report (2014:19-24) the DAC experienced deficiencies in internal controls to ensure that errors were identified and corrected. The systems of internal control around tender proceedings were inadequate and ineffective to discover non-compliance and to also verify the authenticity of the information provided by the service provider. According to Dintwe (2013:562) such shortfalls in internal control systems can be resolved by putting in place an effective anti-corruption programme that is able to identify procurement system gaps and attempt to prevent corruption where it is forthcoming.

3.19.5 Strengthening accountability and responsibility of public servants

Public accountability is the obligation resting on public functionaries to behave in accordance with their conscience and putting the interest of the public first, and suggesting solutions that will be able to resolve all issues based on professionalism and participation (Mfene 2013:7). It is the responsibility of political office bearers and public servants to administer public resources on society's behalf. The resources must be managed in an efficient, transparent and accountable manner. Steps that are put in place to implement public service accountability should be able to enhance the *Batho Pele* (People First) principles. South Africa has introduced systems to ensure the promotion of ethical conduct and integrity management in the public service. The mechanisms include the public service code of conduct, the public service regulations, Financial Disclosure Framework and supply chain management prescripts. Implementation and adherence to these mechanisms is not without gaps. For example, the Financial Disclosure Framework requires of senior managers to disclose their financial interests, but there is a challenge of others not complying. Senior managers are rarely reprimanded for their failure to disclose their financial interests and organisations do not do much with the information provided except submitting it to the Public Service Commission.

The DAC is accountable to the people of South Africa in its pledge to provide them with high-quality services by reporting accurately on its performance and commitments, and taking ownership of the tasks to ensure that they is done correctly (DAC Strategic Plan 2015/16:18). Enhancing public service accountability demands that the existing rules and regulations be more consistently implemented, and the NDP recommends the following:

- the development of an accountability framework that will link the personal liability of public servants according to their responsibilities in proportion to their seniorities;
- create more clearer and specific rules that restrict the business interests of public servants;

- give consideration to restraint-of trade agreements for politicians and senior public servants at all spheres of government; and

- public servants who are corrupt must be held personally liable for the losses.

Mfene (2013:7-8) attributes that accountability occurs when one is answerable and responsible for their actions, and the state should be accountable to the citizens for whose welfare it is responsible. Government can promote accountability by enhancing professionalism and ethics among public officials.

3.19.6 Creating an open, responsive and accountable public service

The National Development Plan (2011:452) states that transparency is an essential part of public accountability. Section 32 of the Constitution of the Republic of South Africa endorses the right to access to information, and the *Batho Pele* (People First) principles. Information should be made available to citizens without them having to request it. Government's has the responsibility to be open and transparent about its services and to keep citizens informed about what they are entitled to. The Promotion of Access to Information Act, 2000 (Act 2 of 2000) makes provision for the active availability of information but at times it is not implemented because of lack of capacity. The lack of appreciation of the importance of rights, an organisational culture of risk neglect, wilful neglect and lack of training has led to the ineffective implementation of the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

The report on Preventing Corruption in Public Administration: Citizen Engagement for Improved Transparency and Accountability (2012:61) suggests that accountability through transparency is a mechanism to combat corruption. The report suggests that government information should be made more accessible, such as disclosing expenditure of public funds. The report also suggests that the capacity of civil society and citizens to participate effectively in all the roles they have with government whether reporting corruption, complying with regulations, and receiving services should be enhanced. Public accountability demands transparency in every activity of

government. Public accountability must respect the rights of persons who are affected by the actions or decisions of the members of the public service. All decisions or actions with regard to accountability should be transparent and public accountability can be improved if the public service is transparent in its activities (Mfene 2013:18).

3.19.7 Strengthening judicial governance and the rule of law

A judiciary that is advanced in it philosophy and legal propensities can ensure that the law is appropriately translated and implemented in an advanced manner and in a way that enforces transformation so that it serves as an advocate of change. Judicial supremacy involves independence and accountability of the judicial sector of government, and includes issues such as leadership and management, ethics, selection and appointment, and the management of courts. Access to the courts, investor confidence and holding private and public sectors to account is possible through a reliable, honest and efficient court system.

The state must ensure that services are provided to its citizens by appointing qualified people in positions of authority and leadership. The NDP discourages public servants from being appointed based on their political connections. Public servants must be appointed based on experience, competence and skills, so as to avoid state resources to be defined according to political affiliation instead of citizenship, which may lead to state funds and processes being exposed to corruption. The report on Preventing Corruption in Public Administration: Citizens Engagement for Improved Transparency and Accountability (2012:xi) encourages public sector human resource capacity development as an element for preventing corruption. It states that the professionalism of public administrators must be built so that they can act competently and ethically. The National Development Plan (2011:445) explains that undermines the effective running of public institutions in the country. South Africa requires an effective anti-corruption system that will hold public servants accountable for their action, protect whistle-blowers, and promote good governance.

3.20 The role of ethics in fighting fraud and corruption

According to Brytting et al. (2012:149) one of the principal responsibilities belonging to the highest level of authority in any organisation is to establish the ethical values that the organisation will follow. The Accounting Officers and senior management have the responsibility to approve and monitor the organisation's ethical values. A high standard of professional ethics has become an integral matter for governments globally because they are highly concerned about the high levels of corruption in their public service. Scandals that concern public servants with regards to ethical behaviour have caught the attention of the world. This has provoked widespread global discourse on good governance that is underpinned by a call to be more pro-active in the fight against corruption (Manyaka and Sebola 2013:75-76). Uys (2014:114-115) explains that to change a culture of an organisation, specific strategies may be used to combat corruption such as naming of, and punishment for corrupt managers, and tackling areas that are evident of corrupt actions. A practical way to develop an ethical climate should start with the formulation of a "Statement of Ethics". Clear directions from politicians to public officials should be in place. This should provide guidelines for expected behaviour and should include inputs from all employees.

The discussion about ethics in the public service of South Africa acknowledges that the country has solid policy framework and legislation that promote ethical behaviour and professionalism. The Constitution of the Republic of South Africa (1996) provides the basis for the promotion of ethical behaviour and professionalism The 1996 Constitution stipulates in section 195 that public administration must be accountable and a high standard of professional ethics must be promoted and maintained. In spite of all these, the ethical conduct of some public servants remains questionable (Manyaka and Sebola 2013:75). According to Cascarino (2013:114) ethics go beyond individual moral principles because they focus on matters relating to practical and idealistic perspectives and by focusing on the two elements the practicality is many cases conflicted. It is for this reason that ethics is defined as being superior to the law and beneath the ideal. Adhering to the law cannot

be regarded as being ethical because ethics include taking decisions between right and wrong in instances where there is minimal guidance from the law itself or making other choices.

Raga and Taylor (2005:22) explain that Ethics are imperative for public servants. The public service continually goes through leadership changes, socio-political development, and environmental influence. Ethical conduct cannot be promoted and enforced by government and society only by the utilising ethical codes of conduct or promulgating the excessive legislation. South Africa requires a public service that recognises that it describes and fortifies individual and organisational right and wrong conduct, not just supporting ethical behaviour. Sindane (2008a:343-344) postulates that ethics and culture are intertwined and cannot one conceive of ethics in the absence of values. Values are also linked to culture and therefore the development of a public administrative culture is based on prevalent values in the political and administrative system of the country. Values are fundamental to humankind and their existence and so too to administrative agencies such as government departments. Values are ideals to which people and organisations subscribe and they offer standards that guide human and organisational conduct and act as processes to evaluate and judge behaviour and that of others. The motivational impacts of values are apparent when humankind and organisations strive to attain particular ideals such as development and excellence in service delivery.

The Department of Public Service and Administration's presentation on the Promotion of Ethics in the Public Service (2016) states that it is the operational mandate of government departments to promote ethical behaviour through ethics and anti-corruption policies and programmes, to facilitate and support the implementation of the policies and programmes, and to ensure monitoring of implementation, compliance and enforcement. The presentation also outlines the need for an Ethics Officer and Ethics Committee. The ethics office should be set up by a department as a structure dedicated to promote ethics and integrity, advice employees on ethical matters, identify and report unethical behaviour and corrupt activities, and develop and implement

awareness programmes. The ethics committee should then provide strategic direction and oversight of the ethics management of the department. The DAC as a government should comply with the DPSA's prescripts but so far does not have an Ethics Office in place. Reference is made to the Code of Conduct for the Public Service when the DAC deals with ethics matters. The lack of a dedicated ethics office indicates a gap when it comes to the DAC having to deal with ethics issue specifically not just identifying them when there is a misconduct case. This is an area that the DAC needs to identify and ensure that there is implementation of such a structure.

Nagiah (2012:ix) defines ethics as principles or standards of human conduct which is sometimes referred to as morals and it essentially deals with what is right and wrong, good and bad, and acceptable and unacceptable. Raga and Taylor (2005:23) also designate that ethics involves with human character, morals and conduct. It focuses on what is right or wrong, and what is good or bad. It also assesses conduct by utilising outright measures or norms, and places negative or positive standards on it. Ethics and values are fundamentals in establishing integrity of an organisation. The public service has common values which contribute to the formulation of codes. The standards of codes emanate from values. Public servants not only work for the organisation but also they serve the citizens of the country. It is important that a corrupt public sector has no normal ground to fight corruption in the private sector, which is one of the mandates of government, i.e. to laws to fight fraud and corruption. The public sector sets an example and, therefore, if the public sector is corrupt, then society as a whole becomes corrupt (Nagiah 2012:1).

According to Cascarino (2013:115-116) It is important to understand organisational ethics for the enhancement of development of an ethical environment where fraud is not condoned or tolerated. It is equally important to understand organisational ethics in order to promote ethical considerations that control all other relations between employees, the public and other entities. It is essential to identify all economically active areas where management will have to make decisions that may be subjected to tension

ethical and legal choices when considering the influence of ethics on the likelihood of fraud happening in the organisation. The confusion comes as a result of instances where the policy framework developed by government, that determines the basics for economic trade in and out of the country, economic relations between organisations in the private and public sector, and the economic participation of employees in the organisation. Ethics are developed to address matters that are practical and idealistic not just individual moral principles in the organisation; as a result what is regarded as an ideal situation is usually in conflict with what is practical.

3.21 Conclusion

In this chapter a review of the corruption prevention measures was conducted. The impact of various legislation that have been put in place by national government to combat fraud and corruption were analysed and the impact that the legislations have in the development of departmental policies scrutinised. It is noted that government has established a proper framework that enables departments to establish their own anti-corruption strategies focusing on their own environments and nature of work. The legislations serve as guidelines to such effect. The challenge is on implementation and proper monitoring of adherence to legislation. Oversight on processes and procedures of procurement and policy should be enhanced to ensure accountability and improve government effectiveness in terms of service delivery.

Government has since 1997 set an objective to prevent corruption in the public service. Numerous policy interventions have been promoted to prevent corruption from manifesting. It is through those interventions that government departments can develop their own anti-corruption strategies that relate to their daily operations so that corruption can be curbed. Although there are interventions in place, corruption still continues to be a challenge within the public service. Public servants need to play a positive role in assisting government to achieve its goal of a non-corrupt public service by ensuring that they adhere to the rule of law. An organisation can have good measures

in place to curb corruption but they won't be effective if employees do not practice them.

Ethical behaviour place an important role in ensuring that legislation is adhered to in the organisation. The Code of Conduct is a mechanism that is meant to ensure that public servants comply with the law when executing their duties and that they always refer to policies and procedures as set out by the organisation. The policies and processes of management must outline the organisation's commitment to ethical standards. It is not enough for government to only have systems in place that are compliance or rule-based. Compliance-based systems only can unintentionally inspire some employees in the organisation to operate on the boundaries of misconduct, giving reasons that they to them they are not in bridge of any law so their actions are ethical. Government policies should clearly outline the values of the public service that employees must adhere to and not only describe minimum standards with regards to government official' ethical acts (Holtzhausen 2007a:150).

Chapter four will illustrate how the formulation of departmental policies is aligned to national government legislation. It is noted that the Department of Arts and Culture is a government department and must adhere to legislation set out by national government when developing anti-corruption strategies and internal policies. The next chapter will illustrate how the legislation impacts on DAC anti-corruption strategies.

CHAPTER FOUR

A REVIEW OF THE CURRENT POLICY FRAMEWORK ON FRAUD AND CORRUPTION PREVENTION OF THE DEPARTMENT OF ARTS AND CULTURE

4.1. Introduction

Chapter 3 focused on a review of anti-corruption legislation that has been put in place by government. It was also indicated in the chapter that the legislation influences the development of anti-corruption strategies in government departments as they serve as guidelines for the formation of anti-corruption policies. In this chapter a review on the current corruption prevention policies and strategies will be conducted in order to determine if they do provide proper guidance to enable the Department to implement them. In addition to this chapter will examine the fraud and corruption strategies of another national government department, namely the Department of Transport with the aim of identifying similarities and deviations. The comparison is conducted because the public service anti-corruption legislation strategies are formulated to give guidance to all spheres of government on how to deal with issues of corruption, and most importantly how to formulate policies on the subject of corruption. The various pieces of legislation and prescripts as set out by the South African public service to govern the acts of fraud and corruption have been described in Chapter 3 as mentioned above; in this chapter a review will be conducted to illustrate how the legislation as described in previous chapter links to the mechanism, strategies and policies that have been put in place by DAC. The National Treasury will play an important role in this review but it should be clarified that the review is not about the National Treasury but about the policies that are in place by DAC.

Corruption prevention is not only the responsibility of the public service but a network of different role players. The private sector has an important role to play in preventing corruption because it is as important role player in economic transformation and social development. Corrupt activities infringe on human rights, put the stability and security of citizens in danger, and

undermine the organisations and values of democracy (Evaluation of the Consistency of Sanctions Imposed for Misconduct in the Public Service 2008:47-48). The introduction of the New Public Management meant that government would operate more like the private sector so that it increases its productivity and becomes more efficient and effective in service delivery. The approach also influenced the creation of a performance management system whereby employees' performance can be measured as to whether they are performing their duties effectively and efficiently. It has not been adequately proven that privatisation can enhance service delivery because its practices are limited in the public service. Some functions of the public service cannot be privatised and an attempt to privatise them gives room for inappropriate behaviour and inaccuracies in the application of public service policies. For example; corruption happens when there is a gap in the system and citizens end up not getting the services that they require. Often times those challenges occur where government has outsourced its functions. The need for public accountability is a fundamental constitutional requirement and NPM is regularly in conflict with the constitutional law because it is focused at enhancing production without essentially recognising the principal requirements to function within the ambits of the laws that are appropriate to policies implemented by public servants (Thornhill 2016b:9).

This chapter will assess the necessity of developing internal controls and measures that will guide the organisation and employees on corruption prevention and guide employees behaviour and actions. The introduction of a Risk Management component and its purpose will be assessed because Risk Management is the custodian of anti-corruption strategies and policies in the Department of Arts and Culture. Risk Management has been adopted as a governance requirement in order to address all factors that may hinder the Department from achieving all its goals and objectives (Enterprise Risk Management Policy 2010:4).

It can be argued that the establishment of Risk Management in the public sector has introduced positive systems to prevent corruption through public management reform rather than detecting and punishing the perpetrators after
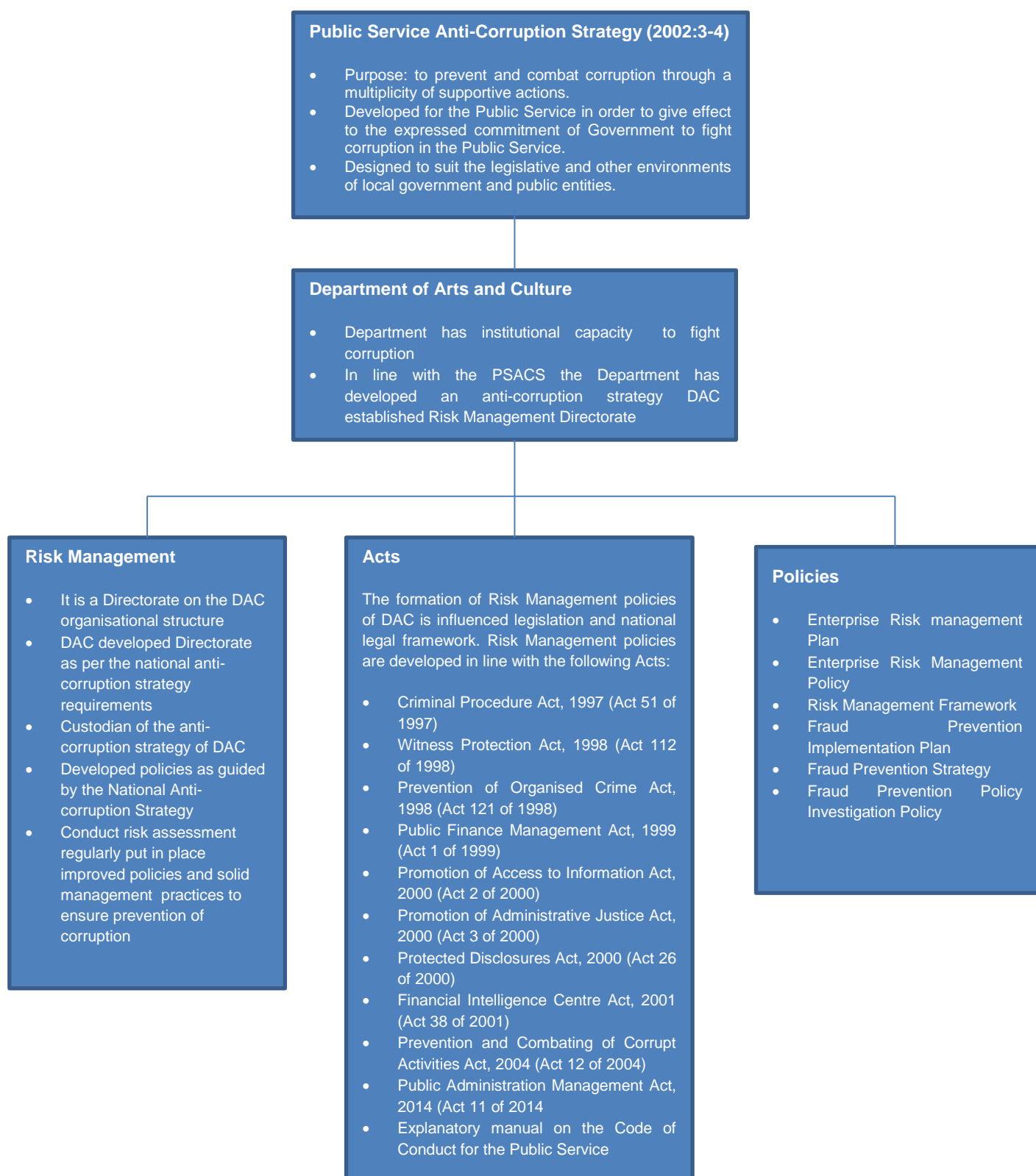
the incident. Risk Management is part of a policy development and implementation operation and it will be reviewed in line with the National Treasury Risk Management Framework. The process of policy formulation and implementation will also be outlined.

The public service should be made more professional so as to reduce the incidences of corruption; ethical behaviour must be encouraged in order to promote accountability and consistency by employees who must execute policy processes and procedures. The reviewing of current the anti-corruption strategies of DAC will establish a link between the Departments goals and objectives with its practices; and establish a benchmark with another national department's anti-corruption strategies. A comparison of the anti-corruption strategies between DAC and the National Department of Transport will be used to illustrate commonalities in strategies that are influenced by regulations set my National Treasury for all departments to adhere to.

4.2. Strategic alignment of DAC and national anti-corruption legislation

The Public Service Anti-Corruption Strategy (2002:3-4) suggested the establishment of an all-inclusive method to combating corruption. That required a combined strategy of preventative and combative actions and the merging of legislative and organisational competencies of government. The strategy also suggested for the enhancement of optimum operations of the courts, organisations and departmental capacities; and the development of suitable systems to manage and incorporate anti-corruption work in organisations to ensure the improvement of the efficiency of organisations and agencies by March 2002. Departments had to create a minimum capacity to fight corruption through practices of improved procurement systems, risk management, and financial management. The DAC has complied with the PSACS proposal and it has aligned its anti-corruption methods with the PSACS. Figure 3.1 illustrates the strategic flow of the alignment between PSACS proposal and DAC implementation:

Figure 3.1 Strategic alignment of DAC and anti-corruption legislation

Public Service Anti-Corruption Strategy (2002:3-4)

- Purpose: to prevent and combat corruption through a multiplicity of supportive actions.
- Developed for the Public Service in order to give effect to the expressed commitment of Government to fight corruption in the Public Service.
- Designed to suit the legislative and other environments of local government and public entities.

Department of Arts and Culture

- Department has institutional capacity to fight corruption
- In line with the PSACS the Department has developed an anti-corruption strategy DAC established Risk Management Directorate

Risk Management

- It is a Directorate on the DAC organisational structure
- DAC developed Directorate as per the national anti-corruption strategy requirements
- Custodian of the anti-corruption strategy of DAC
- Developed policies as guided by the National Anti-corruption Strategy
- Conduct risk assessment regularly put in place improved policies and solid management practices to ensure prevention of corruption

Acts

The formation of Risk Management policies of DAC is influenced legislation and national legal framework. Risk Management policies are developed in line with the following Acts:

- Criminal Procedure Act, 1997 (Act 51 of 1997)
- Witness Protection Act, 1998 (Act 112 of 1998)
- Prevention of Organised Crime Act, 1998 (Act 121 of 1998)
- Public Finance Management Act, 1999 (Act 1 of 1999)
- Promotion of Access to Information Act, 2000 (Act 2 of 2000)
- Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)
- Protected Disclosures Act, 2000 (Act 26 of 2000)
- Financial Intelligence Centre Act, 2001 (Act 38 of 2001)
- Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)
- Public Administration Management Act, 2014 (Act 11 of 2014
- Explanatory manual on the Code of Conduct for the Public Service

Policies

- Enterprise Risk management Plan
- Enterprise Risk Management Policy
- Risk Management Framework
- Fraud Prevention Implementation Plan
- Fraud Prevention Strategy
- Fraud Prevention Policy Investigation Policy

Source: Authors own construction

4.3. Public Sector Risk Management Framework: National Treasury

According to Hedley (2011:119-120) risk management is part of a cohesive method of addressing fraud and corruption related matters. An effective risk management approach aligns the organisational functions and activities to help manage risk in a manner consistent with the organisations business needs and expectations. Effective fraud and misconduct risk management should begin with a well-designed and properly executed ethics compliance program that seeks to prevent, detect, and respond to fraud and misconduct. The programme should be thoroughly integrated into the organisation's overall governance and risk management framework and, its business strategy and operations. Governance, risk, and compliance are generally intended to define an integrated framework for thinking about those structures, policies, and procedures that focus on generating long-term value. The goal should be to implement ethical and effective oversight and operations of a business by the management (governance) with an organisation's systematic approach to assessing and managing risk (risk management), as well as to ensure that the organisation and its employees adhere to laws, regulations, the organisation's standards of conduct (compliance) (Girgenti and Chorin 2011:97-100).

Cascarino (2013:55) postulates that when people wallow in fraud they do not expect to get caught and persecuted, they think that they will always succeed. Risks must be assessed from possible fraudster's viewpoint so as to assist in the development and implementation of an effective fraud risk management. When conservative risk assessment methods start with essential risk and move toward restricting them because of the quality of internal controls systems, fraud related evaluation looks at the controls from the viewpoint of how can they be evaded, who can evade them, whether it is known, by whom, and how. The review of the Public Sector Risk Management Framework (PSRMF) is conducted because it serves as a guide to public service institutions on how to develop their own risk management policies and strategies, fraud prevention policies and strategies, and fraud prevention plans. The review of the anti-corruption strategies of the DAC will be

conducted to ensure that they form part of, or are in line with the broader scope of Treasury's risk management framework.

4.3.1. Consequences of risk management

According to the Public Sector Risk Management Framework (n.d:1-2), risk management can be defined as a process of methodical identity aimed at assessing and addressing risks on a regular basis before they can affect the organisation's service delivery capabilities negatively. It is a management discipline with its own techniques and principles. It is a recognised management science and has been formalised by international and national codes of practice, standards, regulations and legislation. Risk management is part of the main responsibilities of management and an important part of the organisation's internal processes. Risk management, when implemented correctly can provide sensible but not complete assurance that the organisation will be successful in attaining its goals and objectives (http://oag.treasury.gov.za/RMF/ages/s201Whatisriskmanagement.aspx).

Fraud is a significant risk to the effectiveness and reputation of an organisation. The starting point for any organisation in fighting fraud effectively is a clear understanding of where responsibility for managing risk lies (Giles 2012:19). Legislation such as the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) and others are developed at a macro level and often do not address the step-by-step mechanisms of dealing with corrupt activities. Over and above the legislation and the implementation thereof, there remains a need for a specific, correctly pitched and relevant strategy (Masiloane and Dintwe 2014:180).

A risk management policy must converse the organisation's standpoint on risk management. The policy must be influenced by the organisation's risk profile, risk appetite, decrease in tolerance levels, compliance with regulations and administrative requirements. The policy must highlight the organisations commitment to comply with the rules and regulations, and to the protection of the organisations unfavourable results which may have a negative impact on the delivery of services. Employees must comply with the terms of the risk

management policy that has been approved by the head of department (DiBianco and Schulz 2013:1).

Matters related to anti-corruption present notable risks in investment and acquisition transactions due to the fact that regulators proceed to tighten enforcements of in the field of investment, and developing markets often present substantial economic opportunities and increased corruption risks. Failure to identify a significant corruption risk in an organisation not only opens the possibility of regulatory risks, it can undermine the core value of the transaction itself. In this context, careful and persistent efforts for anti-corruption or anti-corruption diligence have become an accepted component of transactional persistence and regulators have endorsed risk-based diligence as appropriate to mitigate risk. A thoughtful, well-planned diligence process can identify structural risks and compliance weaknesses that can be addressed in operations and in post-closing compliance enhancements (DiBianco and Schulz 2013:1).

Nel (2014a:64-65) postulates risk mitigation methods depend on the types of risk that is likely to be experienced and that governments should enhance their risk management capacities so as to advance in the market development curve. Nel (2014a:65) further recommends an advanced importance of systematic risk management and elaborates systematic risk management approach as a process of expecting the unexpected which functions as a tool to help enhance performance. It is a systematic and structured process of identifying, assessing, monitoring and managing risk, and provides guidance for implementing a risk control strategy at all levels. The following are benefits of systematic risk management:

- Question assumptions that can affect organisational achievements;
- Put more focus on the activities that can assist on controlling risks;
- Evaluate the monetary benefits of such activities;
- Allowing the process of decision making to be less biased;
- Ensuring that the significance of risks are instantly apparent;

- Putting in place response scenarios that will provide an improved understanding of a project; and

- Having an influential effect on management by forcing them to realise that there are several of probable products (Nel 2014a:65).

Risk management addresses all kinds of material risks to the objectives of the institution. It must address all parts of the institution and all parts of the institution, particularly management must participate in the process. Legislation that has been put in place like the PFMA together with corporate governance codes expects institutions to implement a risk management plan. The legislation also requires public sector institutions to be more transparent and structured about the ways in which they manage and report on risk. Risk management is recognised by the public sector as an appropriate way of managing risk. Different institutions may have different existing responses to risk, such as safety management and insurable risk to internal control and public relations. It is important that various types of risks receive suitable attention by employees and management at an operation level (http://oag.treasury.gov.za/RMF/ages/s201Whatisriskmanagement.aspx). For the purpose of this dissertation the focus of Risk Management will be on anti-corruption strategies and no other aspects that are associated with Risk Management that an organisation may be responsible for.

4.3.2. Guidebook on Fraud Prevention Policy as outlined by National Treasury

According to the guidebook published by National Treasury a Fraud Prevention Policy should outline the organisations aims and pledge to the minimising occurrences of fraud and misbehaviour, and also endorse the organisations pledge to the compliance of the rules and regulations. The following should be indicated policy statement on fraud:

- the adoption of anti-corruption programmes by the organisation;
- reporting mechanisms for fraud;
- systems and processes that are available to prevent, detect and investigate fraud;

- ensuring that financial losses are retrieved; and

- instil a culture and values of fraud prevention in the organisation (http://oag.treasury.gov.za/RMF/Pages/s204FraudPreventionPolicy.aspx n.d:1-2).

The fraud policy statements may vary from one institution to the other. A fraud prevention policy should converse the organisations standpoint on fraud risk management and be influenced by the organisations risk profile, decrease in tolerance levels, expectations in complying with regulations, health and safety requirements, the sustainability of management, and requirement of corporate governance. The policy is the foundation for the risk management plan and should in its introduction include a statement that is aimed at outlining the organisations commitment to combating fraud. The organisation must have a fraud risk prevention policy as part of an awareness campaign for employee (http://oag.treasury.gov.za/RMF/Pages/s204FraudPreventionPolicy.aspx n.d:1-2).

4.3.3. Fraud Prevention Plan

The purpose of the guidebook on Fraud Prevention Plan is to ensure that organisations are able to develop plans that include all the systems of fraud and corruption prevention. The head of department's responsibility is to ensure that the organisation has and maintains efficient, effective and transparent financial risk management mechanisms and internal controls. Organisations are also expected to perform risk assessments regularly and formulate a risk management strategy that will encompass a fraud prevention plan that will be utilised to manage internal audit attempts. The incorporation of risk management into organisational culture is possible through effective communication directed to employees on the importance of the risk management strategy. The intranet is an example of a communication system (http://oag.treasury.gov.za/RMF/Pages/Fraud%20Prevention%20Plan%20(FPP).aspx n.d:1-3).

Fraud in the South African setting is defined as an illegal and purposeful misrepresentation which stimulates undeniable harm or which is feasibly

purposeful to another. Fraud and corruption are regarded as a threat to public trust and confidence and any person who directly or indirectly accepts or offers to accept any sort of bribe from another person for his or her own benefit or others is guilty of a corruption offence. Fraud prevention should be recognised as an important area of strategic management and for that reason the head of department must facilitate the prevention and management processes of fraud in the organisation so as to make employees aware of the stance of the organisation with regards to fraud. The head of department, which is the Director-General in the case of the DAC, must approve the fraud prevention policy that includes in its introduction a declaration by the organisation on its commitment to an effective fraud risk management; clarity on the management processes of all identified fraud risks; and must circulate it within the organisation for all employees to be able to access it (http://oag.treasury.gov.za/RMF/Pages/Fraud%20Prevention%20Plan%20(FP P).aspx n.d:1-3).

The head of department must ensure that fraud prevention strategies are developed. The head of department also has the responsibility to delegate the necessary powers and responsibilities of the management of fraud risk to heads of branches in the organisation. The head of department cannot delegate all the powers as he or she remains with the final accountability. The head of department must form structures that will tackle the threat of fraud and corruption within the organisation. The Risk Management Committee and Audit Committee are examples of such structures. Organisations are encouraged to develop policies and strategies for fraud and also formulate committees separate from that of Risk such as Fraud Prevention Committee that will provide oversight on matters related to fraud and corruption (http://oag.treasury.gov.za/RMF/Pages/Fraud%20Prevention%20Plan%20(FP P).aspx n.d:1-3).

4.3.4. Fraud Prevention Strategy

A Fraud Prevention Strategy is an integral part of the fraud prevention plan. It must outline how continuous fraud risk management will operate in an organisation and also highlight the organisations high level plan for the

implementation of its fraud prevention policy. The strategy should be practical and uncomplicated. The organisation should be able to recognise areas where manifestation of fraud exists within the organisations present operating processes and procedures in order for it to create and implement a Fraud Prevention Strategy. After the identification of the fraud risk manifestations the organisation will be able to implement activities to prevent the exposures and reduce possible occurrences of fraud and corruption in the future (http://oag.treasury.gov.za/RMF/Pages?Fraud%20Prevention%20Strategy.aspx n.d:1-4).

The organisation must create appropriate channels to report fraud and ensure that legislation that is in place deal with criminal acts against the organisation is clearly highlighted and interpreted. Fraud reporting should be included as measure of the response plan or investigation policy. The response plan should highlight its tasks and employees assigned to be responsible for those tasks. It is the ultimate responsibility of the head of department to delegate responsibilities to line managers in particular sections of the organisation, but also to encourage and ensure that all employees in the organisation take part in, and are responsible for fraud risk management within the organisation. The head of department also has the powers to delegate fraud risk management responsibilities and other related activities from strategic operational level. The Accounting Officer should also ensure that the organisation has systems in place to enhance education and awareness of employees with regards to fraud and corruption culture. The responsibility to ensure that employees receive training can be vested on heads of branches, or allow employees to attend fraud and corruption training as part of the anti-fraud programme. The anti-corruption awareness campaigns should not only be about posting information on notice boards but also give extensive training to employees about what is corruption and its impact in the organisation and society (http://oag.treasury.gov.za/RMF/Pages?Fraud%20Prevention%20Strategy.aspx n.d:1-4).

4.4. A review of the current policy framework on fraud and corruption prevention of the Department of Arts and Culture

Fraud prevention is one of the methods conducted by the public service to promote a high standard of professional ethics. Fraud has become a corporate misbehaviour in cases reported by departments to the Public Service Commission. Departments must pay careful attention to the development and implementation of a reliable Fraud Prevention Plan in order to create a public service that is driven by integrity. Departments must adhere to regulations set out by National Treasury in order to for them to be able to create and implement effective Fraud Prevention Plans. The plans should serve as fundamental mechanisms for departments to utilise to ensure transparency and accountability in its administration and must effect a proactive approach to minimise risks that can harmfully affect the operations of the department (Report on the Implementation Fraud Prevention Plans in the Public Service (2007:i-vii).

The Department of Arts and Culture has invested its time in developing anti-corruption strategies with the Directorate: Risk Management as the custodian of the following policies:

- Fraud Prevention Strategy;
- Policy on Fraud Prevention;
- Fraud Prevention and Implementation Plan; and
- Policy on Investigation.

The DAC is committed to rooting out fraud and corruption because it is an opportunity to ensure that it achieves on its goals and objectives. The vision of DAC goes beyond social cohesion and nourishing the soul of the nation. Arts, culture and heritage sectors have a pivotal role to play in the economic empowerment and skills development of the citizens of South Africa. Government together with civil society and stakeholders has the responsibility to protect the culture and heritage of South Africa for current and future generation; this means the Department has to create an environment for social stability and economic growth. In order to achieve on its vision the

Department must capacitate each employee and stakeholders to be on the lookout and identify areas where it can stop fraud and corruption and contribute towards skills development and job creation. The DAC spends funds appointing service providers to assist in serving the citizens and delivering on the Department's mandates, if the processes, for example appointment and tender, that are put in place are not attended to they are prone to fraud and corruption and if properly applied they can assist in preventing fraudulent attempts.

The organisation should put in place suitable precautionary measures that will ensure that noncompliance conduct does not happen again in future. One way of ensuring that noncompliance is avoided is by putting sound anti-fraud and anti-corruption framework in place. The framework should set out standards for accountability that are expected from all employees. Its objective should be to also minimise opportunities for fraudulent and/or corrupt activities. It should also be to protect public funds, and information and organisational individual rights; and maintain the effectiveness of departmental operations (Fraud and Corruption Control Framework 2016:1). Employees must lead by example, by acting with integrity at all times and following all legal requirements, rules, procedures and good practice. The DAC Investigation Policy (2010:7) states that in instances of fraud detection operational managers must re-evaluate the relevance of the present internal control environment and whether there is a need for improvement in the systems mainly with regards to the controls that have direct impact on the fraud incident. It is the operations managers' responsibility to ensure that the internal control environment is re-evaluated regularly and to ensure that recommendations made from the re-evaluation are put in place.

4.4.1. Enterprise Risk Management Policy

Risk management has been adopted as a governance requirement in order to address all factors that may hinder or prevent the Department of Arts and Culture from achieving its goals and objectives. The Enterprise Risk Management Policy has been formulated and adopted in line with the Public Sector Risk Management Framework. Enterprise Risk Management (ERM)

has become a popular way of describing application of risk management in the public sector. For the DAC to achieve its mandate it needs to have an effective risk management in place. Effective risk management plays a significant role in ensuring that the expectations of the public in terms of service delivery and performance within the Department are achieved. Risk management is a continuous process demanding awareness and proactive measures by all employees and stakeholders to reduce the occurrence and impact of risk events (Enterprise Risk Management Policy of the Department of Arts and Culture 2010:3-4).

The Enterprise Risk Management Fact Sheet defines Enterprise Risk Management as the procedure of synchronised risk management that puts much significance on Intergovernmental collaborations to manage the organisations overall risks. ERM provides a structure for effective risk management insecurities, reacting to and controlling the risks as they occur. The idea of ERM encompasses the conception that risk analysis overlaps to the whole organisation. The objective of ERM is to understand clearly the defiance of the enterprise to its fundamental risks in order to manage effectively risk exposures to the levels that senior managers aim for (McGill 2008:22-23). The ERM policy of DAC states that the Accounting Officer must be committed to the risk management process as supported by the Public Finance Management Act, 1999 (Act 1 of 1999). The risk management process should be associated with values and principles of good corporate governance. Olsen (2010:55) postulates that "Enterprise Risk Management can contribute to successful, compliant, and effective governance, enabling organisations to better understand and measure those risks that threaten strategic objectives".

In order for the DAC to fulfil its mandate of rendering service to the public it is essential that it has in place an effective risk management. The departments strategic plan relies on employees who have the capability to take considered and assessed risks in a manner that will not threaten the stakeholder's interests. Comprehensive risk management certifies decisions making that are informed in uncertain conditions and warrants expectations and reaction

to changes in the service delivery setting. Through policy the Department expects the risk management process to be embedded into its structures and practices, certifying current and active responses to risk. Risk management attempts must be aimed at giving support to departmental goals and ensuring that legislation on risk matters are complied with by employees and employees must be notified of what is expected of them. Risk management should be part of the Department's daily business and should be considered in all dealings with contractors and business partners (Enterprise Risk Management Policy 2010:3).

According to Giles (2012:175) Enterprise Risk Management is a procedure that is applied in strategy setting and performed by the personnel and management of an organisation. It is developed to recognise possible risk actions that may affect the organisation and manage them so as to sensibly assure the organisation of its achievements and objectives. The ERM framework is concerned with the external and internal risks relevant to the determination of the organisation's strategy to reach objectives. Internal control is part of the process of ERM and in terms of the DAC ERM policy this includes Internal Audit. Internal Audit is responsible for addressing the risk management of business processes which may cross the boundaries of business functions, branches and locations. The function of Internal Audit is to assess the results of internal reporting mechanisms for monitoring relationships with external stakeholders. The DAC ERM policy explains that the assessment of risk should be based on the identification of threats to business processes and their impact, and the subsequent evaluation of controls in place to mitigate the subsequent risk.

Hedley (2011:123) describes risk fraud risk assessment as a step-by-step process for identifying the quantitative and qualitative nature of potential integrity breakdowns. When the risk fraud risk assessment is executed properly they can assist the organisation with the identification of critical areas and the elements that influence the prominence of integrity-related risk organisations and their stakeholders. A completed assessment affords the basis for which an appropriate response can be constructed to mitigate fraud

and misconduct risk and help management evade losses as a result of fraud and misconduct.

Olsen (2010:57-58) explains that it is management's responsibility to mitigate fraud risk in the organisation. Management should prioritise the development of effective corporate governance policies and procedures for the corporate value system. Management should also be hands-on in the development, enforcing and policing of the code of conduct. This can be concurred with the ERM policy of DAC because it states that the Accounting officer and senior managers should ensure that risk is assessed with formal risk management methodology, lead the risk management campaigns, ensure the adequate assessments of risk profiles and financial costs attached to them. The Accounting Officer's aim should be to achieve best practices in managing risk.

4.4.2. Fraud Prevention Policy

According to the Report on the Implementation of *Fraud Prevention Plans in the Public Service (2007:2-3)* numerous definitions of fraud exist in South African public service that gives the impression that fraud includes deliberate acts performed in a dishonest manner so as to gain a particular benefit. The significance of fraud has surpassed the common definition of fraud from being treated only as a mismanagement of funds issue to also cover non-monetary benefits for people involved in actions of fraud. Widening the description of fraud could resolve on behaviour or conduct prominence that purposefully falsify employees actions in the organisation where getting involved in such actions creates a monetary or non-monetary benefit for the individual.

Regulatory provisions that require government departments to prepare Fraud Prevention Plans came into being in 2001 and according to the Report on the Implementation of Fraud Prevention Plans not many studies have endeavoured to carry out a comprehensive analysis of the implementation of the plans until the Public Service Commission conducted it in 2007. The DAC is committed to combating fraud and corruption and has established a policy on fraud prevention. The National Treasury Guidebook on Fraud Prevention Plan (n.d:2) defines the Fraud Prevention Policy as the organisation's

statement on its commitment to dealing with the threat of fraud and corruption. The purpose of the Fraud Prevention Policy of DAC is to enable it to develop a fraud prevention plan. Section 38(1)(a)(i) of the Public Finance Management Act requires that the Accounting Officer be responsible for ensuring that the department, trading entity or constitutional institution have and maintain effective, efficient and transparent system of financial and risk management and internal control (DAC Fraud Prevention Policy 2010:1).

The purpose of a fraud prevention policy should be to describe employees' responsibilities and those of the stakeholders in line with the Fraud and Corruption Plan and, the actions that might be taken by an organisation should contraventions occur. It should also be supportive of good corporate governance practices. Such a policy should be about reforming the characteristics that influence situations in the organisation to occur that may probably not be detected or reported (Waterberg FET College Prevention of Fraud/Corruption and other Irregularities 2011:1). Fraud signifies an important prospective risk to the assets of the DAC, and the efficiency of its reputation. The Department cannot tolerate fraudulent or corrupt actions, be it from within or from outside and aims to pursue and prosecute all parties engaged in irregularities.

Fraud prevention is a process that an organisation adopts by putting in place systems that will prevent, detect and deter fraud, and also manage other fraud related exposures (DAC Fraud Prevention Policy 2010:1). Prevention should be an important element of any policy. Fraud and corruption needs to be difficult to undertake with a high likelihood of detection, thus reducing the risk of its occurrence. According to the Waterberg Prevention of Fraud/Corruption and other Irregularities Policy (2011:1) the Anti-Fraud and Corruption Policy must cover matters related to fraud prevention, detection and management and related matters. The policy must promote fraud and corruption awareness and prevention and provide guidance on how to report any suspected acts of fraud and corruption. It must also provide guidance on how investigations into fraud related matters will take place.

The DAC places all responsibility for fraud prevention and/or reporting of any form of irregularity on every employee in the Department. All employees are expected to report all incidents of irregularities or fraud that may occur (DAC Fraud Prevention Policy 2010:4). Fraud Prevention seeks to establish physical, logical and procedural barriers to discourage fraudulent attacks, implementing cost-effective countermeasures to prevent or reduce the threat identified by risk assessment (Merseytravel Anti-Fraud and Corruption Strategy 2013:5). The Accounting Officer has the responsibility to suggest and create new systems that seek to address organisational fraud risks and threats. This is in line with the Enterprise Risk Management Policy. The Accounting Officer can delegate responsibilities to senior managers. All senior managers responsible for the prevention, detection and investigation of fraud and corruption must report all incidents and allegations to the Accounting Officer (DAC Fraud Prevention Policy 2010:4).

The Fraud Prevention Policy of DAC must inform the Fraud Prevention Strategy on the mechanisms and measures that ought to be implemented to manage the risk of fraud and corruption in the Department. Changes in the structures, operations, and amendments in legislation affecting risk management influences a review of the policy (National Treasury Guidebook on Fraud Prevention Plan n.d:2). Sections 3.2.1 and 27.2.1 of the Treasury Regulations, 2002 require risk assessments to be conducted regularly and for the risk management strategy to be utilised to manage internal audit attempts. The Fraud Prevention Policy and Strategy of the organisation should clearly communicated to employees and should include recognising fraud and misconduct in the daily operations of the organisation and effectively reduce the recognised exposures by adopting an awareness education campaign relevant to all employees and stakeholders (National Treasury Guidebook on Fraud Prevention Plan n.d:1).

4.4.3. Fraud Prevention Implementation Plan

According to the Report on the Implementation of Fraud Prevention Plans in the Public Service (2007:2-3) fraud is still a complicated notion and has been described in various ways by different organisations and individuals. The

PSACS describes fraud as personal behaviour or conduct that is illustrated by those in the public offices who have been assigned responsibilities and violate their obligations as public servants with the aim of obtaining any kind of unwarranted gratification for their own benefit or others. It is important to note that fraud, because it is conducted for personal gain, is considered a crime or an offence no matter which form it takes. An organisation must put systems and process in place to prevent, deter and detect fraud and to manage fraud vulnerability. The DAC has put on place the Fraud Prevention Implementation Plan as one of the mechanism for fraud prevention.

The purpose of the Fraud Prevention Implementation Plan of DAC is to set the implementation plan of the Fraud Prevention Strategy and Policy of the Department. A Fraud Prevention Plan is a detailed plan that outlines activities involved in the planning; the due dates linked to the activities and the managers or officials responsible for the execution of the tasks, and the outcomes or expected end results upon completion of the activities. The Fraud Risk Register is part of the Fraud Prevention Plan. The purpose of the register is to outline possible risks that the Department may experience, what can contribute to the risk factors, and the existing controls. The register also comprises of the recommended action plan to be taken to manage the risk and the planned response plan that senior management should approve (DAC Fraud Prevention Implementation Plan 2010:3-8).

Employees or service providers can commit acts of fraud by either conspiring together or individually. This is a challenge to both the public and private sector. Organisations must have a policy on fraud in place as a system to communicate its goals or objectives and the outcomes it expects when managing fraud. Organisations can reduce the risk of fraud occurrence considerably if they adopt targeted preventative measures. The basis for sound fraud control framework starts with the integration of prevention strategies which results in a trusted fraud control framework. The effective implementation and coordination of prevention strategies can reduce the probabilities of fraud occurrence although it will not be able to eliminate fraud

risk (Victorian Auditor-General Fraud Prevention Strategies in Local Government 2012:1-10).

A sound fraud control plan should be an important component for a sound fraud control framework on an organisation. The framework must comprise implementation and monitoring related tasks and responsibilities, and must record strategic, tactical and operational level approaches for fraud control. A fraud prevention plan affords the foundation whereby an organisation can be assured of awareness of all its fraud risks, whether it has sufficient prevention, detection and response capabilities. The plan should be designed in accordance with organisational needs and structure, fraud risk profile; and should be updated and revised occasionally after its effectiveness has been assessed. An organisation that does not have a fraud control plan in place cannot illustrate its fraud detection, prevention and response strategies as reliable, sound, properly coordinated, implemented and reviewed. It is important for an organisation to have a fraud control plan in place because it outlines how the organisations fraud policy, risk register, prevention and detection response strategies should be managed, conducted, and evaluated (Victorian Auditor-General Fraud Prevention Strategies in Local Government 2012:11-12).

Departments are expected to create and implement fraud prevention mechanisms and plans so that they are prepared accordingly to tackle fraud when it occurs. Organisations must have recesses whereby risk assessments will be conducted and must regularly evaluate their fraud prevention plans to ensure that their significance and suitability are not superseded by events. Changing organisational environments can influence the need for a reconsideration of the outline of the Fraud Prevention Plan from year to year based on the assumptions that arise. Recommendations by National Treasury is that risk assessments be conducted every two or three years preferably, or when the need arises as a result of substantial change. Risk assessments play an important role in influencing the creation of Fraud Development Plans. They identify current and developing risks which may negatively affect the operations of the organisation. The connection between risk assessments and

Fraud Prevention Plans centres on areas where risk can be potentially vulnerable to fraudulent acts (Report on the Implementation of Fraud Prevention Plans in the Public Service 2007:19-21).

According to an Assessment of the State of Professional Ethics in the North West Provincial Government (2011:12) organisations are susceptible to the current globalisation risks and syndicated crime. Organisations are also sensitive to risk from internal fraud and corruption. Strategic risk identification and management can be regarded as fraud and corruption preventing mechanisms. In this regard the PFMA requires that departments maintain financial risk systems that are effective, efficient and transparent and the management and internal control. Departments are also obliged to conduct risk assessments regularly so that the identified risks can be mitigated. Additionally, the risk mitigations should be included in a fraud prevention plan to deal the prevention of corrupt actions. S*ection 3.2.1 of the Treasury Regulations (2002:9)* states that the Accounting Officer must make sure that a risk assessment takes place in the organisation on a regular basis to identify possible risks. A risk management strategy, applied together with a Fraud Prevention Plan, must be utilised to detect internal audit attempts and priorities to prevent corruption, and also to identify management and employee capabilities to enhance controls and to manage risks. The strategy must be properly conversed to employees to ensure that it is appropriately integrated into organisational culture and language (Waterberg FET College Prevention of Fraud / Corruption and other Irregularities Policy (2011:7).

4.4.4. Fraud Prevention Strategy

The PSACS requires government departments to create an inclusive and cohesive approach to combat corruption. It also requires a preventative and combative mixed strategy that will serve as a guide to identify and introduce effective measures to deal with fraud and corruption, and effectively implement anti-corruption rules and regulations as enforced by an effective anti-corruption strategy. Departments must create and implement anti-corruption strategies that are specifically designed for their respective needs and influenced by their specific risk assessments and fraud prevention plans

(An Assessment of the State of Professional Ethics in the North West Provincial Government 2011:25).

The DAC has put in place a Fraud Prevention Strategy as an active measure to deal with fraud. The fraud prevention strategy of the Department highlights a plan that is of high level that illustrates how organisations should attempt to implement fraud prevention policies. The strategy is part of the fraud prevention plan and it is influenced by the fraud risk management policy and the organisation's risk profile (National Treasury Guidebook on Fraud Prevention Strategy 2008:1). The DAC Fraud Prevention Strategy (2010:3) states that Section 3.2.1 and 27.2.1 of the Treasury Regulations, 2002 require risk assessment to be conducted regularly and a risk management strategy to be used to direct the internal audit effort as it forms part of the fraud prevention plan. The Fraud Prevention Plan should consist of the Fraud Prevention Policy and Fraud Prevention Strategy. As the Fraud Prevention Strategy should consist of a detailed plan of fraud prevention activities in the institution, an implementation plan should be developed as part of the strategy, giving effect to the specific tasks to be performed and the responsible staff members.

The Department acknowledges that conditions such as pressure, opportunity and rationalisation should occur before fraud can take place. With regards to pressure, fraud can happen through intimidation. Management can sometimes cross the line and abuse authority, resulting in employees being pressured to perform irregular acts with instruction from management. There must be a segregation of duties to avoid opportunities of fraud from occurring. Rationalisation is about employee dissatisfaction or unhappiness. If employees are unhappy with work issues such as unfair labour practices or performance rewards they will find ways to rationalise. Their actions will have a negative impact on the overall performance of the Department (DAC Fraud Prevention Strategy 2010:3-5). The DAC has a responsibility to ensure that has systems in place to manage fraud and corruption and the evidence of such systems is the anti-corruption strategies and policies that the Department has adopted. The anti-corruption strategies of DAC have been

formulated in line with the Public Service Anti-Corruption Strategy (PSACS) to ensure effective and efficient implementation of anti-corruption policies in the Department. The DAC has based its fraud prevention strategy the following pillars: prevention, detection, investigation and resolution.

- **Prevention**

The DAC's primary objective is to deter the likelihood that fraud may occur. The prevention effort focuses on identifying certain controls to mitigate conditions of that have to occur before fraud can take place (e.g. opportunity, rationalisation and pressure) (DAC Fraud Prevention Strategy 2010:7). This is in line with the National Treasury guides on Fraud Prevention Strategy. According to the National Treasury Guidebook on Fraud Prevention Strategy (n.d:2) "prevention is a primary control which should lower the likelihood of fraud occurring. The prevention efforts should focus on identifying controls to prevent all three conditions which are; opportunity, rationalisation and pressure, that have to occur for fraud to take place. Examples of such efforts are anti-fraud programmes and the code of ethics". The DAC is expected to enforce ethical and moral behaviour. Ethics have to do with human conduct and character. Staff members are a prime source of detailed knowledge of what is happening. Without their co-operation and initiative most fraud will be rarely if ever prevented or detected. Employees have a responsibility to contribute to the elimination of fraud (DAC Fraud Prevention Strategy 2010:7-8). According to Durkin (2011:161) effective prevention, detection, and response procedures share a common denominator – the requirement of information and intelligence as a basis for sound decision making. Intelligence gathering requires the identification of data, establishment of facts, review of applicability of the facts, and analysis of their implications.

- **Detection**

Detection systems are part of the organisations control framework and should be designed to bring to light what is happening in practice. Every key fraud and corruption risk should form part of the risk management systematic processes and structures. To ensure that the responses to fraud and

corruption remain current and dynamic fraud and corruption risk management should be embedded in the systems and processes. Tools that can assist with detecting fraud when it occurs can be whistle-blowing and internal reporting (National Treasury Guidebook on Fraud Prevention Strategy n.d:2). Given the degree of the operations of the DAC it would be unrealistic to expect all fraudulent acts to be prevented. Accordingly, systems have been developed to detect incidents that might not be prevented (DAC Fraud Prevention Strategy 2010:17).

When employees witness misconduct in the workplace, they have a choice to make. They can remain silent about what they have seen, but that will lead to the misconduct continuing unabated or taking longer to uncover, likely causing additional damage to the organisation. Employees can however decide to report the misconduct. Such reporting assists the organisation to uncover fraud and misconduct. Organisations that have a better chance of detecting misconduct earlier are the ones that have built a culture where employees believe they have a responsibility to raise their hands and report misconduct, where they feel comfortable doing so without fear of retaliation, where they believe that management will be responsive, and where there are multiple an accessible means of reporting. Employees play a role in uncovering fraud and organisations should develop a number of ways for employees, agents, and other third parties to report suspected wrongdoing and to seek advice and clarification n laws, regulations, and the organisation's code of conduct (Hedley and Chorin 2011:191-192).

- **Investigation**

After the fraud act has been committed or there is any suspicion of fraud occurrence then the investigation process will be conducted. Organisations must create a policy or processes that offer direction to anti-corruption sections and control the way in which investigations are conducted. This process gives effect to a transparent and constant manner of following processes when acts of corruption are reported. Depending on the nature of the corrupt actions and facts, other investigations can be transferred to

internal or external investigating units. Organisations must cooperate with law enforcement organisations and proper procedures as to who makes decisions of referring of cases to the next levels of internal and/or external investigation must be put in place (National Treasury Guidebook on Fraud Prevention Strategy n.d:2-3). The DAC has developed an Investigation Policy to regulate the investigation of all reported incidents (DAC Fraud Prevention Strategy 2010:17).

- **Resolution**

Resolution focuses on post-investigation activities which include disciplinary action, civil recovery, controls to be reviewed or developed, communication and awareness, and lessons learnt and reporting. Information about cases investigated and finalised may be required by other bodies such as National Treasury and the Auditor-General (National Treasury Guidebook on Fraud Prevention Strategy n.d:3-3). DAC Fraud Prevention Strategy resolution is in line with the National Treasury guidelines because it highlight the activities such as disciplinary action, recovery of losses, communication and awareness, and reporting as post-investigation activities that must be conducted to deter risk of the recurrence of incidents in the Department (DAC Fraud Prevention Strategy 2010:18).

The Risk Management Directorate is responsible for the facilitation of the Fraud Prevention Strategy of DAC. It is the policy of the Department that the risk assessment should take place on an annual basis and be reviewed quarterly for an updated status of the risk and the implementation of mitigation plans. The Accounting officer is responsible for the management of fraud risk, but can delegate the responsibilities to as well as the flow of responsibilities from the strategic to the operational level. Employees of the Department are also responsible for the management of fraud risk (DAC Fraud Prevention Strategy 2010:19).

4.4.5. Investigation Policy

Fraud poses a consequential possible risk to the assets of DAC, the efficiency of service delivery and its reputation. The DAC should not allow fraudulent or corrupt actions conducted either internally or outside the Department, and should pursue and charge any person legally who is might be found to be engaging or endeavour to engage in fraudulent or corrupt act. The Investigation Policy of the DAC is developed to assist in this regard. The purpose of the DAC Investigation Policy is to provide guidance to enable the Department to implement the investigation procedures. The policy is established to also provide guidelines on how to respond should instances of fraud and corruption be identified. The policy guidelines focus on the report, investigation and prosecution of fraudulent and corrupt activities (DAC Investigation Policy 2010:3).

According to the an Assessment of the State of the Professional Ethics in the North West Provincial Government (2011:13) the achievement of investigations on allegations of corruption relies on the severity at which the cases are promptly and properly handled and how swiftly investigations are conducted. Developing and approving consistent investigation procedures will ensure the success of cases being investigated; will help investigators to follow the correct processes and procedures so that they successfully prosecute allegations of corruption; and also ensures the least quality of the outcomes of investigations. Cascarino (2012:188) describes fraud investigation as a responsive function that is influenced by internal or external red flags that indicate the possible occurrence of acts of fraud. The investigator must be able to identify the difference between operational ineffective on inefficient signals and fraud that occurs on purpose. An investigation may be influenced by the awareness of management, employees and other stakeholders when they raise potential red flags that focus on appropriate areas of fraud which may guide investigators to observe appropriate indicators.

To help increase the effectiveness of an investigation, organisations should pre-plan the inquiry and devise an investigative work plan that is tailored to

the needs of the investigation. This requires patience and deliberation. Through gathering information, in paper or electronic format, or any other method, organisations can gain an understanding of the misconduct. This can assist the organisation in applying the lessons learned during the investigation and help it to move forward once the investigation ends (Girgenti 2011:244). There are many sources of false information on the Internet, and these sites often pretence as legitimate, reliable sources of information. Information sourced and provided must be verified to determine if it is legitimate before being used (Coenen 2009:92).

According to the DAC Investigation Policy (2010:3) when fraud or corruption is identified then investigations will be instigated and if needs be, disciplinary processes or prosecution will be conducted with the aim to recover the losses incurred. All employees must report all fraud and corruption acts that they observe to their supervisors. If no action is taken, the Accounting Officer as recommended in the Department's Fraud Risk Strategy can be approached with the aim of the reporting the incident. There are methods and tools that can be used to report fraud and corruption like calling the anti-corruption hotline, and there are ways in which investigations are conducted in cases where incidents of fraud and corruption have been reported. The Public Service Commission recommends that a member of the Audit Committee or Auditor General or the Public Protector could be approached if all internal processes do not yield any action. On the other hand the reports could be formulated by means of submitting it in line with the recommended whistle-blowing processes. Employees are discouraged from approaching the other law enforcement agencies, for example South African Police Service or The Special Investigating Unit; except through the processes set out in the investigation policy/procedures. The reports that are submitted by employees should be regarded as confidential and should not be exposed to any other constituencies except the ones accused or form part of the investigations (DAC Investigation Policy 2010:4).

- **Reporting of suspicious activities**

Accountability lies with managers to be able to detect, prevent and investigate fraud their key responsibility areas. All suspected fraudulent activities should be reported to the Accounting Officer, who will assess the incidents and allocate it to the line manager for a preliminary investigation (DAC Investigation Policy 2010:4). Girgenti (2011:227-229) postulate that once an allegation is raised, an organisation should decide whether a particular matter warrants investigation and, if so, who will be involved. Adding to the challenge is that these initial decisions need to be made when the extent of the wrongdoing, or the identity of those involved, may not fully be known. Before launching an investigation an organisation may conduct a preliminary enquiry. This may include an assessment of the reliability of an allegation. Allegations may arise from various sources and those sources require protection. Depending on the nature of the allegation, the organisation may need to take necessary steps to protect the employee who has reported the incident.

- **Preliminary investigation**

According to the DAC Investigation Policy all preliminary investigations should be channelled to the Internal Audit Unit prior to any fully fledged investigation. Girgenti (2011:229) indicates that an important consideration at the outset of an investigation is determining who should oversee the investigation. In cases where there is suspected illegality, investigations will be overseen by management. This could be the head of Internal Audit, Special Investigating Unit or other senior managers. Instances of misconduct should be addressed as part of an overall compliance program in which top management have a responsibility for overseeing and ensuring that there is an effective investigative process. Cascarino (2012:205) explains that when fraud allegations are tabled proper procedures must be adhered to so as to ensure that the allegations are correctly evaluated and considered. A person must be assigned to conduct a preliminary investigation and determine the corrective measures to be taken. This assignment may include the acquiring of external skills into the organisation so as to ensure independence in the process on

investigation, so it is important to involve external people who are competent in the field of investigations. In the event that the need for independence becomes essential, caution should be taken to assist in ensuring that external service providers have no relationship with the organisation that could bring into question the independence or objectivity of the investigation. When selecting an external service provider to conduct an investigation, the organisation should consider the amount and nature of prior work the external service provider has done for the organisation and the likelihood that work may be done in future (Girgenti 2011:231).

- **Conducting a full investigation**

According to Girgenti (2011:230-231) after conducting a preliminary investigation to determine among other things who will oversee the investigation, the next decision is who should conduct the investigation. In making that determination, the objectivity of the investigative team should be assessed. At times, the assessments may result in an external investigation being engaged. Internally performed investigations have the benefit of institutional knowledge and can quickly get up to speed. However, there are circumstances when an organisation may benefit from external investigators to coordinate and carry out an investigation. An independent external investigative team generally provides impartiality to an investigation. When allegations involve financial or accounting fraud, forensic accountants may be required to investigate because it is a specialised field in financial analysis. An appropriate way by which an investigation can be started is by acknowledging that any person who might be potentially involved should be presumed innocent until proven otherwise (Cascarino 2012:205).

Evidence that is acquired through investigations must in line with the legal requirements and acceptable standards and practices. The independence and objectivity of the investigations is paramount. The nature of reports of incidents of fraud and/or corruption will determine the action to be taken. Other incidents may justify a preparatory investigation before a decision can be taken to introduce an independent investigation. Investigations must be

conducted by experienced and qualified people independent from section where the investigation is required to be conducted. This may include a senior manager, the Department's Internal Audit, or law enforcement agencies. Employees must assist with the investigation process as may be required (DAC Investigation Policy 2010:5).

- **Concluding an investigation**

According to Girgenti (2011:242-244) an investigation into one area of fraud or misconduct may identify others that require further investigation. For this reason, determining when an investigation is over is one of the important decisions an organisation must make. An effective way to avoid never-ending investigations is to periodically return to the investigative teams work plan to assess against the goal. When the original goals of the work plan are fully accomplished then the investigation can be deemed concluded. Reporting the results of an investigation in a concise, unambiguous way is an important part of the process. Investigators should decide whether the report will be written or oral. The choice depends on the purpose of the report, the length and complexity of the issues and facts uncovered during the investigation. A conclusion of an investigation may lead to a dismissal of an employee or employees, settlements, and criminal prosecution.

According to the DAC Investigation Policy (2010:6) the results of disciplinary actions may result in an employee getting a written warning or their service being terminated. Disciplinary actions must be conducted according to the processes and procedures as outlined in the disciplinary procedures. The Department will evaluate the facts derived from the evidence at hand should there be revelations of fraud or corruption based on the allegations to determine whether the issues should be reported to the appropriate law enforcement agencies for investigation and possible prosecution. There must be a process instituted to recover, criminally charge, or administratively charge employees who have clearly benefited from corrupt actions and there is evidence of fraud and corruption and financial loss, so that those losses can be recovered.

4.5. A comparison of Anti-Corruption Strategies of the Department of Transport with the Department of Arts and Culture

According to the Report on the Implementation of Fraud Prevention Plans in the Public Service (2007:2) departments are expected to formulate their own fraud prevention plans in relation to their fraud risk profiles. The aim of the fraud prevention plan is to allow departments to recognise their fraud risk areas that are exceptional to the department, incorporate the fraud prevention plans in the strategic plans, and create plans to administer those risks. Fraud prevention plans are considered to be one of the important mechanisms for fraud prevention and developing a culture of accountability in the public service. The Public Finance Management Act, 1999 (Act 1 of 1999) (38)(1)(a) also denotes that trading entities, departments or constitutional institutions should have effective, efficient and transparent mechanisms of financial risk management and internal control, and all other Acts, legislation and strategies to combat corruption in place. It is the responsibility of the Accounting Officer to ensure that these mechanisms are put in place and maintained so as to manage the occurrence and prevention of corrupt acts and to serve as guidelines for departments to formulate anti-corruption strategies that have been developed to manage the occurrence and prevention of corrupt act serve as guidelines for all departments to formulate anti-corruption strategies.

These Acts and regulations apply to all government departments and it means there might be similarities in the formulation of their policies, but it should be noted that the fraud risk profiles of departments are unique and there might be difference in policy. The following table, 3.2 below will highlight the similarities in the anti-corruption strategies of government departments which are the Department of Arts and Culture and the Department of Transport. The policy purpose, objectives, statements and background for both Departments will be analysed in the table.

Table 3.2 Comparison of anti-corruption policies of DAC and DOT

Policy identified	Department: Arts and Culture	Department: Transport
Fraud Prevention Policy	• **Purpose:** provide guidance to enable the Department to develop a fraud prevention plan. • **Statement:** the institution will not tolerate fraudulent or corrupt activities, whether internal or external, and will pursue and prosecute any parties legally, which engage or attempt to engage in such practices.	The Department does not have a policy specifically designed for fraud prevention.
Fraud Prevention Implementation Plan	• **Purpose:** to set the implementation of the Fraud Prevention Strategy of DAC. • **Objective:** to give effect to the implementation of fraud prevention policy and strategy and set out all fraud prevention activities as planned.	• **Purpose:** to provide a framework and guidance to the Department in dealing with fraud, corruption and similar misconduct. • **Statement:** the Department practices zero tolerance towards all forms of fraud and corruption and is committed to pursue all cases of fraud and corruption without fear, favour and prejudice.
Fraud Prevention Strategy	• **Purpose:** to provide guidance to enable the Department to implement a fraud prevention strategy. • **Background:** a Fraud	• **Purpose:** to interpret and implement the anti-corruption policy through a set of effective and

	Prevention Strategy should consist of a detailed plan of fraud prevention activities in the institution, an implementation plan should be developed as part of the strategy, giving effect to the specific tasks to be performed and the responsible staff members.	continuously improved process and plans. • **Statement:** to adopt a zero tolerance attitude towards corruption, fraud and all forms of irregularities. The Department is committed to the prevention, detection, investigation and resolution of all suspected cases of fraud and corruption.
Investigation Policy	• **Purpose:** provide guidance to enable the institution to respond to should instances of fraud and corruption be identified. It focuses on report, investigation and prosecution of fraudulent and corrupt activities. • **Statement:** the institution will not tolerate fraudulent or corrupt activities, whether internal or external, and will pursue and prosecute any parties legally, which engage or attempt to engage in such practices.	The Department's investigation process is included in the Anti-Fraud and Corruption Strategy and Prevention Plan. It does not have an investigation policy.

Source: author's own construction

The Department of Transport has developed an Anti-Fraud and Corruption Strategy and Prevention Plan (2014). The document incorporates the Anti-Corruption Strategy, the Prevention Plan and Investigation Process of the Department. The Department also has developed an Anti-Corruption and

Fraud Prevention Strategy (2014:3). The document focuses on the strategic thrusts which identifies the key compliance indicators which the Department pursues to cultivate a culture of zero tolerance towards corruption, fraud and all forms of irregularities. It might be argued that because of the nature of its fraud risk profile the Department of Transport does not have a separate policy on investigation and a policy on fraud prevention, but those elements are included in the documents that deal with anti-corruption strategies as implemented by the Department of Transport.

Departments do not have the capacity to deal with all corruption cases because it is not their primary function. Corruption has become as complicated matter for departments to handle because it is of a globalised nature and has national and international networks of syndicated and organised crime. Those specialised crimes require departments to come up with specialised responses. This is an indication that working together with specialised anti-corruption agencies of the state through cooperation agreements can encourage the enhancement of an integrated and inclusive manner of fighting corruption. Consequently, having formal agreements entered into between law enforcement agencies and departments may enhance the efficacy of departments fight against corruption (An Assessment of the State of Professional Ethics in the North West Provincial Government 2011:14).

4.6 Monitoring and evaluation systems of the implementation of risk management policies

According to the Public Sector Risk Management Framework (2016:27) "emerging risks should be monitored and updated as and when they occur. The risks can be identified during the structured management meetings and by utilising the assurance providers' reports". The Accounting Officer is responsible for the effective execution of departmental policies and must ensure that policy amendments as a result of change in legislation which affect the policy directly are incorporated in the policy and that they are communicated to all staff. It is the responsibility of the Director: Risk Management to ensure that process and procedures are in place to conduct

policy reviews and the amendments are communicated to all staff. Policies are subjected to annual reviews or when there are changes to legislation that affect the policy and warrant a review. Employees form an important part of policy review and must be consulted for inputs. The Accounting Officer must approve the policy before implementation (Policy on Whistle-Blowing 2016:12). The stakeholders responsible for the monitoring of Risk Management policies include the Internal Audit Directorate and the Risk Management Committee (Investigation Policy 2016:9).

4.7 Exploring the remedies to combat fraud and corruption

According to a document on Corruption-Standard Encyclopaedia of Philosophy (2011:1) corruption, its causes and effects, and how to fight it, are matters of importance to politicians and policy makers and they form part of their agendas both nationally, and there have been numerous anti-corruption initiatives in multiple jurisdictions. Given the prevalence of fraud and corruption and the negative consequences associated with it, there is a compelling argument that organisations should invest time and resources towards tackling them (Fraud Risk Management: A Guide Book 2008:24). According to Brytting et al. (2012:123) if the objective of the strategy is to reduce the likelihood of management fraud, and reduce or prevent all kinds of fraud and corruption, then the strategy must include both internal controls and risk awareness. Internal controls alone will not prevent or detect fraud until it is has happened, but when internal controls are supported by risk-aware employees, the entire organisation can become fraud resistant.

The DAC should invest in education and training so as to promote risk awareness and effective policy implementation. According to a document on A Skilled Workforce for Strong, Sustainable and Balanced Growth (2011:2) an organisation should have a good skills development system that will enable it to anticipate skills needs, engage employers and workers on decisions about training provision, make training accessible to all employees and stakeholders, and consistently evaluate the economic and social outcomes of training. An organisation must invest financially in training its employees so that training can remain relevant. An organisation's success depends on the

people employed and how productive they are. A rich literature exists on the links between education, skills and productivity. Available evidence firmly establishes that a combination of good education with training that is of good quality empowers employees and promotes future innovation and development. There has been an evolution of training and development from action-oriented to result-oriented. The emphasis of training and development has drifted to design, development, and offering training programmes that are aligned to individual training needs and competency requirements and organisational strategy, and enhancing organisational and employee performance (Subban and Vyas-Doorgapersad 2014:505).

Employee training not only provides benefits to the employees, but to the organisation as well. It helps the organisation to run effectively. Once the training has been provided, it is important for the organisation to invest further in training employees (Gill 2014:1). Employees who receive the necessary training are able to execute their duties in a more effective and efficient way. They become more aware of safety practices and proper procedures to follow when performing tasks. Employees gain more knowledge and understanding of the organisation's operations and the responsibilities that come with their jobs when they are given proper training and their confidence also grows. The investment in training that an organisation makes shows employees that they are valued. Employees who feel appreciated and challenged through training opportunities may feel more satisfaction towards their job (http://smallbusiness.chron.com/importance-training-development-workplace-10321.html).

Subban and Vyas-Doorgapersad (2014:507-508) suggests four learning approaches that can assist in the development of employees and address capacity gaps in the public service. The four learning approaches are "formal education and training by means of formative and summative assessments; on the job training; action learning and training; and experiential learning". The DAC cannot only depend on communication mechanisms such as the DACAlert and notices, the training of employees and inducting them about issues of fraud and corruption on a regular basis should form part of

Departments strategic plans. The training and awareness should also reach the employees at lower levels such as the Food Service Aid and Groundsmen so that all employees can have the basic knowledge and understanding of anti-corruption strategies of the Department and be knowledgeable on the reasons for policy initiatives, formulations and implementations of fraud and corruption.

4.7.1 Education and training on fraud and corruption

Awareness and training has a significant role to play in fighting fraud and corruption in an organisation. Manyaka and Sebola (2013:84-86) state in their paper that an effective training system and the retraining of high professional ethics standards is critical for the performance and development of employees in an organisation. They further argue that there are limitations of different inclusive training programmes that are for long-term. Furthermore, although the training of public servants is of significance as they are correctly placed in organisations where unethical behaviour and acts of corruption take place, that alone will not be sufficient. Training programmes should not only target public servants but include members of the public so that it can yield results. Another essential component of training is the evaluation of the efficacy of the training programmes. The evaluation of training programmes must be conducted at the end of every training intervention in order to evaluate and determine if the people that have been trained have indeed learned innovative attributes and skills. In order or government to fight corruption in an effective, systematic and sustained manner, there is a need not only for ethical training but also of continuous evaluation of training programmes in order to assess whether they are yielding the desired results.

According to the Victorian Auditor-General's Report (2012:6-10) fraud awareness training, coupled with periodic refresher training and induction are effective methods of ensuring that employees are aware of what is expected of them when it comes to ethical conduct, and that they are also aware of their fraud control responsibilities in the organisation. The DAC has a responsibility as an organisation first, to ensure that employees are well-trained on a regular basis to ensure that the culture of awareness training is not lost. Offering

employees training and awareness programmes on a regular basis based on their field of responsibilities contributes positively to anti-corruption policy implementation because employees are able to identify, prevent, and report wrongdoing in time. The lack of such initiatives at all levels increases the risk of policies not properly adhered to and implemented by employees because of lack fear of getting caught and reprimanded. Below are points on awareness training that the DAC can familiarise itself with.

4.7.2 Increasing awareness

The term awareness is often regarded as a tool to minimizing problems concerned with inter-organisational collaboration. Awareness is fundamental when organisations develop collaborative relationships and share information with the wider society (Thellufsena, Rajabifardb and Williams 2008:255). Kahn (2008a:87-92) argues that if the public service wishes to attract and hire individuals with the right competencies and skills it must enhance its investment in the education and development of employees. Best practices indicate that organisations that invest in training and developing their employees encourage them to be loyal to the organisation and it also contributes positively to their performance. Empowering employees through training gives them the freedom to make mistakes and correct them, become initiative and take calculated risks and it builds their confidence. Training also enables employees to enhance their qualifications and they become more employable.

The main purpose of fraud awareness is to encourage fraud prevention and control by enhancing the levels of awareness for all employees in the organisation. A notable segment of fraud and corruption cannot be detected in its early stages because the employees in the organisation are unable to identify the warning signs, and because they are not sure of the process to follow when they want to report their suspicions. Employees may also not have confidence in the integrity of the system that is used to report wrongdoing or the investigation process as well (http://www.warfield.com.au/fraud-awareness.html). In order for employees to recognise the above they need to be properly trained first. Manyaka and

Sebola (2013:81) define training is an efficient and planned procedure that is aimed at developing employee' skills, knowledge and behaviour towards the achievement of the organisation's goals. Training must be provided when the existing work standards are not being upheld or when the status can be attributed to lack of skills, knowledge or employee's poor attitudes in the organisation.

Fraud and corruption happen when fraudsters bypass the internal control systems that are put in place without anyone noticing or reacting. When employees are alert and aware, they will notice the red flags that are inevitably present when controls are bypassed. They will know what to do, and equally important, what not to do. Fraud awareness refers to the ability to perceive, to recognise, to notice, to feel, or to be conscious of deception and of events and patterns that deviate from acceptable conduct within an organisation. The signs of deception and deviation are symbolically called red flags because a red flag symbolises a warning. Awareness requires knowledge of what is acceptable, understanding that deviations can and do occur, and alertness to the signs of deviation when they appear (Brytting et al. 2012:123-124).

Training is possible if an organisation makes provision for funding and creates and environment for the employees to be interested. An organisation may not be able to afford the cost of sending a large number of employees on a high level, comprehensive course on fraud and corruption, neither is it necessary for every employee to achieve the same level of competence that a senior manager of corporate services, human resource management, internal audit or risk management might need. Employees' interest needs to be captured so that they can understand and absorb the essence of fraud awareness (Brytting et al. 2012:125-127).

The Repeal and Replacement of the Public Service Regulations, 2001 (2015:19) encourages organisations to establish and educational and awareness programme that informs employees on an ongoing basis on what constitutes corruption, promotes the values and principles of public administration regarding conduct in terms of section 195 of the Constitution,

and cautions employees of their rights and responsibilities in terms of the Protected Disclosures Act, 2000 (Act 26 of 2000). Employees should be trained on a continuous. Training and retraining should be conducted at all levels of the organisation on an ongoing basis so as to enhance employees' skills and proficiency. Experiential learning closes the gap between theory and practice. This practice assists employees to be more effective and effective in in the implementation of project-based and problem-based learning applications in the organisation (Subban and Vyas-Doorgapersad 2014:503). Employees who are skilled and knowledgeable can be utilised constructively.

Fraud awareness training is an important element of a fraud strategy. Training employees on which areas to be wary of and on how fraud occurs equips them with the ability to take required steps to reduce the risk of fraud occurring; even if it does occur it can be addressed accordingly (http://www.warfield.com.au/fraud-awareness.html). Fraud awareness training programs can be designed to meet the communication requirements and also to serve as an effective deterrent to fraud (Murphy 2012:2). Organisations should regularly communicate to employees a clear definition of the types of behaviour that constitute fraud and corruption, the fraud detection measures that are in place and an unequivocal statement that fraud and corruption within the organisation will not be tolerated (http://www.warfield.com.au/fraud-awareness.html). An effective training program should ensure that participants are able to explain what fraud is and how it is committed, identify personality characteristics of fraud perpetrators, understand the negative effects that fraud has in the organisation, an ability to identify red flags, and explain what to do if fraud is suspected (Murphy 2012:2).

4.7.3 Increasing awareness on ethics

The National Development Plan (2011:401) states that lack of effective governance can seriously undermine the development of the country. Evidence compiled by the National Planning Commission designates that South Africa is suffering from excessive levels corruption that hamper the ability of government to advance development and socioeconomic transformation, and undermine the rule of law. It is for this reason that public

servants must be provided with training and be educated about corruption and its significances. Affording public servants training on the concept of corruption and ethics can contribute to the development of effective and well informed human resources on corruption matters. Ethical training should be recommended and considered as an essential component of integrated approach for an effective anti-corruption system in the public service (Manyaka and Sebola 2013:76). Organisations should protect themselves from unethical behaviour, devastating lawsuits, negative publicity, wasted time, loss of money, low employee morale, and the citizens loosing trust in it by offering their employees ethics training on a regular basis (http://www.buenosearch.com/?q=articles+on+ethics+training+and+awareness&babsrc=HP_ss&s=web&rlz=0&sd=31&as=0&ac=0).

According to Uys (2014:121) educational institutions such as universities can play a prominent role in enhancing the ethical knowledge, skills and attitudes of public officials. This teaching should include those behaviours that should be enhanced, use of diverse teams, electives on ethics in different curricula, use of graduates and managers with strong ethical conduct and research on ethics. When learning about ethics employees need to experience ethical decision making and be able to sense the meaning and impact of ethical challenges and other courses of action. This is referred to as an issue of 'awareness raising'. Training should be of a non-indoctrinating kind, and should be focused more on discussion. Formal socialisation should start at induction training, with the involvement of senior managers and effective trainers. Mentoring programmes can also be instituted. Training can also be provided by sending employees to seminars and classes to show how ethical behaviour impacts on the organisation. The DAC can form partnerships with stakeholders such as universities or accredited institutions that qualify to offer training on ethics. The Human Resource Directorate of DAC can organise such training.

As stated before by Brytting et al. (2012:125) that fraud awareness is an ability that can be learned, it is also suggested that fraud awareness is necessary for raising employee understanding of the code of conduct and

organisational values. Through training, employees can learn how to apply the guidance to their day-today situations. Raising awareness is more effectively accomplished by avoiding self-praise and instead adopting a modest and realistic approach. The organisation should:

- ensure that the values, code of conduct and policies are meaningful and appropriate;
- ensure that policies are internally consistent;
- understand where the ethical challenges are, target the code of conduct especially in them, and decide how to apply them;
- train employees how to apply these guiding principles;
- listen to employee' objections, comments, questions; and
- measure compliance or non-compliance (Brytting *et al.* 2012:125).

Manyaka and Sebola (2013:81) emphasise the importance of understanding the meaning and significance of ethical training and they define ethical training as training of a unique nature that is focused on modelling employee behaviour, attitude, competency, and skills to enhance a high standard of ethical conduct. It is also focused on educating managers and employees about what is expected of them. Disoloane (2012:98) refers to ethics training as those procedures and experiences that are created to effect skills, knowledge and understanding to public servants so that they can contribute towards the maintenance of organisational ethos. Enhancing training and education in the organisation can contribute positively to the reinforcement of anti-corruption strategies and initiatives.

According to Mafunisa (2014:1235) the integration of ethical awareness and a sense of moral responsibility into institutional culture through such internal controls as development, and the formal distribution of the public service code of ethics, ethics workshops, and dissent channels would reinforce ethics training. Middle managers could appropriately be targeted as key actors in the development of internal controls. Without senior management's endorsement, middle managers cannot officially change direction, however, they can create opportunities for ethical revitalisation and, if mutually supportive, can

somewhat override senior managers' opposition to change. Manyaka and Sebola (2013:82) also explain that ethical training in the public sector is imperative for ensure that public official understand and appreciate their role in maintaining and enhancing ethics in public institutions. Ethical training does not only facilitate awareness, It can also develop important ethical skills analysis and moral thinking hense it is important that the training for public servants be ongoing training with and understanding that ethics can be of greater use in developing a resistant anti-corruption system.

Ethics is one of the significant methods that can be used to curb the subjective misuse public power. It is important for public servants to be able to distinguish between right or wrong, ethical or unethical when performing their duties. This is because it guides those interested in reinforcing accountability, to ask the right questions and demand appropriate explanations and assist authorities in terms of proposing appropriate interventions for dealing with any act that constitutes unethical conduct (Manyaka and Sebola 2013:79-80). When a code of conduct is enforced it should not be perceived to be just something that is produced on paper. Public servants must interpret it to be an employment condition that aims to ensure that everyone follows the stipulated guidelines in order to work effectively (Disoloane 2012:93). According to Uys (2014:118-119) a code is necessary and should be embedded in the minds of employees. Ethical guidelines should accommodate broad ethical types such as the ethics of rights, virtue, care, utility and justice. The effectiveness of the code depends on an employee's awareness of the code, its content, clarity and how effectively the code is enforced.

4.7.4 Objectives and benefits of awareness training

According to Makhooane (2011:44) fraud and corruption awareness and training in the organisation is essential. Communication of training refers to road shows and training of the organisation's new and existing staff members. New employees should be offered training by anti-fraud and corruption specialists during the induction process. Communication awareness should be done through fraud articles defining fraud and reporting procedures in the

organisation's commination methods such as newsletters. Employees who are appointed on contract should also be trained and made aware that the organisation does not tolerate fraud and corruption in its business activities. The Victorian Auditor General's Report (2012:10) explains that Is an effective mechanism that ensures that employees in the organisation are conscious of what is expected of them and the responsibilities that they must uphold towards fraud control. Employees must be offered induction courses and refresher training so that they become aware of their responsibilities toward fraud control and they understand them.

According to Brytting et al. (2012:161-166) the overall awareness training objective is to reduce the cost of fraud. Awareness training should also encourage participants to think about and discuss the issues that are relevant to them and thereby develop a common sense that will allow them to deal properly with real ethical dilemmas when they occur. All employees need awareness training to establish the common norms. Employees might be in a position to recognise fraud attempts but may not know what to do if they are not trained. Employees who are trained to recognise and report red flags are more likely to do so than those who have not been trained. According to Manyaka and Sebola (2013:81-82) state that adhering to principles of accountability and suitable training can contribute positively to the ethical challenges of public servants in particular on effective and efficient delivery of service. The Repeal and Replacement of Public Service Regulation 2001 (2015:9-19) requires that organisations develop an educational awareness that will:

- on a continuous bases inform employees about issues that institute corruption;
- ensure that section 195 of the Constitution is adhered to by promoting the values and principles of public administration with regards to conduct; and
- caution employees on their rights and responsibilities in relation to the Protected Disclosures Act, 2000 (Act 26 of 2000).

According to Uys (2014:121) ethical capacity in policy judgement and ethical awareness is important, which goes beyond general competence. The benefits of an ethical learning programme, both internally and outside an organisation according to Uys (2014:121) are as follows:

- such a programme is the basis of a high-performance organisational culture because rules are aligned to a reward system, enabling trust to flourish;
- the organisation's reputation is enhanced; and
- it reassures stakeholders that success is achievable through ethical management.

In addition to the above, Disoloane (2012:114-116) argues that ethics education are procedures and experiences that are developed to effect skills, knowledge and understanding to employees so that they can individually and genuinely create and maintain an ethical structure that works for them. Uys (2014:121) suggests that there should be increased funding and research to increase ethical awareness. Disoloane (2012:114-116) further suggests that the training component needs to include the following elements:

- employee induction on organisational ethos and culture;
- introducing and explaining the formalised code of ethics and code of conduct of the organisation;
- advancing the dispositions that are relevant to the organisation's ethics;
- advance important capabilities to recognise processes and procedures that are unfavourable to the process of maintaining and enhancing the organisation's ethos; and
- improve important capabilities that will display a true reflection of principle upon which the organisation established on.

In line with the above Brytting et al. (2012:160) explain that an effective way to communicate with employees on ethical issues and fraud prevention is through active discussions either in workshops, seminars, or training sessions. The objective of the session might include:

- moralise, communicate ethical values through the organisation;

- demonstrate management sincerity;

- communicate risk appetite of the organisation;

- convince participants of the importance of preventing fraud;

- teach participants how to make the right choices in difficult ethical situations;

- motivate employees to find the risks, and act upon them;

- motivate employees to speak up when they know something harmful;

- learn from employees, validate the code of conduct, discover shortcomings; and

- increase pride in the organisation Brytting *et al.* (2012:160.

According to Disoloane (2012:116) the purpose of a training programme must be to nurture the mental development of the person and their effective areas or fields. Its objective must be also to raise ethical awareness to all employees when they have to make decisions on what actions to take in different situations. Brytting et al. (2012:177) postulate that organisations need to balance the need to deliver consistent training across the organisation with the need to reach different categories of employee with content that is relevant to their particular situation. The requirements for awareness training will be different depending on the nature of business and its risks, the size of the organisation and the geographical location. Even within the same organisation, the training needs to be adopted for different groups and sometimes in different languages. Managers and others with a special responsibility for maintaining internal control and managing risks will need a deeper level of training than an employee with other or less responsibilities.

4.8 Monitoring and evaluation mechanisms for training and development

The DAC has a Human Resource Development Policy. The aim of the policy is to manage, attract and enhance skills development of employees in the Department. DAC notices the importance of educating, training and exposing employees to latest developments in order to improve and fast-track performance to achieve its vision and mission (DAC Human Resource

Development Policy 2009:8). Working together with the Directorate Risk Management the Human Resource Directorate must ensure that employees are offered relevant training on policies related to risk management. The Human Resource Directorate should organise and offer training opportunities based on the training needs of the Directorate Risk Management, and in line with the Human Resource Development Policy.

According to the Whistle-Blowing Policy (2016:12) it is the responsibility of the Accounting Officer to develop the capacity to implement awareness campaigns within the Department and to make sure that the results are adhered to and effectively communicated. The Department's Fraud Implementation Plan must include the annual Fraud Awareness Campaign. It is management's responsibility to make sure that employees at all levels understand what fraud and corruption is. The application of the training and awareness must be monitored by the Human Resource Directorate in conjunction with the Directorate Risk Management to evaluate if there an improvement in job performance. According the Human Resource Development Policy evaluation must be done on a quarterly basis.

According to Subban and Vyas-Doorgapersad (2014:506-507) there is a necessity to explore the opportunities of institutionalising monitoring and evaluation through The Presidency by means of building relations or partnerships with institutions of higher learning. It is hoped that these relations or partnerships will assist in addressing the shortage of skills on the effectiveness of policy implementation and policy evaluation by means of training programmes that have been identified and directed research through institutions of high learning. The Department of Performance Monitoring and Evaluation was established to improve government performance through monitoring and evaluation. The relations or partnerships aim to afford an opportunity for DPME and higher education institutions to work together in order to reinforce the systems, processes, and abilities that are in line with monitoring and evaluation in government, and to make public administration and management schools more reactive to the vision of government performance improvement.

4.9 Conclusion

In this chapter a review of the current corruption prevention policies and strategies was conducted. Fraud Preventions Strategies of the Department of Arts and Culture were elaborated to highlight the significance of having such strategies and policies in place so that they serve as guiding tools of the Department on anti-corruption and fraud issues. It is noted in this chapter by way of review that the Department has Fraud Prevention Strategies and Policies in place that are formulated in line with public service legislation and they are implemented. The challenge is on affording employees training and awareness on the strategies and the policies so that the employees can have a better understanding of what the strategy is all about and its significance. For example, the Whistle-Blowing Policy although having been approved in October 2016 has not been piloted to employees by way of affording the training on it.

The Risk Management Directorate as the custodian of the Fraud Prevention Strategies and Policies of DAC has the responsibility to ensure that training is conducted by means of workshops within the Department and extended to other stakeholders. Training on other policies under the stewardship of Risk Management has not been visible in the Department as well and this results in a situation where employees across all Branches of the Department, from lower levels to middle management not to realise their responsibilities and impact in ensuring that the Fraud Prevention Strategies and Policies are adhered to. It might seem to them that risk management is a function of senior management only because they are the ones who are exposed to risk committee meetings and workshops.

When an organisation becomes aware of potentially serious misconduct, its management may face a number of decisions that could steer the organisation to very different outcomes. This may include substantial fines and penalties as well as harm to the organisations reputation or relationships with clients or stakeholders (Girgenti and Moyers 2011:245). To prevent such issues from occurring the Department must enhance it training and awareness models outlined in this chapter and invest in education and

training so as to promote risk awareness and effective policy implementation. Training should be ongoing so that the efforts of the Department to deal with fraud and corruption do not go in vain. The Department must utilise the human resources at its disposal to combat fraud and corruption and for that to be achieved the Department requires a skilled and knowledgeable workforce. A relationship between the Department and other educational institutions shoulder fostered because educational institutions can assist the Department to produce a professional workforce that contributes to the economic development the country. Institutions can also assist in developing public servants who are knowledgeable and who can contribute to research, development, and innovation within their discipline (Subban and Vyas-Doorgapersad 2014:510).

Chapter five is the concluding chapter and will focus on the summary of chapters and recommendations. The chapter will also provide commendations of the Department of Arts and Culture and give credit for the good work done so far in putting an anti-corruption strategy in place. Recommendations for implementation and suggested areas for further research will be outlined.

CHAPTER FIVE

CONCLUSION: SUMMARY OF CHAPTERS AND RECOMMENDATIONS

5.1. Introduction

Since 2012 the former Director-General of the Department Mr Sibusiso Xaba instituted an investigation upon receiving disclosure by a whistle blower. The allegations involved a DAC official and a service provider on irregular proceeding when appointing a service provider for tender. Investigation findings proved that the Department appointed a service provider to render a service even though there is no evidence that the service provider submitted a proposal in respect of tender DAC06/11-12, and another finding is that the service provider intentionally misled the Department by submitting a proposal on the letterheads of another company with almost a similar name. The former Director-General referred the matter to Internal Audit and Risk Management for investigation and mandated Internal Audit to appoint Business Innovation Group (BIG), which is a co-sourced audit firm, to conduct an investigation whether the recommended tender processes were followed (cf. section 1.2).

Types of corruption were outlined in chapter 1, figure 1.1 to elaborate that forms of corruption may be used interchangeably to define corruption. Corruption often lies at the intersection of the public and private sectors; they are the basic forms of corruption which occur within the broader forms of corrupt practices. In the case of this study fraud was committed between an external service provider (private) and Department of Arts and Culture (internal) (cf. section 1.2).

The previous chapter assessed the necessity of developing internal controls and measures that will guide the organisation and employees on corruption prevention and guide employees behaviour and actions. The introduction of a Risk Management component and its purpose was assessed because Risk Management is the custodian of anti-corruption strategies and policies in the Department of Arts and Culture. In the previous chapter also a review on the

current Fraud Prevention and Anti-Corruption Strategies and Policies of DAC was conducted in order to determine if they do provide proper guidance to enable the Department to implement them (cf. section 4.1).

Chapter 5 will focus on providing a summary of chapter 3 and 4 on how the funnel approach was conducted to illustrate how anti-fraud and corruption strategies and legislation set out at national government level influence the formulation of anti-fraud and corruption strategies at departmental level. The focus will also be on the evaluation that was conducted because the evaluation conducted focused on DAC departmental policies which were the focus of the study (cf. 4.1). The focus of the study was on DAC is a national department and no comparison was made to either provincial or local government sphere (cf. section 1.8). Recommendations will be provided with the purpose of ensuring that policy implementation hindrances are minimised, and also to give credit to the DAC by commending it on having put systems and structures in place to guard against acts of fraud and corruption. It should be highlighted that the study focused on the Fraud Prevention Strategy of the Department of Arts and Culture with specific focus put on the following policies:

- Investigation Policy;
- Policy on Fraud Prevention;
- Fraud Prevention Strategy; and
- Fraud Prevention and Implementation Plan (cf. section 4.4).

Challenges that disturb effective policy implementation must be addressed together with recommendations that can be suggested to assist in enhancing the Department's policy implementation and adherence.

5.2. Summary of chapters

The study aims to positively contribute to the effective implementation of Fraud Prevention and Anti-Corruption Strategies and Policies of DAC. The conceptualisation of the implementation of the fraud prevention implementation plan, prevention strategy and policy, and the investigation

policy as policy instruments aimed at preventing and combating corruption in the DAC was conducted. It is acknowledged that the fraud prevention strategy of the Department is formulated in line with the South African legislation and is based on the following pillars: Prevention, detection, investigation and resolution. Its primary objective is to deter the likelihood that fraud may occur. The intention of this objective is to increase corruption prevention efforts at departmental level by putting focus on identifying controls to alleviate the three conditions that have to occur before fraud can take place. Those conditions are opportunity, rationalisation or justification, and pressure. To alleviate these conditions at implementation level it would be appropriate to refer to the concept of ethics management (cf. section 1.4).

It was important to conceptualise the anti-corruption strategies and policies of DAC as it would assist in assessing the systems that are in place to prevent fraud in DAC and whether they are effective. The main question that had to be addressed was whether there are enough mechanisms in place to curb fraud in DAC? This question is posed with an understanding that the public service has anti-corruption strategies in place which government departments must follow and use as guidelines to develop their internal anti-corruption strategies. The study was guided by the following research questions with the aim to provide answers to the main research question:

- What public service mechanisms are in place to prevent corruption?
- What are the current fraud prevention models that have been adopted by DAC?
- What remedies can be put in place to ensure proper implementation of policies? (cf. section 1.5).

To ensure that it the study examined what it was set out to and in line with the questions asked above, the main research objective and three research objectives were tabled. There are two types of objectives which are main objectives and sub-objectives. The main objective is an overall statement of the thrust of the study, and the sub-objective is the specific aspect of the topic that to be investigated within the framework of the study. The main research

objective was to identify if there are sufficient mechanisms in DAC for fraud and corruption prevention and control. The three objectives of the study were outlined as follows:

- To conceptualise corruption in public administration.
- To review the public service mechanisms in place to prevent corruption.
- To explore the current fraud prevention models adopted by DAC (cf. section 1.6).

According to Kumar (2011:50-224) Objectives are the goals that are set out to be attained in the study. The objectives inform the reader of what the researcher wants to achieve through the study and they must be worded clearly and specifically (cf. section 1.6).

5.2.1 Findings of the study

The type of research methodology that was used for this study was qualitative research. No sampling or interviews were conducted; a desktop research was conducted. The reason for the use of this methodology is because qualitative research is descriptive by nature and can be associated with the human or social sciences. Public Administration is a social phenomenon and it can therefore be associated with qualitative research. Based on the research topic that seeks to explore ways of combating corruption in the DAC it was deemed important to indicate that the effectiveness of policies and measures of combating corruption can only be explained through descriptive theoretical research as opposed to quantified methods. The problem associated with corruption needs to be interpreted and explained and that can only happen by means of qualitative methods (cf. section 1.7).

Chapter 1 of the study was an introduction chapter. The chapter outlined the description of the study which is about the evaluation of the implementation of the fraud and corruption framework of the Department of Arts and Culture. It also gave an indication that the study conducted is qualitative research study. The chapter gave background of government capacity deal with corruption in the public service, but indicated that although the public service is capacitated

it still finds itself with the problem of non-service delivery in all spheres of government. Reasons of non-service delivery are primarily as a result of inefficiency, unskilled personnel, poor management and political deployment of unqualified cadres. The other reason for non-service delivery and inefficiency in the public service is corruption. Corruption is a serious obstacle to the achievement of government programmes. It erodes governmental legitimacy because it hampers the effective delivery of public goods and services. It limits economic growth because it reduces the quantity of public resources, discourages foreign investments and savings, and impedes on the efficient use of government revenue (cf. section 1).

The chapter also gave background of selected literature review conducted. The aim of literature review was to determine what has been written about corruption, its prevention and policy implementation and it included a review of a selected body of international literature as well as research that has been conducted in South Africa (cf. section 1.3). The literature review indicated how serious the South African government is about eradicating corruption in the public sector by introducing the National Development Plan. Chapter 14 of the NDP is about fighting corruption. The NDP states that to overcome corruption and lack of accountability in society requires political will, sound institutions, a solid legal foundation and an active citizenry that holds public officials accountable (cf. section 1.3.1). The chapter established the importance of policy implementation and adherence in DAC; it also established that government departments are required to put in place anti-corruption strategies that are in line with the Public Service Anti-Corruption Strategy of 2002.

Chapter 2 of the study focused on the **conceptualisation of corruption in Public Administration.** The objective of the chapter was to define the content of the subject of Public Administration and to what extend corruption features as a sub-field of study. The other objective of the chapter was conduct a literature review and determine what has been written about public administration and corruption (cf. section 2.1). A historical perspective of the study of Public Administration was conducted in order to provide an understanding on the role of government (cf. section 2.2). It was noted that it

is important to recognise the historical background of a country in order to understand the characteristics of a system of government.

The functions of public administration were also outlined in order to give a description of the roles of various generic functions in administration. Policy making was outlined as a generic function and a description of public policy was provided. It was highlighted that policy outlines the principles of that should be followed in order to achieve set goals. Policy making is relevant to the study as the focus of the study is about evaluating DAC anti-corruption strategies and policies. Other identified generic functions were Human Resource Management, Public Finance Management, Work Procedures, Control, and Organising (cf. section 2.3.1).

This chapter outlined the policy implementation process with the aim to give an understanding of policy implementation in public administration. The five variables described as the 5C Protocols were identified and descriptions of each variable were provided. The 5C Protocols were identified as Content; Context; Commitment; Capacity; and Clients and coalitions. Challenges facing the policy implementation process were provided and the included ensuring that all the role players get involved in ensuring that there is proper implementation. Implementation is an ongoing decision-making process where key role players who face pressures from interested groups and opposing parties must ensure that the implementation process goes unhindered despite their complex policy and organisational contexts (cf. section 2.5.3).

This study comprises of five chapters. Chapter 1 and 2 served as introductory chapters to the study of Public Administration and provided a conceptualisation of corruption in Public Administration, which is one of the objectives, and a background of the study on how it aims to achieve its objectives. The other three chapters focused on conceptualising the content of corruption and the strategies of prevention with the aim of giving answers to the research questions asked and achieving the objectives of the research. The research questions and objectives are outlined in chapter 1. The following

section will provide a conceptualisation of anti-corruption strategies in line with the research objectives.

5.2.1.1 A review of the public service mechanisms in place to prevent corruption: Policy responses to the prevention of corruption

In chapter 3 the focus was on evaluating legislation developed at national government as guidance to departments to develop internal anti-fraud and corruption strategies. Using the funnel approach, the corruption prevention measures, reviewed in this chapter displayed how the various pieces of legislation that have been put in place by national government have an impact on the establishment of departmental policies and anti-corruption strategies of the Department of Arts and Culture (cf. section 3.1). The Acts and regulations were outline in chronological order from earliest to most recent so as to illustrate the development of the various anti-corruption strategies and frameworks.

The first Act to be reviewed was the *Public Service Act, 1994 (Proclamation 103 of 1994).* The Act applies to all officers and employees who were, are and are to be employed in the public service, whether they are working in the country or not. The purpose of the Act is to make provision for the organisation and administration of the public service of the republic, give effect to the regulation of the conditions of employment, terms of office, discipline, retirement and resignation of public servants, and other related matters. The Minister of Public Service and Administration is responsible for the implementation of the Act, and he or she may suggest policies and changes related to the following aspects of public service: functions and organisational structure; employment practices (including promotion, human resource management and training); information management and technology; and transformation and reform. The employees in DAC are appointed under chapter 4, section 9 to 15 of the Act (cf. section 3.2).

The second Act to be reviewed was the *Prevention of Organised Crime Act, 1998 (Act 121 of 1998).* The aim of the act is to initiate organised crime combating measures, and to also initiate laws that are aim to combat crime

and gang related acts, focusing specifically on money-laundering and racketeering, and illegal business activities. The DAC formulated the Fraud Prevention Strategy in line with the legislation passed by the South African government on fraud prevention. The Prevention of Organised Crime Act, 1998 (Act 121 of 1998) forms part of the legal framework of the DAC Fraud Prevention Strategy (cf. section 3.3). This Act was followed by the *Public* Finance Management Act, 1999 (Act 1 of 1999). The Act was established to manage funds at national and provincial government level and forms part of a broader government strategy to improve the general state of financial management in the public service. Section 38 of the PFMA on the PFMA states that the head of department of a government organisation must make sure that the organisation has and maintains *inter alia* efficient, effective and transparent financial management and risk management structures and internal controls; and a fair, equitable, transparent and cost effective suitable procurement and provisioning system. The DAC as a national government department is legislated by the PFMA to ensure that proper financial processes and procedures are in place and are adhered to by all employees (cf. section 3.4).

The next Act to be reviewed was the Promotion of Access to Information Act, 2000 (Act 2 of 2000). The Act puts into practice the constitutional right of access to information that is in the possession of the State and any information that another person is in possession of and may be required for the exercise or protection of any rights. The Act applies to all records held by public and private bodies. It does not apply to records that are being used in criminal or civil proceedings. It also does not apply to Cabinet Ministers and committees, members of parliament or of the provincial legislature, courts and certain investigative tribunals (cf. section 3.5). The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) was also reviewed. The Act aims to make the administration effective and accountable to people for their actions. It deals with administrative action or decisions that negatively affect a person's right and aims to create a culture of accountable, openness, and transparency in public administration. When a public official is suspected to

have acted improperly, a citizen has recourse to a court of law to review such an act (cf. section 3.6).

In addition the Protected Disclosures Act, 2000 (Act 26 of 2000) was reviewed. The Act provides for the processes that employees in the public and private sector should adhere to when they disclose information with regards to unlawful or irregular behaviour by other. The Act also places the responsibility on the employer to ensure that employees who make disclosures are protected from any reprisals and it also prevents employees from being fired by employers for coming forward to disclose. It prohibits the employer from penalising or victimising an employee for coming forward and making a disclosure (cf. section 3.7). Furthermore the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) was reviewed. The aim of the Act is to prohibit money laundering acts, and enforce some responsibilities on organisations and people involved in money laundering activities. The Investigation Policy of the DAC is formulated in line with legislative mandate as prescribed by government and the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) forms part of the legal framework of the policy (cf. section 3.8).

A review on the Public Service Regulations, 2001 and 2002 was conducted. It was identified that the Public Service Regulations are derived from the Public Service Act, 1994 (Proclamation 103 of 1994) and should read in conjunction with the Act in order to have a clearer understanding of what the Act is about. It is an interpretation of the Act. The Regulations apply to all the people and organisations governed by the Public Service Act, and people in the employ of the Agency or the state educational institutions as long as they are not opposed to the laws that govern their employment (cf. section 3.9). *The Public Service Anti-corruption Strategy (2002)* formed part of the national government strategic framework and was reviewed. In its formation the PSACS was considered a key driver of all anti-corruption initiatives in the public service (cf. section 3.11). The strategy advocates that the fight against corruption be conducted in an integrated and coherent manner. It recognises

the importance of solid management practices to prevent, detect, and combat corruption.

The next Act on review was the Preventing and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) (cf. section 3.12). The Act ensures that corruption prevention measures are strengthened, ensures that measures to investigate corruption are provided for, and provides for other offences relating to corruption and corrupt activities. Chapter 2 of the Act outlines the wrongdoings in relation corrupt activities Section 3 of the chapter outlines general offences of corruption. Chapter 5 of the Act provides for the penalties relating to corrupt offences. Public Administration Management Act, 2014 (Act 11 of 2014) was on review (cf. section 3.13). The Act aims to promote the basic values and principles governing the public administration referred to in section 195 (1) of the 1996 Constitution. The Act aims to promote a high level of professional ethics and integrity among public servants and prohibit public officials doing business with the state.

Ethics and the Public Sector Integrity Framework were also reviewed. A practical guide to the Code of Conduct was also developed to generate a better understanding of its implications and applications *(Explanatory Manual on the Code of Conduct for the Public Service 2002:4)* (cf. section 3.20). It was highlighted that ethical behaviour and ethical thinking must be encouraged amongst public servants if government wishes to promote a high standard of professional ethics in organisations. The DAC has also adopted the Explanatory Manual on the Code of Conduct for the Public Service which identifies specific acts of misconduct. *Section 4.4.5 of the Explanatory Manual on the Code of Conduct for the Public Service (2002:41):*, for example, state that an employee should not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties. This includes fraud or theft. The code refers to the Constitution of South Africa and its contraventions hence it plays an important role when dealing with issues of misconduct. The DPSA has put in place a Public Sector Integrity Management Framework (cf. section 3.18). The Framework was developed with the aim to tighten methods and principles of integrity management and uphold ethical

conduct that can be influenced by financial interests, gifts, bribes, and remunerative work outside the organisation.

5.2.1.2 A review of the current policy framework on fraud and corruption prevention of the Department of Arts and Culture

The focus in Chapter Four was on evaluating the application of anti-corruption strategies in DAC. Legislation and prescripts have been put in place for all government departments to adhere to and to ensure that there is effective implementation of the anti-corruption strategies. DAC as part of a government organisation is no exception, it has a responsibility to ensure that internal processes are in place to guard against any wrongdoing; for instance the negligence that was referred to in the BIG Investigation Report, and must ensure that employees display and act professionally and ethically when implementing the strategies as set out by the DAC to combat any acts of fraud or corruption. The review of the Public Sector Risk Management Framework (PSRMF) was also conducted because it serves as a guide to public service institutions on how to develop their own risk management policies and strategies, fraud prevention policies and strategies, and fraud prevention plans. The review of the anti-corruption strategies of the DAC were conducted to ensure that they form part of, or are in line with the broader scope of Public Sector Risk Management Framework (cf section 4.3).

5.3 Commendation of Department of Arts and Culture

Fraud is an unethical practice that poses a potential threat to service delivery. It remains a challenge that the South African public service is faced with and as part of enhancing accountability in public administration and maintaining a high standard of professional ethics such activities should be prevented Organisations are required under legislation to identify and manage fraud and corruption risks (cf. section 4.4.3). *The Public Service Anti-Corruption Strategy (2002:3-4)* suggested the establishment of an all-inclusive method to combating corruption and DAC has complied with the PSACS proposal and it has aligned its anti-corruption methods with the PSACS (cf. section 4.2). The National Treasury has put in place guidelines for government departments to

adhere to when dealing regulating departmental fraud and corruption. The National Treasury is an informative resource for the management of fraud and corruption for government departments as it requires departments to develop fraud and corruption control plans and to establish a Risk Management Unit. There must be a culture that promotes transparency, honesty, and good ethics and policies that will assist employees to prevent fraud and corruption must be developed and implemented. The DAC has developed strategies and policies as prescribed by the National Treasury (cf. section 4.4).

- **Risk Management**

The Department of Arts and Culture has a Directorate: Risk Management. It has adopted a modern approach to dealing with matters of fraud and corruption, and also acknowledges that conditions such as pressure, opportunity, and rationalisation have to occur for fraud to take place. The Department notices that for it to prevent fraud risk management processes must be in place. The Enterprise Risk Management Policy has been formulated and adopted in line with Enterprise Risk Management Framework of the National Treasury. Enterprise Risk Management has become a popular way of describing application of risk management in the public sector. For the DAC to achieve its mandate it needs to have an effective risk management in place. Effective risk management plays a significant role in ensuring that the expectations of the public in terms of service delivery and performance within the Department are achieved (cf. section 4.4.1). The DAC conducts quarterly risk assessments and provides quarterly risk status reports. Branches are required to give feedback on their specific risk assessments and status for the quarter and submit to Risk Management. This forms part of reporting and it should be commended.

- **Fraud Prevention Policy**

The Fraud Prevention Policy of DAC informs the Fraud Prevention Strategy on the mechanisms and measures that ought to be implemented to manage the risk of fraud and corruption in the Department. The purpose of a fraud prevention policy is to describe employees' responsibilities and those of the

stakeholders in line with the Fraud and Corruption Plan and, the actions that might be taken by an organisation should contraventions occur. It should also be supportive of good corporate governance practices. The DAC places all responsibility for fraud prevention and/or reporting of any form of irregularity on every employee in the Department. All employees are expected to report all incidents of irregularities or fraud that may occur (cf. section 4.4.2).

- **Fraud Prevention Implementation Plan**

The DAC has developed a Fraud Prevention Implementation Plan of DAC with the purpose to set the implementation of the Fraud Prevention Strategy and Policy of the Department. The implementation plan sets out all fraud prevention activities planned for a particular financial year. A Fraud Prevention Plan is a detailed plan that outlines activities involved in the planning; the due dates linked to the activities and the managers or officials responsible for the execution of the tasks, and the outcomes or expected end results upon completion of the activities. The DAC also has in place a Fraud Risk Register. The purpose of the register is to outline possible risks that the Department may experience, what can contribute to the risk factors, and the existing controls. The register also comprises of the recommended action plan to be taken to manage the risk and the planned response plan that senior management should approve (cf. section 4.4.3).

- **Fraud Prevention Strategy**

The DAC Fraud Prevention Strategy states that the Fraud Prevention Plan should consist of the Fraud Prevention Policy and Fraud Prevention Strategy. A Fraud Prevention Strategy should consist of a detailed plan of fraud and prevent activities in the situation, and an implementation plan should be developed as part of the strategy, giving effect to the specific tasks to be performed and the responsible staff members. A Fraud Prevention Strategy has been developed by the DAC as a result of having recognised that weaknesses may exist in the current systems which might allow the unplanned commission of fraudulent activities. The Department has also taken a decision to review the Fraud Prevention Strategy on an annual basis

and the Chief Risk Officer is responsible for facilitating the review process. A review of the Fraud Prevention Strategy was conducted in 2016, and the necessary changes and amendments where identified, were incorporated (cf. section 4.4.4).

- **Investigation Policy**

The Investigation Policy of the DAC was developed with the purpose of providing guidance to enable the Department to implement the investigation procedures. The policy is established to also provide guidelines on how to respond should instances of fraud and corruption be identified. The policy guidelines focus on the report, investigation and prosecution of fraudulent and corrupt activities. The policy advices that "in the event that fraud or corruption is detected or suspected, investigations will be initiated and, if warranted, disciplinary proceedings, prosecution or action aimed at the recovery of losses will be initiated. The policy assigns to the employees the responsibility to report all incidents of fraud and corruption that may come to their attention to their supervisors (cf. section 4.4.5).

5.4 Recommendations for implementation

It is noted that at departmental level policies, systems and procedures have been developed. There is evidence in terms of documentation to prove that the DAC has established a significant anti-corruption strategy. However there are remedies that the Department can explore to ensure that there is effective policy implementation and adherence to the rule of law. Emphasis must be put on the training and development of employees on anti-corruption issues. The Department has in place a Human Resource Development policy which is used to facilitate all departmental training needs as identified by Branches so as to encourage growth of skills possessed by employees within the Department (cf. section 4.8).

The prevalence of fraud and corruption and the negative consequences associated with it have compelled organisations to invest time and resources towards tackling them. The objective of the Fraud Prevention Strategy is to

reduce the likelihood of management fraud, and reduce or prevent all kinds of fraud and corruption. The strategy must include both internal controls and risk awareness. Internal controls alone will not prevent or detect fraud until it is has happened, but when internal controls are supported by risk-aware employees, the entire organisation can become resistant to fraud (cf. section 4.6).

The DAC should invest in education and training so as to promote risk awareness and effective policy implementation. Training employees will not only benefit the employees alone but the DAC as well. It will help the organisation to run effectively. Employees who receive the necessary training are able to execute their duties in a more effective and efficient way. They become more aware of safety practices and proper procedures to follow when performing tasks. Employees gain more knowledge and understanding of the organisation's operations and the responsibilities that come with their jobs when they are given proper training and their confidence also grows.

There is a gap in terms of knowledge of anti-fraud and corruption issues in DAC and that gap widens because there is no academic programme that the DAC is offering that focuses on issues of fraud and corruption. Training and development have evolved from being action-oriented to result-oriented. The focus of training and development has shifted just designing, developing, and conducting training programs to aligning individual learning needs and competency requirements to organisational strategy, and ensuring that the employee and organisational performance are enhanced (cf. section 4.6). Based on the gap identified, it is recommended that the DAC form partnerships with institutions of higher learning to formulate a programme that will specifically address anti-fraud and corruption issues at an academic level and also formulate partnerships with the National School of Government to formulate a curricular that will address the needs of the Department based on its strategy. An example of such partnerships is the one of the University of Pretoria and The Presidency in 2006 where the institution provided and facilitated the Emerging Management Development Programme. The

programme offered employees training on Public Management and Administration.

Another gap that was identified was on ethics awareness training. The Department is not investing enough in terms of ensuring employees are regularly trained on ethics. There are not workshops that are conduct except to put posters on notice boards or sending a quiz to employees to respond on what they understand about ethical conduct. Ethical training should be recommended and considered as an essential component of integrated approach for an effective anti-corruption system in the public service (cf. 4.6.3). Training DAC employees on the concept of corruption and ethical conduct could contribute towards building a strong and informed constituency against corruption. Educational institutions such as universities can play an important role in enhancing the ethical knowledge, skills and attitudes of employees. It is recommended that the DAC form partnerships with stakeholders such as universities or accredited institutions that qualify to offer training on ethics.

Providing employees with training and awareness programmes on a regular basis based on their field of responsibilities contributes positively to anti-corruption policy implementation because employees are able to identify, prevent, and report wrongdoing in time. The lack of such initiatives at all levels increases the risk of policies not properly adhered to and implemented by employees because of lack fear of getting caught and reprimanded. Below are points on awareness training that the DAC can familiarise itself with (cf. section 4.7.1). The DAC has a responsibility to ensure that employees are well-trained on a regular basis and to ensure that the culture of awareness training is not lost. Fraud awareness training, coupled with periodic refresher training and induction are effective methods that will ensure that the DAC achieves this goal and ensure that employees are aware of what is expected of them when it comes to ethical conduct, and that they are also aware of their fraud control responsibilities in the organisation.

The DAC has adopted a Whistle-Blowing policy which was presented to the Risk Management Committee and approved on 26 April 2016. The policy was

developed to serve as a tool that employees and stakeholders can use to raise their concerns where they have reasonable grounds to believe that there is corruption, fraud or maladministration that is taking place in the Department. The policy has not yet been properly inducted to all employees so that they are trained on how to apply it. Risk Management as the custodian of the policy must ensure that employees are provided with awareness training on the policy document. Working together with the Directorate Risk Management the Human Resource Directorate must ensure that employees are offered relevant training on policies related to risk management (cf. section 4.8). It is the responsibility of the Accounting Officer to develop the capacity to implement awareness campaigns within the Department.

5.5. Monitoring and evaluation

In monitoring and evaluation focus was put on the implementation of Risk Management Policies in DAC (cf. section 4.6), and the mechanisms for training and development (cf. section 4.8). The DAC should have the capacity to monitor emerging risks and also update them as and when they occur. The risks can be identified during the structured management meetings, and by utilising the assurance provider's reports. As part of monitoring the implementation of Risk Management policies the Accounting Officer must ensure effective implementation and that policy amendments as a result of change in legislation which affect the policy directly are incorporated in the policy and that they are communicated to all staff (cf. section 4.6). It is the responsibility of the Director: Risk Management to ensure that process and procedures are in place to conduct policy reviews and the amendments are communicated to all staff. Policies are subjected to annual reviews or when there are changes to legislation that affect the policy and warrant a review. The stakeholders responsible for the monitoring of Risk Management policies include the Internal Audit Directorate and the Risk Management Committee.

In terms of monitoring the implementation of training mechanisms the Directorate Risk Management working together with the Human Resource Directorate must ensure that employees are offered relevant training on policies related to risk management. The Human Resource Directorate should

organise and offer training opportunities based on the training needs of the Directorate Risk Management, and in line with the Human Resource Development Policy (cf. section 4.8). The Department's Fraud Implementation Plan must include the annual Fraud Awareness Campaigns. It is management's responsibility to make sure that employees at all levels understand what fraud and corruption is. The application of the training and awareness must be monitored by the Human Resource Directorate in conjunction with the Directorate Risk Management to evaluate if there is an improvement in job performance. According the Human Resource Development Policy evaluation must be done on a quarterly basis.

5.6. Suggestions for further research

It is noted that the solution to a successful anti-corruption strategies is not limited to what is outlined in Chapters 4 and 5 and more research can still be conducted. This study was only limited to the Department of Arts and Culture and was a desktop research. No interviews were conducted to get the views and opinions of employees and stakeholders on anti-fraud and corruption issues in DAC (cf. section 1.8). Further research can be conducted on other national departments to identify the causes of fraud and corruption, policy implementation strategies, and the remedies to improve on challenges faced.

There is also an opportunity to conduct research on areas of skills gaps in DAC on issues of fraud and corruption. The identification of a curriculum that can best assist in minimising the skills gap and the methods of training can be pursued for further research. Research can be conducted on the role that the National School of Government can play in terms of designing a curriculum that can focus on ant-fraud and corruption training for the public service. The partnerships between the Department of Performance Monitoring and Evaluation and government departments in terms of monitoring the effectiveness of training programmes offered is also a potential area that can be pursued for research. This can include how the DPME and government departments can come up with a reporting system that will provide progress reports on whether the skills provided are effective and improving the skills of employees or not.

5.7 Conclusion

This chapter focused on providing a summary of chapters 3 and 4, commending the Department of Arts and Culture on the anti-corruption strategies that they have put in place, and providing recommendations. The Department's efforts to combat corruption shouldn't go unnoticed and should be given the recognition it deserves. As an organisation the DAC has proven to be part of a team that has adopted a "zero tolerance to corruption" and with the recent anti-corruption campaign the Department is proving that it is still putting effort in fighting corruption. Although the Department is being commended for having anti-corruption strategies in place, there have been recommendations that have been identified. This is evidence, as also outlined in Chapter 4, that more can be done. The DAC for example, an improve on issues of training, campaigning, information sessions, and induction of employees across all levels, not to provide intensive information session only to senior manager as is the case currently. Sending out emails and notices to all staff cannot be the only communication method that is used to caution employees about anti-corruption strategies. Employees should also be made an integral part of the solution of this problem so that DAC can perform better in implementing it anti-corruption strategies.

The Human Resource Directorate of DAC together the with Directorate Risk Management should work together in identifying different programmes that are suitable to employees at all levels with specific training targets that should achieved. Risk Management as expects in their field should be in a position to advice HRD on the relevance of the identified training interventions and should play a role in doing research and identifying any developments that may be incorporated in the identified training programmes. Training should be ongoing, and should include on the job and off the job training. DAC senior managers should also to ensure that implementation of policy is adhered to by all employees but most importantly it should start with them. Managers should also provide feedback to employees when they come back from training so that employees can be well informed. Managers should ensure that they nominate employees for training, but they should not send employees for

training simply because it talks to fraud and corruption; the training programmes should evaluated first to ensure that it will serve the training needs of the employee and the organisation, and also to ensure that it will contribute positively to policy implementation.

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