

**Evaluation of the implementation of professional ethics and anti-corruption  
legislation: the case of the Social Sector Cluster in the Gauteng Province**

**by**

**Unathi Mphendu**

**Submitted in partial fulfilment of the requirements for the degree**

**Doctor of Public Administration**

**In the Faculty of Economic and Management Sciences**

**University of Pretoria**

**Pretoria**

**SUPERVISOR: Professor Natasja Holtzhausen**

**UNIVERSITY OF PRETORIA**

**August 2017**

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## ACKNOWLEDGEMENTS

It took a village for me to be where I am today. I therefore want to express my sincere gratitude to everyone who has contributed in my journey. For the past three years (2015 – 2017), I have dedicated a substantial part of my life to reading, thinking, reflecting, writing and conducting this study. I would like to acknowledge the following persons who played a major role in this study:

- I would like to express my heartfelt gratitude to my supervisor, Professor Natasja Holtzhausen without whose support this research project would not have been completed. Thank you for your patience and outstanding academic guidance towards the successful completion of this research project.
- The support provided by the entire staff at the School of Public Management and Administration under the leadership of Professor Margaret Chitiga-Mabugu is also appreciated.
- I would also like to thank Dr Marti Pohl for her assistance in designing the questionnaire, analysis and interpretation of the collected data. You enlightened me on the power of numbers.
- I'm also grateful to Professor Richard Heeks of Development Informatics at the Institute for Development Policy and Management (University of Manchester, United Kingdom) for granting the permission to convert the dimensions of the ITPOSMOS model for this study.
- Similar gratitude is also due to Professor Kishore Raga for his editing expertise.
- I am also indebted to Ms Miné Globler at the Research Commons for assisting with the layout of the final document.

- The support received from the Information Specialist, Ms Clara Ngobeni, was invaluable in that I acquired the relevant study material for this study. Your pre-emptive approach in assisting students is appreciated.
- I extend my deepest gratitude to my entire family, particularly to my parents: Nontuthuzelo Mphendu, Boniswa Mphendu, Nonyameko Wotshela, Lwandlekazi and Lungelo Ngonyothi. Thank you for your support.
- To my dear wife Alime Mphendu, your love, support and motivation is a priceless gift. Thank you for your prayers during this challenging journey. Distinct gratitude is extended to my treasured children: Sihle (Handsome), Kamva-lethu (Our-Future) and Ntsika-yethu (Our-Pillar). I hope you will understand when I say that as things stand, I'm yet to be convinced otherwise in believing that education is the necessary **pillar** for a **"handsome" future**.
- A word of appreciation also goes to three good friends, Mr Story Mzelemu, Mr Bafana Malunga and Magomarela Ceaser Ramaube who were extremely supportive throughout this research project. I'm also grateful to my legions of friends for their understanding on why we could not be together as often as we used to be while I was busy with this research.
- I would also like to extend my sincere appreciation to all the members of the Senior Management Service within the Social Sector Cluster who managed to find time to participate in this study despite been often overwhelmed to meet tight deadlines. Your respective input has been highly valuable.
- My acknowledgement list would be incomplete without mentioning the support received from all my colleagues within the Gauteng Office of the Premier. To the Integrity Management Team: Ms Mildred Nkopane, Ms Vanitha Murugan, Mr Eddie Gafane (former colleague), Ms Lillian Mthembu, Ms Miller Ntlaba, Mr Rhulani Mtileni, Mr Frans Makola, Mr Mudyarefa Chauke – your support and timely encouragement helped me to remain focused throughout this journey.

To all of you: God is indeed with us.

## DEDICATION

I know my mother would be proud to hear that I dedicate this to my late aunt, Studeyi Mphendu. I want to thank her for raising me as well as for instilling discipline and encouraging me to continuously educate myself. I hope I'm setting a fine example for the family and everyone else as you advised me several days before you went 'home'.

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## LIST OF ABBREVIATIONS

<b>AU</b>	African Union
<b>CoC</b>	Code of Conduct for the Public Service
<b>COGTA</b>	Cooperative Governance and Traditional Affairs
<b>CPI</b>	Corruption Perception Index
<b>DCEC</b>	Directorate for Corruption and Economic Crime
<b>DPISA</b>	Department of Public Service and Administration
<b>GCR</b>	Gauteng City Region
<b>GDCCS</b>	Gauteng Department of Community
<b>GDE</b>	Gauteng Department of Education
<b>GDH</b>	Gauteng Department of Health
<b>GDHS</b>	Gauteng Department of Human Settlement
<b>GCRO</b>	Gauteng City Region Observatory
<b>GDSD</b>	Gauteng Department of Social Development
<b>GDSACR</b>	Gauteng Department of Sports, Arts, Culture and Recreation
<b>GPG</b>	Gauteng Provincial Government
<b>GT</b>	Gauteng Treasury
<b>IIGA</b>	Ibrahim Index of African Governance
<b>IMF</b>	International Monetary Fund
<b>IS</b>	Independent States
<b>ITPOSMO</b>	Information-Technology-Processes-Objectives and values- Staffing and skills-Management systems and structures-Other
<b>KMO</b>	Kaiser-Meyer-Olkin
<b>MACC</b>	Minimum Anti-Corruption Capacity
<b>NACF</b>	National Anti-Corruption Forum
<b>NDP</b>	National Development Plan
<b>NEPAD</b>	New Partnership for Africa's Development
<b>NPM</b>	New Public Management
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>OOP</b>	Office of the Premier
<b>PAIA</b>	Promotion of Access to Information Act, 2000 (Act 2 of 2000)
<b>PAJA</b>	Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)
<b>PAM</b>	Public Administration Management Act, 2014 (Act 11 of 2014)

<b>PFMA</b>	Public Finance Management Act, 1999 (Act 1 of 1999)
<b>PDA</b>	Protected Disclosure Act, 2000 (Act 26 of 2000)
<b>PSA</b>	Public Service Act, 1994 (Proclamation 103 of 1994)
<b>PSACS</b>	Public Service Anti-Corruption Strategy
<b>PSC</b>	Public Service Commission
<b>PPA</b>	Public Protector Act, 1994 (Act 23 of 1994)
<b>RWOPS</b>	Remunerative Work Outside Public Service
<b>SADC</b>	Southern African Development Community
<b>SGS</b>	Self-Governing States
<b>SMS</b>	Senior Management Service
<b>SIU</b>	Special Investigating Units
<b>SMS</b>	Senior Management Service
<b>UNCAC</b>	United Nations Convention Against Corruption
<b>UNDP</b>	United Nations Development Programme
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>TI</b>	Transparency International
<b>TMR</b>	Transformation, Modernisation and Reindustrialisation
<b>WB</b>	World Bank
<b>WGI</b>	World Governance Indicators
<b>ZACC</b>	Zuide-Afrika Constitutional Court

## LIST OF TERMS

Corruption

Ethics

Evaluation

Exploratory factor analysis

Grand corruption

Implementation

Integrity

Pearson's correlation coefficient

Petty corruption

Public Administration

Public accountability

Public Service

Social Sector Cluster

Values

## SUMMARY

South Africa established seven anti-corruption institutions and more than 17 pieces of legislation to combat corruption. However, it seems that there is consensus among pundits that the implementation of South Africa's anti-corruption legislation has proven ineffective despite the government's efforts to promulgate sound and progressive anti-corruption legislation. The National Development Plan (Vision 2030) also alludes that South Africa has not suffered from the lack of policies or poor policies, but rather an inability to implement these policies effectively. There is a need to pause, reflect and propose sustainable solutions when the consequences of corruption threaten the developmental goals of South Africa. The primary objective is to create integrity among the jurisdictions by implementing the existing professional ethics and anti-corruption legislation. It is essential to ensure that the former and latter is implemented properly within the Social Sector Cluster in the Gauteng Province to realise the provincial vision of an advanced, approachable and exciting government where people are central in decision-making.

The study adopted a mixed methods approach and utilised a case study, as well as a survey based on the dimensions of the ITPOSMO model which is highly recommended for the effective implementation of ethics and anti-corruption initiatives. Since a formal instrument was unavailable to test this model within a selected setting, each of the dimensions were converted and reduced to relevant questions which focused on the difference between design and reality. A literature review was conducted of the international, continental and national perspectives. The study further examined international best practice and focused on selected Scandinavian countries (Denmark, Finland and Sweden) which have proven with the advent of time effective for the implementation of professional ethics and anti-corruption programmes. Three developing countries, namely: Botswana, Singapore and Georgiashare similar country profiles to South Africa and have markedly improved their rankings on the international ethics and anti-corruption indices. The quantitative data was analysed using descriptive and inferential statistics.

The study identified weaknesses that contribute towards ineffective implementation of professional ethics and anti-corruption legislation within this selected setting.

These include, among others, apprehensive decision-making process, nominal provincial approach to resolving alleged cases of unethical conduct and undetermined targets including political will. To address these shortcomings, the study proposes an implementation framework to the body of knowledge of professional ethics and anti-corruption legislation by the departments within the Social Sector Cluster in the Gauteng Province. The framework is based on eight dimensions and most significantly, it advocates a cooperative stakeholder approach by all based on creating an ethical environment to minimise unethical conduct.

## CHAPTER ONE

### GENERAL INTRODUCTION

#### 1.1 INTRODUCTION

*"It always seems impossible until it's done."*

– Nelson Mandela

Corruption feeds failed states. Citizens globally have a responsibility to implement preventative measures because the consequences thereof affect all (Cockcroft 2014:231). There is a need to pause, reflect and propose sustainable solutions when the consequences of corruption threaten the developmental goals of South Africa. The basis is to create integrity among various jurisdictions through the actual implementation of existing professional ethics and anti-corruption legislation. It is essential that professional ethics and anti-corruption legislation are implemented properly within the Social Sector Cluster in the Gauteng Province to realise the provincial vision of an advanced, approachable and exciting government which considers its people central in decision-making.

Adherence to existing legislation is associated with the liberal approach which according to Lawson (2009:74), comprises of minimising prospects for unethical behaviour and tightening consequence management with the overall intention of exposing those involved in these deeds. Webb (2016:20) advises that studies on corruption have a potential to contribute towards not only reducing opportunities for corruption, but also enhance much needed social and economic growth, specifically in developing states. This advice is acquiring increasing traction in South Africa when one considers the consequences of corruption, particularly when developmental programmes that are intended to address the basic services are not implemented. Hence, the long-term benefits of adherence to existing professional ethics and anti-corruption legislation will contribute towards one of the objectives of positioning the Gauteng Province as the leading economy on the continent that is underpinned by sustainable economic development.



The introductory chapter focuses on the motivation for the research, survey of the available literature, problem statement and objectives of the research. This chapter also expounds upon the research methodology adopted for this study which is followed by the clarification of key concepts and terms including the framework of the research and conclusion.

## 1.2 MOTIVATION FOR THE STUDY

According to Dion (2010:52), those in leadership positions are becoming increasingly aware that their political freedom is depended on adherence to legislation which guarantees that state is safeguarded. Klitgaard (2013:1) asserts that the common feature of those elected to leadership positions is to prioritise the fight against corruption because it impedes developmental programmes. The intention to reduce opportunities of corruption by those elected to leadership positions across the world corresponds with Mantzaris and Pillay (2013:112) who hold that high levels of corruption across the world necessitates revised and thoughtful approaches if achievements are to be realised by new leaders.

Idoniboye-Obu and Uzodike (2013:21) assert that there is a global unanimity that since the consequences of corruption are immense, revised approaches are needed to minimise the levels thereof. The case of *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* [2016] ZACC 11 requested a directive to confirm the legally bidding effect of the Public Protector's remedial action and assert that both the President and the National Assembly acted in breach of their constitutional responsibilities. The Democratic Alliance submitted a similar request in the Western Cape Division of the High Court (Cape Town) and afterward to the Constitutional Court on condition the EFF's application was heard. This was after the President and the National Assembly did not do what they were required to in terms of the Public Protector's proposed remedial actions. The case reveals how members of the public acted collectively to combat efforts of corrupt activities which were transpiring in this case. The cost to install security features at the Presidents Nkandla private residence were inflated without neither proper authorisation nor conformance to the principles of the Public Finance Management Act, 1999 (Act 1 of 1999). The Public

Protector, as empowered in terms of section 182 (1)(a) of the Constitution of the Republic of South Africa (1996) to investigate allegations of maladministration and impropriety on all spheres of government, received complaints from the members of the public regarding the implementation of the project. The Public Protector recommended that the President pay back a portion of the money which was not related to security features. However, the President requested more clarity on the powers of the Public Protector. The case was brought before the Constitutional Court with a view to hold the President accountable as stipulated in the Constitution.

To reinforce the efforts taken by members of the public to reduce corruption, the court in para 83(41) held that the President had not led by example in upholding the Constitution of the Republic of South Africa, 1996 when the recommendations of the Public Protector had not been implemented accordingly. The judgment by the highest court in South Africa encourages the members of the public to fight corruption. This case ultimately contributed to expose the corrupt activities which transpired at the Nkandla residence.

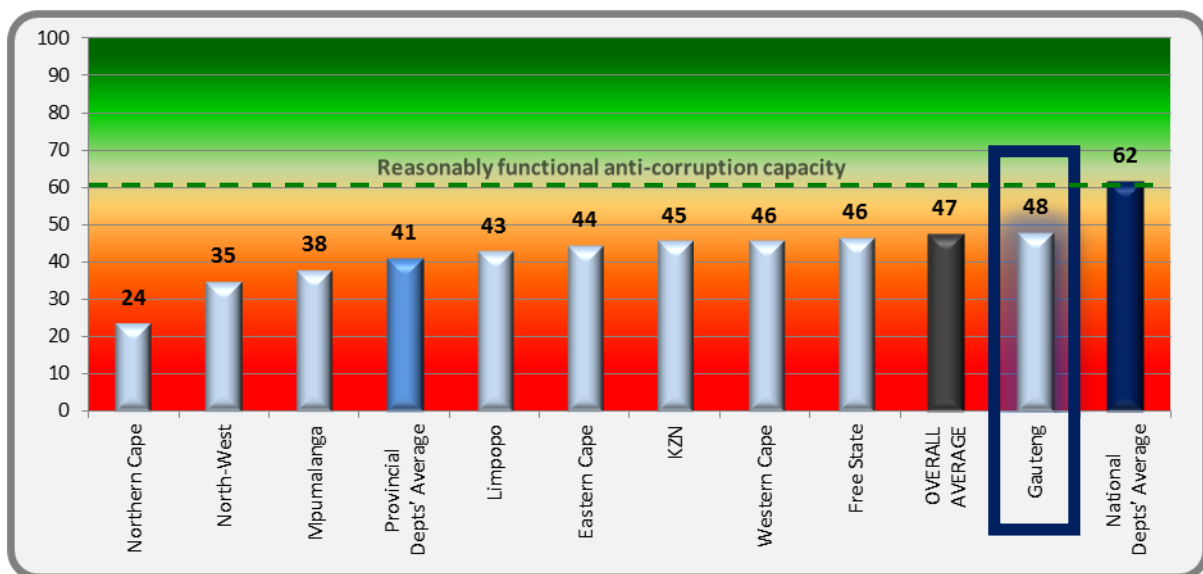
Moiloa (2013:29) as well as Cockcroft (2014:231) accentuate that it is widely acknowledged that a lack of ethics and pervasive corruption imposes heavy costs, frustrates developmental efforts which makes it difficult for the government to reduce poverty. It is for these reasons that the Fifth Administration in Gauteng Province adopted a multi-pillar programme for the Transformation, Modernisation and Reindustrialisation (TMR) of the province. Part of the radical shift in government involves dealing with and eradicating corruption among public servants (Makhura 2014a:5). It is often the politician's responsibility to introduce new programmes to deal decisively with corruption when taking office. The implementation of the new programmes needs to be scrutinised and evaluated to ensure that the objectives are realised. The TMR project is referred to in this instance.

It is imperative that a brief background of assessment of anti-corruption initiatives in Gauteng Province is outlined before the motivation for this research is expounded upon. The Public Service Anti-Corruption Strategy (2002:3) states that government departments must create a minimum capacity to fight corruption. This was further supported by a 2003 National Cabinet decision which required government

departments and entities under their jurisdiction to have minimum anti-corruption capacity. Government departments are required to develop a customised anti-corruption plan that will at least address the department’s objectives and most importantly, the strategy must be accompanied by a detailed implementation plan comprising of responsible officials and allocation of resources. The Minimum Anti-Corruption Capacity (MACC) requirements were communicated in 2006 by the Department of Public Service and Administration’s publication: “*Anti-Corruption Capacity Requirements – Guidelines for implementing the Minimum Anti-Corruption Capacity Requirements in the Public Service*”.

The Department of Public Service and Administration (DPSA) commissioned an audit of government departments’ compliance with MACC during the 2009/2010 financial year. The audit instrument took the form of a questionnaire which had to be completed by the departments. The departments were also required to submit a comprehensive portfolio of evidence to substantiate their responses (Gauteng Provincial Government 2012:1-2). Although the Gauteng Province scored a higher average compared to the other provinces, the audit accentuated that additional anti-corruption measures are yet to be implemented to ensure minimum anti-corruption compliance by the Gauteng Provincial Government departments. The MACC audit below, Figure 1.1, illustrates the findings for the nine provinces.

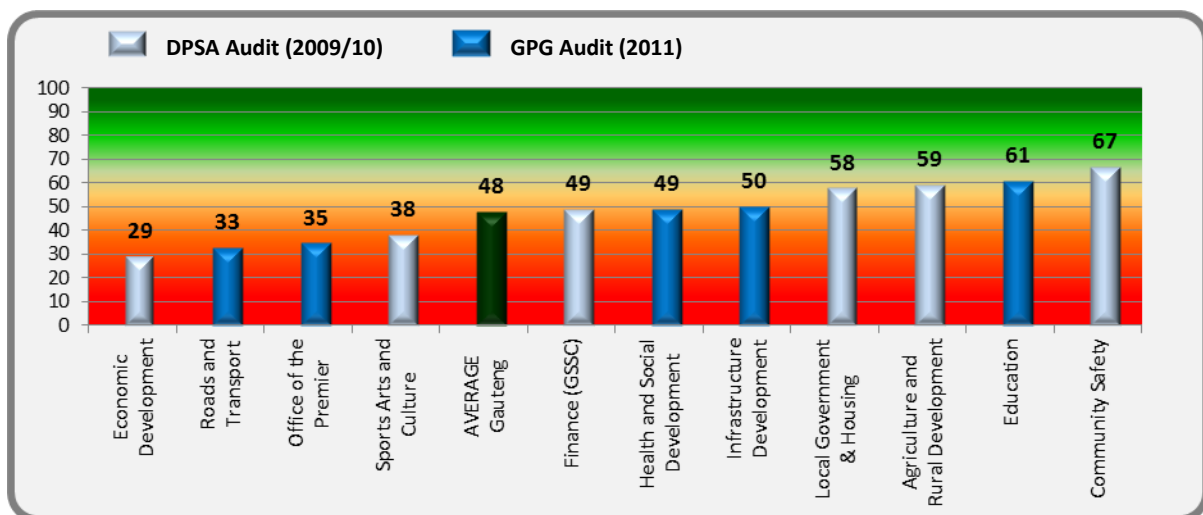
**Figure 1.1: MACC audit: Provincial Findings**



Source: Adapted from the GPG MACC Audit Report (2012:6)

Figure 1.1 illustrates that the average MACC compliance rating for the Gauteng Provincial Government is 48%. Despite the low percentage, the Gauteng Provincial Government is placed slightly above the overall average (including national and provincial data). Provincial departments have an average compliance rating of 41% or ‘weak’ compliance. The itemised scores for the Gauteng Provincial Government departments is illustrated in Figure 1.2 below. It is important to note that when the audit was finalised in 2011, there were 11 Gauteng Provincial Government departments. Since June 2017, there are 14 departments due to separation of certain departments in the Province. However, not all departments in the Gauteng Province participated in the 2011 audit. It is reported that the Gauteng Provincial Government, through the Office of the Premier, decided to acquire baseline data on all their departments’ anti-corruption capacity (Gauteng Provincial Government 2012:1). The Ethics Institute (South Africa) was commissioned in 2011 by the Gauteng Office of the Premier to conduct an audit. The Institute was requested to adopt the same methodology for the five departments that had not been audited during 2009/2010.

**Figure 1.2: MACC Overview: GPG departments**



**Source: Adapted from the GPG MACC Audit Report (2012:7)**

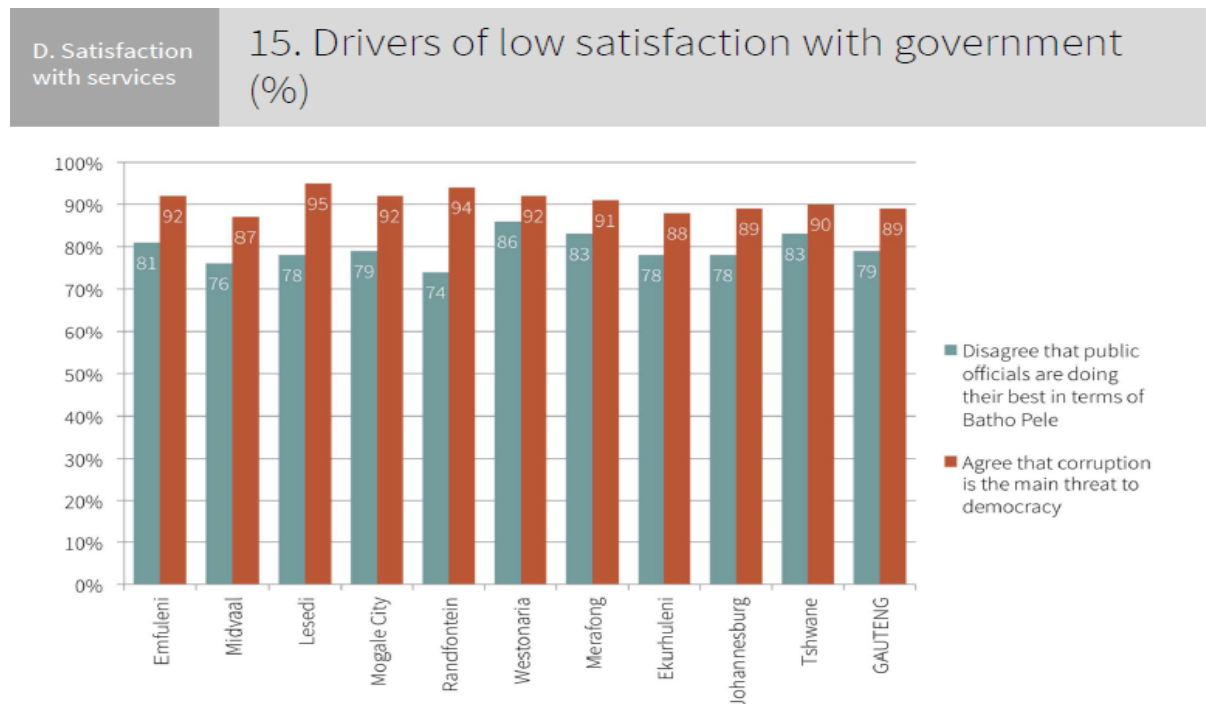
Figure 1.2 above reveals that there are wide-spread ratings within the Gauteng Provincial Government departments. At the upper end of the range are Community Safety, Education, Agriculture and Rural Development, and Local Government and Housing. These departments fared satisfactorily but there is still significant room for

improvement. The departments were requested to analyse their detailed assessment to determine where they needed to improve. The Gauteng Departments of Economic Development, Roads and Transport, the Office of the Premier, and Sport, Arts and Culture appear at the lower end of the range and their scores were below the average for the province. It was suggested that these departments reassess their strategies, since inadequate implementation had taken place (Gauteng Provincial Government 2012:7).

According to Van Niekerk and Olivier (2012:147), the behaviour of those entrusted to lead informs the perceptions of the public about government and has a potential to hamper basic service delivery. The Gauteng City Region Observatory (GCRO) which, among others, conducts research and publishes critically reflective academic findings released a comprehensive survey of citizens' attitudes and perceptions towards the provision of services by the Gauteng Provincial Government.

The 2013 Quality of Life Survey in the Gauteng Province (Figure 1.3 below) reveals that 79% of the citizens of Gauteng disagree that public officials are doing their best in terms of implementing the *Batho Pele* Principles when executing their duties. The Quality of Life Survey findings of 2013 revealed that 89% of the citizens of Gauteng agree that corruption is the primary threat to democracy (Gauteng City Region Observatory 2013:14).

**Figure 1.3: Drivers of low satisfaction: Gauteng Provincial Government**



Source: Adapted from the Gauteng City Region Observatory (2013:15)

Two key challenges have been identified related to acts of corruption in the Gauteng Province namely:

- MACC audit revealed that 10 of the 14 departments in Gauteng Province did not possess the minimum anti-corruption capacity requirements; and
- Perceptions also revealed that 89% of the citizens in the province agree that corruption is the primary threat to democracy.

The distinct lack of ethical and anti-corruption infrastructure and negative public perceptions thereof within the Gauteng Province are disquieting factors. However, national government cannot be held responsible because necessary anti-corruption legislation, regulations and agencies have been established to fight corruption. To minimise the levels of corruption, seven anti-corruption institutions were established and more than 17 pieces of statutes anticipated to address unethical conduct in South Africa enacted (Presidency 2015:19).

The following pieces of ethics and anti-corruption legislation in South Africa include, among others:

- International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996);
- National Prosecuting Authority Act, 1998 (Act 32 of 1998);
- Executive Members Ethics Act, 1998 (Act 82 of 1998);
- Witness Protection Act, 1998 (Act 112 of 1998);
- Public Finance Management Amendment Act, 1999 (Act 29 of 1999);
- Prevention of Organised Crime Second Amendment Act, 1999 (Act 38 of 1999);
- Special Investigating Units and Special Tribunals Amendment Act, 2001 (Act 2 of 2001);
- Promotion of Access to Information Amendment Act, 2002 (Act 54 of 2002);
- Intelligence Services Control Amendment Act, 2002 (Act 66 of 2002);
- Promotion of Administrative Justice Amendment Act, 2002 (Act 53 of 2002);
- Public Protector Amendment Act, 2003 (Act 22 of 2003);
- Municipal Finance Management Act, 2003 (Act 56 of 2003)
- Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);
- Public Service Amendment Act, 2007 (Proclamation 30 of 2007);
- Criminal Law (Forensic Procedures) Amendment Act, 2013 (Act 37 of 2013);
- Income Tax Amendment Act, 2016 (Act 16 of 2016)
- Public Service Regulations, 2016; and
- Financial Intelligence Centre Amendment Act, 2017 (Act 1 of 2017);
- Protected Disclosures Amendment Act, 2017 (Act 5 of 2017).

Pillay (2014a:56) argues that corruption and a lack of ethical behaviour are rife in South Africa despite the government's efforts to promulgate sound, far-reaching and progressive anti-corruption legislation. The National Planning Commission (2012:10) confirms the existence of policies to fight corruption in South Africa but laments the inability to effectively implement these policies. Van Niekerk and Olivier (2012:150) and Majila, Taylor and Raga (2014:223) concur and further question South Africa's efforts to implement anti-corruption policies and cite reports of unethical behaviour that continue to be released as evidence thereof. The existing anti-corruption legislation must be supported by effective implementation of policies to decisively

manage the challenge of corruption in society. If anti-corruption legislation is implemented effectively, a strong message will be sent of government's zero tolerance towards corruption. Public confidence in public institutions will improve and efforts as well as limited available resources will be directed to achieve the developmental goals of the country.

In certain instances, Gauteng Province has been ineffective in implementing anti-corruption legislation and regulatory framework. Four cases are highlighted to substantiate this statement. The cases for assessment could be linked to the failure to effectively implement the following three pieces of legislation:

- Public Finance Management Amendment Act, 1999 (Act 29 of 1999);
- Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004); and
- Public Service Amendment Act, 2007 (Proclamation 30 of 2007).

Firstly, due consideration must be given to the challenges that are being experienced with the enforcement of the Public Finance Management Amendment Act, 1999 (Act 29 of 1999) stipulates that any person who acts against sections 38, 39, 40, 41 or 42 requirements and who undermines the financial management and internal control system of the department, has committed a financial misconduct. Consequently, disciplinary and criminal proceedings must be instituted in terms of Chapter 10 of the PFMA. The Treasury Regulation requires the department to both report and recover money lost due to financial misconduct. It should be noted that financial misconduct includes, but not limited to, theft, financial mismanagement, fraud, corruption and gross negligence. Table 1.1 below illustrates the number of finalised cases and funds lost due to financial misconduct for the five-year period from 2011/2012 to 2015/2016 financial years.



**Table 1.1: Finalised cases and funds lost: financial misconduct for Gauteng (2011/12 – 2015/16)**

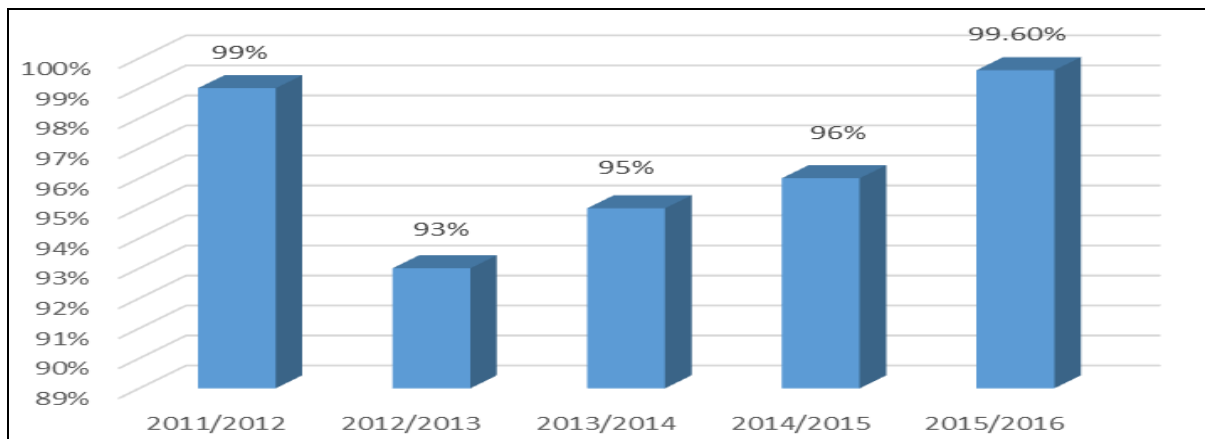
Financial Year	Number of finalised cases of financial misconduct	Funds lost due to cases of financial misconduct
2011/2012	129	R396 015.48
2012/2013	189	R16 465 230.24
2013/2014	91	R5 231 088.03
2014/2015	122	R67 773 698.04
2015/2016	118	R830 168.29
<b>Totals</b>	<b>649</b>	<b>R90 696 200,08</b>

**Source: Public Service Commission (2016a:14-17)**

The PSC (2016a:14-17) reveals in table 1.1 above that out of 649 cases of financial misconduct which were finalised during the five-year period from 2011/2012 to 2015/2016 financial years, a staggering sum totalling R90 696 200,08 was lost due to financial misconduct by the Gauteng Provincial Government departments. A total of 189 cases were finalised during the 2012/2013 financial year which is more than any other year during this five-year period. However, the largest sum, R67 773 698.04 was lost during the 2014/2015 financial year. The failure to recover funds lost due to financial misconduct is failure to effectively implement the legislation. The Treasury Regulations are clear in terms of demanding recovery of funds from those who are implicated directly.

Secondly, the members of the Senior Management Service (SMS) are required by no later than 30 April of the year in question to disclose relevant details of their financial interest in respect of the previous financial year. Figure 1.4 below illustrates that the Gauteng Province, for the past five financial years (2011/2012 – 2015/2016), had failed to fully comply with the submission of financial disclosure forms by members of the Senior Management Service.

**Figure 1.4: Compliance for financial disclosures in Gauteng (2011/12 – 2015/16)**



**Source: Public Service Commission (2017:13)**

Gauteng Province, as reflected in Figure 1.4, almost achieved full compliance during 2011/2012 and 2015/2016. The compliance rate of 99% and 99.60% was achieved respectively. There was a steady increase from 93% in 2012/2013 to 96% in 2014/2015. The reason for the low compliance rate during the 2012/2013 financial year was that the Gauteng Department of Infrastructure Development was 0% because they had failed to submit the disclosure forms by 31 May to the Public Service Commission. Five departments (Agriculture, Community Safety, Cooperative Governance and Traditional Affairs, Economic Development and Sports) achieved a compliance rate of 97%. This had an impact on the overall compliance rate for the Gauteng Province. It should be noted that full compliance with the submission does not address the alleviation of unethical conduct. The most important intervention is the actions taken by political principals to address the feedback reports with corrective action. The reports are submitted by the PSC after scrutiny of the financial disclosure forms.

For example, the PSC (2013:15) reports that in the Gauteng Province, 148 of the Gauteng Department of Local Government & Housing financial disclosure forms (had since divided to: Gauteng Department of Human Settlement and Gauteng Department of Cooperative Governance and Traditional Affairs) and Gauteng Department of Roads and Transport was scrutinised. A total of 52 cases of potential conflict of interest were identified. The PSC revealed that neither 60 officials had disclosed their companies nor eight officials their properties. The PSC had

recommended that the Executive Authorities should take appropriate action against the Senior Management Service (SMS) members who had failed to submit their financial disclosure forms including those who had not disclosed their financial interests. However, the PSC received no feedback from the relevant Executive Authorities. Furthermore, the PSC (2017:21) reports that for the 2015/2016 financial year, 25% (198 out of 802) of the SMS in Gauteng were involved in actions that could be interpreted as conflict of interest.

Failure by political principals to communicate the implementation of the disciplinary measures with the PSC should be a concern. The political principals are required to implement the anti-corruption legislation. The argument is supported by Pillay (2014a:61) who asserts that public sector managers should set a good example by unflinchingly and actively demonstrating uncompromised ethical standards on a daily basis, and in this way, they should “set the tone from the top”. According to Cockcroft (2014:3), the junior officials in the public sector tend to notice unethical conduct among senior officials and often utilise this to defend their own unethical behaviour. Hence, senior officials are always encouraged to be exemplary and serve as role models to their subordinates.

Thirdly, Magubane and Nthangeni (2014:1) reported that the PSC noted that the Gauteng Provincial Government departments were losing millions of Rand through maladministration and in remuneration to suspended staff (Business Day 09 October 2014). Salaries paid to the officials implicated in maladministration are a cause for concern because of their questionable conduct. However, the process is legislated in South Africa and the only reasonable intervention to address the situation would be to fast track the disciplinary processes which tend to take longer than expected. More importantly, government should deal decisively with these cases with a view to convey a strong message that will deter others from participating in corrupt activities.

Fourthly, the Auditor-General of South Africa (2013/2014:9) raised concerns that the Gauteng Province had findings of non-compliance with the effective implementation of anti-corruption legislation. The absence of controls and procurement of goods and services is highlighted as an area that needed attention. The Auditor-General of South Africa (2013/2014) further stated that controls need to be strengthened

because these serve as an effective instrument to minimise opportunities for corruption. The subsequent Auditor-General of South Africa (2014/2015:30-33) and (2015/2016:196-197) continued to raise concerns with non-compliance of legislation in Gauteng. The four cases highlight weaknesses in not having applied anti-corruption legislation in the Gauteng Province. The consequences are severe as millions of Rand of tax payer's money is lost and corrupt officials are not punished accordingly.

Woods (2010:1-2) posits three essential public sector situations against which anti-corruption initiatives should be conceptualised. The first situation considers corruption as a serious problem. Observers speculate corruption as having become systemic within the governments daily operations in South Africa. The second situation refers to the inability of government to address the problem because there has been a constant increase of anti-corruption legislation, policies, institutions, and other initiatives but corruption in government has continued unabated. The third scenario takes cognisance of the confusion that exists around the nature and causes of corruption. The second scenario by Woods (2010) is the most relevant to this research. If the South African government can implement the professional ethics and anti-corruption legislation, policies as well as effective functioning of the anti-corruption institutions effectively, then, the other two scenarios by Woods (2010) would be dealt with decisively.

Montlanthe (2013:17) encourages the elevation of public administration values and principles because these are crucial to realise the developmental priorities of a country. Evidence points towards non-compliance with the existing professional ethics and anti-corruption legislation. According to Chipkin (2016:3), non-compliance can be as a result of operational processes, which are poorly designed or inadequately trained personnel. The causes of non-compliance with existing professional ethics and anti-corruption legislation in Gauteng at this stage of the study are unknown. Pillay (2014a:54) posits that experience has revealed to build on and benefit from the established knowledge, additional research and analysis needs to be conducted on a specific environment within which corruption is unknown to have taken place, for example, the public sector of a particular country. Hence, the Social Sector Cluster in Gauteng Province was selected for this study.

The research on the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in Gauteng is appropriate because ethical conduct and anti-corruption initiatives are the cornerstone to entrench the desired organisational culture, which the Fifth Administration in Gauteng Province seeks to promote. The public service ethos is a foundation of the desired organisational culture which is important to achieve the strategic objectives of the Gauteng Province. It is endeavoured that the study will contribute towards the elimination of certain challenges experienced with the implementation of the professional ethics and anti-corruption legislation in the Gauteng Province. The study also has a probable value because the proposed framework for the Gauteng Province can be used to strengthen new measures that are being introduced by the Fifth Administration in Gauteng including other provinces in South Africa and abroad. The research intends to supplement the existing strategies for effective implementation of professional ethics and anti-corruption legislation.

### **1.3 LITERATURE REVIEW**

Hofstee (2013:91) argues that a sound literature review is comprehensive, critical and contextualised. The significance of the literature review is also highlighted by Kumar (2014:374) who posits that a sound literary assessment includes the perusal of current literature which is linked to the research problem with a view to locate the need of the study that is being conducted. However, Howard (2014:101) asserts that the purpose of the literature review is to determine the preceding research on the subject matter and further ascertain the leading ideas that are pertinent to the study.

Holtzhausen (2007a:46) acknowledges that the deeds of the past as well as immoral restraints contributes somewhat towards the current challenges faced by the authorities. The challenges of corruption and unethical behaviour are not unique to South Africa because most countries seem increasingly concerned about the nature and state thereof. The fight against corruption has been elevated on many countries agendas because it has been identified as a setback to achieve their developmental goals. Dassah (2008:39) asserts that the global pervasiveness of corruption is reflected in the fact that it is not a unique problem of any locality, country or region.

The literature review for this study is divided into three categories namely: international, continental and national perspectives.

### **1.3.1 International perspectives**

According to the Department of Public Service and Administration and School of Government (2013:82), South Africa, as part of the global community has signed and ratified international instruments as follows:

- The United Nations Convention Against Corruption;
- The United Nations Convention Against Transnational Organised Crime;
- The Organisation of Economic Cooperation and Development Convention on Bribery of Foreign Public Officials in International Business Transactions;
- The African Union Convention on Preventing and Combating Corruption; and
- The Southern African Development Community Protocol Against Corruption.

South Africa signed and ratified the aforementioned conventions because they are part of the global community and in most instances perpetrators move across countries. This requires the cooperation of other countries so that the perpetrators can be deported home to face the consequences of their corrupt behaviour.

One of the broad and cross-cutting findings of the Transparency International (2017:28), which is based on the assessment of whether South Africa is meeting its commitment in the G20 Data Principles, is that in terms of anti-corruption, South Africa is “commitment-rich but implementation-poor”. It is important to note that Transparency International, which is a global coalition against corruption, conducts the Corruption Perception Index to verify the extent of supposed levels of unethical behaviour by public servants and politicians in several countries. According to the 2016 Transparency International’s Corruption Perception Index (CPI), South Africa is in joint position 64 with Senegal out of 176 countries. Before 2016, the results revealed that public perceptions about unethical behaviour by public servants and politicians in South Africa have been decreasing progressively between 2013 and 2015. A cause for concern is that the 2016 CPI results reveal that South Africa,

which seeks to be the gateway to the African continent, to have scored lower than Botswana (35), Cape Verde (38), Mauritius (50), Rwanda (50) and Namibia (53). Gauteng Province should be concerned about South Africa compared particularly to other African countries because it is a leading economy, primary driver of the Southern African Development Community (SADC) as well as a key player on the African continent's economy. Gauteng Province also seeks to be in the forefront of Africa's new industrial revolution, which entails being a gateway for foreign direct investment to the continent. However, it will be difficult for Gauteng to be a gateway to Africa if the country is perceived corrupt. The objective of 'cleaning' South Africa should commence at the provincial sphere.

The existence of anti-corruption laws, regulations and institutions is no guarantee that corrupt activities will not transpire in society. For example, South Africa is performing poorly compared to Scandinavian countries in the international surveys. However, comparing South Africa in most instances to the Scandinavian countries does not provide a balanced comparison because each has differing profiles. Salminen, Viinamaki and Ikola-Norrbacka (2007:83) states that trust is and has been an essential aspect of responsible government and sound administration in all Scandinavian countries. Specific experiences by these countries reveal that public servants change of attitude is needed to win the fight against corruption. Madonsela (2013:28) concurs with this view and argues that improved public-service productivity requires action than written commitments. A productive or effective and efficient service-delivery machine depends on those responsible for executing public duties and realise that they are employed to serve the public and not to enrich themselves.

Poochaoren (2014:9) posits that in Finland, the low levels of corruption are influenced by respect for the law and unambiguous regulations on the supervision of donations or gifts for those in public office. It is with this knowledge and understanding that Salminen and Mantysalo (2013:167) argue that the existence of professional ethics and anti-corruption legislation does not improve decision-making and cannot necessarily guarantee ethical behaviour. Salminen et al. (2007:86) reveal that public shame is practised in Finnish civil society. If one is caught red-handed for offering or accepting bribes, the social disgrace is substantial. Naming and shaming of those who are guilty of corrupt activities is strongly recommended in South Africa.

However, registers intended for these purposes always remains blank because of failure to effectively implement the regulation. The research will also consider processes to ensure effective implementation of professional ethics and anti-corruption legislation. For example, it is important to establish whether Gauteng has a register and published names of corrupt officials with the intention to expose those involved in fraudulent activities.

Another Scandinavian country, Denmark, is internationally commended for consistently demonstrating a high ethical position. The primary reason which is widely attributed to this attitude is that the Danes have a very high degree of confidence in other individuals and in their processes. Denmark as compared to South Africa has limited sound legislation and regulations *vis-à-vis* corruption. Danish criminal law is categorically clear that their citizens are not allowed to take bribes even when they are outside the Danish territory (Norrning 2013:2-3). The views of Norring (2013) correlates with those of Transparency International Denmark (2012:iv) which declares that Danish institutions have relatively few formal rules of integrity and anti-corruption. However, despite the low degree of formalisation in Denmark, there is a strong tradition of integrity. Disoloane (2010:439) argues that the primary challenge of utilising legislation and codes of conduct to manage challenges related to professional ethics is that it counters the actual nature of public servant's occupation. The aforementioned examples of Finland and Denmark underscore that laws and regulation are inadequate measures to eliminate corrupt activities. Could it be that self-control and adherence to the values governing public administration by public servants is what is ultimately needed?

Corruption is viewed by Makhura (2014b:2) as a systemic and societal problem that requires a comprehensive, holistic and united response and action by different sectors of society. Makhura's (2014b) perception correlates with that of Poochaoren (2014:2) who further argues that the focus should be on building anti-corruption networks by deliberately linking existing organisations through collaborative governance. The primary objective for is to develop a framework for studying collaborations of anti-corruption work (Poochaoren 2014). Based on interviews and document analyses, the study by Poochaoren (2014) investigates Japan, South Korea, Singapore, Sweden, Finland and Norway of their experiences. The research



provides a discussion on types of collaboration based on five dimensions namely: type of unethical behaviour, kind of anti-corruption work, purpose of collaboration, nature of collaboration and the actors of the collaboration.

Research conducted by Poochaoren (2014:2) seeks to respond to two questions. Firstly, what kinds of collaboration exist in work related to anti-corruption? Secondly, how does collaboration enhance anti-corruption effectiveness and what are the challenges? Poochaoren (2014:2) provides a fresh analysis of issues on who to collaborate with, when to collaborate, what to collaborate on and how to sustain the collaboration. Poochaoren (2014:24) advises that waiting for political will or rely on a single agency to combat corruption will not provide solutions. Furthermore, in this era of governance, the focus should shift to collaboration among anti-corruption institutions. Theron and Lotter (2012:96) concur with Poochaoren (2014) to encourage community participation in the fight against corruption because evidence has revealed that legislation alone cannot address the challenge of unethical behaviour.

The establishment of the National Anti-Corruption Forum (NACF) in 2001 created an expectation that South Africa would have an effective multi-sectoral anti-corruption body to lead anti-corruption programmes in the country. After a promising start, the NACF has become ineffective. However, an opportunity exists for the formation of a provincial anti-corruption forum which can comprise of representatives from various sectors to collectively confront challenges of corruption in the province. The research will also explore the collaborative efforts that have been undertaken in the Gauteng Province to address corrupt activities.

One of the objectives of a multi-sectoral anti-corruption forum is to share successful strategies on sectoral anti-corruption programmes. Ates (2012:27) assesses the perceptions held by employees and citizens about ethics in the service province in Turkey and their influence upon attitudes of both parties against unethical behaviour in the title-service workplace. The findings revealed that an unethical environment and ambiguous understanding of ethical behaviour had resulted in certain deficiencies although the employees possess business ethics skills. The findings by Ates (2012) provide certain basic reasons worth considering for the ineffective

implementation of professional ethics and anti-corruption legislation in South Africa. These findings further forewarn that the environment within which the policies are implemented also need to be conducive.

Kaptein (2008:1) confirms and amends the Corporate Ethical Virtues Model to develop standards for an ideal organisation to position integrity management is at the centre of its business processes. Kaptein (2008) recommends that the instrument used for data collection can be considered by researchers to evaluate the moral standing of the respective institutions. The instrument is based on eight features of ethical culture, namely: transparency, discussability, feasibility, supportability, and congruence of values of supervisors, congruence of values of management, clarity and sanctionability. Webb (2012) adds three additional features (external service providers' role in corruption, offender's role in corruption and unions) and focuses on the national Department of Correctional Services in South Africa to support the implementation of policies intended to address unethical conduct among public servants. The research by Webb (2012) conforms to this study. However, the focus of this study concentrates on the nine departments in the Social Sector Cluster at the provincial sphere of government. Certain relevant 11 ethical virtues, which comprise eight identified by Kaptein (2008) and an additional three by Webb (2012), could assist to assess the implementation of ethics and anti-corruption programmes within the Gauteng Provincial Government departments.

Another aspect of the literature review focusing on international perspectives considers the role of religion in ensuring an ethical society. Section 15(1) of the Constitution of the Republic of South Africa, 1996, stipulates the rights of individuals to be associated with and express views about the religion of their choice. The South African Yearbook (2015/16:4) confirms that South Africa as a democratic country encourages its citizens to affiliate to the religion of their choice and it is further reported that the population is affiliated to religious formations as follows:

- Christian – 79.8%;
- Islam – 1.5%;
- Hinduism – 1.2%;
- African traditional belief – 0.3%;

- Judaism – 0.2%;
- No religion – 15%;
- Undetermined about their faith – 1.4%; and
- Other beliefs – 0.6%.

Cockcroft (2014:81) argues that ethical conduct is the foundation of all the religious groups while corrupt practices are commonly perceived as against religious traditions. In fact, there is a religious consensus that corruption always implies a betrayal of trust by its beneficiaries at the expense of others. The specific religious teachings on ethics and anti-corruption can be summarised as follows:

- **Judaic tradition** – interprets corruption as the subversion of justice (Cockcroft 2014:83). The written laws are imperative and vital to every individual and society. The Ten Commandments were the pillar of moral guidance to eradicate corruption. Civil laws dealt directly with corruption and its repercussions. The consequences of undermining these laws were primarily death. Though civil laws could not transform the heart, they restrained and limited the corrupt.
- **Confucian tradition** – accentuates the need to preserve the personal morality of the Prince (Cockcroft 2014:83). The teaching is that charity begins at home. Good family values at home must be encouraged to eradicate corrupt tendencies at the state level i.e. the accentuation on family morals and codes is vital to eradicate corruption. The philosophy of the Prince must be impersonated sophisticatedly in every society. Hooker (2009:265) clarifies that individuals in a Confucian system have trust in their mothers and fathers and are also heavily indebted to their ancestors. In this system individuals get satisfaction when they have good personal relations with their peers in society and self-interest is discouraged.
- **Hindu teachings** – stresses the constant struggle against corruption as a danger to the state and the creation of a virtuous society (Cockcroft 2014:84). The consciousness of the divine of the many gods and goddesses is invaluable. Honesty and embodying the moral capacity to the highest level

must be practically exalted. A society order is created under a singular responsibility.

- **Islam teachings** – focus on corruption as a threat to a disinterested divine leadership and authority (Cockcroft 2014:84). Stultifying the religious authority means punishment in the form of death. The consequences resonate and emanates depending on the sect of Islam, for example, the punishment in Sunni Islam is different from Shiite Islam, and that in the latter the punishment is often death. Allah is supreme and the writings of Prophet Muhammad must be adhered to by all.
- **African tradition** – accentuates on having a nexus with society and not only to have a proximity with the community but to be actively and emotionally involved in it. A danger to one is a danger to all and corruption is betrayal of self and to the society. The concept of *ubuntu* (humanity – doing to others as you want them to do to you) is the fundamental pillar in eradicating corruption. Sindane (2011:758) rightly argues that the *ubuntu* ethic which encourages promotion of societal values should be welcomed and extended to those entrusted with leading the society.
- **Atheism** – is a belief that God does not exist. This does not justify the increasing levels of corruption within our society because Atheists believe that human beings are inherently capable of being good and are intrinsically born knowing the difference between good and evil. At conception and as a person grows, there are tendencies to making right choices and shun corruption in society. However, the way to curb corruption is not affiliated in any divine aspect but laws set by human being and authorities governed by people (T. Sikweza, personal communication, June 12, 2015).

The common factor in all religious beliefs is that corruption is castigated. It is difficult to understand the high levels of corruption in a highly religious society such as South Africa. For example, the fact that approximately 80% of the population should be a deadly weapon in the fight against corruption on its own. Vorster (2012:140-142)

persuasively argues that “churches are by definition moral agents” and can use their existence within the spheres of the South African society to demonise corruption among its members. It is further argued that churches should support the implementation of professional ethics and anti-corruption legislation by constantly observing the performance of all sectors of society, particularly the public sector due to its crucial role. Theron and Lotter (2012:110) summarise the life of a Christian and accentuate that Christians need to mimic Jesus Christ because it would assist them to avoid being materialistic and be trusted individuals. The religious sector has a part to play in the implementation of professional ethics and anti-corruption legislation. In fact, their role is to sensitise their members and remind them that corruption is reprimanded in their beliefs.

### **1.3.2 Continental perspectives**

This section of the research focuses on the continental perspective of ethics and anti-corruption measures. Ijeoma (2007:183) asserts that corruption is a serious threat to the success of developmental programmes on the African continent and can only be addressed by applying the rule of law and establishing the accountability measures in all sectors of society. Cockcroft (2014:4) posits that although progress has been made to address the Millennium Development Goals (2015), corruption has been a major impediment in reaching their achievements. The effective implementation of professional ethics and anti-corruption legislation could contribute towards efforts of ensuring that the newly launched Sustainable Development Goals (2030), known as Global Goals, are implemented effectively by South Africa.

Dassah (2008:44-49) attributes corruption that has become prevalent in many African countries public sector to colonialism as well as cultural relativism. Drivers of public sector corruption in most developing countries are numerous, many being country-specific, including: the extended family system and strong ties to ethnic group identity; lack of devotion to the public service; monopoly and wide discretionary powers wielded by officials without corresponding accountability; poor defined ethical standards; low salaries and no rewards for performance. Sebola (2014:1004) argues that African law-makers and implementers are a long way from achieving good governance because their values of public administration is merely to

pursue best practices in foreign countries, which is not applicable in the African context. Sebola concludes that Africans are rarely in a sound position to respect their own constitutional values because these are uncoordinated within their context. These views, therefore, bemoan the poor implementation of professional ethics and anti-corruption legislation by majority of the African countries.

There is a rare positive effect of graft on economic progress. The research conducted by Forgues-Puccio and Okumu (2012:1-2) focuses on the role of the economy in justifying the influence of unethical conduct by public servants on economic development and argue that the extent of the economy could be a key element in determining the effects of corruption on modernisation while economic growth can be subjected to the predictability of kickbacks. It is further stated that businesses that have right of entry to large marketplaces are capable of functioning on a large scale and therefore maximise their returns. The condition reinforces the negotiating authority of companies when discussions are held with unethical public servants and more notably, greater negotiating authority results in lower kickbacks and a lower impact of unethical conduct on the progress of the economy.

The South African Yearbook (2015/2016:6) underscores that Gauteng Province remains the most populous in South Africa with 13 200 300 (24,0%). Gauteng contributes 33.9% to South Africa's Gross Domestic Product (GDP) and is also one of the biggest contributors to the economy of the continent. Gauteng constitutes 47.7% of employees' remuneration in South Africa, and further accounts for 50.4% of all company turnovers in the country. The study by Forgues-Puccio and Okumu (2012) provides hope that corruption, where identified between public servants and service providers in the Gauteng Province can be reduced substantially. Gauteng Province, being the economic hub on the continent is able to attract multi-national firms who have bargaining power in instances of corrupt public servants requesting bribes. The Gauteng firms bargaining power will assist to avoid a situation such as the east Asian 'Tigers', as reported by Cockcroft (2014:69). The latter economies leaped ahead in the 1980s and 1990s, and high levels of corruption including investment in local resources were consistent and extremely high. An ideal environment for the Gauteng Province is one of economic development

accompanied by an effective implementation of professional ethics and anti-corruption legislation. This scenario would promote integrity and ethical environment.

Coetzee (2014) delineates the consequences of corruption on the implementation of developmental goals of a country and reveals that corruption inhibits the establishment of a healthy marketplace, fosters mismanagement in public institutions, and distorts and undermines development. Coetzee (2014) adopted the systems thinking research methodology and specifically the soft systems approach. Coetzee (2014:834) recommends as Akinola and Uzodike (2014:41) that any attempt to change a corrupt culture must reduce the incentives for or benefits of corruption, increase the costs – punishment for and risks of participating (for example, scandals) – and create protection and incentives (for example, financial) for taking the risk of reporting corruption. Stated differently, Olum (2014:605) asserts that public accountability denounces unethical behaviour since it delays the progress of the developmental programmes by, among others, diverting scarce resources and eventually destroying citizens' faith public processes. Although the Gauteng Province is the economic hub on the African continent, there are still several developmental challenges that require urgent attention by the provincial government. It is for this reason that this study will assist public servants to maintain a highest standard of professional ethics at all times.

Ssonko (2010:02) specifically describes the Ugandan situation regarding pillars of integrity in the country's public service and notes that more effort is needed for the application of ethics programmes if the Ugandan government is to eliminate the scourge of corruption. Furthermore, Olum (2014:603) cites lack of professional ethics and accountability as reasons that the Ugandan public service is executing its responsibilities poorly.

Moreover, Olum (2014:604) argues that senior public servants in Uganda have not been exemplary to the public by constantly abusing public resources. Muhumuza (2016:73) reveals that authorities in Uganda do not seem to be interested in tightening the legislation intended to fight corruption because they protect their unethical behaviour. The challenges experienced with the implementation of the professional ethics and anti-corruption legislation are not unique to South Africa only.

The proposed implementation framework also has the potential to assist other African countries.

Haruna (2008:114) writes that Ghana has intensified its ethics management consideration of “economic exchange based on rational self-interest”. However, this approach has its shortcoming because the expected behaviour of those entrusted with public resources cannot be separated from or must be informed by the collective, traditional and past understandings. Haruna (2008:116-123) further posits that Ghana has accentuated the compliance-integrity model. The Ghanaian experience reveals that the model will not maintain a consistent level of integrity and advises that robust competence that offers understanding in work ethos for prioritising human respect is needed for the successful application of the compliance-integrity model. Conforming to the identified gap in the literature review on evaluating the implementation of professional ethics and anti-corruption legislation in Gauteng, Haruna (2008:121) highlights that Ghana still needs to develop an effective framework to apply its existing legislation. This strengthens the intention to address ineffective implementation of existing policies that are intended to control the levels of corruption.

### **1.3.3 National perspectives**

Kumar (2014:48) asserts that literature review is an essential aspect of the research process and influences practically all the steps of the research. The literature review, having considered both the international and continental perspectives thus far, will now focus on issues ‘closer to home’ because this section only considers the national perspectives. Woods (2010:1) raises a lingering concern that there has been a lack of rigorous, empirically based research which offers a comprehensive understanding of unethical conduct in the public sector work place in South Africa. This notion is further supported by Webb (2010a:286) including Mantzaris and Pillay (2013:115) who highlight that ethics and unethical behaviour in the South African public service, interestingly, has not attracted considerable academic and research attention and compares poorly to international standards. However, it should be underscored that ethics and corruption in South Africa is increasingly attracting the



attention of academics and research institutions. The national perspectives on the literature reviewed corresponds with this argument.

Corruption is viewed by Thornhill (2012:141) as an international challenge which requires an immediate intervention by those in leadership positions to ensure that developmental programmes are not affected consistently. Although the Constitution of the Republic of South Africa, 1996 does not mention the term anti-corruption, Section 195(1)(a) unequivocally stipulates that ethical conduct must be encouraged and preserved in the public sector. The fact that the term anti-corruption is not cited in the Constitution should be perceived as positive thinking and inspiring rather than ignorance of this significant challenge. Citizens need to be motivated to promote and maintain the highest standard of professionalism in all sectors of society. As already highlighted, the government in South Africa has also committed itself to several ethics and anti-corruption legislation.

Whistle-blowing remains a contentious issue in South Africa particularly with cases that are reported in the media about the victimisation or in certain instances assassination of whistle-blowers. Holtzhausen (2007b) analyses and evaluates the factors associated with whistle-blowing that impacts on the safety of personnel who make lawful and/or unlawful revelations. Webb (2010a:296) advises that efforts and resources should be redirected to promote an ethical culture due to the apparent ineffectiveness of whistle-blowing measures inhibit corruption in the public service. Holtzhausen (2012:100) concurs that integrity management programmes which focus on promoting organisational culture should be established in addition to effective mechanisms of blowing the whistle. The formulation of an implementation framework for professional ethics and anti-corruption legislation in the Social Sector Cluster departments will, among others, support the existence of an easily accessible instrument to report corruption and how best to manage with the challenges associated with the implementation of the Protected Disclosure Act, 2000 (Act 26 of 2000) – which is being reviewed.

Camerer (2009) assesses the effectiveness of public sector anti-corruption reform efforts in democratic South Africa with secondary data used in the public domain. Furthermore, Camerer (2009:9) asserts that the arms deal case study clearly

demonstrates the difficulties of addressing grand corruption because senior public servants and politicians would do anything in their power to frustrate the investigation processes. Camerer (2009:358) further contends, among others, that political will is not yet been demonstrated in South Africa although there is a remarkable combination of legislation and institutions to address unethical conduct in the public sector. This is highlighted by Klitgaard (2008:4) who advises that those entrusted to lead the anti-corruption programmes need to demonstrate through action the seriousness of their efforts by addressing grand corruption to eliminate the idea that “big fish will swim free” or that “the powerful enjoy impunity”. It is thus suggested that one step is to “fry some big fish”.

Although there are signs that the Fifth Administration (democratically elected government since 1994) in Gauteng Province is stamping their authority in the fight against corruption, time will tell if “big fishes will indeed be fried”. The argument presented by the public is that the “bigger fishes” (read: politicians and senior government officials) are still walking free and are untouchable in the fight against corruption. Masebe (2015) announces the dismissal of the former Head of the Gauteng Provincial Treasury, Mr Stuart Lumka, by the Gauteng Provincial Government after an independent disciplinary process was instituted and concluded that he was guilty of financial misconduct. Mr Lumka was charged with paying R48.8m to Shimo IT Solutions when the Gauteng Provincial Treasury had no legal obligations to do so. In conforming to the Public Finance Management Act, 1999 (Act 1 of 1999), it was reported that GPG requested the State Attorney to advise on the possibility of recovering monies misappropriated by Mr Lumka. The public will always argue that more can be done to manage grand corruption in the Gauteng Province if the existing legislation is implemented effectively.

Edwards (2007:33) argues that although ethical frameworks have been implemented, the constant questioning and striving to acquire techniques to improve public official’s ethical conduct and accountability must continue. Edwards discusses the perspectives on ethics and accountability (what is ethics?), ethical challenges in the public sector (why ethics?) as well as precise approaches to ensure ethical fitness of public officials (how to reinforce ethical conduct?). The research by Edwards (2007) does not focus on any particular national, provincial or local sphere

but rather generalised for all public officials. Edwards (2007:33) concludes that although a variety of strategies and activities can be undertaken to improve ethical conduct, the proof of success lies in the successful implementation and compliance of ethical frameworks. The research on the implementation of professional ethics and anti-corruption initiatives in Gauteng Province, as encouraged by Edwards, seeks to pursue an approach that will improve the ethical fitness of public officials with a specific reference to the Gauteng Province.

It is important to note that assessment of the implementation of professional ethics and anti-corruption initiatives in the Gauteng Province is a new research topic that specifically focuses on this province. However, there is limited research that focuses on the National Department of Correctional Services (Webb 2010b), Eastern Cape Department of Education (Basopu 2010), Eastern Cape/Northern Cape (Majila 2012) and Western Cape Treasury (Opperman 2014) and Capricorn District Municipality in Limpopo Province (Disoloane 2012) which is focusing on a municipality in South Africa.

The Public Service Anti-Corruption Strategy (PSACS) was developed by the DPSA to articulate government's commitment to decisively manage unethical conduct in the national and provincial spheres of government. Webb (2010b) evaluates, among others, the ethical culture of the Department of Correctional Services. The primary research objective Webb's (2010b) study was to establish how the application of the PSACS might be strengthened. The study concluded that the understanding of policies intended to address unethical conduct result in regular application of punishment and public servants enhance their accessibility to resources and time to perform their duties and more significantly, the level of experienced corruption can be expected to be condensed. The proper application of the PSACS is sufficient to improve ethical culture in the public service. This study's elements for consideration will assist the Gauteng Province to implement the PSACS effectively.

Basopu (2010) assesses the challenges of corruption in the Eastern Cape Department Education, particularly the achievements and the limitations that have been experienced. Basopu (2010:88) established glaring evidence of non-compliance to the Public Financial Management Act, 1999 (Act 1 of 1999), the

National Treasury Regulations, Public Service Regulations, 2001 (Chapters 2 and 3) the Procurement Procedures for the Eastern Cape Department of Education and other anti-corruption policies. The challenges with implementation of anti-corruption laws and regulations as well as the ineffectiveness of the Anti-Corruption Unit established at the Office of the Premier in Eastern Cape are noted. These findings are relevant to the Gauteng Province because its Premier announced the establishment of the Integrity Management Unit which would be based at the Office of the Premier: Gauteng Province (Makhura 2014:03).

Majila (2012), who gathered information in a form of written questionnaires and semi-structured one-on-one interviews, scrutinised and equated the value of the anti-corruption statute and anti-corruption agencies in the Eastern Cape and Northern Cape Provinces. The hypothesis for the study was that legislation enacted and institutions established to promote ethical conduct are adequate to minimise the levels of corruption. One of the findings of the study which conforms to the gap identified in the literature review states that there is a lack of clear, strong and enforceable legal framework. The research on the assessment of ethics and anti-corruption programmes in Gauteng Province move from the premise that there is adequate professional ethics and anti-corruption legislation formulated by the national government. However, enforceability of professional ethics and anti-corruption legislation is creating challenges. Hence, an anti-corruption implementation framework is being developed for the Gauteng Province.

Majila (2012:226) further argues that anti-corruption legislation is open to interpretation by enforcement agencies which makes them vulnerable to deliberate misapprehension. This has led to unprotected whistle-blowers being victimised because of blowing the whistle and communities have become too afraid to blow the whistle on alleged corruption. Majila (2012:244-246) accentuates that the existing anti-corruption legislation in South Africa is ineffective. Limited compliance with anti-corruption legislation and a lack of enforcement, therefore, are the major challenges. According to the respondents in the Eastern Cape and Northern Cape Provinces, the legislation intended to address unethical conduct in South Africa fails to detect, investigate, prosecute, punish, prevent or enforce as they are expected to. However, the research concludes and generalises without any evidence that non-compliance is

a South African challenge whereas the focus of the research was only in Eastern Cape and Northern Cape. It is important that provinces are considered separately.

In a research that focused on another province in South Africa, Opperman (2014) adopted the mixed methods approach to examine the effectiveness of the computerised procurement system at the Western Cape Provincial Treasury to prevent fraud and corruption. Opperman (2014:89) concluded that accurate application of the ethics and anti-corruption policies are vital for the prevention of fraud and corruption. Opperman (2014) further suggests that there is a need for research to be conducted on the effectivity of the implementation of legislation to inhibit unethical behaviour. The research in the Gauteng Province will consider all nine provincial departments under the Social Sector Cluster. The provincial perspective on the implementation of professional ethics and anti-corruption legislation will be compiled.

The local sphere of government in South Africa is not immune to corrupt activities. Madumo (2012:87) argues that one of the major reasons for the failure of the local sphere of government in South Africa to provide basic services is unethical conduct and the lack of qualified personnel. This is of great concern. Koma (2012:127) asserts that the municipalities are the direct link between the general population and the government. It should be noted that the research in Gauteng Province will focus particularly on the Gauteng Provincial Government departments. All the municipalities and government entities in the province were excluded for this study. However, it is important to highlight the research that was conducted on the local sphere of government. The intention is to reveal that the challenges with the implementation of professional ethics and anti-corruption legislation is experienced in all spheres of government in South Africa.

It is in this context that the research conducted by Disoloane (2012:1-8) who studied the approach towards the Code of Conduct by local government employees and political appointees at the Capricorn District Municipality in the Limpopo Province was considered. One of the findings by Disoloane (2012:viii) encourages that relevant human resources such as Ethics Officers be made available by the respective institutions in the public sector to improve ethical conduct. Disoloane

(2012) seems to suggest that the existing professional ethics and anti-corruption legislation in South Africa is adequate to implement proper conduct among employees and political appointees. This study also concurs that the existing legislation is adequate to address unethical conduct in South Africa. However, the implementation thereof is of serious concern. In most instances, provincial and local spheres of government are governed by different legislation, regulations and rules. That is the primary reason for the exclusion of municipalities in the research. The research was conducted by Disoloane (2012) in Limpopo Province and on the local sphere of government. Consequently, the recommendations on the effective implementation of professional ethics and anti-corruption legislation for the Social Sector Cluster in the Gauteng Province are inapplicable.

Masiapata (2007) evaluates the application of the ethical framework in the Crime Prevention Unit of the Johannesburg Central Police Station and aims to propose strategies to enhance positive work ethic and ethos in the Crime Prevention Unit of the Johannesburg Central Police Station. Masiapata (2007:126) recommends, among others, the establishment of effective measures for consequence management. Furthermore, it was concluded, among others, to encourage the enhancement of mechanisms for ethical conduct in the police service. The Johannesburg Police Station is situated in Gauteng Province but does not directly report to the Gauteng Provincial Government but rather to the South African Police Services. The research by Masiapata (2007) is relevant to the study but does not provide a framework for the effective implementation of professional ethics and anti-corruption legislation.

The literature review for this study considered the National Treasury (2012:13) which accentuates that ineffective implementation of legislation is one of the major causes of unethical behaviour which is often neglected in public discourse and in policy circles. The causes of ineffective implementation of legislation include, *inter alia*, the lack of consequences, absence of qualified individuals, non-monitoring of realistic annual performance plans, specific vulnerabilities in the supply chain management system and poor working relations between politicians and administrators. Research conducted by the National Treasury (2012) adopted the mixed method approach, that is, secondary sources and primary research with respondents. The major

recommendation from the study revealed that the structural as well as monetary and human resources flaws within the public sector should be addressed to minimise the levels of corruption. However, this well-conducted research and thorough documentation by the National Treasury (2012) disregards proposing a model for anti-corruption legislation. Departments in all spheres of government still require assistance in this regard.

The above literature review provided the theoretical background of ethics and anti-corruption. A detailed and relevant literature assessment should provide an extensive understanding of the research question which would clarify the significance of the question (Young and Miller 2008:62). The literature review provided in this research focused on international, continental and national perspectives. The common feature presented by various academics and research institutions is that anti-corruption legislation is inadequate to fight corruption if not accompanied by robust implementation thereof. This is critical to minimise the levels of corruption. Thus, this research sought to propose a framework for the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.

#### **1.4 CONCEPTUAL FRAMEWORK**

The conceptual framework illustrates the relationships between the concepts/constructs/variables as a set of ideas that guides the inquiry and utilised to structure the research, literature review and data analysis. It is important to outline the relationship between concepts, constructs and variables. Bryman (2016:111) postulates that “concepts are the building blocks of theory and are the points around which social research is conducted”. Variables are explained by Johnson (2015:20) as “the observable characteristics of a concept”. The effective implementation of ethics and anti-corruption legislation cannot be reduced to a response to a single question. Hence, the data is gathered by a questionnaire with a series of questions. The relevant concepts of corruption, ethics and professional ethics is defined in the following section. It is hoped that the clarification of the concepts will contribute towards a better understanding of the challenges experienced with the implementation of professionalism and anti-corruption legislation.

### 1.4.1 Corruption

According to Mungiu-Pippidi (2013a:1254), 'corruption' under dictatorships and primitive governments is not the same as in its contemporary form. Cuervo-Cazurra (2015:3) observes that corruption tends to be quantified to reflect the imbursement of the kickback rather than both aspects, that is, the imbursement and the receiver of the kickback. Thus, Johannsen and Pedersen (2012:133) suggest that the implementation of consequence management can punish both parties involved in a corrupt transaction. However, this is only possible if the prospect of being held is appropriately high. Hence, there is a need for updated anti-corruption systems and strategies to manage all acts of corruption decisively.

The South African context, the Prevention and Combating of Corrupt Activities Act (PRECCA), 2004 (Act 12 of 2004) prescribes to address unethical conduct in all its forms and reinstates the collective act of bribery. In terms of this Act, merely proposing to bribe an individual whether the person consents to or not, is considered unethical conduct. PRECCA is complemented by the Public Service Anti-Corruption Strategy (2002:11) which describes corruption as any behaviour by public officials who are delegated duties in public administration which infringes on their responsibilities as public servants and result in undue benefits of any kind. The one area that is less contentious is that all sectors of society in South Africa a corrupt relation in most instances involves two individuals ("it takes two to tango"). PRECCA advocates the punishment of both the official who is takes the bribe and the receiver thereof.

Persson and Rothstein (2015:235) assert that unethical conduct transpires when the representatives deceive their public interest by prioritising private interest, that is, when public officials "misuse public office for private gain". Bauhr, Nasiritousi, Oscarsson and Persson (2010:2) concur with the definition of corruption and further argue that the utilisation of the characterisation to daily experiences is not permanently precise. Bauhr et al. (2010:7) further suggest that it is perceived that defining unethical conduct should also apply to those acts that might result in unjustified influence by manipulating existing rules. Rothstein (2014:737) argues that a collective, unidimensional and practical definition should be preferred and suggests



impartiality as the basic standard for the implementation of legislation. The proposition, therefore, that corruption should be clearly defined does not seem to be a determining factor in South Africa because legislation is clear that both individuals involved in a corrupt deal are eligible for investigation and prosecution.

The question is: where do researchers locate the widely reported state capture by politicians in South Africa? Firstly, Navot (2014:368) submits that unethical conduct by politicians generally involves the utilisation of public resources in a way that disrupts the model of non-domination. Lavena (2013:345) notes that interpretations of unethical conduct that involve politicians is generally centred on the conceptualisation of conduct that transpires in the public sphere in which politician's work. However, Chipkin (2016:2) argues that "corruption, on these terms, is said to happen when politicians and officials lose sight of the public interest or public good and serve their own narrow needs and desires". Chipkin (2016:1) further reveals that "state capture is different from traditional 'corruption' in that many of its activities may be legal". Vorster (2012:133) suggests that the definition of corruption should also incorporate the immoral conducts in addition to the illegal actions. It might be difficult to prove that certain legal actions were actually corrupt activities in a court of law. Changing the politician's behaviour should be prioritised more than tightening the definition of corruption. Politicians who are involved in corrupt activities need to be reminded that the consequences of their deeds are devastating to the broader society, particularly the poorest of the poor.

#### **1.4.2 Ethics**

According to Haque (2011:172), the meaning of ethics comprises concerns linked to principles with respect to explaining and suggesting the decision-making processes and actions taken. The definition of ethics is connected to values and standards and as such entails added clarification to have a sound grasp of the definition of ethics. This view correlates with that of Lewis and Gilman (2012:5) and Vorster (2012:142) who reveal that ethics includes individual introspection about conduct and how an individual relates to other people. Vyas-Doorgapersad and Simmonds (2011:70) further assert that ethics is necessary for clean government processes and is centrally a response to governments that can be trusted. Ethics, therefore, must be

the foundation of government programmes in Gauteng Province to ensure a transparent provincial public administration.

Tomescu and Popescu (2013:202) remind officials entrusted with public resources that ethical conduct is consistently encouraged because it increases confidence in government processes. Programmes and legislation have been introduced in the public service to ensure that public servants are guided in the execution of their duties. However, these measures have proven inadequate to prevent unethical conduct. Dryburgh (2009:168) argues that “unethical conduct that transpires under the umbrella of the law undermines the integrity of the individual organisation and adds to the general scepticism regarding government”. Cox III and Haruna (2016:43) concur and further note that this unethical behaviour, especially if it is led by those at management level has a potential to collapse the functioning of an organisation. Hence, full implementation of ethics within an organisation should remain a priority because consequences are dire.

Hubert (2008:838) explains that “ethics refer to the collection of values and norms functioning as standards or yardsticks for assessing the integrity of one’s conduct”. The clarification by Hubert (2008) correlates with Cox III and Haruna (2016:27) who posit that ethics is the summation of the distinct selections. Anechiarico and Jacobs (1996) in Frederickson (2010:243) note with concern that the full implementation of traditional ethics in most instances failed to, amongst others, reduce unethical conduct at the party-political and electoral level because it focuses on minor ethics concerns such as mismanagement of computers, cars and cell phones. It can, therefore, be argued that the full implementation of ethics should not merely remain a priority within an organisation but also to be implemented proportionately across the various levels of employees without fear or favour.

### **1.4.3 Professionalism**

According to Lewis and Gilman (2012:291), professionalism refers to assertiveness or conduct that requires the standards of competency which is informed by the quality of being good. Lewis and Gilman (2012:297) further argue that true professionalism elevates ethics to the highest standard among all values. Edwards

(2008:79) asserts that an imperative feature of professionalism in a government setting is for public servants to can perform their formal responsibilities. Most importantly, Houston and Harding (2014:68) highlight that ethical conduct in the public service must be encouraged as a call to serve the country. Officials entrusted with the implementation of public programmes must be made aware that professionalism should always be prioritised.

It is noted that the term professionalism is synonymous to ethics since both require acceptable conduct by individuals in general. This conduct is paramount to public servants because they are entrusted with public resources. Wiriadinata (2014:65) advises that archetypal conduct by public servants should be demonstrated, in which public servants should be modest in the execution of their duties because this would result in members of the public emulating their conduct. Being professional and ethical does not spur any individual from ethical dilemmas. Morris and Bai (2014:183) caution that even those who are professional and ethical in their execution of duties are generally faced with conflicting demands that challenge their standards. The difference of how they manage these challenges is that their professionalism and ethical conduct assists them in making informed decisions that could stand public scrutiny.

## **1.5 THEORETICAL FRAMEWORK**

The theoretical framework of the study is outlined. However, Thornhill and van Dijk (2010:97-98) argue that “a theory is a system used for explaining phenomenon or activities to provide an understanding and relates to concepts relevant to the object of the study” and further highlight that “public administration takes place in a political framework which underscore that politics is about power and can, therefore, not always be scientifically justified and thus, the disciplined concerned with the administration should take its cue from an inexact basis, making the Discipline liable to untested facts or even the unpredictability of politics”. Auriacombe and Holtzhausen (2014:15) highlight that “theory is an interrelated set of definitions/concepts/constructs/propositions/hypothesis presenting a systemic analysis of a phenomenon (e.g. unemployment, democracy) by exploring, describing, explaining or describing it”.

The theoretical framework for this study included, *inter alia*, theories of public administration and management, including theories related to New Public Management, and anti-corruption legislation that is widely utilised in the international and national arena. Furthermore, theories and applicable legislation related to ethics will be utilised in this study. The public choice theory which is defined as “use of economic analysis to scrutinise the political process” (Larkin 2013:723) is also considered because it explains the behaviour of individuals and bureaucrats. This is relevant if the actions of those involved in corrupt activities is perceived as being self-serving at the expense of the citizens who are supposed to receive the resources from the public service.

The implementation theory also considered by the study. Paudel (2009:36) informs that “policy implementation encompasses those actions by public and private individuals or groups that are directed at the achievement of objectives set forth in policy decisions. The top-down, bottom-up and hybrid which are the schools of thought developed for studying and describing the policy implementation are critically analysed. The consideration of the implementation theory is underscored because the study is about the effective implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. It is important to highlight that Brynard (2010:194) as well as Lawton, Rayner, and Lasthuizen (2013:146) argue that the failure of public servants to implement the existing policies effectively can be partly because of the lack of understanding when the significant implementation responsibilities are not simplified. Hence, the focus on the implementation theory will assist to understand the challenges for effective implementation of ethics and anti-corruption legislation within the Social Sector Cluster in Gauteng.

## **1.6 PROBLEM STATEMENT**

Brynard, Hanekom and Brynard (2014:18) assert that a problem statement shows how the research is designed and most importantly, is the centre of the study. Stated differently, Kumar (2014:64) advises researchers to pay attention when articulating the problem because it essentially informs impending steps that follow i.e. study

design, sampling strategy, research instrument and type of analysis. The literature review (section 1.3) revealed that the necessary anti-corruption instruments have been implemented in virtually all communities around the world. The most significant factor that separates good corruption fighters from the weak is the effective implementation of anti-corruption instruments. However, the increase in the number of corrupt activities is caused by ineffective implementation of the available anti-corruption instruments.

The motivation (section 1.2) highlighted certain challenges in the Gauteng Provincial Government which are related to non-compliance with regulations, legislation and standard operating procedures. These are major impediments to the effective implementation of professional ethics and anti-corruption legislation.

The problem statement is based on the following premise:

- **Despite 14 anti-corruption institutions and more than 17 pieces of legislation, which is intended to combat corruption in South Africa, unethical conduct and corrupt acts continue to be the primary threat to achieve the strategic objectives of the Social Sector Cluster in the Gauteng Province.**

The main aim of the research was as follows:

- **The study aims to contribute towards the effective implementation of professional ethics and anti-corruption legislation by proposing a framework to assist the Social Sector Cluster in the Gauteng Province to successfully implement professional ethics and anti-corruption legislation.**

The primary research problem which was theoretically researched was:

- **How can the implementation of the professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province be enhanced?**

The study sought to address the following research questions:

- What informs the conceptualisation of professional ethics and anti-corruption within Public Administration?
- What are the international best practices on the implementation of professional ethics and anti-corruption legislation that can be adopted by the Social Sector Cluster in the Gauteng Province?
- To what extent are departments within the Social Sector Cluster in the Gauteng Province affected by corruption?
- What are the research findings in respect of the implementation of professional ethics and anti-corruption initiatives and where necessary, how can these be enhanced by the Social Sector Cluster in the Gauteng Province?
- What contribution could be made to ensure effective implementation of professional ethics and anti-corruption legislation by the Social Sector Cluster in the Gauteng Province?

Title of the study:

- ***Evaluation of the implementation of professional ethics and anti-corruption legislation: the case of the Social Sector Cluster in the Gauteng Province.***

## 1.7 RESEARCH OBJECTIVES

To achieve the aim of the research, the primary main objectives are as follows:

- To conceptualise professional ethics and anti-corruption within Public Administration.

- To examine the international best practice on the implementation of professional ethics and anti-corruption legislation.
- To explicate the challenges and weaknesses in the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.
- To contribute, in a form of a framework to the body of knowledge on the implementation of professional ethics and anti-corruption legislation by the departments in the Social Sector Cluster in Gauteng Province.

## **1.8 RESEARCH METHODOLOGY**

Webb (2016:14) posits that the decision by researchers on the best suitable methodological paradigm should prioritise arriving at the most valid outcomes possible to ensure contribution to the existing body of knowledge. According to Tlhoalele, Nethonzhe and Lutabingwa (2007:562), the research approach describes the actions that the researcher will use to conduct the research. This description is supported by Brynard et al. (2014:38) who assert that the research methodology of collecting data demands a consideration of the overall research chain to ensure accuracy, neutrality and legitimacy. Hence, this section of the introductory chapter provided the approach, instruments/methods and target population this research was based upon.

### **1.8.1 Approach**

The approach for research can either be quantitative or qualitative. This section will outline the differences between the two approaches and further specify the method which was selected for this study. Hofstee (2013:117) describes the quantitative research as complicated because the researcher is required to provide detailed account of the adopted method. According to Davis (2014:14), quantitative methods is about mathematical numbers and should be considered when the researcher intends to forecast forthcoming results, clarify the meaning of amounts, units and interaction of quantities as well as generalise from a small group of people to a bigger population. Bryman (2012:35) expresses a similar argument that quantitative

research can be understood as a study approach that underlines quantification in gathering and scrutiny of information and that, among others, encompasses a logical method of the association among concept and study “in which the accent is placed on the testing of theories”.

The second research methodology is the qualitative approach. Brynard et al. (2014:39) assert that the qualitative methodology refers to research that result in expressive information or to respondent’s inscribed or verbal arguments relating to their knowledge or insight. On the other hand, Bryman (2012:380) explains that when gathering information, qualitative research commonly accentuates words rather than quantification. Hofstee (2013:117) suggests that qualitative methods often require additional thought and clarification. The researcher should explain to the readers in advance how the data analysis was conducted before they read the body of the research to avoid confusion. Kumar (2014:133) argues that the researcher’s partiality in qualitative studies is challenging due to flexibility and lack of control. However, Kumar (2014:133) further highlights that what makes the qualitative research unique is the required dedication and negotiating skills of the researcher to reach consensus with the respondents on comprehension, views and conclusions. In quantitative research, adherence to this arrangement is insignificant. This study adopted the mixed methods approach, that is, the qualitative and quantitative research methodology.

### **1.8.2 Instruments / Methods**

According to Mouton (2014:159), multiple methods of data collection should be utilised for an evaluation research to focus on implementation (process) evaluation. Mouton (2014) further advises that in implementation evaluation studies, interviewing as well as analysing secondary sources is generally an accepted norm. The quantitative research component of this study required a questionnaire which was distributed to all the members of the Senior Management Service within the Social Sector Cluster in the Gauteng Province. Members of the Senior Management Service were selected because they hold a decision-making position within their departments and are best placed, due to their experience, to provide an informed assessment of the implementation of ethics and anti-corruption legislation within their



respective settings. Du Plooy-Cilliers and Cronje (2014:152) posits that the respondents generally participate when questionnaires are distributed because the responses are streamlined and enumerated, that is, essay-type responses are not required but only to tick the relevant answer. This was considered suitable for the members of the Senior Management Service who are renowned to often cite competing priorities and workload as primary reasons for not providing lengthy responses.

Furthermore, the research also consulted published books, relevant literature on professional ethics and anti-corruption, published and unpublished theses, previous research studies, political speeches and articles from accredited journals and newspaper reports. These were utilised as secondary sources. Kumar (2014:197) cautions researchers to be alert and verify their sources when using secondary data due to probable discrepancies that tend to arise in these sources.

### **1.8.3 Target population**

According to Brynard et al. (2014:57), population refers to a collection in the world which enjoys the exact features. Bryman (2012:187) who concurs, asserts that “population, basically, is the universe of units from which the sample is to be selected. The term ‘units’ is employed because it is not necessarily people who are being sampled – the researcher may want to sample a universe of nations, cities, regions, firms, etc.”.

The Gauteng Provincial Government has 14 departments, namely: Agriculture and Rural Development; Cooperative Governance and Traditional Affairs; Economic Development; Education; Finance; Health; Human Settlements; Infrastructure Development; Roads and Transport; Office of the Premier; Community Safety; Social Development; Sports, Arts, Culture and Recreation; and Treasury. The strategic positioning of certain departments implies that they serve in more than one cluster. For example, the Office of the Premier and Treasury serve in all three clusters. The Gauteng Department of Cooperative Governance and Traditional Affairs has a mandate to serve in the Social Sector and Governance and Planning Clusters. The Gauteng Provincial Government departments are divided into clusters as follows:

**Table 1.2: Clusters in Gauteng Province**

Social Sector Cluster	Governance and Planning Cluster	Economic Cluster
<ul style="list-style-type: none"> <li>• Education</li> <li>• Health</li> <li>• Social Development</li> <li>• Human Settlements</li> <li>• Community Safety</li> <li>• Sports, Arts, Culture and Recreation</li> <li>• Cooperative Governance and Traditional Affairs</li> <li>• Office of the Premier</li> <li>• Treasury</li> </ul>	<ul style="list-style-type: none"> <li>• Treasury</li> <li>• Finance</li> <li>• Office of the Premier</li> <li>• Cooperative Governance and Traditional Affairs</li> <li>• Roads and Transport</li> </ul>	<ul style="list-style-type: none"> <li>• Economic Development</li> <li>• Agriculture and Rural Development</li> <li>• Infrastructure Development</li> <li>• Human Settlements</li> <li>• Roads and Transport</li> <li>• Office of the Premier</li> <li>• Treasury</li> </ul>

**Source: Researcher's own**

As at 15 August 2015 there were approximately 106898 (N) officials working for the Social Sector Cluster in the Gauteng Province in 9 departments as follows:

**Table 1.3: Responsibilities of the departments in the Social Sector Cluster (Gauteng)**

Department	Responsibilities / Priorities
Community Safety	Ensure the province is safe and secure, including through monitoring policing agencies, implementing social crime-prevention initiatives, managing traffic, educating citizens about public safety and improving the relationship between communities and law enforcement agencies.
Cooperative Governance and Traditional Affairs	Effectively support, monitor and promote developmental municipalities and viable institutions of traditional leadership in Gauteng. Promote integrated service delivery towards Gauteng's development as an inclusive, prosperous and globally competitive city-region.
Education	Provide smart service delivery of quality public education and promote a dynamic citizenship for socio-economic growth and development by being at the cutting edge of curriculum delivery, providing access to quality lifelong learning opportunities and eliminating inequality in education.
Health	Improve health outcomes in the province by providing accessible, quality health care services at tertiary, secondary and primary health care levels.
Human Settlements	Provide integrated, sustainable human settlements in Gauteng and the development of mega human settlements in the Gauteng City Region aimed at decisive spatial transformation and broadening access to decent shelter and living conditions for all.

Department	Responsibilities / Priorities
Office of the Premier	Act as the driving force for the implementation of the radical Transformation, Modernisation and Reindustrialisation programme. It performs the key functions of providing support to the Premier and Executive Council, provincial policy coordination, development planning, spatial planning, strategic planning, monitoring and evaluation, service delivery coordination, inter-governmental relations, communications and promoting and facilitating meaningful engagement with the public.
Social Development	Drive accelerated social transformation, contribute to the eradication of poverty and hunger and ensure that the needs of the most vulnerable members of society are addressed including through a variety of social development services.
Sports, Arts, Culture and Recreation	Develop Gauteng as a vibrant home of champions. Sport, arts, culture and recreation promote nation building, social cohesion, economic growth and sustainable livelihoods.
Treasury	Promote good governance by providing stewardship on all financial matters in the province and to ensuring the funding of the TMR programme.

**Source: Adapted from Gauteng Midterm Report (2017:99-100)**

The study employed the purposive sampling approach with the purpose of triangulation. The benefits of purposive sampling include: it is convenient and cost-effective and most significantly, can provide the researcher with the reason to make generalisations from the sample that is being studied. The members of the SMS are knowledgeable of the implementation of ethics and anti-corruption legislation because of their experience and positions held in the public service. It is important to note that the department's SMS compliment differs in numbers. The study targeted the full complement of 509 members of the Senior Management Service within the Social Sector Cluster in the Gauteng Province. Table 1.4 below illustrates the number of departments and SMS members:

**Table 1.4: Number of SMS members in the Social Sector Cluster (Gauteng Province)**

Department	Number of SMS members	Percentage per department
Community Safety	27	5%
Cooperative Governance and Traditional Affairs	26	5%
Education	104	20%
Health	112	22%
Human Settlements	44	9%
Office of the Premier	61	12%
Social Development	40	8%
Sports, Arts, Culture and Recreation	35	7%
Treasury	60	12%
<b>Grand Total</b>	<b>509</b>	<b>100%</b>

Source: Gauteng Provincial Treasury (2015)

## 1.9 ETHICAL CONSIDERATION

Neuman (2012:53) asserts that the scientific community requires ethical conduct without exceptions and further advises that hence, “the best preparation for ethical behaviour is to internalise sensitivity to ethical concerns, adopt a serious professional role and interact regularly with other researchers”. Salkind (2012:37) posits that almost every professional organisation has, among others, detailed guidelines pertaining to professional integrity of its data, collection and distribution. The permission to conduct this study was sought and approved by the Gauteng Office of the Premier which is responsible, among others, for overseeing the effective functioning of the entire provincial administration. The Committee for Research Ethics at the Faculty of Economic Management Sciences (University of Pretoria) also approved the study and accentuated it is subject to the researcher “abiding by the principles and parameters set out in the application and research proposal in the actual execution of the research”. The approved letters for ethical clearance, title registration and official responses from two departments (Refer to Annexure A).

The individual departments within the Social Sector Cluster were subsequently informed of the approval granted by the Office of the Premier. The Departments of Education and Social Development responded with official letters to the researcher.

Certain departments telephoned the researcher to with the dates on which the management meetings would be held to gather information. All the departments requested the researcher to avail copies of the full report of the study to gather insight into the findings. The study was conducted successfully after permission was granted by the Office of the Premier and individual departments within the Social Sector Cluster.

Salkind (2012:38) asserts that informed consent “is a process through which potential participants in a research study consent to a minimum set of standards that includes an understanding of what the research is about, what role the participant plays, potential risks and benefits and what the participant’s right are”. Hence, the participants were informed of the rationale and purpose of the study before the questionnaire (Refer to Annexure B) was distributed. The following, among others, was outlined on the consent form:

- The names of the participants were not revealed on the questionnaire and the responses were treated strictly confidential. Furthermore, the participants could not be identified based on their responses.
- The participants were informed that they could choose not to participate as well as withdraw at any time without any negative consequences.
- The results of the study will be utilised for academic purposes only. Furthermore, the information will not be utilised to the detriment of the Gauteng Provincial Government.

#### **1.10 LIMITATIONS OF THE STUDY**

Kumar (2014:273) posits that limitations are structural difficulties which concern the methodological features of the study and it is upon the researcher to clearly reveal these difficulties to the readers. Hofstee (2015:87) asserts that limitations are natural in research projects. The limitations that constrained this study are as follows:

- **Internal employee** – the researcher, at the time of conducting this research, was employed by the Office of the Premier as a Deputy Director responsible for Integrity Management. The Office of the Premier is one of the departments under the Social Sector Cluster in the Gauteng Province and responsible, among others, to support all the provincial departments with the implementation of professional ethics and anti-corruption legislation. Thus, the researcher had to maintain impartiality by ensuring that the findings of the study are presented as they are without being changed to portray the effective implementation of ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.
- **Financial constraints** – the researcher could not visit the countries identified that manage to control the levels of corruption. Hence, the data used was gathered through extensive desktop research in South Africa, which included pre-existing surveys, previous research and reports of different institutions used to describe the selected countries' control of corruption.
- **Period covered by the study** – the data used for the study was limited to a ten-year period between 2007 and 2017 while the actual research was conducted over a three-year period i.e. 2015 – 2017.
- **Evaluation method** – the study does not use a specific evaluation method to determine the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. However, as indicated (cf. section 6.4.1) the seven dimensions of the ITPOSMO model was utilised as a guide to develop the questionnaire for data collection.
- **Mixed approach** – the study adopted the mixed method approach which requires “additional and competent skills” in data analysis. Hence, an expert on quantitative research was consulted to ensure that the collected data is interpreted with the suitable data analysis method.

## **1.11 CONCEPT CLARIFICATION**

This section will provide a brief clarification of concepts and terms utilised in this study.

### **1.11.1 Corruption**

“Corruption refers to any kind of bias or partisanship that bureaucrats practice either towards themselves or to a social class or group and any deviation in the work of bureaucrats from policies and programmes of the government of the day” (Chipkin 2012:6).

### **1.11.2 Ethics**

According to Hubert (2008:838) “ethics refer to the collection of values and norms functioning as standards or yardsticks for assessing the integrity of one’s conduct”.

### **1.11.3 Evaluation**

“A process that is guided by research principles for reviewing an intervention or programme to make informed decisions about its desirability and/or identifying changes to enhance its efficiency or effectiveness” (Kumar 2014:370).

### **1.11.4 Grand corruption**

Corrupt activities that involve senior public servants and politicians whose actions ominously delay the implementation of policies which result in the poor functioning of government because these senior public servants and politicians benefit at the expense of the general public (Transparency International 2009:23).

### **1.11.5 Implementation**

Implementation refers to the “act of making something that has been officially decided start to happen or be used” (*Oxford Advanced Learners Dictionary*).

### **1.11.6 Integrity**

Rossouw and Van Vuuren (2013:8-9) posit that integrity is linked to the moral appeal of an individual or group of which this individual or group would be associated with integrity when s/he or they regularly observe a set of principled values.

### **1.11.7 Petty corruption**

Petty corruption refers to corrupt activities committed by public servants at the lower and middle levels when executing their duties. Furthermore, the public servants take advantage of citizens who are desperate for basic goods or services (Transparency International 2009:33).

### **1.11.8 Professional ethics**

According to Rossouw (2011:98), “professional ethics refers to the ethical responsibilities of specific profession”.

### **1.11.9 Public Administration**

According to Malan (2009:3), “Public Administration is a university subject in which the operation of public administration, that is the field of operation or sphere of activity, is studied”.

### **1.11.10 Public Administration**

Thornhill (2012:93) accentuates that “public administration is recognised as a distinct field of work because it requires those who practise it (i.e. the public officials) in a democratic state to respect specific guidelines (sometimes referred to as tenets or principles) that govern their conduct during the execution of their work”.



#### **1.11.11 Public accountability**

According to Sindane (2009:497), public accountability “demands that facts concerning government activities be published so that public debate can be conducted on them”.

#### **1.11.12 Public Service**

Section 197 (1) of the Constitution of the Republic of South Africa, 1996, declares that “within public administration there is a public service for the Republic, which must function, and be structured, in terms of national legislation, and which must loyally execute the lawful policies of the government of the day”.

#### **1.11.13 Systemic corruption**

Caiden and Caiden (1977:306) define systemic corruption “as a situation where wrong-doing has become the norm and the standard accepted behaviour necessary to accomplish organisational goals according to notions of public responsibility and trust has become the exception not the rule”.

#### **1.11.14 Values**

Rossouw and Van Vuuren (2013:8) admit that there is an undeniable connection between ethics and values but caution that it would be a mistake to label the concepts as the same. Clarity is provided in that “it is possible to have values that have either nothing to do with ethics or that run counter to ethics, values cannot be equated with ethics”. Hence, “values can be defined as relatively stable convictions about what is important”.

## 1.12 FRAMEWORK OF CHAPTERS

The study, which comprises of eight chapters, is structured as follows:

**Chapter 1** delineates the research topic, reviews existing literature, provides the impetus for the research, problem declaration, objectives of the research, and examines the anticipated research procedures. The concepts and terms are clarified followed by the conclusion and brief overview of the preliminary framework of the proposed study.

**Chapter 2** outlines in detail the conceptualisation of professional ethics and anti-corruption within Public Administration. The chapter discusses the meaning of public administration followed by further detailed explanation of the standards that govern public administration as stipulated in the Constitution of the Republic of South Africa, 1996.

**Chapter 3** examines international best practice in the implementation of professional ethics and anti-corruption legislation. The results of Transparency International's Corruption Perception Index will be utilised to select three of the best performing developed (Denmark, Finland and Sweden) and developing countries (Botswana, Georgia and Singapore).

**Chapter 4** describes key lessons learnt in the South African context. These lessons emanate from scrutiny of international best practice with specific reference to the three selected developed and three developing countries that have successfully managed to control the levels of corruption. The intention is not to recommend the importation of the lessons learnt but rather to consider the suitability of certain propositions that could be beneficial in the South African context.

**Chapter 5** explicates the challenges as well as weaknesses of the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. The chapter provides an assessment of the progress in implementation and focuses on key elements of prevention, detection, investigation and resolution. Furthermore, the provincial mechanisms intended to support the

implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster department in Gauteng is outlined.

**Chapter 6** reveals the elements of the macro research methods i.e. the qualitative and quantitative approaches. The design of the study is considered in detail including the approach in the design of the questionnaire, sampling, distribution of the questionnaire and response rate.

**Chapter 7** reflects on the investigation and clarification of the questionnaires from the 222 members of the Senior Management Service within the Social Sector Cluster in the Gauteng Province. The findings that arise from the primary data as collected are analysed.

**Chapter 8** provides a summary of the research and focuses on attainment of a solution to the problem statement. More importantly, the chapter proposes a framework for effective implementation of professional ethics and anti-corruption legislation by the Social Sector Cluster in the Gauteng Province. The chapter suggests related areas that can be considered for future research followed by the conclusion comprising arguments proposed in the research.

### **1.13 CONCLUSION**

Chapter one delineated the research topic, reviewed existing literature, impetus for the research, problem declaration, objectives of the research, and examined the anticipated research procedures. The following terms were clarified briefly: corruption, ethics, evaluation, grand corruption, implementation, integrity, petty corruption, Public Administration, public administration, professional ethics, public accountability, Public Service and values. The preliminary framework of the proposed research was briefly expounded upon. This introductory chapter set the stage against which the identified problem will be tested.

## CHAPTER TWO

### CONCEPTUALISATION OF PROFESSIONAL ETHICS AND ANTI-CORRUPTION IN PUBLIC ADMINISTRATION

#### 2.1 INTRODUCTION

*“For tomorrow belongs to the people who prepare for it today”.*

*– African Proverb*

The purpose of the chapter is to conceptualise ethics and anti-corruption within the discipline, Public Administration. Pillay (2016:21) accentuates the advice by Mantzaris and Pillay (2014) that there is a need to promptly replace theoretical debates with practical empirical realities associated with fundamental supporting structures of public administration such as human capital, organisational philosophy, financial management and integrity. The approach is informed by Frederickson’s (2010:240) observation who posits that the discipline, Public Administration has not moved with the required momentum to the deteriorating significance of public sector transformation and specifically the ethical dilemmas that confront the officials. It is in this context that the chapter attempts to provide an answer to one of the research questions: *“What informs the conceptualisation of professional ethics and anti-corruption within Public Administration?”* (cf. section 1.4). The chapter will pursue practical solutions to address ethics challenges within public administration.

The concept public administration will be defined and its relevance to the South African environment will be discussed. One of the founding provisions of the Constitution of the Republic of South Africa, 1996 highlights its supremacy and clearly confirms in section 2 that the Constitution is the highest act of the Republic. Furthermore, the Constitution does not conform to any aspects of illegality and most significantly, the enacted requirements must be achieved. Hence, the chapter seeks to consider in detail the standards that should prevail in the administration of the public service as preserved in Chapter 10 of the Constitution of 1996. Fulfilment of these values is central to the fight against corruption and effective service delivery. In

addition to the constitutional commitments enforced by the Constitution, 1996 to the various organs of state, the drafters thereof require public servants to adhere to the values and principles to achieve an effective public administration to curb corruption. The conclusion will summarise the chapter followed by a brief overview of chapter three.

## 2.2 DEFINING PUBLIC ADMINISTRATION

Maserumule (2008:253) clarifies that convention which is almost universal, propagates that prefixing public administration with capital letters P and A implies reference to it as a “discipline” whereas its usage in the lower case denotes “practice”. Since public administration is utilised in the lower case in the Constitution of the Republic of South Africa, 1996, reference is made to practice or, simply, actions of the administrative arm of government. Hence, a brief clarification of these concepts follows. Pillay (2016:18) asserts that Public Administration is the discipline that studies and analyses the formulation of public procedures and planned series of future performance as well as the conduct of those in public office (who in most instances throughout the world are not elected). However, Malan (2009:3) posits that Public Administration is a university discipline where the processes of government are learned. Malan (2009:18) further asserts that in an educational perspective, among others, Public Administration possesses global recognition and prominence.

Thornhill and Van Dijk (2010:99) note that public administration is implemented in both the societal and governmental settings. The difference is that the transformation of societal setting is always expected while the governmental setting is resplendent with uncertainty. Vyas-Doorgapersad and Simmonds (2009:6) affirm that historically, until the present context, administration has undergone different spans: from monarchy, oligarchy, aristocracy, tyranny, plutocracy, theocracy, autocracy, authoritarianism, totalitarianism and dictatorship, to a republic, democracy, presidential or parliamentary system. The evolution of public administration has undergone fascinating moments in the development of the subject among renowned individuals who include, among others, Plato (400 B.C.), Adam Smith (1887), Woodrow Wilson (1887), Max Weber (1922), Dwight Waldo (1953) and J.J.N. Cloete

(1967). The contribution by the listed individuals has shaped the subject over the years and will continue for generations to come.

There were also certain key events that contributed towards the discipline, Public Administration which include the Minnowbrook Conferences held during 1968, 1998 and 2008 in the United States of America, the Winelands Conferences held in 1987, 1989, 1991 and 1993 and Mount Grace Conferences held during 1991 and 1999 in South Africa. Kim, O’Leary, Van Slyke, Frederickson and Lambright (2010:12) report that Phase Two of Minnowbrook III held in 2008 included a broad range of topics, among others, transparency and accountability including Public Administration values and theory. One of the themes that emerged was that scholars should rethink the role of government in view of the realities of 2008. Kim et al. (2010:13) also assert that the participants at the Minnowbrook III acknowledged that since the 1970s, the politicians around the world had campaigned against “big government.” The result in 2008 was not only that big government was in favour but also a sense that “effective government” had been defeated. It can, therefore, be assumed that plundering scarce public resources had become of great concern among international scholars in Public Administration.

Closer to home, Cameron and Milne (2009:387) report that a significant question examined during the Mount Grace II held in November 1999 was the state of institutionalisation of the discipline in terms of vibrant and dynamic schools and departments, programmes and projects, which serve the democratic needs of the South African system of government and administration. Cameron and Milne (2009:393) further accentuate that Mount Grace II’s focus was on professional education and training. It may be argued that South African thinking of Public Administration conformed to Minnowbrook III, should be to “rethink the role of government in view of the realities” of 2017. Included among the challenges that face South Africa is, *inter alia*, corruption, lack of professional ethics and adherence to values within the public sector. The statement does not imply that other sectors of society are much better.

The National Development Plan (NDP) (2012:14) designates that South Africa suffers from high levels of corruption that impedes development and socio-economic transformation. There is a need to develop measures that will assist to ensure that by 2030 the language in South Africa shifts from fighting corruption to increasing integrity. In an effort to align its priorities with the NDP, the Gauteng Provincial Government is implementing a series of developmental programmes for the fundamental Transformation, Modernisation and Reindustrialisation of Gauteng. Most significantly, the change comprises addressing and eliminating unethical conduct among those entrusted with public resources (Office of the Premier 2014:3). Improving Public Administration in South Africa starts with instilling integrity and professionalism in the spheres closest to its citizenry.

According to Lewis and Gilman (2012:20), if there is anything distinctive about the public service is that it gives one the impression that it is trustworthy. Holtzhausen (2007:80) argues, with good reason, that the confidence in the democratic processes as well as belief between citizens and public servants is informed by values and ethics. Ekhtor (2012:95) also highlights that allegations of corrupt practices are fuelled when trust is breached among the population and public servants. Of serious concern for the Gauteng Provincial Government, as highlighted (cf. section 1.2), is that the Quality of Life Survey revealed that 89% of the Gauteng citizenry agree that corruption is the primary threat to democracy (Gauteng City Region Observatory 2013:14). This exposes the lack of credible implementation strategies for the professional ethics and anti-corruption legislation within the province.

The focus should be on identifying the challenges experienced by the Gauteng Provincial Government departments with respect to the implementation of professional ethics and anti-corruption legislation. The intention is to execute public administration in Gauteng Province with the overall objective of addressing what Ventriss (2012:289) observed, that is, public servants are becoming central to the unethical challenges facing various societies and most disturbingly, they are either powerless targets or enthusiastic partners instead of fighting the evil (albeit overly intense).

### 2.2.1 New Public Management

According to Box (2014:6), the term New Public Management (NPM) is commonly linked to the implementation of values associated with commercial activity to the government setting. The failures of traditional Public Administration have resulted in strong arguments across the globe to transform the discipline so that it can be implemented as in the private sector. Ekhatior (2012:91) concurs with Storlazzi (2009:182) that the concept NPM as an introduction of ideas associated with business in government and paying less attention to dated ideas which characterise government. Certain ideas that were introduced included entering legal and binding agreements and arduous reliance on specialists. The introduction of the NPM has not been without criticism. Notably, Pillay (2016:23) submits that the NPM proponents “view people as economic components not democratic participants”. The scepticism of the NPM is interpreted as an infringement on old and tested methods of managing government with the sole intention of maximising the profits of the private sector. Volcker (2010:86) reminds one that the basic purpose of the public service is informed by the quest for constitutional rights and improving the lives of all citizens.

Furthermore, Haque (2011:185) cautions that public servants will lose their sense of pride if there is a constant weakening of identity of government processes in pursuit of values associated with commercial activities and most ominously, it might negatively affect the faith of ordinary citizens in government processes that seem like commercial activities with minimum attention to public interests. Low (2012:93) provides the scathing attack against the NPM: “just another management fad, a trend, another thing promising everything”. Low (2012) further argues that NPM is nothing more than an administration tool considered to be suitable for government which is the practical result of the normative idea of the 1980s based on the assertion that private is better than public.

Garofalo (2011:17) argues that even though there are different circumstances (cultural, political and economic) that dominate globally, the NPM which is being branded as a one-size-fits-all model of authority has resulted in increasing public dishonesty and declining performance levels by public servants. In this regard,



Ekhator (2012:98) asserts that those entrusted with public resources are anticipated to be principled due to the government's association of trust with society at large.

The most disquieting trend of the NPM in South Africa is the systemic reliance by the government on the private sector to execute their duties. This reliance has resulted in public servants to believe that the execution of their duties by the private sector absolves them from accountability. An archetypal example is outlined in the case of *Black Sash Trust v Minister of Social Development and Others* [2017] ZACC 8 Case CCT 48/17 – [para 8:8]. The judgement revealed that the Ministry for Social Development acknowledges their failure to perform its legislative responsibilities to pay social grants to the poorest and most disturbingly, the Ministry for Social Development intends to depend on a business, with questionable transformation credentials in its own organisational arrangements to execute their constitutional obligations. This case demonstrates how public servants attempted to escape their constitutional obligations by placing their dependence on the private sector to protect them from being held accountable.

Brunette (2014:51) argues, among others, that to a substantial extent the South African government departments and agencies contract out their core functions. During the 2010/2011 financial year, 42% of the government's budget was spent on procurement of goods and services. According to Dahlstrom and Lapuente (2011:12), the primary challenge with governments that prioritise the implementation of the NPM is that they tend to be linked with increasing incidents of unethical conduct. Although NPM was not intended to fight corruption but rather to improve the performance in the public sector, it has been noted that the proposed approach has increased opportunities for corruption in the public sector. Stensota (2010:301) confirmed that the increased consideration to improve ethical conduct in government is a response to developments of NPM.

Gauteng Province has also relied on service providers to deliver certain key services. Creecy (2015:8) posits that an additional instrument to spend public funds efficiently is a cost-effective procurement because it is significant to assist the departments in public sector to accomplish their aims. The issues highlighted by Brunette (2014) and Creecy (2015) are a cause for concern because supply chain

management processes are prone to corrupt acts by public servants within the public service. There are an adequate number of regulations and legislation to ensure that these processes are not manipulated. However, the implementation thereof remains a challenge. The Public Service Commission (2009a:30) revealed the weaknesses that render the supply chain management vulnerable to, *inter alia*, the following irregularities:

- False invoicing;
- Kickbacks schemes;
- Overpayment of service providers; and
- Unauthorised expenditure.

The implementation of NPM in the South African public service has created additional challenges than furnish solutions. According to Vyas-Doorgapersad and Simmonds (2009:6), the intended objective of transforming government was to ensure recognition and prioritisation of peoples' requirements for efficient service delivery. However, it seems that the intended objectives of transforming the public administration have not been realised. Levin (2012:10) suggests that a dedicated focus on addressing unethical conduct in the procurement of goods and services is needed to improve the state's anti-corruption institutional architecture.

The NPM has also changed the public servant's attitude towards the general public. Madonsela (2013:28) opines that it is important for citizens to realise that they are the shareholders not just customers. They have entrusted government and its civil servants with the power to manage their affairs and resources. It is, therefore, wrong to brand the people as "a complaining public", when they exact accountability in their capacity as shareholders. O'Flynn (2007) quoted by Garofalo (2011:29) suggests that there is a need to introduce public values management which requires post-administrative rationalisation that assists to expand limited business and public sector methods that is central in the NPM. The suggestion by O'Flynn (2007) correlates with Koppell and Auer (2012:25) who propose the consideration of a Public Service Motivation which at the core focuses on one's aspiration to formulate policies for the general public, place public interest before personal interest, be

considerate and ready to be unselfish. The attention should be to ensure that public servants uphold the values and principles governing public administration at all times. The advantage of upholding the values and principles is that society (general public) will be prioritised more than individual and selfish needs.

### 2.3 VALUES AND PRINCIPLES GOVERNING PUBLIC ADMINISTRATION

It is imperative to distinguish between values from principles to understand the purpose of Section 195(1) Chapter 10 of the Constitution of the Republic of South Africa. According to Rossouw and Van Vuuren (2013:8), values can be defined as fairly unchanging principles in respect of one's significant aspects. Haque (2011:173) and Cox III and Haruna (2016:43) also clarify that values inform an individual's approach to conduct and action (what is good to do or bad to refrain from doing). It is against these definitions that Box (2014:28) informs that Kernaghan (2003:712) has organised public service values into four categories as illustrated in Table 2.1 below.

**Table 2.1: Kernaghan's categories of public service values**

<b>Ethical</b>	<b>Democratic</b>	<b>Professional</b>	<b>People</b>
Integrity	Rule of law	Effectiveness	Caring
Fairness	Neutrality	Efficiency	Fairness
Accountability	Accountability	Service	Tolerance
Loyalty	Loyalty	Leadership	Decency
Excellence	Openness	Excellence	Compassion
Respect	Responsiveness	Innovation	Courage
Honesty	Representativeness	Quality	Benevolence
Probity	Legality	Creativity	Humanity

**Source: Adapted from Box (2014:28)**

It is important to highlight the role of upholding values in the search for an exemplary public administration. Idoniboye-Obu and Uzodike (2013:28) raise an enduring concern that the problem with corruption "arises from its deleterious consequences which have called into question the value system that sustained and justified those practices". Seleim and Bontis (2009:170) reveal that love, kindness, understanding and individual relationships are prioritised in countries where individuals have respect for each other and has resulted in decreased unethical behaviour. Unethical behaviour generally encompasses selfishness at the expense of others. In searching

for solutions to address the scourge of corruption, Wagabi (2013:578) advised societal leaders throughout the African continent to develop strategies that would teach qualities of selflessness and self-admiration from a young age because unethical behaviour has to be avoided by everyone in society. But inculcating virtues should not only be limited to children as if it is a lost cause against the adults. The elevation of values should be across all age groups with every individual consistently reminded of values that bind societies.

Having described the significance of values, the section shifts to defining principles. Lewis and Gilman (2012:26) state that principles are values with an action component. There is a thin line between values (moral character) and principles (policy issues). Cloete and Auriacombe (2007:195) assert that democratic principles such as accountability, transparency and citizen participation have become 'buzzwords' and central themes in the agendas and practice of democratic government. The focus for the writers of the Constitution of the Republic of South Africa, 1996 was not different as their focus was on the principles rather than values. This is understandable because the Constitution of 1996 was drafted after the first democratic elections. The promotion of democratic values was accentuated after the formation of democratic South Africa. Section 195 of the Constitution of the Republic of South Africa, 1996 stipulates that those entrusted with public resources should ensure that their processes are informed by the democratic values and principles, including the following principles (specifically principles not values):

- Maintaining and promoting professional ethics;
- Efficient, economic and effective use of resources;
- Public administration must development-orientated;
- Services must be provided impartially, fairly and equitably;
- Responsiveness and participation in policy-making;
- Accountable public administration;
- Fostering transparency;
- Cultivate good human resource management practices; and
- Representative public administration.

The principles outlined above support the argument that the primary focus of the writers of the Constitution of the Republic of South Africa, 1996 was on maintaining democratic order. The transformation of the public service workforce was outlined in the White Paper on Transforming Public Service Delivery, 1997 (*Batho Pele* White Paper) which predominantly focused on the delivery of services and advancing the competency of public servants in executing their responsibilities. According to Louw (2012:93), the Batho Pele Framework in South Africa correlates with the global developments of implementing NPM methods. The concern is whether the public servants can implement the NPM in its original form of improving the performance of the public service. The observation revealed that the NPM in most instances is exploited for further corrupt practices.

Sindane (2009:500) argues that at the centre of public administration are individuals. Hence, those entrusted with public resources must have a comprehensive understanding of principles and can distinguish between right and wrong. It is in this context that Garofalo (2011:30) asserts confidence in those entrusted with public resources is a significant component in measures to encourage ethical conduct in government. The authors of the Constitution, 1996 were expected to separate democratic values (transparency, accountability and participation), ethical values (integrity, honesty, respect, loyalty, compassion) and human values (civility). The separation of ethical values has the potential to encourage constant ethical behaviour among public administrators/servants. This could have been highlighted in the Constitution of the Republic of South Africa. The integration of values somehow decreases their significance because they are perceived as something that is needed “by the way”.

Theletsane (2014:371) recommends that since students in public administration aspire for leadership positions within government, the values thereof is the most suitable starting point for their ethical reflection. A probable further step is to start at secondary schools with an intensive awareness of values in public administration. Instilling public service ethics at a younger age might be suitable to transform public administration in South Africa. Haque (2011:172) underscores that encouraging and upholding professional ethics is necessary for countries with developmental

concerns where governments generally encounter challenges such as unethical behaviour, decline in worker confidence and absence of justice.

The focus is shifting to locate ethics and anti-corruption in the principles as stipulated in the Constitution of the Republic of South Africa, 1996. These include maintaining and promoting professional ethics, service standards, development-oriented, courtesy, consultation, accountability, transparency, human resource management and representivity. These form the backbone of ensuring effective implementation of public administration in South Africa.

### **2.3.1 Maintaining and promoting professional ethics**

The first principle is closer to the overall objective of the research which is to contribute towards maintaining and promoting ethical conduct in Gauteng Province. Ekhtor (2012:91) asserts that opinions of the general public about government are informed by public servant's ethical conduct. Pillay (2014a:64) concurs that an unethical organisation will ultimately pay a high price, usually both in reputation and financial terms if it does not ensure adherence to acceptable ethical standards. Edwards (2008:78), who accentuated the significance of ethics in the public sector, asserted that all public servants should strive to be ethical at all times. There is a general agreement among the scholars that the Public Service, as the machinery of governance, must be professional, ethical and perform its responsibilities with integrity. The reason is that unethical conduct can have undesirable consequences on public servant's performance and moreover, of serious concern, the underprivileged within the society can be severely affected. It is for that reason that the study sought to intensify the promotion of professional ethics in the Gauteng Provincial Government through robust implementation of the ethics and anti-corruption legislative framework. If this objective is achieved, there is indeed a compelling possibility that corruption will be arrested and reversed in the province.

The role of the public servants is crucial in this quest as they are the implementers. Box (2007:17) advises that officials in the public sector should take it upon themselves to continuously improve their education qualifications because well qualified public servants could instil better ethical conduct. This is also consistent

with Argyriades (2011:51) who accentuates that ethical conduct among public servants requires them never to compromise and transgress rules when they perceive that something is iniquitous during their execution of duties. Once public servants within the Gauteng Provincial Government departments demonstrate their will to fight corruption, then the public within the province will develop trust in public administration processes.

According to Lewis and Gilman (2012:297), the average citizen's view of government is shaped by his or her beliefs about its competence and ethics. It is in this nexus that Edwards (2008:79) argued that the public servants conduct and answerability of are necessary requirements and crucial in building confidence for public administration processes. One argument that is frequently advanced is that the promotion of ethical conduct has to be led by the general public since public servants are answerable to them and have a duty to serve the country. Tsheola (2014:712) prompts the notion that the public service is corrupt tacitly accepts that the citizenry is itself equally corrupt because the former is impossible without the latter. This conforms to the definition submitted by the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) which stipulates that for corruption to take place there is a corruptor and corrupted. The public in Gauteng Province should take it upon themselves to lead the fight against corruption particularly inside the government system as they need, no matter how desperate they are for public services, to avoid "dangling carrots" in front of the rabbits (read public servants). The general public should be encouraged to avoid offering bribes to the public servants because they will be tempted to accept and probably contribute towards increasing corruption.

According Adams and Balfour (2010:199), the ultimate challenge with the principle of government ethics is a fundamental gap between what is spoken and implemented, which in most instances is informed by failure to deliberate on traditional settings that can assist to improve ethical conduct. Adams and Balfour (2010:201) further assert that the objective of underscoring deontological ethics in public administration is to protect the integrity of public sector institutions and assist public servants to obey ethical principles. Effective implementation of professional ethics and anti-corruption

legislation in Gauteng Province will associate theory and action because the public will observe the consequences of those identified to be unethical.

Furthermore, Adams and Balfour (2010:207) encourage research to be conducted that could recommend effective procedures for institutions to develop sustainable integrity management programmes and take decisive action against those involved in unethical conduct. Manikutty (2012:24) affirms that ethics “is not merely about knowing what to do, but in doing it and in most instances this involves taking a stand on complex issues”. In this instance, employees are encouraged to blow the whistle without fearing victimisation. Understandably, victimisation of whistle-blowers has been reported in the past in South Africa. Holtzhausen (2007:309) highlights that a reliable and principled official would not expose information maliciously and consider all the available avenues of reporting in specific sequence. Promotion of ethical conduct within the Gauteng Provincial Government departments will encourage public servants to take a stand whenever they confront wrong doing and report these corrupt activities for further investigation and appropriate action. The Gauteng Province does not operate in isolation because there are eight other provinces and international best practices should be adopted. However, Garofalo (2011:18) contends that though admitting valid proposals by different stakeholders to prioritise ethical conduct in public administration, a common consideration of ethical conduct in the public service must be based on the manner of governing and be informed by the specifics of that environment. Garofalo (2011:18) is, however, not rejecting the existence of global principles. Garofalo’s (2011) perceptions correlate with Haque (2011:179) who cautions against importing government beliefs from other countries to replace the original government beliefs that may result in contradictions in government. Haque (2011:179) substantiates that though the internationally recommended ethical principles (comprising value, character, presentation, accomplishment and so on) are essential and suitable for developed countries, these can prove unsuitable in the societal settings of poor nations.

A dangerous stereotype as it maybe, it should, therefore, be considered to encourage public servants to apply African values around the concept of *ubuntu* within the Gauteng Provincial Government departments. This will be a “local” approach to demonstrate standards of administrative ethics. The question of great



concern is why do public servants have to be reminded to be ethical? The moral decay within South African society is a serious aspect that leaders of various sectors should attend to with alacrity. This is relevant because public servants have to inculcate family values before they become part of public administration. The lack of moral/ethical values and failure of administrative systems contribute towards waning confidence towards government processes in South Africa. Although specifically referring to leadership, the suggestion is not far from what Kuye (2016:95) advocates, that is, for the creation of management qualities based on the African ethical standards. Pillay (2014b:31) reveals that several authors have acknowledged the challenges linked to the conduct of public servants and as an intervention, have advised about the development of professional ethics and anti-corruption legislation as well as ethical standards expected from public servants. The truth according to Dintwe (2013:555) is that there is adequate sound legislation to address unethical conduct in South Africa. However, the challenge is the implementation thereof.

Argyriades (2011:54) opines that the basis of ethical conduct in public institutions is accessing relevant information and perseverance to achieve this long-term objective. Olum (2014:607) as well as Theletsane (2014:369) argue that corruption tendencies among officials in government institutions are both partially and significantly, the result of a lack of information about the overall consequences of corruption. In this nexus, Sindane (2009:499) revealed that there is adequate information to demonstrate that the current and forthcoming government settings require and demand competent and principled conduct. The challenge is that corrupt officials only focus on the values of the sum they steal without due consideration of further extended consequences of corruption of their corrupt activities. In suggesting an approach for the likely future public service and its ethical challenges, Lewis and Gilman (2012:1) recommend focusing on prescribed procedures and trusting officials to make informed ethical judgements. According to Sindane (2011:228), there are challenges in implementing this suggestion because individuals are selfish by nature and in any event bound to make mistakes.

The strength of an organisation's ethical culture is in the extent to which it prioritises doing the right things (De Beer and Du Toit 2015:212). The assumption is that doing the right thing is channelling the energy of the public servants towards achieving the

departments' core functions in a professional manner. According to Ekhaton (2012:99), public administration institutions use, among others, instruments such as legislation, agencies and transnational agreements to uphold and improve ethics in government. It is from this vantage point that Lewis and Gilman (2012:2970) caution that many employees look towards rules of ethics as a basic moral compass, but everyone should understand that rules are only the beginning of ethical responsibility. Maluka, Diale and Moeti (2014:1033) contend, in accordance with the motivation for this research, that it is apparent the underlying problem within the government institutions was not an issue concerned with policy but implementation. Therefore, the research on the evaluation of legislation within the Social Sector Cluster in the Gauteng Province could serve to address the proper implementation of existing policies.

As stated in chapter one, the South African government has formulated copious legislation and established anti-corruption institutions to address professional ethics. However, Gillespie (2008) as quoted by Chipkin (2013:15) accentuates that the state "is not a constellation of objects but a particular set of social relations and the strength or weakness of the state is not measured by the presence or absence of certain objects (laws, constitutions, departments, buildings, people, moneys and materials) its measure is the kinds of social relationships that emerge and the degree to which they do". The element of improving social relations in South Africa should be considered as social relations can contribute towards the effective implementation of legislation. Vyas-Doorgapersad and Simmonds (2011:58) inform allegations of serious corruption continue to be reported in South Africa despite increased efforts to implement measures intended to address corrupt practices. The lack of credible implementation of intended professional ethics and anti-corruption legislation should be a concern for most South Africans who would like the country to achieve its developmental goals.

The call to maintain and promote professional ethics requires exemplary leadership. A cause for concern is noted by Pillay (2014b:27) that in the South African public sector, there is currently a serious lack of leadership with integrity which according to Huberts (2008:840), is a crucial element of professionalism. This is not unique to South Africa as other countries also experience leadership challenges. For example,

Olum (2014:603) asserts that in the Ugandan Government, the lack of professional ethics and accountability, especially at senior level, are notable reasons that frustrate the required fulfilment of duties by government officials. Dintwe (2013:557) also accentuates that the disturbing feature of unethical behaviour is when it implicates those in leadership positions. Public corruption is widely reported to implicate senior politicians and public servants entrusted with managing public funds.

Argyriades (2011:53) cautions that societies need to be careful of the character of leaders they respect because their qualities tend to be copied by the younger generation and this can be problematic if these leaders are unethical. The failure of these values may result in taking a step back, revisit the assumptions and ask a general question of which direction is South Africa heading? It is, therefore, argued that the people who oversee public administration are politicians like in any other country and “politicians will always be politicians”. It has never been submitted that the general public must accept politician’s unethical behaviour. It is argued that they are prone to disappoint. Although the general public will always demand leadership with integrity, what is specifically needed is for public servants to know that they are leaders within their settings. For example, a supervisor at Deputy Director or Assistant Director Level must always demonstrate ethical leadership to his or her subordinates. In this way, public administration could be maintained and promote professional ethics without being compared to other disciplines. Frederickson (2010:244) profoundly underlines the expectation of public servants when stating that “the more a system is thought to be public, the more public will expect that system to be ethical”.

According to Theletsane (2014:365) the conduct of junior officials can influence what is accepted as right in an organisation. Tomescu and Popescu (2013:204) highlight that all officials have a responsibility to promote ethical conduct in their institutions and further underscore that those in positions of power should display exemplary conduct and be on their best behaviour. In summation, the section provided a detailed analysis of this principle as it informs the need for this research and more importantly, to demonstrate that most ethical challenges that are being experienced could be addressed if there is a continuous zeal to uphold and encourage ethical

conduct among all the stakeholders. Policy implementation should be improved to achieve this consistently.

### **2.3.2 Efficient, economic and effective use of resources**

Although Lynch and Lynch (2009:17) affirm that public administration includes encouraging competent and impartial organisations because of its public virtue, the dominant view according to Warf (2015:4) and Huberts (2008:838), in the trending global discussion is that unethical behaviour in the public service undermines state efficiency and effectiveness. Vyas-Doorgapersad and Simmonds (2011:57) contend that “the concept of efficient administration evolved from the increased use of scientific management theories and the acceptance of generally accepted principles and practices of good governance”. Box (2007:viii) asserts that citizens in countries that have representative democracy demand effective and efficient government while they doubt the performance of the public sector and seek to regulate the actions taken by public administrators. Box (2014:73) further highlights that both politicians and public servants are aware that efficiency is demanded in their performance. Improving public sector efficiency is the solution to convince the general population of the competency of government.

It is in this regard that Van Heerden (2009:47) insists that government in South Africa need to prioritise efficiency as a response to a call by the general public for the required services. Furthermore, the language of efficiency and effectiveness is inherent in traditional public administration. It can, therefore, be argued that democracy is an important and pressing matter in public administration because it provides a sufficient and conducive environment for efficient and effective use of services. This is not to submit that there is no corruption in democratic societies, but to highlight that democracy is necessary to build an ethical society so that government can focus on the delivery of key services to the population. Akinola and Uzodike (2014:55) affirm that “corruption breeds inefficiency, bad governance and social instability and conflict”.

The effectiveness of public administration can, among others, be judged by its ability to deliver the required basic services to the citizens (Mfene 2009:210). It is for this

reason that the democratic system of governance in South Africa also accentuates the principle of utilising resources in a cost-effective manner. Maluka, Diale and Moeti (2014:1019) argue that since 1994, the transforming public administration in South African has focused on ensuring that it can meet the developmental challenges that face the country. However, it is imperative to note that the principle of efficiency in South Africa was not only introduced after the first multi-party democratic elections in 1994. The discussions on public administration prior 1994 also highlighted the significance to ensure additional care when utilising public resources. To substantiate this argument, it is important to note that Cameron and Milne (2009:387) report that efficiency was strongly promoted at Mount Grace One held in 1991 and was included in the resolutions as one of the values to be promoted.

Mfene (2008:207) called for combined determination of all public servants across the three spheres of government if services are to be provided in a commendable manner in South Africa. If this is achieved there is a strong possibility that both the foreign and domestic investors will develop trust in the processes of the government. In this context, Bana (2014:650) cautions that foreign direct investment is attracted by countries that implement their policies in an effective and efficient manner. Vyas-Doorgapersad and Simmonds (2009:10) challenge public administration to be values-driven and to focus on delivering its programmes in an effective manner by involving all role players within society and further consider revised procedures of furnishing these programmes. The effective and efficient utilisation of resources is critical for the Gauteng Provincial Government as it implements its Transformation, Modernisation and Reindustrialisation (TMR) programme, which among others, seeks to attract foreign direct investment and play a leading role in economy of the African continent.

According to Van Heerden (2009:47), inadequate legislative information and lack of skills developmental programmes contribute towards public servants not conforming to the prescribed legislative measures including the provision of effective and efficient services. This requires the implementation of effective capacity building programmes for public servants and to include legislative information including the consequences of not adhering to prescribed regulations. Van Heerden (2009:63)

further cautions that the implications of disregarding public servants who fail to provide services in an effective and efficient manner will result in unethical service delivery. This has been a challenge in South Africa, specifically service delivery protests associated with the failure of executing public administration effectively and efficiently. Alleged corruption in most of these instances is cited as a major source of contention.

At the core of efficiency is acting in a style that attains the preferred results using least resources as stated by Molina and McKeown (2012:380) in Box (2014:44). This conforms to the argument submitted by Thornhill (2015:82) that “the promotion of efficient, economic and effective usage of resources emphasise the need for officials and political office-bearers to operate in such a way that the citizens could be satisfied that all resources had been utilised effectively and efficiently and that the results could be accounted for”. Kuye (2016:96) further highlights that the “advocacy on governance and development calls for an effective and transparent system of public administration involving: an effective and efficient public agency which is fundamental in creating a viable environment and regulatory framework”. The proper monitoring and evaluation system for government projects is the cornerstone to fight corrupt practices in public administration.

### **2.3.3 Public administration must be development-orientated**

Mazwai (2010:9) advises that there are various types of developmental states which are commonly classified by their unique circumstances and therefore, informs the essential solutions to their challenges. A cause for concern is raised by Pillay (2016:29) who asserts that notwithstanding the existing mechanisms in South Africa, which are as sound as with the best in other countries, the dream of good governance seems distant. The revelation by Pillay (2016) can only be detrimental to any efforts to address developmental issues by the government in South Africa. Kuye (2016:96) argues that governance implements policy as a primary instrument in confronting the developmental needs of society. South Africa is characterised by an unequal society with limited wealthy individuals whereas the majority of its citizens are poor. Therefore, it is necessary that whatever is meant by a developmental state in the South African perspective, good governance ought to be

at the centre of developmental programmes with the intention to solve the challenges confronted by the majority of the poor communities and participation by civil society institutions should be encouraged.

According to Maserumule (2008:259), the definition of development-orientation of public administration should not be limited to state capacity to influence the market forces towards the realisation of the socio-economic objectives of government. It should also, more importantly, accentuate the effect of such government involvement in the market forces in changing the lives of the citizens for the better. Maserumule (2008:259) argues that in a development state, the development positioning of government would be defined and understood in terms of state capacity to direct the market forces towards making contributions for the realisation of the social and economic objectives of government. In the South African context, one argument that is frequently advanced is that government is not creating a conducive environment for market forces to support development programmes because of its conservative policies that seem friendly to the leftists. The counter argument is that developmental programmes are for the state to implement. Market forces are only interested in maximising profits and need to be monitored regularly.

Maserumule (2008) further submits three arguments:

- The statutory principle that government must be development positioned are ingrained in the philosophical foundations of the Reconstruction and Development Programme of South Africa, which postulates that, in the development, citizens must be placed in the centre, not in the periphery (Maserumule 2008:256). Development of the previously disadvantaged needed to be accompanied by a growing economy. The RDP was based on the argument that “development without growth would be financially unsustainable, while growth without development would fail to bring about the necessary structural transformation” (African National Congress 1997).
- In the context of the Growth, Employment and Redistribution (GEAR) Programme in South Africa, one could conjecture that neo-liberal conceptions

did influence the thinking of the crafters of the statutory principle that government must be development positioned (Maserumule 2008:257). The thinking was that government must play a minimum role with market forces left to correct themselves. Their growth will support developmental goals of the country.

- Development-positioning of government should not be understood only on the basis of governance procedures and actions but rather in terms of the influence of the procedures and actions of public administration in improving the conditions of its society (Maserumule 2008:260). If for example the process of building houses for a certain community is going through corrupt practices, no skills transfer to the community, and sub-standard houses with cracks are built then this is against the notion of development-orientation.

The argument submitted is that regardless of an economic policy being implemented by government it would be difficult to achieve the developmental agenda of the country if public administration is corrupt and does not promote professionalism. The scale of possible corruption as a result of the private sector is assumed to be non-existent in this argument. Most of the projects intended to address developmental goals require a substantial sum of money. For example, infrastructure projects by their nature are expensive. Dintwe (2013:562) holds that the tender system must be overhauled, especially since it relates to specific services. Therefore, statutory principle that government must be development-oriented should be supported by public servants who are sensitive to the developmental goals of the country. This is relevant to Gauteng Province because it seeks to modernise its public transport infrastructure.

#### **2.3.4 Services must be provided impartially, fairly and equitably**

For services to be delivered impartially, fairly and equitably it requires a public servant that is neutral in the execution of duties by being immune to family considerations and pressure from political association. Box (2014:4) and Lynch and Lynch (2009:17) posit that neutrality entail that career public administrators should not abandon the critical ethical spirit and execute their tasks without regard to meet



the demands or preferences of elected officials who might want them to hire a friend or relative and promote a certain policy orientation. The neutrality of the official in this context as explained by Chipkin (2016:5) refers to the willingness to implement the policies and programmes of the party in government, irrespective of whether these conform to the private convictions or interests of public servants in question. Neutrality is a contestable aspect in public administration since instances of favouritism are reported on a regular basis. Hence, it was highlighted as another value and principle that should guide public administration in South Africa.

Benavides, Fierro-Villa and Aguayo (2013:619) assert that confidence in public administration is necessary as a solid foundation for truthful collaboration. The absence of belief in each other creates challenges in governing. Services provided by government must not target a certain community while marginalising others. The fair distribution of government services plays a role in building trust between citizens and government. Vyas-Doorgapersad and Simmonds (2009:7) argue that the transformed public administration underscored fairness and impartiality as the absolute goals of public managers, to be followed and practiced in both the bureaucratic and political components. Corruption and unprofessional behaviour will always be cited in instances where citizens notice bias in the provision of services. Public servants should always be encouraged to strive to ensure proper implementation of this democratic principle.

An argument for prioritising impartiality during the execution of duties is that it is central to the ethical decision-making process and organisational competency which results in a capable workforce that is knowledgeable of its responsibilities (Rothstein 2014:746). The South African Code of Conduct for the Public Service (2002:59) accentuates that public servants should be neutral when executing their duties so that people can trust government processes. Government departments are vehicles through which government ensures that services are delivered fairly, without bias and in the interest of the public. It is, therefore, essential that public servants are always respectful when they serve the general public. It is also added that South Africa, which is a diverse country, the public servants should always avoid unfair discrimination in any form against any member of society. This is a universal language as Van der Westhuizen (2011:58) argues that procedures by governments

throughout the world should be impartial, but should also be based on administrative competence and performance. As much as the processes need to be fair and impartial the focus should always not compromise quality of providing services to the public. The impartial, fair and equitable distribution of public resources is also central to address corrupt activities in public administration.

### **2.3.5 Responsiveness and participation in policy-making**

According to Brynard (2011:113), people included in the decision-making process is about arranging a clear and answerable method where affected parties can exchange opinions and effect the required administration in government processes. Kuye (2016:96) concurs and specifically highlights that the public policy-making process should “do things that can influence change in citizens”. For anti-corruption reforms to succeed, the restructured programmes need to consider the views and participation of all stakeholders (Abdulai 2009:408-409).

The White Paper on the Transformation of the Public Service (or Batho Pele Paper) requires, among others, authorities to inform communities of the deliverables by government and more importantly, be afforded an opportunity to express their preferences on services that are accessible. It is also recommended that to guarantee an extensive and inclusive consultation process, the public representatives can use one of many approaches to consult the general public i.e. meetings with relevant stakeholders, dialogue with separate users, reviews, etc.

It could be submitted that there is adequate and damning evidence in South Africa to signify that the lack of consultation has resulted in unnecessary conflict, differences and disorder. Thomas (2010:175) accentuates that as education levels continue to rise, and as individuals become more educated, they become more resistant to governmental edicts and more insistent on having opportunities to speak to the nature of programmes that will affect them. This is relevant for the Gauteng Province because most of its citizenry is relatively educated compared to most provinces in South Africa. The census results released by Statistics South Africa, have over the years confirmed that citizens in Gauteng have greater access to household technology such as telephones, e-mails and faxes compared to other

provinces. This supports the view that citizens in Gauteng, when consulted during policy development, have access to household technology that could make it easier to participate in policy-making. Household technology is also a useful tool to report corruption.

Participation of citizens in policy-making is the foundation of a thriving democracy. Nabatchi (2010:159) calls impressive citizen participation: “deliberate democracy” which broadly refers to imparting public administration resolution processes with rational conversations and unified verdicts of all affected stakeholders. To support the appeal for citizen participation in decision-making, Nabatchi (2010:160-161) argues that the reason why public administration should take deliberate democracy seriously include, among others, that it is central in upholding democratic principles which require members of the public to participate in decision-making processes. Deliberate democracy can help rediscover the role of the citizens in the discipline of determining community matters. Bryner (2003:304), quoted by Kuye (2016:103) concurs that “a successful policy process requires democratic participation: where policy makers and the public, among others, continually engage in dialogue”. It is for this reason that the Gauteng Provincial Government should always encourage public participation including strategies to fight corruption and promote professional ethics in public administration. Citizens seem respected when they are consulted rather than when government is seen to be imposing programmes on them without adequate consultation.

Kuye (2016:104) cautions that in most instances, effective development and implementation of policies in poor countries is as a result of unethical conduct by public servants. Kuye (2016) substantiates the caution by submitting an argument by Hamdok (2003:18) who asserts that questionable integrity of public servants which result in their participation in corrupt practices can affect the purpose of legislation regardless of their effectiveness. Hence, the authors of the Constitution of the Republic of South Africa, 1996 deemed it appropriate to underline participation in policy-making as one of the standards that public servants are required to adhere to. The development of policy proposals that are free of manipulation and corruption is the foundation of an ethical society.

### 2.3.6 Accountable public administration

Thornhill (2015:82) prompts that the democratic principle stipulated in section 195(1)(f) of the Constitution of the Republic of South Africa, 1996 that government must be answerable to the people gives prominence to the obligation that all public administration undertakings should be performed in such a manner that details could be submitted for each achievement or non-achievement. The Public Service Code of Conduct obliges that officials entrusted with public resources must be truthful and responsible when managing resources and most importantly, utilise these only for authorised commitments (Public Service Commission 2002:62). The emphasis on accountability is crucial to achieve the developmental goals of the country and ensure a responsible public service. The inclusion of accountability in both the Constitution, 1996 and Public Service Code of Conduct which are two crucial documents in the life of a public servant in South Africa underscores that they must constantly be aware that their actions and decisions stand to be scrutinised.

Thornhill (2015:78) and Lawton, Rayner and Lasthuizen (2013:6) highlight that for public accountability, reference is generally made to render account of the actions of the officials and political office-bearers. This will require public servants as well as their political principals to submit details to the members of the public for their actions or inaction. They must further be prepared for lifestyle audits due to the nature of being entrusted with public decision-making and resources. The case of *United Democratic Movement v Speaker of the National Assembly and Others* [2017] ZACC 21 [para 33:15] clarifies that one of the significant reasons why accountability is demanded from the public officials is because they occupy their positions as the representatives of the general public and are appointed with the expectation that they place public interest ahead of their personal interests. This confirms that politicians when elected into positions of power are not entirely independent because they are answerable to the general public.

Hedger and Blick (2008:4) concur with Box (2014:95) that accountability occurs once a person or organisation forms an association and the execution of duties by that person or organisation can be scrutinised by others and demand that they submit reasons for their actions. Put differently, in a public administration related definition,

Cloete and Auriacombe (2007:196) argue that the requirement that public officials must answer for their actions is based on the belief that they occupy their positions as representatives as mandated by the public. Furthermore, political decision-making should be conducted democratically and transparently while public finances should be managed responsibly and unethical behaviour should be fought by leaders of society. The term accountability signifies that public servants are always required to account for their actions which was a norm before civilisation started.

The categories of accountability include, among others, governmental, financial, moral, organisational, market and others. According to Thornhill (2015:79), accountability in government or public administration can be classified into the following categories:

- Legal accountability, i.e. responsibility for obeying laws;
- Fiscal accountability, i.e. responsibility for public funds;
- Procedural accountability, i.e. responsibility for implementing procedures;
- Programme accountability, i.e. responsibility for carrying out all programmes;
- and
- Outcome accountability, i.e. responsibility to ensure effective results.

Bemelmans-Videc, Lonsdale and Perrin (2007:xiv) argue that accountability is ultimately a matter of trust. This implies that those who are voted into power have a duty to inform the members of the public who assigned them with those responsibilities about their performance. Accountability is crucial, particularly when managing finances on behalf of others, in this instance, the public in general. However, Thornhill (2011:80) cautions that explaining and taking ownership by public representatives is more than a monetary viewpoint as public accountability is considered to be an obligation across public administration. Olum (2014:605) contends that public accountability must be demanded from public officials as it is significant in the fight against corrupt tendencies which eventually decrease the confidence in public administration. Public servants must execute their duties knowing that they should answer to the public for their actions. This is the strength of democracy, especially for political principals who are voted into those positions by

the public. They need to know they that will need to explain the decisions that they take for public administrators to implement.

Bemelmans-Videc et al. (2007:261) assert that accountability is basic to responsible and effective public sector management including democracy. It is for this reason that Sindane (2009:498) posits that accountability and ethical behaviour by public officials cannot be assumed, nor guaranteed, hence the existence of prescriptions, such as oaths of office in constitutions, legislations or formerly prescribed arrangements and conventions. The legislation that is intended to encourage accountability in the South African government include, among others, the Public Finance Management Amendment Act, 1999 (Act 29 of 1999), the Municipal Finance Management Act, 2003 (Act 56 of 2003) and the Protected Disclosure Amendment Act, 2017 (Act 5 of 2017) as well as the public sector institutions such as the Auditor-General, Public Protector and Public Service Commission. Van Der Nest, Thornhill and De Jager (2008:557) recommend it is essential that leaders in government and departments responsible for policy development credit the role played by active audit teams and channel additional resources towards supporting these teams. The active audit teams contribute towards building an improved and responsible public administration.

The Public Service Commission (2007:41) recommends, among others, that to detect weaknesses related to internal controls, the public sector institutions need to conduct comprehensive risk assessments. This recommendation is based on the research which revealed that in most government departments, there is a lack of internal controls because most internal audit committees do not function effectively. The in-effectivity of audit committees in most departments is a concern since they serve as an accountability measure for public servants. According to Ukaogo (2009:53), societies that are known for unethical behaviour always find it difficult to implement transparent and accountable systems. Sindane (2009:492) expresses similar sentiments that seasoned administrators in the public service must encourage responsible and ethical actions that surpasses the lawfulness of administrative action to include organisational and ethical conduct as well as ethics of organisational action. Thornhill (2015:97) affirms that members of the public must take it upon themselves to expose unethical behaviour by public servants as this will

strengthen and promote democracy. Hence, accountability remains the primary requirement to ensure that citizens can rest assured that public action can be justified. The danger with the lack of accountability measures is that public servants will not exercise control on the resources that they are entrusted to manage. This will pave the way for corruption because the public servants will know that they are not answerable for their unethical behaviour.

Sindane (2009) provides two credible arguments on accountability in the public sector. Firstly, Sindane (2009:492) asserts that the search for best practices could be improved if public servants are afforded freedom to be creative in dealing with their individual issues since these principles can contribute towards improving individual accountability. Secondly, Sindane (2009:493) argues for the establishment of administrative culture, accountability and ethics as, among others, three pillars that can ensure effective administrative practices and serve as gateways for improved performance in the public service. Personal values in the South African context, particularly reference to Gauteng Province will be the implementation of family values. It is highly unlikely that people are raised to be corrupt. Families are built around togetherness and caring for each other as well as respect. These are some of the family values that should be highlighted in the work environment and form part of the administrative culture for public administration.

Van Der Nest et al. (2008:548) posit that contemporary democratic arrangements demand that individuals must answer for their actions if it has been proven that they are incompetent or unethical. The significance of demanding accountability from public servants who are unable to execute their duties effectively and efficiently is also noted by Sindane (2009:498) who suggests that accountability mechanisms be re-created with the intention of not entertaining justifications irrespective of their rational. There must be consequences for those public servants who fail to deliver according to their department's strategic objectives, especially instances of public resources being mismanaged without reasonable explanation. Accountability is only felt when there are consequences for those who were entrusted with public resources.

Thornhill (2015:87) argues, in line with the problem statement of this study that the number of limited examples of corrupt activities within South African public administration assists to demonstrate the abysmal state of administrative and managerial competence in various public institutions. It also exemplifies the lack of adherence to prescribed procedures, policies and ethical guidelines by managers in public institutions thus inhibiting public accountability. The argument presented by Thornhill (2015) serves as a strong motivation to seek responses for the lack of effective implementation of professional ethics and anti-corruption legislation by the Senior Management Service members with specific reference to the Social Sector Cluster in Gauteng Province. The improvement in compliance with the implementation of professional ethics and anti-corruption legislation in South Africa requires small steps that can gradually result in full compliance.

### **2.3.7 Fostering transparency**

Arguably, the greatest important cause that clarifies the perseverance of unethical conduct in poor countries is absence of transparency and accountability in public sector organisations (Abdulai 2009:393). Earle and Cava (2008:59) assert that the methods introduced to address unethical conduct are not informed by false judgements but rather recognition that without transparent processes, people will increase their personal wealth at the disadvantage of solving the country's developmental goals. Bauhr and Nasiritousi (2011:18-20) advise that "increased transparency and exposure of corruption can have unwarranted effects on the level of corruption in low need corruption contexts where most people lack everyday experiences of corruption". The significance of ensuring transparent public service processes is, therefore, contributing to achieving the developmental goals of the country as opportunities for corruption are decreased significantly. However, the case of *United Democratic Movement v Speaker of the National Assembly and Others* [2017] ZACC 21 [para 80:32] notes that "considerations of transparency and openness sometimes demand a display of courage and the resoluteness to boldly advance the best interests of those they represent no matter the consequences". Hence, brave individuals are needed to drive transparent processes as in most instances, which particularly exposes secretive and corrupt deals. It should be noted that there will always be attempts to obstruct the disclosure information.



Lindstedt and Naurin (2010:301) define transparency as the publication of appropriate data of an organisation that can assist with the assessment thereof and is the subject of primary concern for the modern public disciplines. An organisation can only be categorised as transparent if it can provide relevant information to both internal and external stakeholders so that they can formulate their views about activities and procedures inside the organisation. Furthermore, Lewis and Gilman (2012:293) affirm that transparency is a practice through which information is made available and procedures for decision-making are revealed by the public sector organisations.

Put differently, transparency is an undertaking for the general public to contribute in the management of the public sector institutions (De Vries and Kim 2011:276). The explanation of the term transparency according to Ball (2009:293) reveals three metaphors as follows:

- Transparency as a principle needed in response to unethical conduct;
- Transparency is equal to opening administrative processes of public sector; and
- Transparency as a multifaceted instrument of trusted procedures, institutions and countries.

The principle of fostering openness seeks to encourage the general public to demand accountability from their leaders in public administration. In other words, the public should participate in public administration processes to establish the justification for their leader's actions or inaction. It is, therefore, submitted that fostering transparency is a necessary recipe in the quest for professional public administration because the general public has ammunition to seek answers on how decisions were taken by the officials and their political principals. As researchers became exposed to transparency, Ball (2009:297) reveals that they tried to understand and clarify its definition as, among others, an intervention to address unethical conduct as well as an intervention to inspire the availability of public information.

Democratic theory requires public institutions to implement clear decision-making processes and with public servants of high calibre (Cloete and Auriacombe 2007:193). It is, therefore, not surprising that strategies and legislation have been adopted in South Africa to ensure effective government's institutions that can fight corruption. The key legislations include, *inter alia*, the following:

- The Promotion of Access to Information Act (PAIA), 2002 (Act 54 of 2002) which was introduced as an intervention to challenges experienced by ordinary citizens to access to relevant information in possession other individuals or institutions. Thornhill (2011:81) argues that PAIA is an instrument of availing information with the intention to encourage open decision-making. Cloete and Auriacombe (2007:203) noted that notwithstanding the detailed efforts to encourage open decision-making and availing relevant information, the process as outlined by PAIA is particularly challenging to implement as a result they conclude that PAIA will end up frustrating, rather than encouraging, individuals from obtaining the relevant information.
- The Promotion of Administrative Justice Amendment Act (PAJA), 2002 (Act 53 of 2002) requires public sector institutions to allow for reasonable measures when considering decisions that concern members of the public. Brynard (2011:112) posits that open decision-making is a significant component of people-centred government to avoid questioning and confidence in decisions taken. Brynard (2011) further informs that the obligation for transparency is required by Section 4 of PAJA. The challenge is the slow pace of making South Africans aware of their right to request information of how decisions that affect public administration have been taken. Citizens can, therefore, eliminate corrupt activities if they can scrutinise public servant's decision-making.

According to Cloete and Auriacombe (2007:196), the primary attribute of transparency is access to information. In this instance, effective management of documents is required in any government department. Piotrowski (2010:30) also underlines the significance of safe-keeping documents. He asserts that archiving and maintaining documents acquires significance for an organisation when transparency

is escalated at all spheres of government. The National Treasury (2012:57) identifies organisational weakness and instability which is associated, among others, with a lack of prioritising and focusing on the administrative procedures in public sector institutions. For example, when the National Treasury was requested to take over the administration of certain government departments in Limpopo Province, they confirmed the presence of unprecedented corruption and noted that departments were functioning without key administrative procedures. The National Treasury further reported that the filing system was poorly managed and difficult to locate contractual documents in the province. Chipkin's (2013:15) hypothesis is based on the latter example that unethical conduct in the South African perspective deteriorates the authority of the state to the point that such conduct is linked to non-compliance of the relevant anti-corruption legislation. This study focuses on Gauteng Province in South Africa and seeks to acquire solutions to improve compliance with the relevant framework to alleviate unethical and corrupt activities.

Transparency is only the first step in holding governments accountable (Hasse 2015:1). The significance of transparency is also asserted by Piotrowski (2010:28) who posits that open decision-making is a requirement for full governmental compliance and responsibility. The more transparent a government is in its decision-making, it is likely that the citizens will readily participate in policy-making and demand answers from public servants for their actions. Ukaogo (2009:53) asserts that since governance is significant in the provision of basic services to the poorest of the poor, accurate economic information should be imparted to the nation which would be a sign of transparency.

The fight against corruption requires transparent processes. In an attempt to ensure transparent decision-making, particularly procurement processes, the Gauteng Provincial Government has introduced an Open Tender Process to ensure fair, transparent and equitable supply chain management processes within the Gauteng Provincial Government departments. This is just one area where transparency is being improved. There are also other areas where decision-making should be transparent particularly human resource management because most cases of alleged corruption is reported in the province in that division. This will improve public administration in the province as well as trust between the public and public servant.

Piotrowski (2010:30) advises that values such as transparency should be incorporated into the mission, strategic plan and performance measurement system of all public sector organisations. Equally sound advice on transparency is submitted by Cloete and Auriacombe (2007:205) that leaders from various sectors of society in developing countries need to demonstrate their support for open governance by accepting the overall standards of good governance and specifically transparent governance and most importantly, apply these practices in their individual sectors. Transparent processes are a solid foundation in the fight against corrupt activities and serve as a sound gesture for a public administration that can be trusted by the general public.

It is often highlighted that the lack of transparency in institutions has almost become the norm. Consequently, corrupt practices tend to be high. Against this background, Warf (2015:11) asserts that a meaningful measure taken to minimise corruption is improved transparency in government appointments, contracts and expenditure. However, it should be highlighted that although open decision-making is encouraged as an imperative in the fight against unethical conduct (Lindstedt and Naurin 2010:302), it is also recommended that for the general public to understand transparency, it should be accompanied by sound punitive measures. Lindstedt and Naurin (2010:305) further assert that open decision-making processes as a deterrent to unethical behaviour must be complemented by other conditions in favour of accountability such as sound consequence management. When culprits involved in human resource and supply chain irregularities as well as other corrupt practices, the departments must implement the sanctioning mechanism. The general public, with the information obtained, should also be able to influence the behaviour of corrupt government officials to make sense and complete the transparency value chain.

### **2.3.8 Human resource management and career-development practices**

It is widely reported that Adam Smith, who published *The Wealth of Nations* in 1776 to explore why certain nations grew to become economic giants while others stagnated, it was revealed that nations with abundant natural resources were poor while those with limited resources had become wealthy. Adam Smith concluded that a nation succeeds not because of its natural resources, but its dedicated human

resources. The competency of human capital is a significant influence for any government institution to deliver on its mandate. The argument could be extended to underscore that the quality of human resource must be accompanied by professionalism.

Akinnusi (2008:25) highlights that the manner in which human capital is managed is fundamental to attain the objectives of any entity because people tend to consider superiority over other resources to guide the utilisation thereof. The argument conforms to the call for government departments to prioritise their employees as valued assets because they are in the forefront to ensure service delivery to the citizens. For example, if the Gauteng Provincial Government cannot receive deserved returns from its human capital, this would suggest that significant challenges need to be assessed.

Erasmus, Swanepoel, Schenk, Van der Westhuizen and Wessels (2009:4) assert that Public Sector Human Resource Management (PSHRM) as a subject must be incorporated in public administration to focus on all issues, decisions and procedures associated with public servants including all employment relationships. PSHRM performance is closely monitored by the citizens because these employees deal directly with the citizens of the country. The South African administration has enacted a series of legislation, designed comprehensive legislative frameworks and policies in its endeavour to ensure quality and fair treatment of human capital in the public service. These include, among others, the following:

- Occupational Health and Safety Amendment Act, 1993 (Act 181 of 1993);
- South African Qualifications Act, 1995 (Act 58 of 1995);
- Constitution of the Republic of South Africa, 1996 (Bill of Rights);
- Employment Equity Act, 1998 (Act 55 of 1998);
- Unemployment Insurance Fund Act; 2001 (Act 63 of 2001).
- Promotion of Equality and the Prevention of Unfair Discrimination Amendment Act, 2002 (Act 52 of 2002);
- Skills Development Levies Amendment Act, 2010 (Act 24 of 2010);
- Skills Development Amendment Act, 2011 (Act 26 of 2011);

- Basic Conditions of Employment Amendment Act, 2013 (Act 20 of 2013);
- Labour Relations Amendment Act, 2014 (Act 6 of 2014); and
- White Paper on Human Resource Management in the Public Service, 2000.

According to De Beer and Du Toit (2015:207), there are certain ethical challenges which organisations and their human resource management have to face include, *inter alia*, fraud, corruption, nepotism, favouritism and unethical behaviour. Brand (2008:208) infers that to successfully manage ethical challenges, it necessitates that all human capital managers must participate in and support programmes intended to promote principled behaviour in the organisation.

In most instances, the availability and distribution of the Code of Conduct is deemed sufficient to promote professional ethics among public servants. However, De Beer and Du Toit (2015:210) affirm that an ethical code in itself will instil a culture of ethics is short-sighted and suggest that human resources management revise its mandate from more than assisting individuals with administrative concerns by incorporating strategic governance issues. The most important requirement for human resource management within the public sector is not only the distribution of the Public Service Codes of Conduct but also to ensure effective implementation that will guarantee ethical behaviour.

Van der Westhuizen (2011:52-55) posits that a useful framework to discuss what a PSHRM system should hold is provided from four different perspectives which include: administrative management perspective, positive personnel management perspective, strategic planning perspective and human resource management perspective. However, the most relevant to this study is human resource management which according to Van der Westhuizen (2011:55), is an overwhelming feeling which has emerged. The public servants who occupy senior positions are expected in their execution of duties to create public value through utilising their intellectual capital. The primary goal of this perspective is to “invest more on the human side of the public service, to increase employee motivation and commitment through a process that can include strategies such as participative management programmes and team-based arrangements”.

The Public Service Commission (2009b:32) states that future plans include “the focus making sure that human capital in the public service is capacitated with necessary skills to improve their decision-making capabilities as this can only assist government to deliver on its mandate”. It is well-known that the lack of skilled personnel in South Africa is a major shortcoming. However, government departments should ensure that vacant posts are filled with suitable candidates who will not become involved in corrupt activities through nepotism and appointments influenced by ethnic and racial motivation. The quest to nurture human capital and assist with career path practices is the foundation of building organisations of integrity which require public managers to engage in exemplary leadership because research has revealed that junior officials tend to copy and model the actions of their managers (Menzel 2012:253-254; Wyatt-Nichol and Franks 2010:41).

It is widely accepted that officials who feel respected in their departments will tend to avoid any practice of unethical behaviour (Wagabi 2013:578) and are likely to feel guilt, shame or embarrassment when rebuked for actions that are inconsistent with ongoing corrupt practices (Smith-Crowe and Warren 2014:1155). As a result, Asamoah and Yeboah-Assiamah (2013:29) recommend that to improve public sector productivity, focus should, among others, be on employing competent public servants, arrange relevant capacity building programmes as well as comprehensive human resource standards which are essential for the overall performance of public administration. Consequently, individuals of high integrity dedicated to serve the public interest is an imperative (Stevulak and Brown 2011:1001).

### **2.3.9 Representative public administration**

The preamble of the Constitution of the Republic of South Africa, 1996 reminds all that its adoption, among others, seeks to: “heal the divisions of the past and establish society based on democratic values, social justice and fundamental human rights”. It was necessary for the democratically elected government to assure all citizens, through the Constitution, that employment practices would be informed by competency and impartiality including address the imbalances of the past by ensuring that previously disadvantaged groups are also represented without compromising the quality of services being offered to the general public. To ensure

full compliance with this principle, the South African government has further formulated additional legislation to compel organisations to designated employees. These include, *inter alia*, the following:

- Employment Equity Act, 1998 (Act 55 of 1998) – to encourage reasonable representation in all professional groups and ranks in the labour force.
- Skills Development Amendment Act, 2011 (Act 26 of 2011) – to arrange capacity building programmes with the intention of advancing the capability of the workforce.
- Broad-Based Black Economic Empowerment Amendment Act, 2013 (Act 53 of 2013) – to establish a legislative framework for the promotion of black economic empowerment.

South Africa has experienced certain challenges in the implementation of the aforementioned legislation which unfortunately caused great harm to the intended objectives. The introduction of these policies, in certain instances, has presented corrupt officials with an opportunity to manipulate the internal processes in the name of transformation. This is confirmed by Vorster (2012:136) who noted with great concern that affirmative action programme has principled purposes and assists as a required element in the course of nation-building and moral regeneration but the implementation thereof has similarly increased unethical behaviour. Hence, it is essential for government institutions to monitor the implementation of the affirmative action programme to ensure that it achieves its intended objective and is not mismanaged by officials who are linked to corrupt practices.

Chipkin (2013:8) explains that corruption in this sense refers any act that prioritises private interest over public interest. There is a need to avoid corruption of legitimate programmes. Levin (2012:18) suggests that affirmative economic development could be achieved by identifying and enabling a variety of legitimate pathways for economic inclusion including (for example) the nationalisation of key strategic assets; scaling up programmes such as the Community Workers Programme that



facilitates commodity production at the community level and Small-Medium and Micro Enterprises (SMME) development. The corrective programmes introduced by the South African government are not unique because many countries have embarked on similar programmes. For example, Nzukuma and Bussin (2011:3) reported that the difference between the South Africa's implementation of affirmative action to that of the United State of America (USA) is that the latter programmes have strict timeframes and are assessed on a regular basis to confirm their relevance. The primary concern for South Africa is that the implementation of these programmes has in certain instances resulted in corrupt activities.

South African society is by its nature diverse. Thus, Mfene (2009:214) submits that "the primary aim of government is to serve the citizens who use different languages, adhere to different cultures, values, norms and most importantly who have different expectations". As a result, Van der Westhuizen (2011:62) calls for a political neutral, professional public service that promotes merit-based principles rather than operate through practices of patronage and nepotism, which undermines quality service delivery. However, it should be noted that political appointments, as much as they are part of any government around the world, should be informed by suitable, qualified, experienced and capable candidates.

Dintwe (2013:564) highlights that reasonable consideration for the implementation of cadre deployment and transformation programmes is needed to ensure that they do not compromise the integrity of public administration. Olum (2014:615) accentuates that competency should continue to inform the employment process in public administration to guarantee professionalism. Maluka et al. (2014:1030) argue that for public sector institutions to realise its mandate, it needs committed public servants who champion the idea of transformation, a certain kind of public servant who will abide and honour as well as abide by the standards of section 195 of the Constitution of 1996. The disadvantage of appointing officials who are unsuitable for their jobs is compromising delivery of services to communities and create tension between employees within the working environment. Therefore, Gauteng Provincial Government needs a representative public administration that is recruited on merit and is equally skilled to provide services to all who reside in the province.

The authors of the Constitution of the Republic of South Africa, 1996 had to consider the historical imbalances of the country's population and deemed it appropriate to accentuate representation of the South African society within the public administration. The value of representativeness according to Haruna (2008:128), should be with integrity building which requires both institutional and societal transformation which is difficult and gradual.

## **2.4 SUMMARY AND CONCLUSION**

This chapter defined the field of public administration and argued that South African thinking thereof, conforming to Minnowbrook III, should be to “rethink the role of government in view of the realities” of 2017. In the South African context, this would include contributing to the literature to ensure effective implementation of the professional ethics and anti-corruption legislation by the Gauteng Provincial Government departments. The application of the New Public Management was also underscored to have created challenges than provide solutions for the South African government. The most disquieting impact associated with the NPM in South African is the systemic reliance of the public sector on the private sector to execute their duties. It is argued that it is as if the concept of NPM was misunderstood by public servants in South Africa, that is, as if they were told to stop executing their duties and request the assistance of the private sector.

Attention was then focused on democratic standards that should guide the administration of the public service as enshrined in terms of Section 195(1) of the Constitution of the Republic of South Africa, 1996. The values and principles discussed included maintaining and promoting professional ethics, service standards, development-oriented, courtesy, consultation, accountability, transparency, human resource management and representivity. It was highlighted that there is a minor difference between values (moral character) and principles (policy issues). The Constitution of the Republic of South Africa focuses on principles rather than values. The promotion of democratic values after the formation of the democratic South Africa had to be accentuated. It is noted that it would have been interesting had the authors of the Constitution, 1996 separated democratic values (transparency, accountability, participation, etc.), ethical values (integrity, honesty,

respect, loyalty, compassion, etc.) and human values (civility). The separation of these values could have encouraged constant ethical behaviour among public administrators/servants if these were highlighted in the Constitution.

The chapter also demonstrated that the democratic principles outlined in the Constitution of the Republic of South Africa have to be fulfilled if performance of public administration is to be realised and improved, especially considering that these principles are critical in solving challenges such as the fight against moral decay in South Africa. The following chapter will focus on examining international best practice in the implementation of legislation intended to address unethical conduct.

## CHAPTER THREE

### INTERNATIONAL PROFESSIONAL ETHICS AND ANTI-CORRUPTION BEST PRACTICE

#### 3.1 INTRODUCTION

*“Learning expands great souls”.*

*– Namibian proverb*

This chapter seeks to clarify the research question, namely: *“What are the international best practices for the implementation of professional ethics and anti-corruption legislation that can be adopted by the Social Sector Cluster in the Gauteng Province?”* (cf. section 1.4). The question was submitted as part of the problem statement that has to be addressed. In clarifying this question, the chapter will briefly analyse the international anti-corruption measures with specific focus on both the key features of the international protocols and organisations.

Moreover, the chapter will provide a brief overview of international anti-corruption best practice, first in selected Scandinavian countries (Denmark, Finland and Sweden). The high-spending and high-taxation Scandinavian states are an ideal best practice to curb corruption because they have proven with the advent of time that they are effective at implementing ethics and anti-corruption programmes. Furthermore, they are constantly considered the most ethical administrations in the world in international surveys on the perceptions of corruption in individual countries. The three developing countries which will form the second part of the overview of international best practice is Botswana, Singapore [a developing country at an advanced stage] and Georgia. These developing countries which almost share similar country profiles to South Africa have markedly improved their rankings in the Transparency International’s Corruption Perception Index.

The case for a brief overview of developing countries is much stronger than developed countries because successful anti-corruption reforms by most developed

countries were implemented while they were still classified as developing. The significance and specificities to implement professional ethics and anti-corruption legislation will be outlined for each country. The conclusion of the chapter will highlight key arguments with relevance for the South African case study and provide a brief outline of chapter four.

### **3.2 INTERNATIONAL ANTI-CORRUPTION MEASURES**

International anti-corruption measures are explained bearing in mind the lack of common understanding of corruption within the global community as one criticism that is frequently advanced. For example, Bierstaker (2009:241) highlights that the absence of a collective definition of what constitutes corruption makes fighting intercontinental acts of unethical conduct challenging because what might be considered ethical in one country might be perceived as corruption in another. Corruption by its nature is complex and it will take time for the global community to have the same interpretation thereof because it remains a contested area in certain parts of the world. Hough (2013:21) argues that the efforts to combat international corruption require a substantial amount of financial resources. Consequently, a considerable number of employment opportunities have been created to develop preventative measures to assist particular actors to minimise the levels of unethical behaviour. There is a need to commend and encourage the continuous development of these initiatives. However, equally important is to assess the effectiveness of these initiatives to ensure the successful implementation of anti-corruption reforms.

Numerous efforts have been initiated by the global community to curb corruption. McCoy and Heckle (2001:65) analyse the development of global anti-corruption norm by focusing on three stages: (1) awareness raising, (2) institutionalisation through the development of legal and policy instruments and (3) global adoption, internationalisation and adherence. Most importantly and more relevant to this study is that McCoy and Heckle (2001:86) conclude that to successfully reach and sustain the third stage of norm development necessitates all actors within the global community to demand and monitor the implementation and effectiveness of the current commitments and to establish accountability. According to Persson, Rothstein and Toerell (2010:7), the modern international programmes intended to

prevent unethical behaviour comprises a considerable amount of restructuring efforts aimed at minimising the prospects and temptations for unethical behaviour which is linked to the rationality of the principal-agent framework. Hough (2013:20) posits that although civil society institution such as Transparency International (TI) has significantly increased the responsiveness against unethical conduct, it should be noted that the global policy setting is designed principally by global finance institutions such as the World Bank (WB), International Monetary Fund (IMF), intergovernmental organisations such as the United Nations (UN), African Union (AU) and the Organisation of Economic Cooperation and Development (OECD). It is against this background that the specific protocols, as signed and ratified by the Republic of South Africa as well as programmes designed to combat unethical conduct by reputable international organisations are highlighted in brief and scrutinised where necessary.

### **3.2.1 United Nations**

The main reason for starting with the United Nations is not to undermine the anti-corruption historical trajectory that could give the study more analytical power. The United Nations is a global organisation that carries the global burden for consequences of corruption. As a result, curbing corruption has been elevated on their agenda in a quest to seek solutions on this scourge. The adoption by members of the United Nations Convention Against Corruption (UNCAC) is an indication of the willingness to combat unethical conduct by the global community. A cause for concern is that UNCAC was adopted later than the conventions of the Organisation for Economic Cooperation and Development and by far reflect these conventions.

According to Davis (2009:7), the UNCAC, in articles 54-59, encourages member states to make it a criminal offence for foreign public officials to solicit or accept bribes (instead of only focusing on the bribe-payers) in addition to promoting and strengthening procedures to fight corrupt practices effectively. The UN Convention also requires member states to support each other by repossessing resources received through corrupt practices and further assist the victims through appropriate compensation. However, Mungiu-Pippidi (2013a:1262) reveals that even after decades there has not been much improvement in minimising the levels of unethical

behaviour between countries that had ratified the UNCAC and the countries that have not. It would seem unfair to expect the UN, which is responsible for oversight, to accept blame for the poor implementation of the UNCAC. The member states responsible for the implementation should shoulder much of the blame.

The UN, as reported by the OECD/African Development Bank (2012), has prioritised the implementation of ethics and anti-corruption initiatives through its various divisions. The following key divisions and their initiatives are as follows:

- **United Nations Office on Drugs and Crimes (UNODC):** serves as a Secretariat to the Conference of State Parties to UNCAC and is responsible to ensure its implementation. The primary objective of the measures to combat unethical conduct by UNODC includes supporting member countries to apply the Convention in their respective environments.
- **United Nations Development Programme (UNDP):** has been concentrating on unethical behaviour as part of its integrity management programmes ever since 1990s. The Anti-Corruption Practice Note was developed to advise member states to capacitate their anti-corruption institutions and partnering with civil society to increase awareness.
- **United Nations Economic Commission for Africa (UNECA):** a portal intended to simplify the sharing of best practice to combat unethical behaviour was introduced by its Governance and Public Administration Department.
- **United Nations Global Compact (UNGC):** is an additional main global programme by the business sector which requires businesses to publicly pledge to its ten collective ethical standards. One of the standards compels businesses to deal decisively with corrupt practices including bribery.
- **United Nations Commission on International Trade Law (UNCITRAL):** is the implementation of the Model Law on Goods, Construction and Services

which discloses legislated international best practices for supply chain management practices for individual countries.

Menzel (2012:209) posits that in addition to the key initiatives by the UN listed above, the UN General Principles of the International Code for Public Officials have also been adopted to, among others, guide public servants within the member states on the following:

- Legislation requires any individual occupying public office to act and place public interest ahead of their own as a sign of loyalty to their country. South Africa has included this aspect in the Code of Conduct for Public Service and public officials are required to place public interest first when performing their official responsibilities (Public Service Regulations 2016:17).
- Public servants, who are all primarily responsible to administer public resources, are advised to do so in a cost-effective manner. As discussed in Chapter 2 (cf. section 2.3.2) the Constitution of the Republic of South Africa, 1996 requires cost-efficient utilisation of public resources as one of the standards. In addition, section 14(j) of the South African Code of Conduct for Public Service encourages public servants to “promote sound, efficient, effective, transparent and accountable administration” when performing their official duties (Public Service Regulations 2016:21).
- Public servants are required to be focused and neutral when they assist the members of the public. More importantly, they should not favour or wrongly differentiate against any group or individual. The requirement for services to be provided in a fair and neutral manner is also outlined in Chapter 2 (section 2.3.4). The Constitution of the Republic of South Africa, 1996 stipulates this requirement as one of the values and principles governing public administration. Section 14(k) of the South African Code of Conduct for Public Service requires public officials to provide truthful and neutral guidance based on available facts, in the performance of their official responsibilities.



The brief comparison provided above between the alignment of the South African Code of Conduct for the Public Service and the UN General Principles of the International Code for Public Officials illustrates that South Africa as a member state of the UN has a similar Code of Conduct for its public officials. The consideration also brings to the fore and clarifies the argument submitted earlier that member states are responsible for implementation of the international guidelines provided by international organisations that they are affiliated to.

### **3.2.2 African Union**

Bamidele (2013:51) affirms that corruption tends to be prevalent and most damaging in African states, especially those transitioning from one form of governance to another or fragile from violent conflict. The widespread corruption on the continent is confirmed by Persson et al. (2010:3). The authors reveal that the African continent constitutes a large number of countries associated with unethical behaviour while the majority of its citizens are poor. It is through revelations such as these that the AU has developed conventions such as the AU Convention on Preventing and Combating Corruption which pursues, among others, the development of programmes by member states to minimise corrupt practices and link violations in all sectors. The AU Convention also endeavours to create measures to foster clean and responsible governments. The same argument which was submitted to defend the UN in failing to ensure member states implement the UNCAC will be also used for the AU. Furthermore, the AU must compel member states to submit compulsory continuous progress reports on the implementation of their convention which deals with corruption. Full implementation by member states could be drastically improved if this compliance is monitored regularly. A consideration for the AU is to establish an institution in line with the Council of Europe's Group of States Against Corruption (GRECO) to monitor States' compliance with the AU's anti-corruption standards. The establishment of this institution could improve the capacity of its members to fight corruption by monitoring their compliance through a dynamic process of mutual evaluation and peer pressure. A counter argument on the main objective of the African Peer Review Mechanism could be challenged on the basis that the African Peer Review Mechanism is focusing on several areas (democracy and good political governance; economic governance and management; socio-economic development

and corporate governance) while the role of GRECO is solely on assessing the implementation of anti-corruption measures.

However, despite the ratification of the continental convention, Persson et al. (2010:9) describes the poor performance of the existing programmes intended to address unethical conduct in the African setting was a result of the mischaracterisation of the challenge of unethical behaviour in perspective with logical corruption. This aspect (albeit overly one-sided since other continents such as Asia and South America experience challenges) is further strengthened by the consistent poor performance among most African countries in international indices which measure the extent of corruption. Kassahun (2011:202) confirms the universality of unethical conduct and further clarifies that the disturbing feature of the African context is the seemingly high lenience level demonstrated by role players to an otherwise appalling behaviour. Does this confirm that what may be considered legitimate in Africa may be considered corrupt in other parts of the world? Even if that view holds, the devastating consequences of corruption in Africa should encourage continental residents to seek a common understanding of other continents. There is also a need to overcome cultural relativism to ensure universal consensus of the definition of corruption.

Corruption in Africa impedes the implementation of developmental programmes and weakens democracy by violating prescribed practices (Okafor 2009:125; Bamidele 2013:44). The African Union should be commended for also ensuring that anti-corruption initiatives are developed for their programmes such as the New Partnership for Africa's Development (NEPAD), African Peer Review Mechanism as well as continental institutions such as the African Development Bank and regional formations. For example, members of the Southern African Development Community (SADC) have endorsed the Protocol Against Corruption which intends, among others, to encourage and toughen the development of measures necessary to minimise unethical conduct within the region. The argument that member states should shoulder the blame still holds. These international, continental and regional bodies execute an oversight role which requires member states to be responsible for the actual implementation of these protocols or conventions.

More significantly for the African continent, is the availability of the Ibrahim Index of African Governance (IIGA) which offers the valuation of the eminence of governance in all African countries on an annual basis and is a credible instrument which contributes towards deciding and considering the performance of an individual government. The IIGA has four primary conceptual categories: safety and rule of law; participation and human rights; sustainable economic opportunity; and human development. The most relevant category applicable to this study is the safety and rule of law because one of its sub-categories is accountability which, among others, focuses on unethical conduct in public administration and actions taken against corruption to resolve alleged instances of unethical conduct.

Table 3.1 below illustrates the accountability scores on the IIGA (2016) for Botswana and South Africa. The direction of index is: high = 100 and low = 0. The reason for comparing South Africa to Botswana is the latter country is constantly ranked on the international survey as the best performing on the continent in terms of fighting corruption. The intention is to illustrate the difference in the scores for South Africa to those of the best placed African country.

**Table 3.1: South Africa and Botswana: scores for accountability**

Indicator/Country/Years	South Africa		Botswana	
	2014	2015	2014	2015
Access to information	54.2	54.2	25.0	41.7
Online services	55.7	55.7	44.3	44.3
Public sector accountability & transparency	87.5	87.5	100.0	100.0
Accountability of public officials	69.0	69.0	76.2	76.2
Corruption in government & public officials	80.0	80.0	100.0	100.0
Corruption and bureaucracy	57.1	57.1	76.2	76.2
Diversion of public funds	28.5	32.7	66.9	64.0
Corruption investigation	74.0	55.4	74.7	74.7
<b>Total</b>	<b>63.2</b>	<b>61.5</b>	<b>70.4</b>	<b>72.1</b>

**Source: Adopted from the Ibrahim Index of African Governance (2016b:12) and (2016d:12)**

The overall scores as illustrated in table 3.1 from the IIGA (2016b and 2016d) confirms that Botswana is the best placed and performing African country which prioritises accountability. Botswana improved their scores from 70.4 (2014) to 72.1 (2015) while South Africa's scores dropped from 63.2 (2014) to 61.5 (2015). A closer

assessment of the totals revealed that the score for corruption investigation in South Africa had dropped markedly from 74.0 (2014) to 55.4 (2015). This is a concern because corruption investigation is measured based on accusations of unethical conduct in government and scrutinised by a dedicated and independent agency including the perceptions of the citizens on the efforts by government to minimise unethical conduct (IIGA 2016a:13). This implies that the possibility of allegations of corruption being investigated is declining in South Africa.

It has also been observed that the IIGA (2016b and 2016d) scores for accountability resembles those of the Transparency International's CPI (2016) because both indices confirm Botswana, Rwanda and Mauritius as the best performing African countries in terms of managing corruption decisively. It is, therefore, argued that the IIGA presents the African Union with a developed and credible tool to assess its own member's governance performance and further eliminates the criticism that international organisations tend to have a hidden agenda when assessing African countries performance.

### **3.2.3 Organisation of Economic Development and Cooperation**

The Organisation of Economic Development and Cooperation (OECD) is widely credited for having been in the forefront of leading global initiatives to curb corruption for more than a decade. One of the key milestones in their efforts to curb corruption was the adoption of the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions in 1997. The convention which is commonly known as the OECD Anti-Bribery Convention aims to minimise acts of unethical conduct by suggesting decisive action against bribery in intercontinental commercial trading involving the businesses based in the 38 Convention member states. South Africa, although a non-member of the OECD, should be commended for being the only African country to agree to implement the convention. Earle and Cava (2008:72) state that on a practical level, the OECD Anti-Bribery Convention defines bribery and calls for member countries to criminalise the act, but does not address the common practice of permitting bribes to be deducted from taxes as a business expense including grease or "facilitation" payments, which have drawn criticism from Transparency International.

To enable countries to monitor the application of the OECD Anti-Bribery Convention, it has formed a Working Group. It should, therefore, be the OECD Working Group duty to identify the weaknesses raised, for example, by Earle and Cava (2008) above. Furthermore, compare with other conventions and recommend amendments to close the gaps in the OECD Anti-Bribery Convention. For example, Earle and Cava (2008:72) further clarify that although the OECD Anti-Bribery Convention is modelled on the United States of America's Foreign Corrupt Practices Act, there are two significant differences namely:

- Firstly, unlike the Foreign Corrupt Practices Act, the Convention does not address external funding of party-political formations and their representatives.
- Secondly, the OECD Convention is not clear as to how it is implemented in relation to the enticement of relatives of foreign public servants.

These noteworthy shortcomings can result in member countries avoiding the limitations of the OECD Anti-Bribery Convention. An ideal situation is to encourage more non-member countries to also implement the OECD Anti-Bribery Convention to limit the opportunities for corruption. This is critical considering that multi-national companies explore business opportunities in various countries, especially the developing. The quest to expand their business opportunities may tempt them to pay bribes to acquire access to local markets. Hence, multinational companies will sensitise their business representatives of the individual and company consequences of paying bribes when negotiating deals in countries that implement and enforce the OECD Anti-Bribery Convention.

The OECD is also widely commended for publishing the Principles for Managing Ethics in the Public Service which is a tool for member countries to utilise their traditional techniques to develop its effective ethics framework that will be suitable for its national conditions. The principles seek to, among others, reinforce that ethical principles should be reflected in existing legislation and the behaviour of politicians should continuously strengthen the required performance of public officials (Organisation of Economic Cooperation and Development 1998:3-5). South Africa,

as previously mentioned, is not a member of the OECD but the only country on the African continent to agree to implement the OECD Convention. Moreover, South Africa, consistent with the principles developed by the OECD, has a legal framework to address its public official's behaviour. The challenge is the effective implementation thereof.

### **3.2.4 World Bank**

It is frequently advanced that the global anti-corruption programme acquired prominence after the former President of the World Bank, James Wolfensohn's "cancer of corruption" speech on 01 October 1996 at the Annual Meetings Address. The speech was initially titled "people and development" but became famous for the stance taken against corruption. It was made clear that under no circumstances would the World Bank Group permit unethical behaviour in the programmes they fund. Consequently, the countries were urged to develop home-grown solutions (Wolfensohn 1996:6).

The OECD/African Development Bank (2012:25) confirms that the World Bank has acknowledged unethical behaviour as one of the most serious impediments to development. A minimum of 600 programmes would be implemented to manage unethical behaviour within its member countries. Davis (2009:7) notes that the reforms introduced by the global financial organisations concentrate on safeguarding the distributed funds to ensure non-utilisation for unethical practices. Sampson (2010:100) reveals that the 'cancer of corruption' speech generated interest from all sectors around the world. Consequently, Transparency International used the publicity to curb corruption to position its anti-corruption programmes as a leading non-governmental organisation voice in the fight against unethical conduct. Since then TI has not looked back and their programmes are utilised widely by many countries to determine their levels of corruption. These results also influence decisions taken on investments because countries that are perceived to be corrupt usually fail to benefit from foreign direct investments. These are generally under-developed countries that desperately need these incentives to enhance their wealth. A comprehensive argument on the role of the TI is considered later in this chapter.

Surprisingly, the World Governance Indicators (WGI) which is a tool compiled and updated by the World Bank on an annual basis has not been prominent as much as the TI's Corruption Perception Index. The WGI utilises composite data to quantify the excellence of governance by capturing six comprehensive measurements thereof as follows:

- Voice and accountability;
- Political stability and absence of violence/terrorism;
- Government effectiveness;
- Regulatory quality;
- Rule of law; and
- Control of corruption.

Hough (2013:113) affirms that the WGI is a beneficial preliminary point to conduct qualitative research on particular categories of an unethical system and specific nations. Furthermore, Hough (2013) notes that although WGI have been comprehensively criticised, they remain a valuable instrument to compare countries and assess their enhancement over time. The prominence of the World Bank's WGI should be enhanced by intensifying awareness to ensure that the WGI is positioned as a useful tool and acquire a world-wide appeal as the TI's Corruption Perception Index.

An indicator most relevant to this study is the control of corruption which focuses on the views of the public about the extent of petty and grand corruption including the influence of the business sector on decisions taken by those in power with the intention to advance their private interests (World Bank 2016). Table 3.2 below illustrates control of corruption in South Africa for the period 2010 to 2014 as reported by the WGI during 2015:

**Table 3.2: Control of corruption: South Africa, 2011–2016**

Country	Sources	Year	Percentile Rank (0–100)	Governance Score (-2.5 - +2.5)	Standard Error
South Africa	17	2011	58.77	0.06	0.14
	17	2012	55.45	-0.12	0.13
	17	2013	56.40	-0.07	0.13
	16	2014	54.81	-0.06	0.13
	16	2015	58.17	0.03	0.13
	16	2016	60.10	0.05	0.13

**Source: Adapted from the World Bank (2017)**

The data in table 3.2 above on the control of corruption appears to reveal that the scores for South Africa have decreased marginally over a 5-year period between 2011 (58.77) and 2015 (58.17). However, since 2012 to 2013, progress in these efforts has been slow. South Africa has percentile rank scores ranging from 58.77 to 60.10 throughout 2011 to 2016. There were 17 (2011-2013) and 16 (2014-2016) sources respectively. However, it is disquieting that despite the multiple ethics and anti-corruption legislation and guidelines that are available in South Africa, the WGI revealed the country had not succeeded in controlling corruption.

### 3.2.5 Transparency International

As briefly mentioned above, the TI, which is a coalition of international civil society institutions leading the combat of corruption with local chapters in more than 100 countries, acquired prominence after the ‘cancer of corruption’ lecture in 1996. The TI’s anti-corruption programmes include, among others, the National Integrity System (NIS), Corruption Perception Index (CPI) and Corruption Barometer Index (CBI). Macaulay and Mulcahy (2014:1) assert that TI programmes have become increasingly significant to assess governing mechanisms and unethical activities across the globe. Furthermore, the programmes are credited by Ball (2009:297) to have formed a symbol for goodness and responsibility which have assisted political principals and the general public to consistently adhere to open processes.

The TI also conducts annual surveys on the perceptions of corruption in individual countries as well as the barometer of corruption. Countries are ranked according to the citizen’s perception of corruption. The international best practice focuses on the



CPI because it is the best and most commonly utilised to establish levels of unethical conduct in most countries. Rohwer (2009:50) highlights that one of the fortes of the CPI and WGI is that these indices equally comprise sources based on the assessments of foreigners and sources based on samples of nationals. It is also important to note that Rohwer (2009:51) concludes the analysis of the two perception-based indices by cautioning that these indices should be used with more carefulness because of lack of transparency and definition problems. Specifically, there is indeed no perfect world because the CPI's reputation has not inhibited scrutiny of its methodology that underpins the results.

Firstly, one criticism that is frequently advanced is that the CPI has shortcomings of perpetual measures. Warren and Laufer (2009:843) argue that there are different definitions and understanding of what constitutes unethical behaviour that is considered by researchers who compile the perceptual corruption indices. The criticism levelled against CPI by Warren and Laufer (2009) correlates with Sampson (2010:106) who acknowledges that the CPI is neither sector specific when considering unethical behaviour in a country nor does it provide a clear definition of corruption. Moreover, Brown and Cloke (2011:118) have observed that TI may have a broader explanation of unethical conduct (misuse of assigned influence for personal gain) on their website, but when collecting data for the CPI the TI defines unethical conduct in line with the World Bank: "the abuse of public office for private gain". It is in this context that Bierstaker (2009:241) cautions that what may be approved as appropriate in a certain environment might be approved as unethical conduct in another environment. The contestation of corruption as defined confirms the lack of common understanding of this global scourge.

The second denunciation of the CPI falls under the misrepresentation of standings because of fluctuations in the samples. According to Warren and Laufer (2009:843), various countries are considered by the index on an annual basis. Consequently, the ranks results vary. The introduction of new countries affects those countries at the bottom of the rankings. These countries might seem to have dropped although their perceptions of unethical behaviour may have not changed. The counter-argument could be that countries need not focus on the number but rather their scores which is a clear indication of either an improvement or decline. Expressing another sentiment

closely linked to ratings and scores, Sampson (2010:106) informs that Galtung (2006) revealed that the CPI scores are purely arbitrary and cannot measure trends as well as capture progress through reforms. In addition to rankings and scores, the TI should also provide a brief analysis of the control of corruption in each country to develop anti-corruption intervention reforms.

Serritzlew, Sonderskov and Svendsen (2014:125) note that the main challenge with corruption indices is to reliably quantify hidden corruption and more importantly, there is a strong possibility that perceptions are inclined by more than the definite level of corruption. It is in this line of thinking that Brown and Cloke (2011:120) also report that Murphy (2011) is concerned about the philosophy of the TI which results in bias reporting and accuses TI of having certain national chapters that pursue political agendas, while ignoring unethical conduct in developed countries and seem to have questionable relationships with other multi-national businesses. It is, therefore, imperative for the TI to determine the role and origin of bribe-givers as in certain instances the latter are dominated by foreign individuals who contribute towards the country's poor rankings while their countries of origin are highly ranked.

There are other indices besides the well-known World Bank's WGI and Transparency International's CPI that the global community could utilise to establish the control of corruption in different parts of the world. Other noticeable indices include, among others, the UNDP's Human Development Report, the Freedom House's Freedom in the World Report and the World Peace Foundation's Index of African Governance Indicator. Hough (2013:29) argues with good reason that the reassurance and communication of unethical measures such as the TI's CPI has guaranteed that this behaviour is a policy proposal that is carefully considered by the international citizens. Despite its shortcomings, the TI's CPI remains a 'force to be reckoned' with in the anti-corruption circles and most importantly, the global community utilises these results to demand improved implementation of anti-corruption reforms from their respective governments.

### 3.3 INTERNATIONAL PROFESSIONAL ETHICS AND ANTI-CORRUPTION BEST PRACTICE

The section on international ethics and anti-corruption best practice with specific focus on three selected developed as well as three developing countries is the core of the chapter. It is intended to address the research problem and establish probable solutions to enhance the implementation of the professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. Clarification might be needed to establish whether it is acceptable practice for a province to be compared to countries. In justifying the latter, it is submitted that the implementation of professional ethics and anti-corruption legislation within the Gauteng Province are guided by legislation at a national or country level i.e. South Africa. As stated, the objective is to evaluate the implementation of national legislation with specific focus on a section of the province.

In certain case studies, research on international best practice might not necessarily scrutinise the implementation of specific professional ethics and anti-corruption legislation but rather the conducive environment that led to effective implementation of ethics and anti-corruption. Rothstein (2007:7) affirms that “there is certainly no corruption free country”. However, Mungiu-Pippidi (2013a:1282) divulges that the international anti-corruption stakeholders do not have significant responses to minimise unethical conduct at the country level. There are countries that have done relatively well to curb corruption. There is a strong argument which will be submitted later in the chapter that success of anti-corruption reforms takes a several years before their impact is felt.

Hough (2013:7) advises that “the importance of understanding country-specific dynamics before recommending, let alone implementing, reform agendas is now a *sine qua non* of corruption analysis”. This section of the research does not necessarily recommend that strategies that are working in certain countries should be imported but rather to learn and utilise experiences of others to infuse in the proposed development of an implementation framework. The focus of this chapter, therefore, shifts to providing a brief overview of international anti-corruption best practice. Three Scandinavian countries (Denmark, Finland and Sweden) were

selected because they are constantly ranked at the top of international anti-corruption indices. Secondly, the three developing countries (Botswana, Singapore and Georgia) which have improved their ranking on international anti-corruption indices are assessed. The specificities of each country that is important to implement professional ethics and anti-corruption legislation is outlined below.

### 3.3.1 Selected Scandinavian countries

The high-spending and high-taxation Scandinavian states are an ideal best practice to curb corruption because they have proven with the advent of time that they are effective in implementing ethics and anti-corruption programmes. It is also important to note that many of the anti-corruption reforms in the Scandinavian countries were made at the time of absolute monarchy. Consequently, the Scandinavian states are regularly categorised among the most ethical in the world. The international anti-corruption rankings which regularly place Scandinavian states at the top according to Salminen, Viinamaki and Ikola-Norrbacka (2007:81-82), reveals that possibly the unique 'Nordic' features can clarify their positioning.

Table 3.3 below illustrates the rank and scores of the Transparency International's CPI and confirm that Finland, Denmark and Sweden were frequently ranked and scored highly for the period from 2012 to 2016.

**Table 3.3: Rankings of the three selected Scandinavian countries in the Corruption Perception Indices 2012-2016**

	Rank 2012 (Score) – out of 176 countries	Rank 2013 (Score) – out of 177 countries	Rank 2014 (Score) – out of 175 countries	Rank 2015 (Score) – out of 168 countries	Rank 2016 (Score) – out of 175 countries
Finland	1 (90)	3 (89)	3 (89)	2 (90)	3 (89)
Denmark	1 (90)	1 (91)	1 (92)	1 (91)	1 (90)
Sweden	4 (88)	3 (89)	4 (87)	3 (89)	4 (88)

Source: (Compiled based on the TI's CPI results from 2012-2016 available at [www.transparency.org](http://www.transparency.org) as at 25 June 2017)

A standing question at this juncture of the study would be what measures adopted by the selected Scandinavian countries enable them to consistently score impressive rankings in the Transparency International's CPI and whether there are any special

factors that they utilise to implement professional ethics and anti-corruption legislation that could guide other countries? An immediate response is unavailable, but Hough (2013:6) observes that the countries with the biggest public administration tend to be least corrupt. Reference is also made to countries such as Finland, Denmark and Sweden. The observation by Hough (2013) correlates with Rothstein (2007:3) who reports that Scandinavian countries have large public sectors or are large on public services.

In this nexus, Rothstein (2007:3) further asserts that according to most established theories, these countries should be corrupt beyond repair. However, the analysis by Persson and Rothstein (2015:232) reveals a potential explanation on why governments with a bigger workforce are generally ethical compared to those with smaller workforce: “government size does not only affect the number of opportunities public officials have to engage in corrupt activities as public choice theory suggests, but it also affects the incentives to be corrupt once the opportunity arises”. The explanation given expels the argument that most countries that are perceived to be corrupt are in that situation because of bigger public sectors. A detailed discussion on the issue of the size of government will be considered later in chapter four after an individual analysis of control of corruption in both the developed and developing countries has been undertaken.

### **3.3.1.1 Finland**

The results of the Transparency International’s CPI as presented in table 3.3 above illustrate that on average, among the three selected Scandinavian countries, Finland has only been second best to Denmark in terms of control of corruption from 2012 to 2016. According to Salminen et al. (2007:87), the additional Scandinavian states such as Finland has separated systems of public law (administrative act that controls parts of public administration) and civil law (criminal law). The law which deals with unethical conduct in government has been given a distinct division within the criminal law. Garcia-Andrade (2012:14) reports that the political elite in Finland have demonstrated its will to ensure integrity and transparency through the adoption of limited legislation intended to address unethical conduct which notably includes, among others, the following:

- **The Finnish Administrative Procedure Act (APA), 2003 (Act 434 of 2003)** – Garcia-Andrade (2012:14) posits that the purpose of the legislation is to address unethical conduct while also encouraging noble conduct within government institutions and further assist to develop lasting working relationships between public servants and the general public.
- **The Penal/Criminal Code of Finland, 1889 (Act 39 of 1889 – amendments up to 927/2012 included)** – public servants in Finland are expected to always be ethical in the execution of their duties. Any unethical conduct is addressed by the Finnish Penal Code which comprises a chapter with violations covering (1) acceptance of a bribe and aggravated acceptance of a bribe, (2) bribery violation, (3) acceptance of a bribe as a Member of Parliament, (4) breach and negligent breach of official secrecy, (5) abuse of public office and aggravated abuse of public office, and (6) violation of official duty and negligent violation of official duty.

An ideal situation for any country that seeks to curb corruption is to complement anti-corruption reforms with strong and resourced constitutional bodies. Salminen et al. (2007:92) attest that the dispersed legislation in Finland is supplemented by sound financial monitoring and competent regulating mechanism which appear to enable the implementation of anti-corruption reforms. The constitutional bodies when effectively executing their mandates have a decisive part to exercise in this regard. According the Finland's Ministry of Justice (2009:10) in their system, Parliamentary Ombudsman is responsible for the oversight function that guarantees that public servants and political principals apply the rule of law and perform their responsibilities effectively. The Finnish system also has the Office of the Chancellor which is "appointed to supervise authorities such as Cabinet ministers and other public official's compliance with the law and advances legal protection of Finnish citizens". These two institutions perform the functions which are equivalent to the mandate of the Office of the Public Protector in South Africa. The Parliamentary Ombudsman and the Office of the Chancellor in Finland are broadly reported to be highly respected long-standing institutions and present lawful control measures in terms of unethical conduct in the public service. Salminen et al. (2007:88) confirm

the role of these institutions which curbs corruption by supervising the legality of decisions in Finland and further clarify that their role differs from public courts where cases involving public servants are administered. The Parliamentary Ombudsman and the Office of the Chancellor seem to effectively assist to ensure that professional ethics and anti-corruption legislation is implemented effectively in Finland.

A dedicated anti-corruption agency is often presented as a prerequisite for successful implementation of professional ethics and anti-corruption legislation. Quah (2014:24) asserts that an independent anti-corruption agency needs adequate financial and human resources including operational independence to function effectively and most significantly, can implement the existing legislation impartially. However, the absence of an independent anti-corruption agency is not necessarily an impediment to curb corruption. For example, Finland does not have a separate agency, institution or commission which specialises in the investigation or prosecution of corruption-related offences for alleged cases of corruption. These cases are managed by the administrative courts, ombudsman and media (Salminen et al. 2007:84; Finland Ministry of Justice 2009:12). The case of Finland, therefore, substantiates an argument that countries can implement ethics and anti-corruption legislation effectively without necessarily having a dedicated anti-corruption agency.

In most countries, the implementation of ethics and anti-corruption legislation is often perceived as a sole responsibility of government. Even if that is the circumstance, collaboration with other sectors of society is necessary because corruption is a multi-sectoral challenge. As indicated (cf. section 3.2.1), this will be in line with the UN Convention also requires member states to support each other in addressing corrupt activities. Hough (2013:4) cautions those tasked with fighting corruption that they will generally contend with the politics of combating unethical conduct and provide guidance that anti-corruption programmes reforms can only be successful where there is political will. Despite not having an anti-corruption agency, Poochaoren (2014:8) posits that Finland has a network called the Anti-Corruption Coordinating Group which comprises of representatives from the Ministry of Justice, Foreign Affairs, Internal Affairs, Finance, Trade and Industry, Confederation of Finnish Industries, Central Chamber of Commerce, Finnish Municipal Association, Office of Prosecutor-General, Controller's Office and TI Finland, with a total of 18 members

and a secretary. Its aim is reported to be broad, including among others, the following:

- Joint planning and coordination of execution at the highest level;
- Provision of guidelines to state, municipal and private sectors;
- Promote detection investigation and prosecution; and
- Coordinate implementation of international agreements.

Garcia-Andrade (2012:20) suggests that countries should always seek to combine strategies from different sectors of society in their fight against corruption because this ensures that all are vested with the required tools. Poochaoren (2014:12) asserts that collaboration by various sectors in Finland revived thrice in 2002, 2005 and 2008 and has been strengthened with the endorsement from the Council of Europe's Group of States Against Corruption (GRECO). It was formed primarily under external pressure from the European Union with the intention to coordinate activities among government departments. The effective joint efforts by various sectors in Finland seem to ensure effective implementation of professional ethics and anti-corruption legislation.

The issues highlighted thus far for the Finnish case study concerns the general conducive environment for effective implementation of professional ethics and anti-corruption legislation. An interesting question would be why civil servants in Finland adhere strictly to professional ethics and anti-corruption legislation? According to Salminen et al. (2007:86) as well as Garcia-Andrade (2012:16), the ancient support of the Finnish public administration is the reporting method which requires public servants to study the reported issue under strict supervision and submit alternate suggestions to those with decision-making powers. The Finnish structure has numerous procedures of overseeing decisions taken by public servants.

The Finland's Ministry of Justice (2009:9) explains that the referendary system is an effective measure to eliminate unethical conduct because the prospective briber must convince both the decision-making public servant and overseeing supervisor (referendary). The internal mechanisms for decision-making within government



departments in Finland have, therefore, proven to limit the opportunities for public servants to participate in corrupt activities. Effective implementation of professional ethics and anti-corruption legislation require a sound justice system that does not compromise and the rule of law is applied strictly. Ethical conduct within Finnish public administration is partially attributed to the Scandinavian customs which respect the rule of law, and, more importantly, due to political will in the post-independence period (Salminen et al. 2007:85; Garcia-Andrade 2012:12). The underlying feeling according to the Finland's Ministry of Justice (2009:7), was that the legislation is respected and effectively implemented across the system. The significance of adhering to the rule of law is as observed by Garcia-Andrade (2012:12) almost impossible for a country to achieve relatively low levels of corruption without a trusted and empowered legal system. The advantage of having a justice system that applies rule of law without fear of favour is that officials, in this instance, consistently adhere to both professional ethics and anti-corruption legislation because they are aware of the consequences if they fail to adhere.

As previously indicated, even countries that are perceived to be performing well in terms of controlling corruption are not resting on their laurels but continuously guard against complacency and seek improvement. Finland is not the exception. According to Holmes (2015), Salminen suggests three improvements for Finland if it seeks to continue with the low levels of corruption. These are to increasingly involve the civil society as part of anti-corruption programmes, decrease in societal unethical conduct and endorse a Code of Conduct for public servants.

### **3.3.1.2 Denmark**

Denmark is the 'golden girl' or the 'talk of the town if not the world' in terms of curbing corruption with every country seeking to "getting to Denmark" standard. The results of the Transparency International's CPI as presented in table 3.3 above illustrates that on average, among the three selected Scandinavian countries, Denmark has been the best performing in terms of controlling of corruption. The results further confirm that, amazingly, Denmark has managed to remain at the top of the CPI from 2012 to 2016. However, a cause for concern for Denmark is that their scores have been decreasing over a three year period from 92 in 2014 to 91 in

2016. According to Mungiu-Pippidi (2013a:1273), the competency and competitive salaries of public servants selected on merit are necessary features that make Denmark a contemporary example of a country that has managed to minimise unethical behaviour. The proficiency of the public service in Denmark is largely attributed by Transparency International Denmark (2012:iv) to a strong culture of public administration. As mentioned (section 1.3.1), the exercise of integrity is highly prioritised in Denmark even though there are moderately few prescribed procedures of ethical conduct. The Danes perfectly demonstrate that professional ethics and anti-corruption legislation is not necessarily the prerequisite to curb corruption.

The focus is to encourage citizens to take individual responsibility to fight corruption, rather than develop rules, needed for the development of the country which seems to have paid off for Denmark. Thus, the local chapter of Transparency International in Denmark (2012:1) reports that unethical conduct does not dominate public discussion in the country because it is not a primary challenge. Mungiu-Pippidi (2013a:1273) reveals that instilling ethical conduct within the Danish society required a series of programmes that took more than a century to implement as the country moved from dictatorship to democracy. The Danish analysis also demonstrates that the scourge of corruption can be defeated when there is a sense among citizens to unite for the realisation of the developmental goals of the country. This is possible when citizens participate in decision-making because they will be provided with platforms to propose changes to public service measures which require enhancement. The authorities should consider these submissions since they are vital to build trust between them and the citizens.

Graeff and Svendsen (2012:2833-2835) inform that the three selected Scandinavian countries for this study top the list along with Netherlands in terms of having the most trusting people in the European Union and further enlighten that unprecedented levels of unethical conduct in any setting has an impact on deteriorating social trust and result in social network constellations that contribute to the decreasing levels of economic growth. Serritzlew et al. (2014:136) concur by stating that intervention mechanisms that seek to control the levels of unethical conduct corruption and/or increase social trust have an economic payoff. Hence, the low levels corruption

assist to increase social trust among citizens. This is pivotal in addressing the economic challenges especially for a developing country like South Africa.

There are two challenges that might be experienced by countries seeking to adopt the Danish model. Firstly, according to Mungiu-Pippidi (2013a:1279), “getting to Denmark” similarly the route which was taken by Denmark might have its challenges in the contemporary setting as countries are struggling with more collective problems than Denmark had to while implementing its reforms. Secondly, the absence of ethics and anti-corruption legislation is a potential weakness since relying on trust among citizens is not always guaranteed. A local chapter of the Transparency International in Denmark (2012:1) cautions that limited legislation can expose the vulnerability of the system when there is an increase in violations of unethical conduct. Both challenges are referring to the changing environment and conditions. Moreover, the lack of ethics and anti-corruption legislation is indisputable as countries are faced with different challenges. These challenges also confirm that the realisation for successful anti-corruption reforms takes time. The local chapter of the Transparency International in Denmark (2012:6) recommends, *inter alia*, the formulation of a legislation to solely regulate access to information. As previously stated, the continuous review of strategies to curb corruption is crucial even for countries such as Denmark which are known to be doing well in this regard.

### **3.3.1.3 Sweden**

The results of the Transparency International’s CPI as presented in table 3.3 above revealed that on average, among the three selected Scandinavian countries, Sweden has been fluctuating between positions three and four in terms of control of corruption during 2012 to 2016. Although positioned at number four in the 2016 CPI table, Sweden has scored 88 points. There is a minor gap of three points between Sweden and Denmark (which is positioned at the summit with 91 points). Poochaoren (2014:10) argues that the minimum levels of unethical conduct in Sweden is because of a combination of respectable party-political and justice systems, competent public administration and high confidence levels among public servants and the general public.

In an attempt to locate the origins of a principled public administration in Sweden, Rothstein and Teorell (2015:247) reveal that “these ideas were rooted in the type of enlightenment liberalism that formed the base for the political opposition against monarchical rule and the power of the conservative aristocracy that dominated the Swedish state during the first half of the nineteenth century”. The success of anti-corruption reforms in countries such as Sweden has, therefore, not been an ‘overnight’ project since they are traced back to the efforts which were taken in the previous century. Patience is indeed needed for those embarking in the implementation of professional ethics and anti-corruption legislation.

Does the call for patience when implementing professional ethics and anti-corruption legislation imply that the focus should be in one or few reforms at a time until the entire system is changed? According to Persson, Rothstein and Teorell (2010:20), research has confirmed that coordination and cooperation (big push) by all stakeholders is the basis for the successful implementation of anti-corruption reforms. Sweden is one fascinating example in this regard. As described by Rothstein (2007), the image of an ethical Sweden was created by the implementation of a wide range of reforms that targeted all sectors of society from a corrupt to a far less corrupt equilibrium which implies that an entire range of large scale reforms were implemented. The change across the system is often termed the “Big Bang Theory” and advocates for anti-corruption reforms to be implemented across the system rather than focusing on one or several sectors. Rothstein and Teorell (2015:238) elucidate in detail that Sweden is an example of a country that has transformed from being corrupt to be associated with competency and accountability of public administration. Factors that aided Sweden included, among others, the revised judiciary system and solving challenges linked to administrative and political interface.

According to Bauhr, Nasiritousi, Oscarsson and Persson (2010:1), unethical conduct is not an anticipated conduct in Sweden as in poor countries. However, Sweden, although said to be as Finland externally pushed by other European countries, established a dedicated anti-corruption agency to implement professional ethics and anti-corruption legislation. In this context, Poochaoren (2014:14) asserts that Sweden’s anti-corruption work reflects a system that is ideal because there is an

agency that is effective and is willing to working with other agencies. The primary anti-corruption agency in Sweden is the National Anti-Corruption Unit (NACU). Established in 2003 it was reported in 2014 to have only five prosecutors. Other agencies which support anti-corruption activities include the following:

- The Swedish National Economics Crime Bureau (ECB);
- The National Council for Crime Prevention (NCCP);
- The Committee of Constitution (COC);
- The Parliamentary Ombudsman (PO);
- The Chancellor of Justice (COJ);
- The Swedish National Audit Office (SNAO); and
- The Administrative Development Agency (VERVA).

VERVA and NACU have formed a group called National Anti-Corruption Network (NACN) to encourage ethical principles and share successful strategies. Most importantly and probably relevant to this study is the revelation by Poochaoren (2014:10) who asserted that Sweden's web of institutes above 'plays an extraordinary supervisory role' in ensuring civil servants comply with laws and the citizens are treated correctly. It is, therefore, argued that although corruption might not be an expected behaviour in Sweden (Bauhr et al. 2010), efforts have been made to form a dedicated anti-corruption agency. Sweden should be commended for forming this agency as reported low levels of corruption do not necessarily imply there is absolutely no corruption in the system. Those involved in corrupt activities could utilise sophisticated methods that are difficult to detect. Hence, instances where corruption is detected, Sweden will not be vulnerable because the country has an existing agency to decisively manage those cases. Effective implementation of professional ethics and anti-corruption legislation is also monitored by the agency.

In most instances systems have shortcomings. The analysis of Sweden is no exception to this general assumption. According to Bauhr and Nasiritousi (2011:7), while need or petty corruption is virtually non-existent in Sweden, greed corruption still exists. Transparency International (2009:23) defines need or petty corruption to be activities committed by public servants at the lower and middle levels when

executing their duties while greed corruption involves activities by senior public servants and politicians whose actions ominously delay the implementation of policies. It is in this nexus that Bauhr et al. (2010:1) cautions that unethical conduct in Sweden does not result in huge loss of money but has a potential to damage the reputation and confidence in public administration.

It is, therefore, submitted that the Swedish authorities should guard against punishing low level officials who commit petty corruption while officials at senior levels who commit grand or greed corruption are perceived untouchable. Quah (2014) recommends that impartial enforcement of the anti-corruption laws is necessary to ensure that consequence management for corrupt officials is implemented effectively irrespective of their position in society. The lack of trust in government systems is also as a result of failure to impartially enforce professional ethics and anti-corruption legislation.

### **3.3.2 Developing countries**

The focus of the chapter shifts to providing a brief overview of international anti-corruption best practice on three selected developing countries. The specificities of each country to implement the professional ethics and anti-corruption legislation is discussed. Bauhr et al. (2010:4) accentuate that there is a general unanimity held among global organisations such as Transparency International and the World Bank that unethical conduct is the crucial cause for the poor performance of developmental programmes and thus minimises the levels of unethical conduct which is consequently, not just an ethical but also an economic imperative. Developing countries could address developmental challenges that they are faced with if they manage to curb corruption to minimum levels.

Mungiu-Pippidi (2013a:1259) reveals that according to Andrews (2008), the “most relevant lessons lie not in what developed countries are doing to control corruption but rather in what they have done in the past, when their societies more strongly resembled the conditions in today’s developing world”. Rothstein and Teorell (2015:251) concur that “if the endogenous theory of anti-corruption reform proves applicable to other cases, it seems that fundamental anti-corruption change could

very well be brought about from inside”. The case of providing a brief overview on developing countries is sounder compared to developed countries because successful anti-corruption reforms by most developed countries were implemented while they were still classified as developing countries.

The three selected developing countries are Botswana, Singapore and Georgia because they had excelled in controlling corruption. The rankings of these three selected developing countries in the Transparency International’s CPI for the five-year period from 2012 to 2016 is illustrated in table 3.4 below and an individual analysis of the control of corruption is assumed.

**Table 3.4: Rankings of three selected developing countries in Corruption Perception Indices 2012-2016 (South Africa included to illustrate their performance compared to their counterparts in the developing world)**

	Rank 2012 (Scores) – out of 176 countries	Rank 2013 (Scores) – out of 177 countries	Rank 2014 (Scores) – out of 175 countries	Rank 2015 (Scores) – out of 168 countries	Rank 2016 (Scores) – out of 175 countries
<b>Botswana</b>	30 (65)	30 (64)	31 (63)	28 (63)	35 (60)
<b>Singapore</b>	5 (87)	5 (86)	7 (84)	8 (85)	7 (84)
<b>Georgia</b>	51 (52)	55 (49)	50 (52)	48 (52)	44 (57)
<b>South Africa</b>	<b>69 (43)</b>	<b>72 (42)</b>	<b>67 (44)</b>	<b>61 (44)</b>	<b>64 (45)</b>

Source: (Compiled based on the TI’s CPI results from 2012-2016 available at <http://www.transparency.org> as at 25 June 2017)

### 3.3.2.1 Botswana

The Transparency International’s CPI has consistently ranked Botswana as the most ethical country in Africa. Botswana has consistently displayed signs of controlling corruption compared to their continental counterparts. However, a cause for concern is the decrease in scores over a five-year period from 65 in 2012 to 60 in 2016. Although Botswana is still the highest ranked country in Africa, it contributed to the slide on the CPI from position 31 in 2014 to 35 in 2016 (years with the same number of countries which were surveyed). Kapunda and Moffat (2012:89) highlight that Botswana’s impressive economic growth and relatively low poverty levels are attributed to significant anti-corruption measures. African countries which share similar background variables need to be exposed to the programmes intended to

manage unethical conduct in their respective countries. The national ethics and anti-corruption legislation in Botswana includes, among others, the following:

- The Penal Code of Botswana, 1964 (Act 2 of 1964);
- The Corruption and Economic Crime Act, 1994 (13 of 1994);
- Proceeds of Serious Crimes (Amendment) Act, 2000 (13 of 2000);
- The Money Laundering Legislation (Excerpts); and
- The Banking (Anti-money laundering) Regulations of 2003.

The most important determining factor in ensuring the effective implementation of professional ethics and anti-corruption legislation is the support from leaders. The influence that leaders possess can guarantee the effective implementation of these laws. According to Johnston (2012:469), Botswana “teaches other countries the important lessons about the value of socially rooted leadership”. Although much of the success of anti-corruption reforms in Botswana is attributed to political will, it should also be highlighted that the establishment of a dedicated anti-corruption agency has turned political talk into action in terms of controlling the levels of corruption. Kapunda and Moffat (2012:86) report that instituting the Directorate of Corruption and Economic Crime (DCEC) in Botswana has categorised new violations of unethical conduct which comprise, *inter alia*, possessing inexplicable assets that result in officials living beyond their means. Khemani (2009:25) confirms that the DCEC “has enjoyed considerable success in implementing anti-corruption reforms due to strong political commitment, adequate resources and support from civil society”. The failure of anti-corruption agencies is, associated with, *inter alia*, losing their operational autonomy which is deemed necessary for to perform their duties effectively.

However, the role of DCEC has been questioned in certain quarters. A lingering concern for Good (2010:360) is that Botswana’s rulers “seem to think that they can get away with anything, safe inside their cocoon of perceived democracy and the absence of corruption”. The anti-corruption reforms could fail once it is realised that low level officials are targeted while the actual culprits, senior officials, are ignored. In defence of the impartial role of the DCEC, Sebudubudu (2010:257) highlights that



although there is an observation that the DCEC focuses on unethical conduct committed by public servants at lower levels, reports reveal that the Directorate has also investigated cases of grand corruption. In supporting this counter-argument, examples of two high profile cases are provided, for example, former General Manager of the Motor Vehicle Insurance Fund (MVIF) was convicted and jailed for fraudulently securing cash including the former Director of Roads for unethical conduct. The counter-argument submitted by Sebudubudu (2010) in defence of the impartial role of the DCEC highlights that officials at management level were also prosecuted for corruption. However, Good (2010) is concerned about the lack of prosecution among the political elite who seem to be exempted. To ensure continuous success in the implementation of anti-corruption reforms as well as retain the trust of the general public within and outside of Botswana, it seems that the DCEC needs to be consistent in investigating all cases of alleged corruption and where necessary, punish any implicated officials regardless of their rank or political association.

### **3.3.2.2 Singapore**

It is important to note that for this study Singapore has been classified as a developing country. This is partly informed by the absence of a generally acknowledged classification system. It is not the intention of this study to either debate or justify their classification but rather to illustrate how Singapore has managed to control corruption. Nielsen (2011:4) informs that, among the international organisations, there is absence of methodology or a consensus for how to classify countries based on their level of development. The Asian Channel News (18 May 2016) notes the classification of countries by the international organisations as follows:

- The World Bank (2016) indicates that it would no longer distinguish between “developed” and “developing” in its publications and databases as the classification was becoming less “relevant”.
- The International Monetary Fund classifies 37 countries as “advanced economies” and the rest as “emerging market and developing economies”.

- The United Nations Development Programme’s Human Development Index classifies countries into “very high”, “high”, “medium” and “low” based on indicators related to income, education and health.
- The United Nations classifies of Europe and Northern America along Japan, Australia and New Zealand as developed, with the rest – among 159 countries – classified as developing.

The classification of Singapore among the developing countries by the United Nations (due to its status in international affairs) is used as a reference for this study. However, it should also be accentuated that Singapore is a developing country that is at an advanced stage of development.

The results of the Transparency International’s CPI as presented in table 3.4 above reveal that on average, among the four selected developing countries (South Africa included), Singapore has been the best performing in terms of control of corruption over a five year period from 2012 to 2016. Singapore has been dropping slowly on the overall table for CPI moving from an impressive position number five during 2012 to position number seven in 2016. Noticeably, the scores for Singapore conform to their declining position during this period from 87 in 2012 to 84 in 2016.

The strength of anti-corruption reforms is in certain instances associated with existing ethics and anti-corruption legislation in a particular country. According to Hin (2011:96), Singapore has two strategic legislations to address unethical conduct as follows:

- **Prevention of Corruption Act (POCA):** administers the primary violations of unethical conduct and most importantly, delegated additional powers of enforcement to the Corrupt Practices Independent Bureau (CPIB), which is an independent public sector anti-corruption agency which reports directly to the Prime Minister’s Office with a mandate to investigate all unethical conduct within government and business sectors or other offences under any written law. The POCA was passed in 1960 to replace the preceding Prevention of Corruption Ordinance (POCO) which was introduced during the British. Garcia-

Andrade (2012:7-8) posits that the POCA's scope, contrary to the POCO's 12 sections, was increased to 32 sections with a final increase to 37. Moreover, to improve the POCA's preventive influence, punishment for unethical behaviour would result in a five-year detention. It is also reported that the recovery of funds stolen through unethical conduct is prioritised in addition to the sentence by a court of law. Recovery of funds is a key component of anti-corruption reforms as perpetrators must be aware that when they are caught, they should return all they have stolen.

- **Corruption, Drugs Trafficking and Other Serious Crimes Act (CDSA):** focuses on the confiscation of assets which an individual imprisoned for unethical conduct is unable to explain satisfactorily. The Singaporean authorities should be commended for strengthening controls to ensure seizure and forfeiture of those involved in corrupt activities. Singapore is another country that has managed to curb corruption largely due to the effectiveness of its dedicated anti-corruption agency. Poochaoren (2014:14) acknowledges that Singapore has been praised for effective corruption control due to CPIB's capacity and scope of power – investigative and punishment. Hin (2011:98) correctly advises that a significant feature to address unethical behaviour is to improve consequence management because the corrupt escape detection and investigation when strict laws are not implemented properly. Legislation such as the CDSA makes CPIB's work easier because it is presented as ammunition to manage those who are involved in corrupt activities.

The implementation of professional ethics and anti-corruption legislation seems to also be influenced by staff morale in certain countries. Garcia-Andrade (2012:10) conveys that besides the establishment of the CPIB, the political elite in Singapore acknowledged that improving public servants work conditions would also ensure the successful implementation of anti-corruption reforms. There were three decisive steps that assisted with this approach.

Firstly, government revised the public servant's salary scales to conform to those in the private sector. Secondly, government created the Service Improvement Unit to improve the quality of service provided by the public sector to the members of the

communities. Lastly, each government ministry was instructed by a departmental team to analyse its internal anti-corruption procedures and further allocate resources to prevent unethical behaviour. The issues that deemed to cause low staff morale and operational concerns in line departments were decisively addressed in Singapore as in the three selected Scandinavian countries. Failure to address these concerns has the potential to cause nominal application of legislation to address unethical conduct in a particular setting.

Heilbrunn (2004:6-7) asserts that allegations of unethical conduct were widespread in Singapore throughout its colonial history and during independence, the People's Action Party (PAP) implemented a set of anti-corruption reforms to regulate citizens' conduct and enforce stringent penalties against those implicated in allegations of unethical activities. The PAP Government acknowledged that a sound programme to manage unethical conduct was imperative to attract foreign direct investment to Singapore. It must be noted that anti-corruption reforms which were introduced did not yield immediate results because alleged cases of unethical conduct continued to be a serious challenge in Singapore. These scandals prompted the government to strengthen laws and address the CPIB to end venality in Singapore's public sector. Singapore demonstrated the possibility of addressing high levels of unethical conduct if a strong governing party and its political principals play a significant and effective role. Furthermore, anti-corruption reforms take time before its intended results can be realised.

### **3.3.2.3 Georgia**

Georgia is one of the overall best performing developing countries that has revealed continuous improvement in the CPI, moving from position 51 in 2012 to position 44 in 2016. It is important to note that Georgia was ranked 124 in 2003 which implies that they had achieved an 80-place improvement over a 13-year period to their latest position 44 in 2016. According to Chene (2011a:2) and Kupatadze (2012:28), the prominence of programmes to manage corrupt practices in Georgia has its roots in the 'Rose Revolution' (well-known as 'anti-corruption movements') sparked by, among others, a popular rejection of rampant corruption that forced the resignation of President Shevardnadze in November 2003. The implementation of successful

anti-corruption reforms in countries such as Georgia is associated with certain key events in their history. Georgia seems to have used their revolution to underscore the significance of adhering to professional ethics and anti-corruption legislation.

According to Schneiders ([sa]:7), the primary driver of change in Georgia's anti-corruption initiatives has been the government which, among others, introduced various legislation, formulated an anti-corruption strategy and established anti-corruption bodies such as the Anti-Corruption Inter-agency Council (to coordinate the work of the anti-corruption strategy). Di Puppo (2010:228) discerns that the government of Georgia is trying to challenge the notion that governments are failing to minimise the levels of unethical conduct. Georgia is concerned about disseminating its knowledge on managing unethical conduct assertively to other developing countries than introducing from other countries. The government of Georgia is a typical example to other governments in the developing world that their unwavering commitment in implementing professional ethics and anti-corruption legislation should always be the priority.

The quality and quantity of the public sector workforce is often neglected when failure to effectively implement professional ethics and anti-corruption legislation is analysed. Di Puppo (2014:111) reveals that programmes introduced to minimise the level of corruption in Georgia are closely linked country's determination to improve its status and is focusing on developing ethical young public servants in the public service. As a result, Kupatadze (2012:26) affirms that the authorities in Georgia reduced the size of the workforce by almost 50 percent and increased the salaries of the remaining public servants by approximately 15-fold. The revised competitive salary structures ensured that specialists remained in the public sector. The reduction of jobs and an increase in salaries require decisive leadership as in certain countries such as South Africa. This intervention would not be easy to implement due to the constitutional enshrined bargaining power of sectors such as the labour federations.

Di Puppo (2014:111) argues that the government of Georgia's selected anti-corruption initiatives divulged successful implementation within a short period. According to Chene (2011b:2), the "complete overhaul of sectors that are perceived

to be highly corrupt also contributed to the successful implementation of anti-corruption reforms as a competitive recruitment system brought in new employees”. The focus on selected sectors without implementing the Big Bang Theory was successful in Georgia. The internal drivers in Georgia according to Kupatadze (2012:30), also included, *inter alia*, the combination and promotion of ethical conduct with calls for foreign direct investment with the intention of appealing to investors. However, Chene (2011a:3) maintains that the government of Georgia’s obligation to programmes intended to address unethical conduct is linked to strategies that seek to build a favourable setting for foreign direct investment. The intensification of efforts to implement professional ethics and anti-corruption legislation successfully can result in economic incentives as investors bring foreign direct investment. Georgia has proven this statement to be true.

### 3.4 SUMMARY AND CONCLUSION

The specific question was posed as follows: *“What are the international best practices for the implementation of professional ethics and anti-corruption legislation that can be adopted by the Social Sector Cluster in the Gauteng Province?”*. It was indicated that, in clarifying this question, the chapter would briefly discuss international anti-corruption measures with specific reference to both the international protocols and organisations. It is against this background that the specific protocols, as signed and ratified by the Republic of South Africa, as well as programmes designed to combat unethical conduct by perceptible and reputable international organisations were briefly highlighted and scrutinised. It was reported that Transparency International, which is a coalition of international civil society institutions at the forefront to combat unethical behaviour with local chapters in more than 100 countries, received prominence after the ‘cancer of corruption’ lecture in 1996. The results of the Transparency International’s Corruption Perception Index were utilised to support evidence for most of the arguments submitted in the chapter.

Moreover, the chapter provided a brief overview of international anti-corruption best practice, in selected Scandinavian countries (Denmark, Finland and Sweden). The chapter noted that high-spending and high-taxation Scandinavian states are an ideal best practice to curb corruption because they are regularly ranked among the most

ethical countries on earth. The chapter discussed key 'Nordic' factors which explained why the Scandinavian countries excel in managing and controlling corruption. Examples of developing countries, for example, Botswana, Singapore [a developing country at an advanced stage] and Georgia that have done significantly well in fighting corruption was also presented. The general unanimity held among global organisations such as Transparency International and World Bank is that unethical conduct is the crucial reason why developmental programmes perform poorly. Consequently, this minimises the levels of unethical conduct which is not just an ethical but also an economic imperative. It was, therefore, argued that developing countries could address developmental challenges they are faced with if they manage to curb corruption to minimum levels. The case to provide a brief overview of developing countries, as noted, was much stronger than for developed countries because successful anti-corruption reforms by most developed countries were implemented while they were still classified as developing.

The following chapter will focus on contextualising the South African environment, the arguments presented by both Scandinavian as well as developing countries that have succeeded in curbing the scourge of corruption.

## CHAPTER FOUR

### LESSONS LEARNT FROM THE INTERNATIONAL BEST PRACTICE FOR THE SOUTH AFRICAN CONTEXT

#### 4.1 INTRODUCTION

*“By crawling a child learns to stand”.*

*– African proverb*

Man-wai (2011:122) posits that there is no distinct answer that can be applied to address unethical conduct since each country should scrutinise its exclusive conditions and derive its own broad approach. The advice corresponds with the views held by the former President of the World Bank, Wolfensohn (1996:6) who, among others, urges countries to develop home-grown solutions when addressing the scourge of corruption (cf. section 3.2.4). This is sound advice considering that corruption is interpreted inversely among countries and most significantly, people tend to adopt a negative attitude towards issues imposed from elsewhere compared to the locally developed initiatives.

In the preceding chapter, the research question: *“What are the international best practices for the implementation of professional ethics and anti-corruption legislation that can be adopted by the Social Sector Cluster in the Gauteng Province?”* was discussed partially. Chapter three highlighted the ethics initiatives adopted within the three selected Scandinavian as well as the three developing countries to control the levels of corruption within their respective territories.

The purpose of chapter four is to address the posed question by contextualising it in South Africa through arguments presented by both Scandinavian as well as developing countries that have managed to curb the scourge of corruption. The intention is not to recommend the introduction of the strategies that have brought success in other countries but rather to describe suitability of certain propositions that could work in the South African context. The valuable lessons learnt from the



international best practice will, therefore, be taken into consideration. The conclusion will summarise the chapter and provide a brief outline of chapter five.

## 4.2 LESSONS LEARNT FOR THE SOUTH AFRICAN CONTEXT

The focus shifts to describing the key arguments or lessons learnt for the South African context as presented by the selected countries that have managed to curb the scourge of corruption by effective implementation of professional ethics and anti-corruption legislation. In considering the diverse historical context of each country, Abdulai (2009:388) as well as Heeks and Mathisen (2012:1) caution against the implementation of a universal method to address unethical conduct and further suggest that any effective and viable reforms must focus on the causes thereof so that interventions can address the weaknesses in the system. This can only be achieved through participation of local players as they are best placed to have knowledge of the manifestation of unethical conduct in their environment.

The quest to adopt lessons learnt from countries that have managed to curb corruption is motivated by Bauhr and Nasiritousi (2011:3) who assert that the major challenge for the anti-corruption industry is to understand the limited success and seek effective approaches to manage corruption. The success as achieved by certain countries must be understood in the search for local solutions. As already mentioned, the intention is not to import strategies that have brought success in certain countries but rather to discuss appropriateness within the South African context.

Hough (2013:30) asserts that a determining factor in the anti-corruption industry is the environment where the reforms are being implemented. However, success of anti-corruption reforms takes time before realisation thereof. Hence, Heeks and Mathisen (2012:3) call for patience when confirming that reform procedures could take several years to be realised because unethical behaviour is a major conundrum and perpetrators become resilient in their efforts. For example, Rothstein and Teorell (2015:247) reported that evidence revealed that it took Sweden and Denmark approximately 40 years to minimise the levels of corruption in their system. The propositions which are based on the analysis of the preceding chapter of both

developed and developing countries, revealed remarkable control of corruption. These are considered briefly below to evaluate their probable implementation in the South African context.

#### **4.2.1 Designing an implementation model for anti-corruption**

South Africa is often applauded for having implemented comprehensive ethics and anti-corruption legislation to alleviate opportunities for corruption. However, the implementation thereof remains a challenge. According to Person et al. (2010:3), scholars concur that poor implementation is the primary reason for the failure of anti-corruption programmes. Heeks and Mathisen (2012:1) posit that mistakes attributed to the implementation of anti-corruption interventions include, among others, limited stakeholder's participation in the reforms, impact and ill-conceived time-frames, low level long term partnerships and the lack of indicators to measure outcomes. Therefore, anti-corruption legislation is inadequate if not supplemented by an effective implementation model. Graycar (2015:95) suggests that "in the implementation of policy both events and processes can be corrupted as often the financial gains to the individual and the loss to the government are not large, but trust is diminished and governance capacity compromised". Besides ensuring the recovery of funds, an effective and impartial implementation framework is necessary for the continuous legitimacy of government which ensures stability within a country.

The significance of an effective implementation framework is the nucleus of ethics and anti-corruption legislation. The research on international best practice recommends a well-designed implementation framework that leaves no room for failure. When developing an implementation framework for the Social Sector Cluster in the Gauteng Province, the research will consider Heeks and Mathisen (2012:15) who argue that "one valuable profile found on successful anti-corruption initiatives is the "hybrid" which straddles design and reality, by understanding something of both worlds: understanding both how to design and how to fit such design to actual experience from particular reality concerned". As a result, the ITPOSMO model is highly recommended by Heeks and Mathisen (2012) for the effective implementation of anti-corruption legislation or initiatives. The details are listed below:

- **I**nformation (both formal and informal)
- **T**echnology (mainly information technology)
- **P**rocesses (from individual tasks to broader business processes)
- **O**bjectives and values (covering formal strategies and personal goals, and the influence of informal institutional forces)
- **S**taffing and skills (quantitative and qualitative aspects of competencies)
- **M**anagement systems and structures (the formal aspects of organisation)
- **O**ther resources (especially time and money)

The design of the implementation framework will further consider both internal and external factors that have a potential to impede its application. Johannsen and Pedersen (2012:133) note that employees have the potential to resist policy reforms. According to Barker and Wilson (1997), implementation research has constantly revealed that impartiality or objectivity in the public service is inadequate to implement a policy. In this regard, Johnston (2012:474) cautions that reform forces “not only must contend with powerful, wealthy interests who are able and all too willing to defend their advantages and gains, but they also often do so in conditions of social fragmentation, distrust and weak social and political institutions”. Internal and external factors will be considered when developing an implementation framework for professional ethics and anti-corruption legislation for the Social Sector Cluster in Gauteng Province.

#### **4.2.2 Culture**

The success of Scandinavian countries to implement anti-corruption reforms is largely attributed to their culture. According to Tomescu and Popescu (2013:202), culture is significant in identifying ethical standards and conduct in the public sector. The significance of culture in the public service is further highlighted by Salminen and Mantysalo (2013:170) who argue that “administrative tradition and culture mould the public service ethos”. Stevulak and Brown (2011:105) suggest that government should prioritise finding and supporting the ethical change agents who will execute their duties with honesty and further develop an ethical culture as well as character of government. The primary concern would be to establish whether culture,

particularly in the South African context, contributes towards increasing unethical challenges in the public service. The intention is not to pronounce whether other cultures are better because that falls outside the scope of this study.

Graycar (2015:95) affirms that cultures that are corrupted lead to distortions in the formulation of policy. The challenge, according to Lawton, Rayner and Lasthuizen (2013:9), is that “culture of the organisation impacts on individual behaviour” and Bierstaker (2009:245) cautions that influencing public servant’s behaviour requires more than development and distribution of policies. However, an improved knowledge of the cultural perspective should serve to formulate effective policies. In this regard, Rothstein (2007:12) accentuate that the establishment of anti-corruption agencies has limited opportunity for success in a particularistic political culture that has systemic corruption. The influence of culture to implement professional ethics and anti-corruption legislation is, therefore, a factor that needs close attention.

There is a need to guard against officials who manipulate culture to disguise corrupt activities. Rothstein (2007:6; 2014:748) asserts that while the exercise of unethical behaviour in most instances has visible cultural qualities, this should not lead to a conclusion that it had happened because of culture. Culture should not be accepted as a defensive mechanism by corrupt officials. Warf (2015:3) clarifies that in most poor countries the practice of exchanging gifts during business transactions is normal but such clarifications edge on the tautological: a nation is believed to be unethical since its culture is unethical. For example, the following scenarios are worth noting with the intention to confirm the argument by Hooker (2009:251) that all cultures have their own characteristics of being taken advantage of by corrupt individuals.

- Abdulai (2009:395) states that the extended household arrangement, in the perspective of the majority of countries within the African continent, often gives rise to favouritism as public servants are anticipated to find employment for their relatives either in their immediate working environment or somewhere else.

- Albrecht et al. (2009) in Bierstaker (2009:242) highlight that some of the questionable business transactions in South Korea were observed as smart rather than being labelled as corrupt practices.
- Man-wai (2011:113) reports that Hong Kong has an exclusive cultural practice of exchanging gifts and favouritism but those who exploited these practices as a disguise for unethical conduct were amended through public information sessions and implementation of existing ethics and anti-corruption legislation.
- Dion (2010:51) reveals that the practice of exchanging gifts is entrenched within the Chinese culture as it is viewed as a sign of expressing appreciation and admiration for others.

The scenarios confirm the argument by Hooker (2009:252) who states that cultures use different methods and in most instances cultures in developed countries are predominantly rule-based while most cultures in developing countries are relationship-based. Hence, a detailed analysis of some of the cultural exchanges should be considered by the public sector organisations to ensure that officials are not seeking benefits while hoping to use culture to justify their inappropriate actions.

Culture change is difficult as it encompasses changing attitudes, beliefs and values (Lawton et al. 2013:74). The use of culture as a defensive mechanism for corrupt activities is used frequently in African countries. In whichever case submitted to justify culture for corrupt activities, there is also a need to ponder the consequences of those corrupt activities. In extreme instances, the majority of the citizens are usually left to die in most African countries because of the devastating consequences of corruption. Can culture be accepted as justification for corrupt activities in Africa for these instances? Hooker (2009:266) suggests that instead of addressing unethical conduct by trying to develop common principles, the plausible solution is not to interfere with cultures but rather to allow individual cultures to progress, manage with their own challenges and focus on exchanging beliefs.

African tradition underscores on having a connection with the society and not only to have a proximity with the community but to be actively and emotionally included in it. A danger to one is a danger to all and corruption is betrayal of self and to the society.

The concept of *ubuntu* (humanity – doing to others as you want them to do to you) is the fundamental pillar in eradicating corruption and promotes, among others, ethic of caring, honesty and trust. It is against this background that society should guard against the use of cultural activities to justify corrupt activities.

### 4.2.3 Democracy

There are two sound arguments that describe the relationship between democracy and levels of corruption. The first argument seems to suggest that democracy is a prerequisite for successful implementation of anti-corruption reforms. Warf (2015:3) observes that the most ethical nations are all wealthy democracies and comprise fewer than 2% of the global citizens i.e. Scandinavian, Australia, Canada New Zealand and Japan. A counter-argument is submitted by Rothstein (2007:5) who asserts that most of the countries were not democracies when they launched their successful anti-corruption campaigns but had dictators who were isolated by citizens that succeeded to implement effective reforms. Nevertheless, the implementation of professional ethics and anti-corruption legislation in a democratic environment is conducive because societies demand transparent and accountable government. The existence of institutions to support democratic processes makes this demand possible. In South Africa, these institutions include the Public Protector, Public Service Commission and Auditor-General.

The second argument suggests that existence of democracy does not necessarily guarantee successful implementation of professional ethics and anti-corruption legislation. According to Uslaner (2011:20), corruption is not shaped by, among others, democracy. Persson et al. (2010:3) assert that there are instances of democratic processes which led to uncontrollable levels of unethical conduct instead of minimising the scourge. In expressing similar sentiments, Mungiu-Pippidi (2013b:101) confirms that democratic societies are primarily associated with poor implementation of anti-corruption reforms and further assert that notwithstanding the conducive political environments within these societies, ethical principles are not adhered to as leaders utilise their positions to loot state resources.

It was widely reported that there was massive corruption before the dawn of the South African democracy in 1994. For example, Theron and Lotter (2012:99) report that the former State President, F.W. de Klerk requested the Pickard Commission of Inquiry in 1991 to examine the undertakings of the previous Department of Development Aid. One of the major findings was that a minimum of R50 million was misplaced in unethical transactions. The democratic dispensation is also encountering challenges to control of corruption. Vorster (2012:136) is concerned that individuals in democratic South Africa who are implicated in corrupt practices do not seem to anticipate being either reported or punished. This can be linked to the failure of implementing the existing anti-corruption legislation effectively. The danger, according to Navot (2014:370), is that if the failure persists, as in any democracy, “corruption becomes systemic and structural when it is denied”.

The second argument is linked to an explanation by Uslaner (2011:20) who posits that leaders, particularly in developing democracies establish themselves as monopoly providers of benefits for average citizens. As a result, even if ordinary people do not approve of corruption, their situation at the bottom of the economic (and often social) ladder forces them to see corruption as necessary for survival. Persson et al. (2013:459) contend that the poor fear reprimanding unethical leaders because they perceive them as providers of basic needs which are essential for their survival. Although countries are encouraged to implement democratic processes, the absence thereof should not derail the implementation of ethics and anti-corruption. Success of anti-corruption reforms is not guaranteed even in instances where democratic processes exist since there are other factors that could be influential in implementing these corrective reforms.

The two arguments indicated above to describe the relationship between democracy and control of corruption, as sound as they are, require additional motivation. Rothstein (2014:738) requests that new democratic societies should clearly describe their challenges and the contrary to systemic corruption if their objectives are not only about instilling democratic processes but also to minimise the level of unethical conduct which is often entrenched in these societies. In response to these questions, Rothstein (2014:744) suggests that instead of worrying about democratic processes, the world should be preoccupied by “the ‘quality of government’ which requires that

processes in the public service should consistently consider the principles of public administration". The components of quality of government are similar to the principles that public servants are expected to adhere to in Chapter 9 of the Constitution of the Republic of South Africa, 1996. It would, therefore, imply that to fight corruption, the focus for a country such as South Africa should be to ensure that public administration processes adhere to values and principles as stipulated in the Constitution, 1996. Failure to do so will increase control of corruption which according to Okafor (2009:126) and Johnston (2012:472) reduces the quality of government as well as its accountability to society at large.

#### **4.2.4 Political will**

The international experience, particularly for developing countries such as Botswana, Singapore and Georgia that have remarkably managed to control of corruption, has proven the commonly held assertion true that the implementation of anti-corruption reforms are bound to fail if not complemented by a strong political will. Heeks and Mathisen (2012:7) state that an aggressive approach is required to address unethical behaviour in public administration because unethical behaviour is a political challenge which demands political interventions. The significance thereof is underlined by Abdulai (2009:392) who contends that honest political will to address unethical conduct requires the demonstration of ethical leadership which is accompanied by effective implementation of reforms. The significance of political will is that consistent integrity and honesty from politicians is non-negotiable and they have to further ensure that anti-corruption legislation is implemented regardless of an individual's position, status, or political affiliation. Holmes (2015) posits that Singapore is one of the countries that continue to be such significant benchmark because their reforms were prosperous due to political will and adherence to principles required in public service processes.

The question that is often posed is whether it is in the interest of political principals to ensure effective implementation of professional ethics and anti-corruption legislation? Heeks and Mathisen (2012:1) affirm that there are a limited number of political leaders who benefit from corrupt practices will make an effort to implement reforms because these would lessen their opportunities. Fritzen (2005) in



Poochaoren (2014:2) concur with Heeks and Mathisen (2012) and further argue that relying on political will is unrealistic because politicians are often the culprits. The implications of politician's involvement in corruption are enormous because Abdulai (2009:390) asserts that those responsible for administrative processes may be encouraged to participate in unethical practices if their political principals are often cited to be involved in unethical actions.

However, a valid counter-argument is stated by Dahlstrom and Lapuente (2011:2) that the public sector should be disconnected from politics and that an isolated government, in this sense, is less likely to experience unethical conduct. The cornerstone of such proposition according to Dahlstrom and Lapuente (2011:2) is "that the activities of politicians and administrators should be separated so that politicians dominate policy making, while administrators dominate implementation". A question to ponder is whether in the South African context where politicians (legislators) have enacted more than 17 pieces of ethics and anti-corruption legislation does the accusation that there is no political will still hold?

In an attempt to answer this question, Muhumuza (2016:62) correctly asserts that legislation and effective rule of law is inadequate to manage corrupt practices if political aspects are overlooked. Majila, Taylor and Raga (2014:235) and Dion (2013:423) also confirm that effective anti-corruption legislation enforcement is ultimately dependent on the will and determination of the political leaders. Three examples are provided to demonstrate the role and failure of politicians to ensure effective implementation of anti-corruption legislation:

- Firstly, the Special Investigating Unit (SIU), which is one of the anti-corruption institutions in South Africa, can only investigate when the President has issued a proclamation requesting their intervention on a particular matter and reports the outcomes their investigations directly to the President.
- Secondly, the Public Service Commission is, among others, responsible for scrutinising the disclosures submitted by all at the Senior Management Service and report to the Executive Authorities to take disciplinary action in instances of

conflict of interests. However, one of the key findings of the Public Service Commission (2017:vi) is that “there are Executive Authorities who did not comply with the requirement to provide feedback to the PSC on actions taken, emanating from the findings of the scrutiny process”. This is a concern that should be directed to the Executive Authorities because the new Public Service Regulations (2016) require Executive Authorities to report to the PSC within 30 days of referral on the disciplinary actions taken against employees identified to have potential conflicts of interest.

- Thirdly, the allegations on state capture which implicate senior politicians, public sector officials and private citizens deserve to be investigated properly (State Capacity Research Project 2017; Public Protector 2016). Although the Judicial Commission of Enquiry was recommended by the Public Protector, as at June 2017, no action was taken to investigate the damning findings.

Hence, the evidence presented above reveals that South African politicians have not demonstrated political will to manage the scourge of corruption decisively. The affirmation by Heeks and Mathisen (2012:1) for the South African context might, therefore, be true that there are a limited number of political leaders who benefit from corrupt practices can make efforts to implement reforms because these would lessen their opportunities.

#### **4.2.5 Collective action**

One of the factors that has contributed significantly to fight corruption in most countries is encouraging citizens representing the different sectors to work collectively towards a common goal to alleviate unethical behaviour. There are several approaches that can be utilised to show the citizens the consequences of corrupt activities and the benefits that they are being deprived as a result thereof. Smith-Crowe and Warren (2014:1154) pose a pertinent question in the collective corruption literature: “how does wrongdoing spread across individuals such that they come to work together to do wrong in the name of the organisation? Rothstein (2014:741) reveals that although people are critical of unethical conduct, their participation therein is perceived as ‘collective action’ because it is logical for them to

partake in corrupt practices since everyone else is doing so. It is in this context that Mungiu-Pippidi (2013b:103) advocate for ordinary citizens to become actively involved to combat corruption since a united people-centred approach can limit the unethical behaviour of those entrusted with public resources.

Person et al. (2010:3) who concurs with Akinola and Uzodike (2014:42) revealed that unethical conduct in the African perspective appears to be similar to a collective action problem because the short-term consequences of combating corrupt practices overshadow the benefits. The significance and impact of collective action problems, according to Johnston (2012:473), are particularly likely when, as is often the case, reformers justify the need to control corruption primarily in terms of the public interest. In an attempt to bring the issue “closer to home”, it is important to note that Naidoo (2013:523) attributes the weakness in South Africa’s anti-corruption enforcement to collective action pressures. A lesson learnt, in this regard of collective action is that for the effective implementation of ethics and anti-corruption legislation in the Social Sector Cluster in Gauteng, public servants in partnership with political principals and the general public, need to work as a collective to curb corruption. More profoundly, exemplary leadership must be displayed with the intention to eliminate any attempts by ordinary citizens to copy any wrong doing. The popular sentiment tends to be “if others, especially leaders, are involved in corrupt activities why can’t the ordinary citizen do it”. It also follows that collective action should also be accompanied by effective consequence management to convey a strong message to all that their involvement in corrupt activities could result in punishment.

#### **4.2.6 Big Bang Theory**

The research on international best practice has revealed that when implementing professional ethics and anti-corruption legislation, focusing on certain parts of the system to create “small pockets of integrity” or “island of honesty” may not necessarily be an effective strategy because corrupt officials may simply relocate to areas that are not attended to. The Big Bang Theory, which requires anti-corruption reforms to be implemented across the system rather than focus on one or several areas, is the recommended solution. For example, the Social Sector Cluster in

Gauteng comprises of eight provincial departments. If a decision is taken to implement anti-corruption reforms, then it should target all eight departments.

Akinola and Uzodike (2014:43) opine that “a focus on one strategy without due regard for the other may often prove fruitless or largely ineffective”. Volcker (2010:84) concurs and notes that anti-corruption strategy that “patches here and there in the hope that piecemeal change can make a lasting change” could never achieve the desired results. According to Rothstein (2007:22) and Persson et al. (2013:465), research outcomes related to countries such as Sweden, Denmark, Hong Kong and Singapore reveal that experiences of successful transitions from systematically unethical to significantly more ethical systems of rule require a “big push” involving all stakeholders of society.

The argument for the implementation of anti-corruption reforms targeting all institutions rather than a selected few is based on three convincing arguments by Rothstein (2007). Firstly, unethical conduct is likely to start at an organisation if it is not targeted for reforms. Consequently, the authorities must implement reforms in all organisations or sectors. This will send a strong message to unethical agents that all angles of society are closed for corrupt activities. The anti-corruption reforms, therefore, should always seek to show corrupt officials everywhere that “there is a new game in town”. The second argument in support of the Big Bang Theory is that if the reforms are implemented across all sectors, they are likely to convince numerous corrupt agents to abandon their practices because continuing will not be a practical possibility. Thirdly, authorities are advised to conform to the principle of utilising government resources effectively. It is strongly recommended that effective resources are available for implementation to realise benefit.

In the context of the research it should, therefore, be established whether the departments in the Social Sector Cluster in Gauteng Province have the necessary human, financial and operational resources required to implement the professional ethics and anti-corruption legislation effectively. Persson et al. (2013:465) note that the introduction of massive reforms should also incorporate common prospects holding that most other individuals, based on reciprocity, could be trusted to be truthful. This will require continuous promotion of professional ethics across the

entire system which could build trust between the public servants and the authorities. The proposed framework for implementation should, therefore, also be considered by all the departments in the Social Sector Cluster in Gauteng.

#### **4.2.7 Dedicated anti-corruption agency**

Article 6(2) of the United Nations Convention Against Corruption (UNCAC) necessitates the creation of bodies to address unethical conduct, and states:

*“Each State Party shall ensure the existence of a body or bodies, as appropriate which prevent corruption. Each State Party shall grant these bodies the necessary independence, in accordance with the fundamental principles of its legal systems to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialised staff, as well as the training that such staff require to carry out their functions, should be provided”.*

Article 6(2) does not specifically dictate that countries should have a single anti-corruption agency because it is stated that countries should guarantee the creation of a “body or bodies” and further require that countries should “enable the body or bodies to carry out its or their function”. For example, Quah (2007) in Lawton, Rayner and Lasthuizen (2013:110) reports that there are four models of anti-corruption agencies as follows:

- The universal model with powers, investigation, prevention and communication such as the Hong Kong Independent Commission Against Corruption (ICAC) created in 1974.
- The investigative model involving a small centralised investigative commission such as the Singapore CPIB established in 1952.
- The parliamentary model that reports to parliamentary committees and is independent from the executive and judicial branches of government. The New South Wales Independent Commission against Corruption (ICAC), based in Sydney, is an example of this model.

- The multi-agency model that weaves together a number of agencies (e.g. US Office of Government Ethics (OGE) works with the Department of Justice.

However, Holmes (2015) asserts that an influential reform be considered by countries with different cultures to form a distinct and autonomous anti-corruption body instead of multiple agencies. The research on international best practice has revealed that countries such as Botswana (DCEC) and Singapore (CBIP) have managed to control corruption through the formation of a single independent anti-corruption agency.

Quah (2012:177) argues that the success of the anti-corruption reforms occurs if the three circumstances are achieved: wide-ranging laws for anti-corruption are passed, a well-resourced autonomous anti-corruption body and the autonomous anti-corruption body is free from interference in its implementation of ethics and anti-corruption legislation. The research conducted by Mungiu-Pippidi (2013a:1281) suggests that autonomous and impartial judges that do not support discerning repression ensure the success of the autonomous anti-corruption bodies. Put differently, Hough (2013:99) contends that nations should have effective court systems, clear implementation processes and accountability measures to support their autonomous anti-corruption bodies. The formation of a single independent anti-corruption agency should, therefore, be accompanied by strong ethics and anti-corruption legislation as well as an efficient judiciary system to guarantee the successful implementation of the reforms to address unethical conduct.

Is the formation of a distinct anti-corruption body a prerequisite for successful implementation of ethics and anti-corruption legislation? Quah (2012), unexpectedly calls for an introduction of an independent anti-corruption agency and argues that a distinct and autonomous anti-corruption body is superfluous if there are other institutions within the system that can monitor adherence to the standards that are required in the public service. South Africa is an example of a country where there are multiple institutions responsible for fighting corruption. The same argument for single anti-corruption agency, multiple anti-corruption agencies will not achieve the required goal to control corruption if these agencies are not supported with the required resources. Meagher (2004:94) in Charron (2008:8) reveals that a primary

reason why the African anti-corruption agencies (except for Botswana) have remained ineffective is due to “no structural independence or only partial autonomy” from the governments that established them. For example, Muhumuza (2016:73) states that the budget for those tasked is generally from the public sector and of greater concern, is often insufficient. In this context Abdulai (2009:401) reports that reliance on government for funding has extremely disadvantaged the autonomy of most anti-corruption bodies because their survival is dependent on the ‘other’ executive arm of government which might be led by officials involved in corrupt activities. For example, the previous and current Public Protectors in South Africa have been vocal in requesting additional funds to execute their constitutional mandate effectively.

South Africa, as at June 2017, adopted a multi-agency model:

<b>Constitutional and oversight bodies</b>	<b>Criminal Justice Agencies</b>	<b>Departments</b>	<b>Multi-sectoral anti-corruption forum</b>
<ul style="list-style-type: none"> <li>• Auditor-General</li> <li>• Public Protector</li> <li>• Public Service Commission; and</li> <li>• Independent Police Investigative Directorate.</li> </ul>	<ul style="list-style-type: none"> <li>• South African Police Service’ Commercial Crime Unit;</li> <li>• South African Police Service’ Anti-Corruption Unit;</li> <li>• National Prosecuting Authority;</li> <li>• Directorate of Serious Operations;</li> <li>• Asset Forfeiture Unit and</li> <li>• Special Investigating Unit</li> </ul>	<ul style="list-style-type: none"> <li>• Department of Public Service and Administration;</li> <li>• National Intelligence Agency; and</li> <li>• South African Revenue Service.</li> </ul>	<ul style="list-style-type: none"> <li>• National Anti-Corruption Forum</li> </ul>

Is there a need for a distinct anti-corruption body in South Africa? Majila, Taylor and Raga (2017:96) suggest a single agency for South Africa to utilise the limited resources to reinforce its functionality. History apprises that the once effective Directorate of Special Operations (DSO – commonly known as the “Scorpions”) in South Africa was disbanded under controversial circumstances. However, the case of *Hugh Glenister v President of the Republic of South Africa and Others* 2011 (3) SA 347 (CC) – [para 248:128] concluded that the disbanding of the Directorate for

Priority Crime and Investigation to be against the constitutional requirement of creating an independent anti-corruption agency.

Montesh and Berning (2012:136) assert that although the demise of the DSO was as the result of the DSO's oversights as well as by the government, South Africa can combat multifaceted commercial misconduct if a sound and distinct anti-corruption body can be established. Political commentators often cite the lack of political will for the decision to disband the DSO. However, Sousa (2009:13) posits that the difficulty facing any anti-corruption body that is funded by government is to adopt an absolutely 'independent' approach because they are expected to achieve government policy proposals while the anti-corruption bodies share, with the political order, the responsibility of success or failure. The political elite of any country would benefit from successful effective implementation of anti-corruption reforms. It is, therefore, unimaginable that they can work against an effective anti-corruption institution.

The argument for the establishment of multiple anti-corruption agencies has also strong views. Khemani (2009:33) argues that no single institution can successfully eradicate corruption on its own because combating corruption requires a multi-faceted approach which strengthens all pillars of a national integrity system. It is in this context that Sousa (2009:19) posits that experience has revealed that there is no single set of reforms to address unethical conduct but a combination of successes and failures and an extensive and firm learning procedure. Anti-corruption bodies are an advanced institutional reaction to unethical conduct, but they are not necessarily the solution. The formation of a single independent anti-corruption agency is, therefore, an essential but not a determining factor in implementation of professional ethics and anti-corruption legislation. The international best practice has revealed that Scandinavian countries have managed to control corruption without necessarily forming dedicated anti-corruption agencies.

#### **4.2.8 Meritocracy**

International best practice implemented in countries that have controlled corruption revealed that the recruitment and selection of public servants is based strictly on



merit and not specifically on titles, political affiliation or bribes. Since a universal definition of merit is unavailable due to differing policies and tools, Poocharoen and Brillantes (2013:143) assert that meritocracy is a policy that underpins the view of fairness and capability because it rejects patronage, favouritism, dishonesty and incompetence for recruitment in the public service. Meyer-Sahling and Mikkelsen (2016:1120) note that the implementation of recruitment policies based on merit is, among others, become a pronounced concern in the study of public administration. This could be linked to Dahlstrom et al. (2012:665), Demir (2017:56) and Kim and Choi (2017:117) who argue that patronage weakens public administration and promotes unethical conduct, while meritocracy ensures that people are rewarded objectively by realising their merit and talent. Thus, the recruitment mechanisms that are based on merit should be considered as part of addressing the challenges experienced in the South African public service.

It is important to note that the application of meritocracy in public administration does not necessarily address unethical conduct. The professional relationship between politicians and public servants is paramount in this instance. Dahlstrom et al. (2012:659) encourage both politicians and public servants to merge their efforts to undermine and discourage unethical conduct. This is fundamental for the effective implementation and functioning of the merit-based recruitment policies.

Poochaoren and Brillantes (2013:160-161) accentuate that “one should never accept their system as being meritocratic without asking the essential questions: What does it mean exactly, what tools are being used, who is benefitting from the system, what are the trade-offs, and has the system solved the problem it is meant to solve?” It is in this context that Castilla and Bernard (2010:572) advise that the implementation of merit-based practices may have hidden risks and be conducted with care. Kim and Choi (2017:118) recommend that the implementation of the merit-based recruitment policies should be preceded by “an investigation on the different starting points caused by non-meritocratic elements”.

The implementation of meritocracy in the South African context is a conundrum that has historical considerations compared to the recruitment procedures before the democratic dispensation in 1994 which were not implemented impartially. As

indicated in section 2.3.9, it was necessary for the democratically elected government to assure all citizens, through the Constitution, that employment practices would be informed by competency and impartiality including address the imbalances of the past by ensuring that previously disadvantaged groups are also represented without compromising the quality of services being offered to the public. The Employment Equity Act, 1998 (Act 55 of 1998) was enacted to encourage reasonable representation in all professional groups and ranks in the labour force. A cause for concern is that the Public Service Commission (2017:43) has “established that recruitment, retention, career-pathing and utilisation of senior manager’s expertise and skills in the South African public service are interrelated and interdependent, but there are no comprehensive policies and strategies that address all these in a coherent manner” and “the existing framework has gaps and its effectiveness is influenced and impacted by various factors and challenges”. It is, therefore, argued that the implementation of meritocracy in the South African public administration should be prioritised and consideration should be exercised to ensure that the imbalances of the past are addressed by employing deserving individuals.

#### **4.2.9 Increasing public servant’s salaries**

The international best practice for countries that have controlled corruption has revealed that increasing the public servant’s salaries to resemble those in the private sector contributes towards curbing corruption. The salary increase for public servants has proven to be one of the determining factors particularly in the Scandinavian countries as well as in Georgia and Singapore. In Georgia, salary increases for public servants was accompanied by a reduction in the number of public servants by almost 50 percent. Kwon (2012:790) suggests that performance pay, which is broadly defined to include, among others, merit pay is not only an encouragement expedient for bureaucrats but also an effective anti-corruption policy mechanism. Therefore, there is a need to consider whether increasing public servant’s salaries in South Africa would control and alleviate corruption as well as ensure effective implementation of professional ethics and anti-corruption legislation?

The proposition for higher salaries is strengthened by Abdulai (2009:395) who accentuates that Singapore, which is one of the most ethical countries in the world has competitive salaries for officials responsible for public administration. Dahlstrom and Lapuente (2011:4) also affirms that in the more “open” Swedish and Finnish civil service system, public employees do not enjoy special employment rules and regulations and “public employees resemble their private sector counterparts more”. As a result, Quah (2014:19) asserts that both politicians and public servants in poor nations are tempted to engage in corrupt practices because their salaries are low and disproportionate to their levels and duties. The view, therefore, is that it is “impractical to anticipate that officials in the public service will stay truthful if they are not paid competitive salaries which are in line with their responsibilities”. Inadequate salaries could tempt public servants to engage in corrupt activities especially after they have spent their salaries.

For example, Abdulai (2009:394) reveals that in Indonesia, it is detected that the officials in public administration monthly salaries frequently lasted for only 10-12 days. Another example of low salaries, Asamoah and Yeboah-Assiamah (2013:22) conclude that a poor public sector remuneration system, for example, Ghana, is, among others, the reason for low productivity. These are two examples of poor remuneration and the effects thereof in Indonesia and Ghana which are also developing countries as South Africa. The complaint that public servants are vulnerable to corruption due to their low salaries as compared to the private sector seems irrelevant in the case of South Africa. This is due to the introduction by the South African Government of the Occupation Specific Dispensation (OSD) as a “mechanism to harmonise salary scale and grades, and ensure attraction and retention of specific skills, while promoting performance based remuneration” (DPSA 2007).

According to Mungiu-Pippidi (2013a:1268), the “quest for higher salaries in the public service is baffling because one of the features of republicanism is the idea that serving in government is not an honour but a civic duty”. Dahlstrom and Lapuente (2011:11) also suggest that careers in the public sector should be isolated from the market flexibilities to create the best opportunities for the impartial implementation of policies. The public servants should, therefore, be sensitised to view their roles to

achieve the country's developmental goals. There is no guarantee that control of corruption will be decline if salaries are increased because: salary increments alone are inadequate and other institutional reforms are needed. It is also important to note that Navot, Reingewertz and Cohen (2016:595) highlight potential limitations of increasing public servants' salaries. The latter need not decrease allegations of unethical conduct in the public service and argue that there is a possibility that higher wages for public employees is a debatable measure against unethical conduct in the public service.

Certain officials who have been exposed to participation in corrupt activities are at senior levels and earn high salaries. The argument for higher salaries in the case of grand corruption has no basis. For example, (cf. section 1.3.3) Masebe (2015) reports the dismissal of Mr Stuart Lumka, the former Head of Department (Gauteng Department of Finance), after an independent disciplinary process concluded that he was directly implicated in financial misconduct estimated at R48.8m to a service provider. Quah (2014:20) posits that although improving wages minimises petty corruption so that unethical conduct among officials at lower levels is lessened, it does not eradicate grand corruption by senior public servants and political principals. Persson, Rothstein and Teorell (2013:462) report that what ultimately drives senior public servants and political principals to participate in unethical conduct is appetite for resources rather than subsistence as financial resources are basically "too sweet to resist". Salary revision in a developing country such as South Africa which is confronted with prioritising developmental goals will, therefore, be expensive and will further place the already bloated salaries component on the public service budget under scrutiny.

The International Monetary Fund (2016:76) reveals that "the wage bill for South Africa continued to increase since 2010, albeit at a slower pace, reflecting a slight increase in employment and stands out in a cross-country comparison, whether measured as a ratio of GDP or expenditure". However, Gordhan (2017:6) asserts that "government's wage bill has stabilised" and Treasury (2017:74) partly attributes the stabilisation to the fact that the percentage of spending by provinces on salaries had decreased to some extent from 60.4% in 2015/16 to 59.8% in 2016/17. The South African Reserve Bank (2017:22) also confirmed that "public sector

remuneration growth per worker still decelerated from 9.4% in the second quarter of 2016 to 8.6% in the third quarter”. Hence, it is argued that the South African government continues to implement targeted interventions to minimise the public sector wage bill and the calls for salary increase for public servants are not worth the consideration. Evidence has revealed that the South African public servant’s salaries are already on par with their private sector counterparts. Greed among public servants involved in corrupt activities can be cited as a motivation rather than low salaries.

#### **4.2.10 Rule of law**

Mogoeng (2013:4) argues that unethical practices can be reduced once members of the public acknowledge the existence of a trusted court system and decisive action against the guilty is expected within a country. The argument is a testimony that an effective rule of law is needed as a consequence management, particularly for those implicated in corrupt activities. The primary reason for prioritising rule of law is summarised by Soot (2012:291) who posits that an ineffective court system can equally be the basis and result of unethical conduct. Moreover, Vorster (2012:135) states that public servants abuse state resources when they are content that the possibility of being exposed and reprimanded are very low. As a result, Ochoa and Graycar (2015:98) have observed that a successful anti-corruption framework needs to be complemented by the necessary enforcement environment and a strong rule of law. On the other hand, Graycar and Sidebottom (2012:385) assert that an effective rule of law which has strong penalties for anyone evidenced to be implicated in unethical conduct is an adequate instrument to discourage people from acting immorally and a foundation of customary reforms to address unethical conduct. It is in this context that Wagabi (2013:577) recommends that African countries which seem to struggle with high levels of corruption to “learn from mature democracies where it is the rule of law that deters individuals from unbridled corruption and impunity”.

International best practice has also revealed that successful implementation of anti-corruption reforms requires an equally effective rule of law. Garcia-Andrade (2012:18) asserts that the success of the Scandinavian countries at achieving the

persistent and remarkable scores against corruption is significantly “a result of the states’ determination in affirming its legal tradition and of course an equal important contribution from a first-class civil service characterised by its professionalism and integrity”. Mungiu-Pippidi (2013a:1268) concurs with Garcia-Andrade (2012) and accentuate that one of the primary features that resulted in the successful implementation of the anti-corruption reforms in Scandinavian countries was respect for the law. Singapore has also been praised for effective control of corruption due effective adjudication which ensures strict enforcement of laws. Furthermore, the judiciary is credited for adopting a deterrence stance towards corrupt offenders (Hin 2011:98). International best practice confirms that respect for the law as well as effective and impartial implementation thereof is what is needed to ensure that cases of corruption are not only investigated but that those involved are brought to book and punished accordingly.

Cuervo-Cazurra (2015:7) correctly prompts that successful implementation of the anti-corruption reform requires not only changes within public administration but also changes in the justice system so that judges apply the laws accordingly. For example, according to Garcia-Andrade (2012:13), “the Finnish elites have worked hard to develop a strong and egalitarian rule of law from the outset which appears to best reflect a robust legal system”.

In the South African context, the justice system is reasonably effective and comprehensive ethics anti-corruption legislation has been enacted by legislators (politicians). Table 4.1 below illustrates the rule of law scores for South Africa, Botswana and Mauritius on the Ibrahim Index of African Governance. These countries were selected because Mauritius is highly recognised for its respect for the justice system on the continent. Botswana is constantly ranked as the best on the continent in terms of fighting corruption. The scores for the rule of law is a combination of judicial independence, judicial process, property rights, transfer of power and sanctions. More significantly, the judicial independence is assessed on, among others, its capability and independence to understand and assess existing legislation. The judicial system is assessed based on the level to which the court system is independent from interference and the presence of prescribed judicial thinking.

**Table 4.1: Rule of law – scores for South Africa, Botswana and Mauritius**

Indicator/Country/Years	South Africa		Botswana		Mauritius	
	2014	2015	2014	2015	2014	2015
Judicial independence	95.1	93.9	89.3	76.4	92.8	94.6
Judicial process	100.0	100.0	100.0	100.0	100.0	100.0
Property rights	81.5	79.3	88.4	88.4	82.0	80.2
Transfer of power	100.0	100.0	100.0	100.0	100.0	100.0
Sanctions	100.0	100.0	100.0	100.0	100.0	100.0
<b>Totals</b>	<b>95.1</b>	<b>94.6</b>	<b>95.5</b>	<b>93.0</b>	<b>95.0</b>	<b>94.9</b>

**Source: Ibrahim Index of African Governance (2016b; 2016c; 2016d)**

The Ibrahim Index of African Governance (2016) as illustrated in table 4.1 above reveals that Mauritius is still the best placed country which adheres to the rule of law although their final score has dropped from 95.0 (2014) to 94.9 (2015). South Africa is the second placed country in terms of adhering to the rule of law on the African continent with the scores of 95.1 (2014) and 94.6 (2015). Of the three top countries on the African continent, Botswana has recorded the biggest drop (2.5) from 95.5 (2014) to 93.0 (2015). The decrease in South Africa (0.5) and Mauritius (0.1) scores were not significant.

Furthermore, a closer assessment of the scores confirms that all three countries are performing exceptionally well in terms of their judicial process. The scores for judicial independence have improved for Mauritius from 92.8 (2014) to 94.6 (2015) and have decreased for both South Africa from 95.1 (2014) to 93.9 (2015) and Botswana 89.3 (2014) to 76.4 (2015). The overall scores confirm that the justice system in South Africa is best placed to manage cases of unethical conduct if evidence is available and these are brought to the attention of those tasked to implement the rule of law.

As mentioned (cf. section 3.2.4), one of the six broad dimensions of governance used by the World Bank for its World Governance Indicators is the rule of law. According to the World Bank (2017), the rule of law notes the views of the level to which representatives have trust in and adhere to the procedures of society and the excellence of implementation. Table 4.2 below illustrates South Africa's scores for rule of law on the World Governance Indicator for the period from 2011 to 2016.

**Table 4.2: Rule of law, South Africa, 2011–2015**

Country	Sources	Year	Governance Score (-2.5 to +2.5)	Percentile Rank (0 – 100)	Standard Error
South Africa	18	2011	0.12	58.69	0.12
	18	2012	0.09	58.22	0.13
	18	2013	0.14	58.22	0.13
	16	2014	0.17	63.94	0.13
	16	2015	0.06	59.13	0.13

**Source: Adapted from the World Bank (2017)**

The scores confirm that the rule of law in South Africa is highly respected for its performance although the governance score decreased from 0.12 (2011) to 0.06 (2015). The percentile rank has improved slightly over the 5-year period from 58.69 (2011) to 59.13 (2015). The evidence from the IIGA and WGI on South Africa's justice system is adequate to conclude that the implementers must investigate the alleged cases of corruption and bring those before the justice system to take its course. Moreover, the decisions of the judiciary need not be second guessed but implemented as confirmed by the Constitutional Court in the case of *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* [2016] ZACC 11 – [para 75:38] – the rule of law necessitates that no intervention must be implemented if not approved by law and no intervention pronounced by law can be overlooked based on an opposing view. Furthermore, the case underscored that the members of the public are not at liberty to decide on which constitutional pronouncement to implement and which they can disregard.

#### **4.2.11 Collaboration with other sectors of society**

The implementation of reforms to address unethical conduct is not the responsibility of the government alone but all sectors of society. Collaboration with other sectors in the fight against corruption remains a strong argument because Graycar (2015:87) holds that unethical activities undermines public administration and fails the attempt to implement policies but more so, it demoralises confidence and destroys genuine public hope. The significance of collaborating with other sectors of society is also underlined by Mungiu-Pippidi (2013a:1282) when asserting that corruption



monitoring engagements centred on stakeholder contribution could be organised for the public in a similar manner as public communities arrange local policing forums when crime units are perceived to be unethical or demoralised. Most importantly, Hoekstra, Talsma and Kaptein (2016:182) posit that integrity partnerships involving sectors of society can “facilitate the implementation of legislation and enable dialogue between individual organisations and authorities”.

In the South African context, the ineffectiveness of the National Anti-Corruption Forum, mandated to coordinate sectoral anti-corruption strategies, has significantly extended doubts about government’s frank obligation in minimising corruption. The renewed interest by the South African Government during 2017 is to re-launch the NACF. However, this is perceived as “doomed to fail” because of the limited budget allocated to the NACF and the credibility of government representatives (Tilley 2017). The Gauteng Anti-Corruption Strategy (2015) reports that efforts are at an advanced stage to launch an Integrity Promotion and Anti-Corruption Committee to confirm that sectors work together to control the scourge of corruption in the province. This is an area that need sound consideration because international best practice has illustrated that the fight against corruption yields results when sectors of society combine their strategies and form strong partnerships to address this scourge.

#### **4.2.12 Size of government**

The poor control of corruption in certain quarters is partly associated with the size of government. The argument submitted is that bigger government’s struggle to control corruption because they fail to pay attention to large bureaucratic processes which include a considerable number of public servants. Contrary to their views, Box (2014:6) reveals that “citizens who often complain about the cost and size of government generally do not want fewer services and benefits”. Is the criticism for the size of government fair and the argument that large a public sector is prone to corruption correct in South Africa?

Persson and Rothstein (2015:231) affirm that “countries with large governments should be expected to be more corrupt than states with relatively small public

sectors”. Furthermore, Persson and Rothstein (2015:236) assert that “the public choice model of corruption convincingly puts forward big government as the key driver of corruption, yet evidence supports the contrary: bigger governments are in general less corrupt than smaller ones”. Salminen et al. (2007:85) highlight that Finland has a comparatively large sized public sector which results in public sector integrity management to a substantial undertaking. However, Finland has managed to control corruption and has achieved the top five ranking in the Transparency International’s CPI. Rothstein (2007:3) further confirms that almost all the Scandinavian countries have a relatively large public sector as well as numerous procedures and moreover, adequate courage and will to implement legislation. If there are countries with bigger public services such as South Africa, this is an example that it cannot be used as a challenge in the fight against corruption.

According to Persson and Rothstein (2015:231), the argument that bigger governments are more prone to corruption than smaller ones clearly follows the logic of public choice theory. In this theory, “corruption is conceptualised as a principal-agent problem, within the framework of which the state is assumed to be a “grabbing hand,” filled with public officials ready to take every opportunity to enrich themselves at the citizens’ expense if the benefits of doing so outweigh the costs”. It would be difficult to accept the proposition that South Africa is struggling to control corruption because of the size of its public sector. As big as it maybe, adequate accountability mechanisms have been implemented. In terms of Section 40 of the Constitution, 1996 government is organised into three spheres which are unique, inter-reliant and interconnected. They are expected to work in an equally understanding manner. A crucial point to consider is the influence of officials from the former independent states (homelands). Chipkin and Meny-Gibert (2012:105) argue that South Africa’s provincial sphere of government which has performed poorly is partially due to their association to former self-governing and independent governing states. It is widely reported that systemic corruption was one of the primary challenges that the former homelands territories faced. The research will also determine the average number of members of the Senior Management Service who currently work for the departments in the Social Sector Cluster in Gauteng Province who were previously employed by the former independent states before 1994.

### 4.3 SUMMARY AND CONCLUSION

The chapter contextualised in the South African environment the arguments presented by both Scandinavian as well as developing countries that have managed to curb the scourge of corruption. The intention was not to recommend importing a single strategy that has brought success in a certain country but rather to discuss suitability of the certain propositions that could work in the South African context. In summary, the arguments are submitted as follows:

- **The design of the implementation model:** The ITPOSMO model is highly recommended for effective implementation of anti-corruption legislation or initiatives. Hence, this model will be tested on the implementation of legislation intended to address unethical conduct within the Social Sector Cluster in the Gauteng Province.
- **Culture:** It is argued that society should guard against the use of culture to justify corrupt activities because stealing resources that are intended for others is against *ubuntu* (humanity – doing to others as you want them to do to you) which is the fundamental pillar to eradicate corruption and promote, among others, ethic of caring, honesty and trust.
- **Democracy:** It is argued that democracy is a necessary but not an adequate requirement to fight corruption as the South African case study has proven. Corrupt practices also existed even before democracy was achieved in 1994. Hence, it was submitted that attention should be on the ‘quality of government’ which requires that processes in the public service should consistently consider the principles of public administration. The components of quality of government are similar to the principles expected from public servants as mentioned in Chapter 9 of the Constitution of the Republic of South Africa, 1996.
- **Political will:** It is argued that there is overwhelming evidence that South African politicians have not demonstrated political will in dealing decisively with

the scourge of corruption. Hence, it was concluded that the affirmation by Heeks and Mathisen (2012:1) for the South African context might, therefore, be true that the few political leaders who benefit from corrupt practices will not make a concerted effort to implement reforms since these would lessen their opportunities.

- **Collective action:** It is submitted that a lesson learnt regarding collective action is that public servants in partnership with political principals and the general public, need to work as a collective to curb corruption. More profoundly, exemplary leadership must be displayed and collective action should also be accompanied by effective consequence management to send a strong message to all who are implicated in corrupt activities could result in severe punishment.
- **Big Bang Theory:** It is argued that if a decision is taken to implement anti-corruption reforms, it should target the entire system and not certain aspects thereof. This is informed by international best practice which revealed that corrupt individuals are likely to move to another sector once access has been closed. Hence, closing all angles will result in corrupt individuals realising that reforms have been implemented throughout the public sector and access to such acts would be exposed.
- **Dedicated anti-corruption agency:** It is observed that dedicated anti-corruption agencies are central in the fight against corruption. However, it was argued that the formation of a distinct and autonomous anti-corruption body is essential but not a determining factor to implement professional ethics and anti-corruption legislation. International best practice has revealed that Scandinavian countries have managed the control of corruption without necessarily forming dedicated anti-corruption agencies.
- **Meritocracy:** It is argued that the implementation of meritocracy in South Africa's public administration should be prioritised and consideration be

exercised to ensure that the imbalances of the past are addressed proportionately by employing deserving individuals.

- **Increasing the salaries of public servants:** It is submitted that the government in South Africa continues to implement targeted interventions to minimise the public sector wage bill. Hence, the call for salary increase for public servants is not worth considering because evidence has revealed that these are already on par with their private sector counterparts. Greed among public servants involved acts of corruption can be cited as a motivation rather than low salaries.
- **Rule of law:** It is revealed that the legislative arm in South Africa is highly rated by the Ibrahim Index of African Governance and on the World Governance Indicators as released by the Mo Ibrahim Foundation and the World Bank respectively. Consequently, it was concluded that the implementers of the ethics legislation should scrutinise the alleged cases of unethical conduct and produce evidence because the justice system in South Africa is competent and trustworthy.
- **Collaboration with other sectors:** It is observed that the ineffectiveness of the National Anti-Corruption Forum is disadvantaging the efforts to fight corruption in South Africa. The international best practice has revealed that the fight against corruption yields results when sectors of society combine their strategies and form strong partnerships to address this scourge.
- **Size of government:** It is difficult to accept the proposition that South Africa is struggling to control corruption because of the size of its public sector. It was argued that irrespective of the size of the public sector, accountability mechanisms must be implemented. These include institutions, *inter alia*, Public Protector, Public Service Commission and National Prosecuting Authority.

In the next chapter, the focus will be on explicating the challenges and weaknesses with respect to the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.

## CHAPTER FIVE

### PROFESSIONAL ETHICS AND ANTI-CORRUPTION LEGISLATION: SOCIAL SECTOR CLUSTER GAUTENG PROVINCE

#### 5.1 INTRODUCTION

**“The function of education is to teach one to think intensively and to think critically.**

**Intelligence plus character - that is the goal of true education”.**

**– Martin Luther King, Jr.**

The purpose of the chapter is to explicate the areas that need detailed attention with respect to the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. This requires a clear understanding of the implementation process before arguments can be submitted. This chapter will consider the legislation process as well as the theories of implementing legislation and provide an assessment of the implementation procedures by focusing on key elements of prevention, detection, investigation and resolution mechanisms in the Social Sector Cluster departments in Gauteng Province. Furthermore, the chapter will outline the provincial mechanisms to support the implementation of professional ethics and anti-corruption legislation. The challenges with the implementation of the ethics and anti-corruption legislation in Gauteng Province will precede the summary and conclusion. A brief outline of chapter six will also be provided.

#### 5.2 COMPREHENDING THE IMPLEMENTATION OF LEGISLATION

There is a general expectation that when bills are passed into legislation, implementation must commence. This expectation is barely surprising because legislation is primarily introduced to regulate or provide guidance on a particular matter. The anticipation is even higher when a concern that is being regulated relates to the misuse of public resources. Pillay (2016:19) posits that there is a comprehensive understanding among prominent academics with keen interest in the

operation of government, for example, Waldo and Woodrow Wilson, that the significant component of the field is the administration and implementation of legislation throughout the public service. Hence, there is a need to comprehend implementation as it relates to the existing legislation.

Implementation in broad terms refers to the “act of making something that has been officially decided start to happen or be used” (*Oxford Advanced Learners Dictionary*). The scope of the research is on the implementation of policies as its aim is to evaluate whether existing professional ethics and anti-corruption legislation is being implemented effectively. The implementation of legislation, according to Anderson (2015:225), encompasses actions taken with the intention to achieve the objectives of the existing legislation because they relate to the targeted group. More specifically, implementation of legislation is defined by various scholars and practitioners as the procedure by which the passed legislation by government is actioned by the appropriate stakeholders (Howlett and Ramesh 2003:185; Birkland 2005:181; Jann and Wegrich 2007:43; Knill and Tosun 2012:149). In understanding the implementation of legislation, it is often assumed that the process takes place immediately after a bill has been signed into law. This can be linked to the argument by Box (2014:62) that when bills are passed into legislation, they, among others, constitute programmes and allocate the required financial resources as a sign to underscore the government’s intention to address the societal challenges.

It is important, however, to clarify that the implementation of legislation does not necessarily take place when a bill has been signed by the President. This implies that laws can be passed and no action ensues. For example, the Public Administration Management (PAM) Act, 2014 (Act 11 of 2014) which, among others, seeks to prohibit all those working in the public service from conducting business with the same government institutions at which they are employed was signed by the President of South Africa on December 2014. However, the PAM Act implementation dates had not been established by 31 July 2017. Therefore, to understand the implementation of legislation, it is crucial to be aware that the process does not start when the bill has been enacted but rather the process requires the President to determine the implementation date. The argument can also be extended to include the provision of resources to enable effective implementation.



Another critical assumption is that implementation of legislation is part of a broader process which, *inter alia*, includes problem identification or agenda setting, formulation, adoption, implementation and evaluation. This study accentuates two stages of the policy process, that is, evaluate the effectiveness of the implementation of ethics and anti-corruption legislation in a particular setting. The stages of the policy process are dependent on each other. Jann and Wegrich (2007:52) and Brynard (2010:191) acknowledge that the failure of legislation can either be as a result of ineffective implementation or its design. For example, in demonstrating that stages for policy development inform each other, implementation and policy formulation, are extremely inter-reliant procedures and it has been broadly recognised that attention should be given to the effect that policy creation has on implementation (Pulzl and Treib 2007:101). Brynard (2010:194) and Lawton et al. (2013:146) further express similar sentiments that the failure of public servants to implement the existing policies effectively can be partly as a result of the lack of understanding when the significant implementation responsibilities are not simplified. This study assumed that the departments within the Social Sector Cluster in Gauteng understand the implementation obligations related to ethics and anti-corruption legislation as enacted by the national government.

### **5.3 THEORIES OF IMPLEMENTING A LEGISLATION**

It is often argued that theory should support researchers to develop the necessary recommendations for public administrators with the intention to refine implementation. This section describes the theories of implementation research that can be divided into three distinct categories as follows:

- Top-down theory of implementation;
- Bottom-up theory of implementation; and
- Hybrid theory of implementation.

### 5.3.1 Top-down theory of implementation

According to Anderson (2015:227), top-down theory pays attention to senior public servant's activities, and the features that disturb their conduct provided that the objectives of the legislation have been achieved as well as reformulated based on knowledge. However, Knill and Tosun (2012:158) and Birkland (2005:182) highlight that the top-down approach refers to reviewing legislation's implementation process by understanding the primary objectives of the authorities and then monitor the implementation at the grassroots level. In summary, most scholars concur that 'top-downers' generally begin from a policy pronouncement decided by senior authorities within a particular system and cascaded "down" to the grassroots level.

The description of the top-down theory consents the submission of an observation which conforms to the South African context where a single national government formulates the relevant legislation and it is expected that all the three spheres of government implements the statute. All ethics and anti-corruption legislation in South Africa is enacted by the national government. Provinces are compelled by section 125 (2)(b) of the Constitution of the Republic of South Africa to implement all general statutes within the functional capacities listed in schedule 4 or 5 except where the Constitution or an Act of Parliament provides otherwise. Section 125(2)(d) also consents provinces to create their own laws which must be within or not contradict the Constitution of 1996. There is room for provincial discretion or innovation to address unethical conduct. It can be argued that the Gauteng Provincial Government has a responsibility to ensure that ethics and anti-corruption legislation is implemented effectively. The inaccessibility of resources is not considered as an impediment to implement the policy by top-down theory.

According to Birkland (2005:183), one of the significant expectations of the top-down theory is that authorities at the national sphere of government comprehend the capability and obligation of the public servants at lower levels. Consistent with this assumption, Pulzl and Treib (2007:90) assert that for an effective top-down theory, those responsible for implementation must be provided adequate means and more significantly, an implementation plan and a competent person to monitor the progress. Therefore, the allocation of resources to implementers must be linked with

the expectation to implement available legislation. It is national government's responsibility to ensure that implementers at provincial and local government spheres are provided with monetary and human resources including guidance and expertise to implement the legislation effectively. The general concern in South Africa is that legislation is passed and provinces are expected to implement without being provided guidance on its process and proper verification of whether the required personnel and budget is available for effective implementation thereof.

Birkland (2005:184) highlights a central weakness of the top-down method: implementer's capacity at the lower levels to administer the instructions from the senior authorities at national level that legislation is implemented in a specific manner. Unfortunately, politics at provincial and local government spheres has the potential to compromise the implementation of legislation in these respective environments. Howlett and Ramesh (2003:190) concur with this criticism and advance that senior authorities which provide an oversight role have a minimal role in the daily implementation of legislation compared to public servants and the general public. In a South African context, national government has a constitutional mandate to pass legislation and should specifically be commended for passing ethics and anti-corruption legislation. However, for effective implementation of these pieces of legislation, a sound national or central government is needed to ensure that when instructions are sent to the implementers on the ground they don't fall on unresponsive ears. This requires continuous monitoring and submission of progress reports on the implementation of legislation. It should be clarified to all implementers that failure to submit these progress reports would have consequences.

### **5.3.2 Bottom-up theory of implementation**

Birkland (2005:185) explains that the bottom-up theory of implementation refers to reviewing the implementation of legislation by considering the objectives and competencies of the officials at the lower level and then tracks the design thereof to the formulators at senior level. With this description as the angle of approach, Knill and Tosun (2012:158) accentuate that the bottom-up theory requires officials at the lower levels to take consistent decisions about suitable options in particular situations. Anderson (2015:227) affirms that Implementation studies should pay

attention to the officials at the lower level and how they execute their responsibilities. The level of participation that is encouraged by the bottom-up approach should be perceived as positive particularly democratic societies such as South Africa because its citizenry is often reminded that “power is in their hands”.

Pulzl and Treib (2007:100) argue that exponents of the bottom-up theory of implementation have successfully influenced the general public and researchers. The latter focus on implementation which is more than the procedural execution of political instructions from those at the top. It is in this context that Howlett and Ramesh (2003:190) highlight that the significant benefit of the bottom-up perspective is that it changes consideration of all those who participate in developing and implementing legislation. The arguments and explanation submitted for the bottom-up theory of implementation suggests two significant considerations which are widely noted by researchers in public administration: the first one is an active citizenry which participates in the implementation of existing legislation to guarantee the achievement of this method and secondly, the members expertise of the public enables them to take comprehensive decisions because they can challenge the information presented to them by public servants.

There are two sides of a coin. Similarly, Birkland (2005:186) argues that there are significant shortcomings that must be considered in the bottom-up approach. Firstly, it should be noted that the bottom-up approach exaggerates the capacity of the public servants at the lower level to discourage the objectives of the senior authorities. Secondly, the bottom-up theory of implementation concludes that citizens always participate during the implementation of existing legislation.

Pulzl and Treib (2007:90) also assert that those who oppose the bottom-up theory hold that the public servants at the lower level are the key drivers of implementation of legislation. Moreover, implementation is considered an opportunity to include all stakeholders. Succinctly, the arguments against the bottom-up theory of implementation reveals that success with policy implementation requires the citizens to exercise their democratic right to participate and influence policy processes. Furthermore, the bottom-up theory is also considered successful because an open government is required to consider the implementers submissions. In *Hugh Glenister*

*v President of the Republic South Africa and Others* 2011 (6) CCT 48/10: [para 57:27] it was accentuated that unethical conduct is a notable challenge in South Africa and if not addressed, it would fail the democratic processes and impede the country achieving the developmental goals. This assertion is a motivating factor for the bottom-up theory. Unethical conduct has devastating consequences as well as infringes their rights.

### 5.3.3 Hybrid theory of implementation

A common ground between the two theories of implementation should be considered. The understanding of a public policy as stated by Brynard (2010:193) is considered on an on-going basis and can adjust its implementation. For example, the government can decide on a top-down theory of implementation but through lessons learnt, a decision can be taken to consider the bottom-up theory of implementation or amalgam of both approaches. According to Knill and Tosun (2012:158), hybrid approaches combine features of the the bottom-up, top-down and other theoretical models. However, Pulzl and Treib (2007:90) assert that hybrid theories attempt to close the gap between the bottom-up and top-down theories of implementation by integrating all theoretical models features. Table 5.1 below as adopted from Pulzl and Treib (2007:94) illustrates that there are certain features of the top-down and bottom-up models of implementation which include, *inter alia*, opposing studying approaches, conflicting objectives of assessment, divergent models of the policy process, unpredictable consideration of the implementation process and differing models of democracy.

**Table 5.1: Comparison of top-down and bottom-up theories**

	Top-down theories	Bottom-up theories
<b>Research strategy</b>	Top-down: from political decisions to administrative execution	Bottom-up: from individual bureaucrats to administrative networks
<b>Goal of analysis</b>	Prediction/policy recommendation	Description/explanation
<b>Model of policy process</b>	Stagist	Fusionist
<b>Implementation process</b>	Hierarchical guidance	Decentralised problem solving
<b>Model of democracy</b>	Elitist	Participatory

Source: Adopted from Pulzl and Treib (2007:94)

Howlett and Ramesh (2003:190) note that these two methods are not opposing but corresponding. Top-down commences with the central government providing a legislated direction, scrutinises the public servants performance to implement legislation and intervene where challenges have been identified. The bottom-up approach commences at the grassroots level and requires public servants at lower levels to be active in the implementation process. In analysing table 5.1, it is important to note that in terms of the model of democracy, the bottom-up theory encourages implementers to participate in policy-making which conforms to the values and principles governing public administration. Section 195(e) of the Constitution, 1996, stipulates that citizens must be provided feedback on their request and be involved in the formulation of policies. This is encouraging if one considers that the success of the ethics and anti-corruption legislation requires an active citizenry. A strong social compact among the sectors of society is needed because they are familiar with the challenges within their communities. The success of the top-down approach firmly rests with a strong national government led by officials with integrity and who command respect among society at large. Leaving everything to the implementers, as advocated by the bottom-up approach, has a potential to cause chaos and lack of guidance within the structures of society. Furthermore, politics within spheres of government can result in implementers ignoring topical issues that require public policy.

#### **5.4 IMPLEMENTATION PROGRESS**

As indicated (cf. section 1.2), the Department of Public Service and Administration introduced the *Anti-Corruption Capacity Requirements: Guidelines for implementing the Minimum Anti-Corruption Capacity Requirements in Departments and Organisational Components in the Public Service (2006)* as a supporting tool for departments during the implementation process. In assessing the implementation progress of ethics and anti-corruption legislation within the Social Sector Cluster in Gauteng, the section focused on the key aspects of the essential mechanisms of an effective anti-corruption reform i.e. prevention, detection, investigation and resolution.

### 5.4.1 Prevention

A complete prevention strategy comprises of creating an ethical organisational culture, implementation of existing ethics and anti-corruption policies, continuous training and awareness sessions, physical and information security and conducting corruption risk assessment with the view to developing mitigating measures. However, this section focused on assessing progress made with ethics and anti-corruption (including the Public Service Code of Conduct) training and awareness sessions including the management of conflict of interest and administrative justice and access to information.

#### 5.4.1.1 Training and awareness

The Minimum Anti-Corruption Capacity requirements advise Accounting Officers to arrange the ethics capacity building initiatives which, *inter alia*, should encourage adherence to departmental and national policies as well as the principles required for an effective public service. The goal of arranging training and awareness programmes as reported by Wyatt-Nichol and Franks (2009:39) and Menzel (2012:85) is not to transform public servants into ethics specialists but underscore the objectives of the public service, remind the employees to respect the existing legislative framework and further provide a platform for them to share their ethical challenges. Kuye (2016:106) concurs with this argument and posits that arranging ethics capacity building programmes will partially strengthen the public service departments so that they can focus more on their core mandate which is the implementation of existing legislation. It is imperative for departments to ensure that their employees are capacitated at regular intervals because it will not only enable them to achieve their developmental goals but also to improve implementation of existing legislation.

Lawton and Macaulay (2009:107) and Macaulay (2009:34) argue that there is no surety that ethics reforms (including training and awareness) can eliminate unethical conduct. However, Sayeed (2016:48) acknowledges that ethics initiatives might have an influence on competent officials who want to conform to legislation in performing their duties. This is consistent with Montfort, Beck and Twijnstra (2013:128) who

submit two recommendations for public sector and training agencies. Firstly, it is argued that the public servants who only possess a matriculation certificate and below should be targeted for the ethics capacity building programmes because they are most likely to benefit from the programme in the long-term than those public servants with higher educational qualifications (tertiary). Secondly, ethics capacity building programmes should focus on those departments which experience ethical challenges with the intention of improving the ethical climate and assist officials with their ethical dilemmas. Wyatt-Nichol and Franks (2009:39) and Raile (2012:253) note that the capacity building programmes arranged to address the ethical issues are likely to improve decision-making among public servants. Improved ethical decision-making among employees could increase adherence to existing policies. The Public Service Commission (2016b-j) reported on the training and awareness programmes held by departments to sensitise employees of ethics and anti-corruption related issues (including Code of Conduct). Table 5.2 below illustrates the number of employees who received ethics and anti-corruption training by the Social Sector Cluster departments in Gauteng Province during the 2014/2015 and 2015/2016 financial years.

**Table 5.2: Employees trained on ethics (2014/2015 and 2015/2016)**

Department	Total number of employees	2014/15	2015/16
Community Safety	1 151	-	285
Education	82 138	-	-
Health	66 105	-	1 749
Human Settlements	814	-	527
Office of the Premier	483	-	244
Provincial COGTA	686	-	45
Social Development	4197	-	119
Sports	446	-	-
Treasury	816	59	40
<b>Total</b>	<b>156 836</b>	<b>59</b>	<b>3 009</b>

**Source: Researcher's own – information obtained from the PSC (2016b-j) Reports**

Table 5.2 above reveals that for the 2014/15 and 2015/16 financial years only 3009 employees of 156836 were in ethics and anti-corruption related issues (including Public Service Code of Conduct). The Gauteng Human Settlements had trained 527



(65%) of 814 employees, while the Office of the Premier had trained 244 (50%) of 483 employees. The Gauteng Department of Community Safety had trained 285 (25%) employees of 1151. This was the only exception of a high number of employees who had been trained in ethics and anti-corruption related issues. The number of trained officials from departments with a high staff complement is extremely low. The Gauteng Department of Health trained only 1749 (3%) of 66105 employees while statistics of officials trained at the Gauteng Department of Education were unavailable. The overall statistics is a cause for concern because only 3068 (2%) of 156 836 employees in the Social Sector Cluster departments had been trained. The statistics expose the lack of prioritisation of ethics and anti-corruption programmes by departments within the Social Sector Cluster. Employees need to be sensitised of ethics-related concerns so that they can abide by existing policies. Non-compliance, as recommended by Chipkin (2016:3), has many causes, including operational processes, which are poorly designed and/or personnel is inadequately trained to know how to adhere to them.

The researcher did not obtain information of how the ethics training was facilitated as it fell out of the scope of this study. However, it is important to note that the approach adopted to facilitate ethics training programmes can contribute towards the overall outcomes. Hence, Wyatt-Nichol and Franks (2009:41) argue that capacity building programmes that are intended to assist public servants with ethics challenges should not be delivered in a lecture approach but rather be in a form of group discussions and deliberate on how to manage ethical dilemmas. In this regard, Menzel (2012:247-248) reminds the reader that according to Derek Bok (1990), the ethics course should assist officials to reason about difficult moral ethical challenges with the intention “to be more perceptive in detecting ethical problems when they arise, better acquainted with the best moral thought that has accumulated through the ages and more equipped to reason about the ethical issues they will face in their own personal and professional lives”. Menzel (2012:244-246) specifically suggests three methods that should be used to teach ethics:

- **Sensitivity and awareness:** focusing on “do’s” and “don’ts” of professional ethics and anti-corruption legislation and the Public Service Code of Conduct which prescribes the expected conduct of a public servant.

- **Moral reasoning:** assist public servants with ethical decision-making skills during their performance of duties.
- **Leadership and exemplar modelling:** senior politicians and public servants must demonstrate ethical leadership to serve as role models for junior public servants.

Hence, it is argued that the capacity building programmes within the Social Sector Cluster should be delivered in a group discussion method which focuses on communicating and clarifying aspects of existing legislation, empower officials with moral reasoning skills and encourage those in leadership positions to be exemplary in their conduct. This will ensure that ethics capacity building programmes result to the desired impact.

#### 5.4.1.2 Managing conflicts of interest

The assessment of implementation progress to manage conflict of interest will focus on compliance with the disclosure of financial interests and remunerative work conducted by officials at management level within the Social Sector Cluster departments as required by the Public Service Regulations (2016). Compliance with the regulations is required to improve integrity within departments. Haruna (2008:123) argues that implementing the compliance-integrity model necessitates robust competence that offers understanding in a work ethic for promoting human self-respect. The success of the compliance-integrity model minimises conflict of interest. Ochoa and Graycar (2015:83-85) affirm that conflict of interest comprises an instance the public servant is improperly influenced by his or her private interest during the execution of official duties and further inform that conflict of interest has three common features, namely:

- **Actual:** undeniable conflict concerning an official's present obligations and current personal benefits.

- **Perceived:** an official's personal benefits can wrongly impact the execution of his/her responsibilities.
- **Potential:** an official can in future be destructed in his/her performance by personal interest (Esadze 2013).

In April 2016, the Minister for Public Service and Administration issued the Public Service Regulations (2016) which became effective from 1<sup>st</sup> August 2016, to replace the Public Service Regulations (2001). According to the new Public Service Regulations (2016), officials at senior management level should disclose their interests on an annual basis by no later than 30 April. Table 5.3 below illustrates the compliance rate for disclosures by the officials at senior management level within the Social Sector Cluster departments (2011/2012 to 2015/2016 financial years).

**Table 5.3: Submission of financial disclosures (2011/2012 to 2015/2016)**

Department	2011/12	2012/13	2013/14	2014/15	2015/16
Community Safety	100%	97%	100%	0%	100%
Education	100%	100%	100%	99%	100%
Health	99%	100%	97%	97%	100%
Human Settlements	98%	100%	100%	100%	100%
Office of the Premier	100%	100%	98%	100%	100%
Provincial COGTA	N/A	97%	47%	100%	100%
Social Development	N/A	100%	100%	100%	100%
Sports	100%	97%	85%	97%	100%
Treasury	N/A	100%	100%	100%	100%

**Source: Researcher's own – information obtained from the PSC (2016b-j) Reports**

The Gauteng Department of Social Development, Gauteng Department of Human Settlements and Gauteng Treasury were the only departments that achieved compliance over a four year period i.e. 2012/2013 to 2015/2016. The Office of the Premier has also been consistent with the exception of 2013/2014 during which they did not achieve full compliance with 98%. It was reported that the Gauteng Department of Community Safety acquired 0% during the 2014/2015 financial year because the Executive Authority failed to submit the forms to the PSC by 31 May as required by law. The other lowest compliance rate of 47% by the Provincial COGTA during 2013/2014 could be attributed to SMS members who had not prioritised the

submission of their forms. The Gauteng Department of Sports, Arts Culture and Recreation has over a three year period from 2012/2013 to 2014/2015 failed to fully comply with the submission of financial disclosures. It is encouraging to note that all the departments under the Social Sector Cluster managed to achieve full compliance during the 2015/2016 financial year. This achievement should be sustained over a period of time.

In terms of section 30(1) of the Public Service Act, 1994 (Proclamation 103 of 1994) public servants are prohibited from performing extra remunerative work outside the public service and are advised to get written permission from the Executive Authority if they are interested in such activities. Table 5.4 below illustrates the percentage of SMS members within the Social Sector Cluster departments that undertook Remunerative Work outside the Public Service (RWOPS) during the 2012/13 and 2013/2014 financial years as reported by the Public Service Commission (2015:6).

**Table 5.4: SMS members doing RWOPS (2012/13 and 2013/2014)**

Department	2012/13	2013/14
Community Safety	17%	4%
Education	12%	4%
Health	19%	4%
Human Settlements	29%	0%
Office of the Premier	22%	2%
Provincial COGTA	17%	0%
Social Development	3%	9%
Sports	21%	0%
Treasury	13%	2%

**Source: Adapted from the Public Service Commission (2015:6)**

Ochoa and Graycar (2015:86) caution that an undesirable characteristic emanates when public servants fail to perform their official responsibilities or seek to acquire financially by prioritising their personal interests which could impact on the delivery of public goods and services. It is observed that there were a relatively high number of SMS members who undertook RWOPS during the 2012/2013 financial compared to 2013/2014. The only department that recorded an increase (3% to 9%) on the number of SMS conducting RWOPs was the Gauteng Department of Social Development. The Gauteng Department of Human Settlements which had the

highest percentage of SMS performing RWOPS during 2012/2013 financial year, had no SMS members performing RWOPS during 2013/2014. The Public Service Commission (2015) did not reveal whether all the SMS members acquired permission to undertake remunerative work outside as stipulated by legislation. Another important consideration is that the reported statistics could be based on the information declared by officials when submitting their financial disclosures. Officials could choose not to disclose this information especially if they had not acquired permission to work outside. Departments should implement mechanisms to detect non-compliance.

The Public Service Commission (2017:22) also reported that there are 26 officials at senior management level in Gauteng who engaged in RWOPS during the 2015/2016 financial year. These officials had generated a total sum of R844 740 during the year in question. No analysis was provided of which departments these officials belonged to in the province. Thus, it was not possible to establish how the departments within the Social Sector Cluster are affected.

#### **5.4.1.3 Access to information**

According to section 32(1) of the Constitution of the Republic of Africa of 1996, all citizens have a right to access information in the public service. Section 32(2) further requires that a national statute must be passed to give authorise this right. South Africa has the Promotion of Access to Information Act, 2000 (Act 2 of 2000) which conforms to this constitutional requirement. The Act requires, among others, filing the PAIA manual, for placement at the department's offices and on their websites and serve as a guide of how the general public can access the information that is stored at the public service institutions. The overall intention is to encourage transparency and accountability within the public service.

Table 5.5 below illustrates accessible PAIA manuals on the Social Sector Cluster departmental websites as at 31 March 2017. The Gauteng Department of Community Safety, Gauteng Department of Education and Gauteng Department of Human Settlements had not posted manuals on their websites as at 31 March 2017. The Office of the Premier and Gauteng Treasury are the only departments that have

PAIA manuals available in English, Afrikaans, Sesotho and Zulu. The Provincial COGTA and Gauteng Department of Health should consider in addition to English to avail the manual in other languages. The Gauteng Department of Sport also offers the manual in Sepedi which is related to Sesotho. It is highlighted in red.

**Table 5.5: Accessible PAIA Manual**

Department	Manual Available	English	Afrikaans	Sesotho	IsiZulu
Community Safety	-	-	-	-	-
Education	-	-	-	-	-
Health	√	√	-	-	-
Human Settlements	-	-	-	-	-
Office of the Premier	√	√	√	√	√
Provincial COGTA	√	√	-	-	-
Social Development	√	√	-	√	√
Sport	√	√	-	√	√
Treasury	√	√	√	√	√

**Source: Researcher's own – information obtained from the PSC (2016b-j) and updated based on the departmental websites as at 31 March 2017**

Access to information is crucial for citizens to assess government performance, scrutinise public sector budgets to encourage transparency and hold government accountable where necessary. Majila et al. (2014:219) expand on this argument and assert that the absence of accessibility to information can have a negative effect on the implementation of measures intended to address unethical conduct.

Table 5.6 illustrates accessible annual reports on the Social Sector Cluster departmental websites for the 2011/2012 to 2015/2016 financial years. As at 31 March 2017, almost all annual reports of the departments within the Social Sector Cluster were accessible on their websites. The exceptions included: Gauteng Department of Health (2013/2014 and 2014/2015), Gauteng Department of Human Settlements (2011/2012) and Gauteng Department of Social Development (2015/2016). The mentioned departments had failed to post their annual reports on their websites. The high number of available reports in the public domain is encouraging and so significance to ensure transparency and accountability for the Social Sector Cluster departments.

**Table 5.6: Accessible annual reports on websites (2011/12 to 2015/2016)**

Department	2011/12	2012/13	2013/14	2014/15	2015/16
Community Safety	√	√	√	√	√
Education	√	√	√	√	√
Health	√	√	-	-	√
Human Settlements	-	√	√	√	√
Office of the Premier	√	√	√	√	√
Provincial COGTA	√	√	√	√	√
Social Development	√	√	√	√	-
Sports	√	√	√	√	√
Treasury	√	√	√	√	√

**Source: Researcher's own – information obtained from the PSC (2016:44) and updated based on the departmental websites as at 31 March 2017**

Table 5.7 below illustrates citizen's annual reports which are accessible on the Social Sector Cluster departmental websites for the period 2011/12 – 2015/2016 financial years. The Public Service Commission (2015) states that the citizen's annual report is a tool that can be used by the general public to gain insight into the deliverables and performance of government institutions. This can assist to promote public accountability.

**Table 5.7: Accessible citizen's annual reports (2011/12 to 2015/2016)**

Department	2011/12	2012/13	2013/14	2014/15	2015/16
Community Safety	-	-	-	√	-
Education	-	-	-	√	-
Health	-	-	-	-	-
Human Settlements	-	-	√	√	-
Office of the Premier	-	-	-	-	-
Provincial COGTA	-	-	-	-	√
Social Development	√	-	-	-	-
Sports	-	-	√	√	-
Treasury	-	-	-	-	-

**Source: Researcher's own – information obtained from the PSC (2016:45) and updated based on the departmental websites as at 31 March 2017**

Based on the information in table 5.7 above, it is observed that most departments still do not avail their annual citizen's reports on their departmental websites. Only Provincial COGTA has placed their updated (2015/2016) annual citizen's report on

the website. The Gauteng Department of Community Safety and Gauteng Department of Education posted their 2014/2015 reports while the Department of Human Settlements and Gauteng Department of Sports, Arts, Culture and Recreation did for 2013/2014 and 2014/2015 financial years. The Gauteng Department of Social Development only has the dated 2011/2012 report available on their website. There similarly were no reports for the Office of the Premier, Gauteng Department of Health and Gauteng Treasury. This is of serious concern because all the annual reports should be accessible on their departmental websites.

#### **5.4.2 Detection**

The broader aspects of detection include whistle-blowing mechanisms, internal audit function, management of information on corruption, reporting to other agencies and role of managers to inhibiting corruption. However, this section focused on whistle-blowing and how it is implemented within the Social Sector Cluster departments.

##### **5.4.2.1 Whistle-blowing**

Employees need to be sensitised that their silence when seeing or knowing of wrong doing has long-term consequences. Dryburgh (2009:157) argues that whistle-blowers can be thought of as officials who risk their lives by exposing corrupt activities within their organisations to the investigating bodies and members of the public. It is in this context that Svensson, Wood and Callaghan (2009:504) argue, with good reason, that both public and private sector organisations should develop official procedures to support whistle-blowers. This approach will ensure that corrupt activities are exposed, investigated and preventative measures implemented accordingly. Furthermore, Holtzhausen (2012:100) accentuates that the official procedures encourage an ethical culture within organisational environment. The Protected Disclosures Amendment Act, 2017 (Act 5 of 2017) stipulates the development of measures to guide employees in all sectors of society of how to divulge information related to unethical behaviour by anyone who has been implicated. However, in South Africa, this legislation has not prevented whistle-blowers from being intimidated and in certain instances even killed.



Although the environment in most circumstances is not conducive for officials to blow the whistle, Holtzhausen (2013:67) suggests that it is vital for each institution to encourage a whistleblowing culture. The various aspects that reinforce or weaken an employee's level of public service enthusiasm can inspire officials to expose any wrong doing or to discourage unwanted conduct (Dryburgh 2009:158). Apaza and Chang (2011:116) affirm that previous studies posit that whistleblowing is effective when officials have proof of unethical conduct. This is incited by circumstances, that is, officials blow the whistle not with the intention to expose unethical or illegal behaviour but rather to damage the integrity of other officials to create an impression that they are corrupt. Thus, disclosure is not made in good faith.

The MACC requirements state that each Accounting Officer must, among others, develop confidential structures that promote and let officials to expose unethical. A decision was taken by the Cabinet in South Africa to have a single Public Service Anti-Corruption Hotline managed by the Public Service Commission. It has been observed that the Gauteng Province has received the highest number of cases reported to the National Anti-Corruption Hotline and other anti-corruption mechanisms available from other sectors of society i.e. Corruption Watch Anti-Corruption Hotline. The Gauteng Anti-Corruption Strategy (2015:7) notes the increasing number of alleged cases of unethical conduct in the province and further attributes this to the national census results (2015) which revealed that citizens in Gauteng have greater access to household technology such as telephones, e-mail and faxes compared to other provinces. This provides them with the means to expose unethical conduct. The strategy argues that the increase in the number of reported cases of alleged corruption should be perceived as a positive response to a national call for citizens to report any suspected corrupt activities. It is encouraging to note that citizens in Gauteng still report instances of wrongdoing. However, the question is whether the departments do take action against those individuals who are implicated. The answer will be scrutinised in the following section.

### **5.4.3 Investigation**

The Minimum Anti-Corruption Capacity requirements state that Accounting Officers must establish a capacity to investigate allegations of corruption. The Gauteng Anti-

Corruption Strategy (2015:38) further states that the province has a centralised Gauteng Provincial Forensic Audits based at the Gauteng Treasury and is mandated by the Premier to manage cases received from the National Anti-Corruption Hotline. The cases are analysed to establish whether all the reports referred to the province by the Public Service Commission relate to provincial departments or municipalities in Gauteng. The Provincial Forensic Audits also scrutinise information provided by whistle-blowers to verify whether it is appropriate to warrant an investigation. It also verifies whether the allegations are within the broad definition of fraud and corruption. The cases of alleged corruption which implicates officials from the Gauteng Provincial Government departments are delegated to the relevant Accounting Officer for decision and resolution. Accounting Officers are encouraged to request assistance from the Gauteng Provincial Forensic Audits in instances if their respective department does not have the capacity to investigate cases of alleged corruption. Table 5.8 below illustrates cases of alleged corruption reported to the National Anti-Corruption Hotline for the Social Sector Cluster departments for the 2015/2016 financial year.

**Table 5.8: Cases of alleged corruption from NACH (2015/2016)**

Depart.	Cases referred	Feedback received	Cases closed	% Cases closed	Outstanding cases	% outstanding cases
GDCS	9	8	8	89%	1	11%
GDE	29	11	11	38%	18	62%
GDH	13	4	4	31%	9	69%
GDHS	1	0	0	0%	1	1%
OOP	0	0	0	0%	0	0%
COGTA	0	0	0	0%	0	0%
GSDS	5	2	2	40%	3	60%
GDSACR	1	0	0	0%	1	1%
GPT	0	0	0	0%	0	0%
<b>Total</b>	<b>58</b>	<b>25</b>	<b>25</b>	<b>44%</b>	<b>33</b>	<b>56%</b>

Source: Researcher's own – information obtained from the PSC (2017:48)

Table 5.8 above reveals that 58 cases of alleged unethical conduct were received from the National Anti-Corruption Hotline by the Social Sector Cluster departments during the 2015/2016 financial year. The majority of the alleged cases were reported to the Gauteng Department of Education (29) followed by Gauteng Department of

Health (13) and Gauteng Department of Community Safety (9). Feedback was received from 25 cases which were subsequently closed. The percentage of referrals resolved was 44% of the total number of cases within the Social Sector Cluster departments. However, of concern was that 33 cases remained outstanding. It is encouraging to note that the citizens report incidents of alleged corruption so that departments can investigate accordingly. Of greater significance is that action can be taken against those that are involved in corrupt activities. The impediment is that investigation processes tend to take time. Table 5.8 reveals that 56% of the cases which were reported during the 2015/2016 financial year are still outstanding.

The Public Service Commission (2015:54) recommends that Accounting Officers ensure timeous investigation including the implementation of consequence management for the culprits. Section 35(3)(h) of the Constitution, 1996 provides that “every accused person has a right to a fair trial and most importantly to be presumed innocent until proven guilty”. The South African courts have since developed jurisprudence around this provision and indicated that the prosecution in criminal case has a burden to prove beyond reasonable doubt that a person is guilty. This is informed by the English communal law which requires the accused to be given the benefit of the doubt until proven beyond reasonable doubt that he/she has committed the said offence. However, since cases of alleged corruption are rather time consuming to resolve, an argument that is often submitted for consideration is whether a change in South Africa’s legal system to implement reversal burden of proof in the cases for unethical conduct can address this challenge? It is widely reported that government would require additional resources to implement this system. Muhumuza (2016:79), for example, argues that the burden of proof method should be revised to align to a French system requires the suspect to demonstrate his or her innocence.

The proposal to introduce the reversal of burden of proof is tempting because it will send a strong message to those implicated in corrupt activities that departments are dealing decisively with this scourge. This will require whistle-blowers to have evidence of misconduct to prevent officials from being dismissed for malicious reasons. In this regard, Wiriadinata (2014:72-73) cautions that the implementation of a pure reversal burden of proof would possibly result in new opportunities of

unethical conduct, primarily by those tasked with implementing the law. Secondly, the implementation of a pure reversal burden of proof may result in violations against “presumption of innocence and non-self-incrimination principles, violations against human rights and right of silence, as well as results in bureaucratic chaos”. This concurs with article 11 of the Universal Declaration of Human Rights (1948) which provides that all those accused with a punitive wrongdoing should be assumed innocent until proven otherwise by law enforcement agencies in a proper court system (United Nations 2015:24). The rights of individuals, therefore, makes it difficult for the reversal of burden of proof to be implemented in South Africa.

#### **5.4.4 Resolution**

All the programmes implemented to encourage whistle-blowing and investigation of alleged cases of corruption are meaningless if action is not taken by departments to resolve these allegations. Another vital consideration is that resolution of cases brings credibility to the anti-corruption process. Citizens can only trust the call to fight corruption when they have evidence that some effort is made to not only investigate their complaints but disciplinary action is instituted against the implicated officials. This section on resolution will focus on disciplinary procedure capacity and recovery of funds.

##### **5.4.4.1 Disciplinary procedure capacity**

The MACC requirements encourage Accounting Officers to establish capacity to commence and finalise disciplinary action for cases of unethical conduct. Table 5.9 below illustrates grievances lodged by the Social Sector Cluster departments for a period of three financial years i.e. 2013/2014, 2014/2015 and 2015/2016.

**Table 5.9: Number of grievances (2013/2014 – 2015/2016)**

Department	2013/2014	2014/2015	2015/2016	Total
Community Safety	10	12	28	50
Education	525	415	474	1414
Health	345	407	396	1148
Human Settlements	5	10	43	58
Office of the Premier	4	7	101	112
Provincial COGTA	0	3	6	9
Social Development	34	52	13	99
Sports	9	19	14	42
Treasury	2	9	11	22
<b>Total</b>	<b>934</b>	<b>934</b>	<b>1086</b>	<b>2954</b>

**Source: Researcher's own – information obtained from the PSC (2016b-j) Reports**

It is observed in table 5.9 above that there were 934 grievances lodged both during 2013/2014 and 2014/2015. There was an increase of 1086 for 2015/2016 which totalled 2954 of grievances lodged by the employees within the Social Sector Cluster departments over a period of three financial years (2013/2014 – 2015/2016). The Gauteng Department of Education (1414) and Gauteng Department of Health (1148) constituted the highest number of these grievances. This is not unexpected if one considers the staff complement of these departments. There were also a high number of grievances lodged by the Office of the Premier (112) of which 101 of these were lodged during 2015/2016. This is extremely high if one considers that the total number of staff at the Office of the Premier department is approximately above 400. There are no statistics available for 2016/2017 but Creedy (2016:9) revealed during the budget vote that over the past year, Gauteng Treasury has re-engineered the Provincial Forensic Services which has enabled, among others, improvement in the implementation of recommendations of investigation reports. This initiative resulted in 125 employees facing disciplinary action across the province.

Sections f(8) of the Public Service Commission's Grievance Rules for the Public Service, 2003 requires the department (including the executing authority) to manage the submitted grievance and provide feedback to the relevant employee within 30 days. It is permissible to consider the extension period by parties involved and any agreement should be written down as agreed. Table 5.10 reveals the number of

grievances finalised within the timeframe by the Social Sector Cluster departments during 2015/2016 financial year.

**Table 5.10: Grievances finalised within timeframe (2015/2016)**

Depart.	2014/2015	Finalised within 30 days	Finalised after 30 days	Not finalised (outstanding)	% finalised within timeframe
GDCS	28	10	16	2	36%
GDE	474	300	42	132	63%
GDH	396	308	39	49	78%
GDHS	43	10	1	32	23%
OOP	101	0	60	41	0%
COGTA	6	0	2	4	0%
GDSD	13	1	6	6	8%
GDSACR	14	12	0	2	86%
GPT	11	9	1	1	82%
<b>Total</b>	<b>1086</b>	<b>650</b>	<b>167</b>	<b>269</b>	<b>60%</b>

Source: Researcher's own – information obtained from the PSC (2016b-j) Reports

The nature of grievances received by departments included undermining authority, unfair treatment, salary problems, and performance assessment, filling of posts, disciplinary matters and application approval. These might not be specifically corruption related issues but they conform to effective implementation of legislation. It is illustrated in table 5.10 above that 650 (60%) of the 1086 grievances which were lodged with the Social Sector Cluster departments were finalised within 30 days as legislated. The Gauteng Department of Sports, Arts and Culture recorded an impressive turnaround time of 12 (86%) out of 14 grievances lodged which were finalised within 30 days. Considering the high number of grievances received, the Gauteng Department of Education (63%) and Gauteng Department of Health (78%) also managed to resolve most of the grievances which were lodged with them within the stipulated timeframe. The Gauteng Department of Community Safety (36%), Gauteng Department of Human Settlements (23%) and Gauteng Department of Social Development (8%) seem pedestrian in addressing the grievances within their departments within the acceptable timeframe. The cause for concern for the Office of the Premier and Provincial COGTA is that of all their grievances which were lodged during 2015/2016, none were finalised within 30 days.

#### 5.4.4.2 Recovery

The Public Finance Management Act, 1999 (Act 1 of 1999) stipulates that the Minister of Finance formulates an investigation of financial misconduct regulations. Section 4.1(4.1.1) of the Treasury Regulations (2001) stipulates that “if an official is alleged to have committed financial misconduct, the Accounting Officer of the institution must ensure that disciplinary proceedings are carried out in accordance with the relevant prescripts”. The Gauteng Anti-Corruption Strategy (2015:43) in conformance to the PFMA and Treasury Regulation encourages all departments in the province to implement formal procedures for recovery of funds to ensure that they do not bear the burden of the financial loss due to fraud and corruption. Table 5.11 below illustrates cases of financial misconduct finalised by the Social Sector Cluster departments for the 2011/12 to 2015/16 financial years.

**Table 5.11: Finalised cases of financial misconduct (2011/12 to 2015/16)**

Department	2011/12	2012/13	2013/14	2014/15	2015/16	Total
Community Safety	7	0	0	0	0	7
Education	8	17	5	5	9	44
Health	91	164	60	80	91	486
Human Settlements	0	0	0	0	0	0
Office of the Premier	1	0	0	0	0	1
Provincial COGTA	0	0	0	0	0	0
Social Development	14	0	3	2	1	20
Sports	2	3	1	0	0	6
Treasury	0	0	6	0	0	6
<b>Grand Total</b>	<b>123</b>	<b>184</b>	<b>75</b>	<b>87</b>	<b>101</b>	<b>570</b>

**Source: Researcher’s own – information obtained from the PSC (2016b-j) Reports**

A total of 570 financial misconduct cases were finalised for the Social Sector Cluster departments for the period 2011/2012 and 2015/2016. The majority of the cases (184) were finalised during 2012/2013. The Gauteng Department of Health finalised 486 cases over the 5 years in consideration. The Gauteng Department of Education (44) and Gauteng Department of Social Development (20) also made considerable progress in finalising cases of financial misconduct. However, there is serious concern that the Gauteng Department of Human Settlements and Provincial COGTA have not finalised cases of financial misconduct over five years.

As discussed, the relevant government departments have a responsibility to ensure that money lost is recovered from the relevant officials which is to ensure that the implementation of service delivery projects is not delayed due to financial misconduct. The recovered funds are redirected to their intended projects. The Public Service Commission (2015 and 2016), refer to table 4.12 below, illustrates the financial costs of financial misconduct implicating the Social Sector Cluster departments for the 2011/12 to 2015/16 financial years. The amounts still need to be recovered by the Social Sector Cluster departments from the officials who had been implicated in each finalised financial cases of misconduct.

**Table 5.12: Costs of financial misconduct cases (2011/12 to 2015/16)**

Depart.	2011/12	2012/13	2013/14	2014/15	2015/16
GDCS	-	-	-	-	-
GDE	R52 660.44	-	R4 500.00	R515 893.30	R382 467.29
GDH	-	R16 436 426.20	R6 885.54	R28 712.77	R384 613.59
GDHS	-	-	-	-	-
OOP	-	-	-	-	-
COGTA	-	-	-	-	-
GDSD	R225 400.00	-	R64 824.71	R41 448.05	R62 637.41
GDSACR	R21 405.04	R21 405.04	R154 702.46	-	-
GPT	-	-	R237 728.66	-	-
<b>Total</b>	<b>R299 465.48</b>	<b>R16 457 831.24</b>	<b>R468 641.37</b>	<b>R586 054,12</b>	<b>R829 718.29</b>

**Source: Researcher's own – information obtained from the PSC (2017:18)**

The overall financial cost of cases of financial misconduct implicating the Social Sector Cluster departments for the 2011/12 to 2015/16 financial years as illustrated in table 5.12 above is R18 641 710.50. This large sum can contribute towards service delivery projects in the province. The highest amount (R16 457 831.24) is for cases which were concluded during 2012/2013. The Gauteng Department of Health has the highest costs of cases of financial misconduct over the five years totalling a substantial R16 856 638.10. The Gauteng Department of Social Development has the second highest costs totalling R394 310.17.

The study considered that the section assessing the Social Sector Cluster departments in Gauteng Province implementation process is comprehensively reliant on reports presented by the Public Service Commission. This is not informed by



biased consideration but due to their constitutional mandate of, among others, supporting and encouraging adherence to standards required for an effective public administration as stipulated in the Constitution of 1996. The following sections of this chapter briefly outline anti-corruption mechanisms to support the departments in the Social Sector Cluster in Gauteng and assess reports released by other institutions that relate to the Gauteng Province.

## 5.5 PROVINCIAL MECHANISMS TO SUPPORT THE SOCIAL SECTOR CLUSTER

The mechanisms to support the departments in the province with the implementation of initiatives intended to address unethical conduct as outlined by the Gauteng Anti-Corruption Strategy (2015-2019) are clarified succinctly below:

- **Gauteng Anti-Corruption Strategy (2015-2019):** the overall purpose of the strategy is to provide guidance to sectors in the province on prioritising implementation of ethics and anti-corruption measures with specific focus on prevention, detection, investigation and resolution. The strategy further outlines integrity management within the Gauteng Province's multi-pillar programme of radical Transformation, Modernisation and Reindustrialisation of Gauteng.
- **Gauteng Integrity Management Framework:** provides an inclusive method to incorporate integrity management into of the Gauteng City Region institutions business processes to, among others, promote adherence to contemporary administration practices within the said Region.
- **Gauteng Integrity Management Policy:** seeks to give effect to the Gauteng Anti-Corruption Strategy by adopting/regulating rules for integrity management in Gauteng. Of significance is that the Chief Directorate: Integrity Management based at the Office of the Premier has been established with the intention to instil integrity in business transactions by ensuring adherence to both the policy and framework by all within the Gauteng City Region (term used to refer to both departments, municipalities, agencies and other sectors).

- **Provincial Anti-Corruption Coordinating Committee:** comprises of Ethics and Anti-Corruption practitioners who meet quarterly to submit and deliberate on their departmental progress reports on the implementation of programmes intended to address unethical conduct. The activities of the committee are reported on an annual basis to the Heads of Department Forum and Executive Council and to the relevant national departments.
- **Gauteng Intergovernmental Anti-Corruption Forum:** facilitates and monitors the execution of ethics initiatives between the provincial and the local spheres of government in Gauteng. The forum meets annually to, *inter alia*, identify trends in ethics and anti-corruption prevention and share best practice.
- **Integrity Promotion and Anti-Corruption Committee:** seeks to implement and uphold existing legislation intended to address unethical conduct in the province. The committee will comprise of representatives from all sectors of society and be led by a retired judge.
- **Gauteng Public Service Integrity Commissioner:** this is an independent mechanism appointed by the Gauteng Legislature to ensure impartial implementation of ethics procedures. The primary focus of the Integrity Commissioner is to consider allegations related to political office bearers (Members of the Provincial Legislature including Members of the Executive Council).
- **Gauteng Provincial Forensic Audits:** is a centralised investigation unit based at the Provincial Treasury and mandated by the Premier to manage alleged cases of unethical conduct submitted by the general public. It is reported that support is offered to departments who need assistance with their investigation at no cost.

## 5.6 SELECTED INSTITUTIONS FOR GOOD GOVERNANCE

The study noted the significant role played by the institutions tasked with eliminating unethical conduct in the public service. Furthermore, the study attempted to assess the reports of other institutions in South Africa as they relate to the Gauteng Province. The notable reports were sourced from the Auditor-General of South Africa and Special Investigation Unit. These are assessed succinctly below.

### 5.6.1 Auditor-General of South Africa

The Auditor-General is mandated by section 188(1) to “audit and report on the accounts, financial statements and financial management of, among others, all national and provincial state departments and administrations”. The reports of the Auditor-General are also made public in the spirit of transparency and accountability. It was considered of significance to consider the outcomes of the audit reports for Gauteng Province particularly with respect to the implementation of legislation.

The Auditor-General (2016:196-197) report noted that the Gauteng provincial audit outcomes improved in 2015-16, that is, 21 auditees (60%) (2014-15: 19 [54%]) achieved clean audit outcomes, while no auditee received a modified audit opinion on their financial statements. The Auditor-General attributes the improvement of the overall audit outcomes to the Premier, the Provincial Legislature and Members of the Executive Council for leading by example and insisting on a culture of accountability, sound financial management practices including timely and effective consequence management where non-performance was identified.

However, the Auditor-General was concerned that although there was a slight improvement in the number of auditees that complied with key legislation, 40% (14 auditees) did not acquire clean audit outcomes had material findings of compliance with key legislation. There was a slower than expected response by the administrative leadership and senior management to address compliance findings, specifically Supply Chain Management and expenditure management. The Auditor-General reports that non-compliance with key legislation was compounded by

vacancies in the following positions: Accounting Officer, Chief Financial Officer and Head of SCM unit at certain auditees.

Furthermore, the Auditor-General revealed that irregular expenditure for the Gauteng Provincial Government increased to R6.5 billion (2014-15: R5.6 billion) which can primarily be attributed to continued non-compliance with Supply Chain Management legislation (specifically uncompetitive or unfair procurement processes). According to the Auditor-General, the Premier and MEC for Finance committed to fast track the implementation of the Open Tender system across all provincial departments in Gauteng to minimise the risk of procurement processes that are not transparent, cost-effective and equitable. The Open Tender system “aims to promote transparency of the procurement process to award bids through fair competition in GPG while ensuring compliance with Supply Chain Management rules and regulations”. The findings of the audit underscore the need for this research and confirm that there are challenges with the implementation of legislation throughout the province.

### **5.6.2 Special Investigating Unit**

The Special Investigating Unit (SIU) is an autonomous legislative institution which was established to execute investigations at the request of the President and most significantly, only report directly to the President on its findings. There are two requests for the investigation related to the Gauteng Provincial Government. Firstly, there is Proclamation No. R.22 of 2016 which the Gauteng Department of Human Settlements and Lepelle Northern Water for, among others, offences related to Parts 1 to 4 or section 17, 20 or 21 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004).

Secondly, Proclamation R.7 of 2007 extended by R.35 of 2010 and R. 15 of 2012 also with reference to the Gauteng Department of Human Settlements was related to mismanagement and misappropriation of the government funds to build houses for the poorest of the poor. The two investigations resulted in the President calling for a special investigation. Furthermore, no proclamations were issued to the other Social Sector Cluster departments.

## 5.7 IMPLEMENTATION OF LEGISLATION: CHALLENGES

The purpose of this chapter was to expound on the areas that need detailed attention of the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. The research has noted the following challenges:

- **The Public Service Amendment Act, 2007 (Proclamation 30 of 2007)** – The number of SMS facilitating RWOPS has also decreased compared to previous financial years except for the Gauteng Department of Social Development. The data is based on members of SMS and those on the lower levels was not scrutinised because they did not form part of the population of the study. The success of the RWOPS is to establish how many employees undertake RWOPS without permission. It was observed that in most instances the officials choose not to apply for permission to perform RWOPS because they were apprehensive that their applications will not be approved. These officials choose to continue performing RWOPS with the required permission. Thus, the best intervention for any department is to establish those who don't follow the legislated procedures and implement corrective measures for non-compliance.
- **The Special Investigating Units and Special Tribunals Amendment Act, 2001 (Act 2 of 2001)** – the Special Investigation Unit (SIU) is only authorised to act when a declaration which provides the terms of reference for investigation has been issued by the Presidency. These proclamations authorise the SIU to conduct its investigations across the public service. It is reported that, since 2009, the Presidency has only issued 58 proclamations. As indicated, two requests for the investigation related to the Gauteng Provincial Government concern Proclamation No. R.22 of 2016 between the Gauteng Department of Human Settlements and Lepelle Northern Water. The second was Proclamation R.7 of 2007 extended by R.35 of 2010 and R.15 of 2012. This illustrates that over a period of more than eight years only two major investigations related to one of nine departments within the Social Sector Cluster in Gauteng. The findings of the reports were not published by the SIU.

This can be viewed to be against the transparent processes as the matter involved public funds. Consequently, the outcome of the investigations could not be assessed.

- **The Public Finance Management Amendment Act, 1999 (Act 29 of 1999)** – in terms of the implementation of the PFMA, there are major challenges across the province. The Auditor-General reported in the 2015/2016 report that although there was a slight improvement in the number of auditees that complied with key legislation, 40% (14 auditees) that did not acquire clean audit outcomes had material findings of compliance with key legislation. The Auditor-General revealed that irregular expenditure for the Gauteng Provincial Government increased to R6.5 billion (2014-15: R5.6 billion) which can primarily be attributed to continued non-compliance with legislation particularly related to the procurement of goods and services.
- **The Promotion of Access to Information Act, 2002 (Act 54 of 2000)** – three (Gauteng Department of Community Safety, Gauteng Department of Education and Gauteng Department of Human Settlements) out of nine departments had not uploaded manuals on their websites as 31 March 2017. This is a breach of the Promotion of Access to Information Act, 2002 (Act 54 of 2000) which requires filing of PAIA manual, which must be uploaded on their websites. Two (Office of the Premier and Gauteng Treasury) out of nine departments have PAIA manuals available in English, Afrikaans, Sesotho and Zulu. As at 31 March 2017 all the annual reports of the departments within the Social Sector Cluster were accessible on their websites. The majority of the departments within the Social Sector Cluster still do not avail the annual citizen's reports on their respective websites. Only one (Provincial COGTA) out of nine departments has placed their updated (2015/2016) annual citizen's report on the website.
- **Treasury Regulations (2001)** – 570 cases of financial misconduct were finalised for the Social Sector Cluster departments for the period between 2011/2012 and 2015/2016. The overall financial costs of cases of financial

misconduct involving the Social Sector Cluster departments for the 2011/12 to 2015/16 financial years as illustrated in table 5.12 was R18 641 710.50. The Social Sector Cluster must intensify mechanisms to recover monies lost due to financial misconduct. One such mechanism is to consider deducting from the implicated official's pension funds.

- **The Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)** – the Social Sector Cluster departments reported during the 2015/2016 financial year 58 alleged cases of unethical conduct on the National Anti-Corruption Hotline. Feedback was received from 25 cases which were subsequently closed. The percentage of referrals resolved was 44% of total cases within the Social Sector Cluster departments. However, of serious concern was that 33 cases were outstanding. It is encouraging that the citizens are reporting incidents of alleged corruption so that the departments can investigate accordingly. Moreover, action can be taken against those who are implicated in corrupt activities. However, the impediment is that the investigation processes tend to take time because 56% of the cases that had been reported during the 2015/2016 financial year are still outstanding. The fact that there is a high number of allegations of corruption within the Social Sector Cluster reveals inadequate measures to inhibit acts of corruption.
- **Public Service Regulations (2016)** – as mentioned under section 4.4.1.2 that the new Public Service Regulations (2016) became effective from 1<sup>st</sup> August 2016 to replace the Public Service Regulations (2001) and chapter 2 of the new regulations deals with conduct, financial disclosures, anti-corruption and ethics management. The available data revealed that ethics and anti-corruption training is not prioritised because only 3068 (2%) of 156 836 employees within the Social Sector Cluster departments are trained. This is a cause for concern since literature revealed that structured ethics and awareness programmes reinforce the mission of the organisation, encourage adherence to policies and procedures and further supports employees to resolve ethical dilemmas.

The PSR (2016) also requires the public servants at senior management level to disclose their interests. The implementation of the financial disclosures by the departments within the Social Sector Cluster has improved significantly because 100% of all members of the SMS submitted the financial disclosure forms during 2015/2016 financial year. However, submission of disclosure forms is inadequate to manage corrupt activities. The recommendations of the Public Service Commission, which is responsible to scrutinise the disclosure forms, must be implemented by the Executive Authorities.

- **The Protected Disclosures Amendment Act, 2017 (Act 5 of 2017)** – there is an increase in the number of tip-offs related to acts of corruption in the province and this is attributed to the observation that citizens in Gauteng have greater access to household technology such as telephones, e-mail and faxes compared to other provinces. This provides them with the means to report corruption. The unavailability of official data on the number of officials who were victimised after reporting or blowing the whistle on unethical conduct is noted as a serious concern.

## 5.8 SUMMARY AND CONCLUSION

The chapter commenced by highlighting that the implementation of legislation is defined by various scholars and practitioners as the procedure by which the passed legislation by government is actioned by the appropriate stakeholders. The following three theories of implementation were explained in detail: top-down theory of implementation, bottom-up theory of implementation and hybrid theory of implementation. The chapter further provided an assessment of the implementation progress and focused on key elements of prevention, detection, investigation and resolution mechanisms of the Social Sector Cluster departments in Gauteng Province.

The mechanisms to support the departments in Gauteng Province with the implementation of initiatives to address unethical conduct as outlined by the Gauteng Anti-Corruption Strategy (2015-2019) were briefly discussed. Furthermore, a brief overview of the reports of the constitutional bodies related to the departments within



the Social Sector Cluster departments was provided. These included the Auditor-General of South Africa and Special Investigating Unit. This chapter concluded by noting the challenges identified by the empirical survey. Chapter six will focus on describing the empirical approach adopted for this study.

## CHAPTER SIX

### A DESCRIPTION OF THE EMPIRICAL APPROACH

#### 6.1 INTRODUCTION

*“If your only tool is a hammer, you will see every problem as a nail”.*

*– Gambian proverb*

The intention of the chapter is to describe the empirical approach for this study. The approach adopted mixed methods, that is, qualitative and quantitative research. The chapter will outline the data collection methods utilised for the qualitative method. The survey approach was utilised to collect data. The chapter will expound on the following aspects of the adopted research approach: development of the questionnaire, sampling, distribution of the questionnaire, response rate followed by the conclusion.

#### 6.2 UNIT OF ANALYSIS

The unit of analysis is defined by Mouton (2014:51) as the occurrence, object, procedure or occasion that the researcher intends to examine i.e. is specifically focusing on “what” of the research. The unit of analysis for the study is identified as the Social Sector Cluster in Gauteng. Nine departments fall under the Social Sector Cluster, namely: Cooperative Governance and Traditional Affairs; Education; Health; Human Settlements; Office of the Premier; Community Safety; Social Development; Sports, Arts, Culture and Recreation and Treasury. Mouton (2014:51) further asserts that when an object is an object in World 1 (a real-life “object”) it is referred to as empirical research problems. Against this explanation, the research investigates the effective implementation of professional ethics and anti-corruption programmes within the Social Sector Cluster in Gauteng. Therefore, it is empirical in nature.

### 6.3 RESEARCH PHILOSOPHY OR PARADIGM

There are different terms that are used to refer to the research philosophy i.e. worldview, metatheory, paradigms, epistemologies/ontologies, theoretical perspective or broadly conceived research methodology. This study is using paradigms as a preferred term. Christensen, Johnson and Turner (2015:29) defines paradigm as “a framework of thought or beliefs by which the reality is interpreted”.

The study adopted the mixed methods approach, that is, the qualitative and quantitative research methodology (cf. section 1.6.1). The term mixed methods research according to Bryman (2012:628) is used as a simple shorthand to stand for research that integrates quantitative and qualitative research within a single project. It is also important to note that Creswell (2014:4) and Bryman (2012:649) concur that the fundamental assumption form of enquiry is that the combination of qualitative and quantitative methods results in a more comprehensive understanding of a research problem than either method alone. Furthermore, DeCuir-Gunby and Schultz (2017:3) state that mixed methods research allows for the examination of complex problems within a single study by providing evidence to triangulate or corroborate findings with multiple sources of evidence.

Having mentioned that the study has adopted the mixed methods approach, it is important to note that there are different philosophical worldviews: post-positivist, constructivist, transformative and pragmatism. This research is based on pragmatism. Creswell (2014:11) notes that pragmatism is not committed to any one system of philosophy and reality and further indicate that this applies to mixed methods research in that inquirers draw liberally from qualitative and quantitative assumptions when they engage in research. Put differently, DeCuir-Gunby and Schutz (2017:24) highlight that pragmatism tend to see the enquiry as an approach to solving problems and further note that this approach could result in a dominant mixed methods study or a more balanced use of both approaches. Hence, in line with this research, the pragmatic paradigm refers to the use of a mix of differed research methods, as well as modes of analysis to find solutions to specific problems by utilising both qualitative and quantitative research methods.

## **6.4 DATA COLLECTION: QUALITATIVE METHODOLOGY**

Brynard, Hanekom and Brynard (2014:39) highlight that the direct experience of an individual is central to a qualitative study where an individual's perspective is the practical starting point. It is a focus upon the real-life experiences of people. It is important to comprehend, as Strydom and Bezuidenhout (2014:193) highlight that a qualitative study permits a detailed consideration of the practices of the respondents of the research and further note that qualitative researchers are concerned about defining these practices in a broad method. The method does not quantify information. The available resources on ethics and anti-corruption within the public sector was scrutinised to identify the challenges associated with implementation.

The field and non-reactive (unassuming) methods are two primary methods to gather qualitative information. The research utilised non-reactive research to gather information because the researcher is not directly involved with the respondents and hence has no effect on the outcomes of the research. It is important to highlight that the non-reactive method comprises documentary examination and linking previous research which contains the methodical examination of social objects to afford a comprehensive understanding. In conducting a qualitative content examination, the individual conducting research focuses on an explanatory model with the intention to explain the truth reflected in the transcripts (Strydom and Bezuidenhout 2014:193). This is consistent with what is stated earlier (cf. section 1.6.2), the study also consulted published books, relevant literature on professional ethics and anti-corruption, published and unpublished theses, previous research studies, political speeches and articles from accredited journals and newspaper reports. These were utilised as secondary sources.

## **6.5 DATA COLLECTION: QUANTITATIVE METHODOLOGY**

The locus of the quantitative method is on measuring and quantifying data. According to Brynard et al. (2014:39), the quantitative approach focuses on approaches such as trials and surveys to define and clarify an occurrence. The approaches can, among others, comprise methods such as observing a particular situation, conducting a primary inquiry and distributing a questionnaire. This study,

which was conducted in the Social Sector Cluster in the Gauteng Province utilised a survey with a structured questionnaire as a tool to collect data.

In the study perspective, surveys refer to gathering information that comprises a sequence of questions intended to collect data from a considerable group of individuals. Surveys are typically quantitative by design and generally intend to explain a general impression of a descriptive sample of a population. Surveys are generally the best option when a research intends to establish the respondent's views, requirements and attitudes (Hofstee 2013:122; Du Plooy-Cilliers and Cronje 2014:148-149; Mouton 2014:152).

A number of benefits are associated with using surveys. A notable advantage thereof is provided by Du Plooy-Cilliers and Cronje (2014:160) who state that a large number of information can be gathered at any time from the participants. Surveys are flexible and can be conducted in practically all environments. A survey that comprises a questionnaire that is completed and finalised by a respondent alone. This provides an opportunity for honest answers to complex matters which becomes relevant, especially when addressing ethics and anti-corruption concerns because officials might fear to commit themselves publicly to telling the truth as it could harm relationships between themselves and their supervisors. A survey, therefore, provides participating officials with an opportunity to express their views freely. Mouton (2014:152) further affirms that the strength of a survey is likely to be effective when distributed to a substantial group of respondents if a suitable sampling method is affected. Furthermore, it can be trusted if the questionnaire is developed properly. A high concept legitimacy is also possible if appropriate controls are applied. It is noted that every survey will always have uncertainty as long as the entire population is not considered.

As specified, the source of data collection is a structured questionnaire. Hofstee (2013:58) writes that when researchers collect data from people or organisations, they need to try and present it in their interests as well. Public sector organisations seek effective strategies to decisively manage unethical behaviour by maximising the implementation of the existing policies. As such, the research has created excitement within management because they hope that it would address certain

challenges. According to Hofstee (2013:132), questionnaires is a method of designed questioning, that is, the participants are provided with similar questions and in most instances, identical responses are selected i.e. yes/no or placed on scale, etc. Kumar (2014:178) describes a questionnaire as a prepared list of enquiries while feedback is already provided to participants to select their best option. It is in this context that Brynard et al. (2014:39) argue that the benefit of using a questionnaire is that participants can apply their mind since they have adequate time to respond to questions. Moreover, a questionnaire can be dispersed to a considerable group of individuals even if they are in a sizeable geographical area. Kumar (2014:181) further posits that the benefits of distributing a questionnaire include that it is cost-effective and offer greater anonymity among respondents. This is relevant to this study since the targeted sample is scattered across nine departments within the province.

### **6.5.1 Questionnaire design**

The research on international best practice conducted in chapter three recommends a well-designed implementation model that leaves no room for failure (cf. section 3.4.1). Heeks and Mathisen (2012) suggest the ITPOSMO model for effective implementation of anti-corruption legislation or initiatives. The researcher approached Professor Heeks from the University of Manchester (United Kingdom) to establish whether a standard questionnaire was available or was developed to test this model. Professor Heeks responded that no formal instrument was available as such as one converts each of the dimensions into relevant questions of the difference between design and reality. A detailed example of an e-government initiative with many sub-dimensions was also provided. The dimensions for e-government initiative were too numerous for an anti-corruption initiative. Professor Heeks advised that these dimensions should be reduced and converted to focus on the implementation of ethics and anti-corruption initiative. See correspondence attached as Annexure C.

Hence, for the purpose of the study, the seven dimensions of the ITPOSMO model was utilised to design the questionnaire. The dimensions were used as a guide to develop questions that would enable the researcher to acquire an indication of the

views of the officials at management level to develop a framework for the effective implementation of the legislation intended to address unethical conduct within the Social Sector Cluster. Hofstee (2013:133) posits that the questionnaire includes information about why the respondent should provide an answer, the purpose of the questionnaire including the name and contact details of the researcher. Each questionnaire was complemented by a combined memorandum of introduction and informed consent. A letter explained to the respondents that it was an anonymous study survey, the responses would be safeguarded as private and the results would only be utilised for academic purposes. Five questions were formulated under each variable which totalled 35 (Refer to the questionnaire attached as Annexure D). The details of the questionnaire are as follows:

- Section A (Biographic information) – section A of the questionnaire sought to collect the respondents' biographic information with the inclusion of familiar standard items such as age, gender, salary level, years of service, name of department and highest level of formal education. The researcher included an unfamiliar item in this section to establish the average number of members in the Senior Management Service who currently work for the departments in the Social Sector Cluster in Gauteng Province were previously employed by the former independent states (homelands) before 1994. The inclusion of the item is based on the argument by Chipkin and Meny-Gibert (2012:105) that the poor performance on the provincial sphere of government in South Africa is partially their association to former self-governing and independent states. It is widely reported that systemic corruption was one of the primary challenges faced by the former homeland territories (cf. 4.2.11). The number of officials at decision-making level within the Social Sector Cluster from the formerly independent states needed to be determined.

A five-item ordinal response scale was provided for questions in sections B – H. The respondents could select any value from 1 to 5 on the Likert scale. This type of scale according to Du Plooy-Cilliers and Cronje (2014:159), requires the respondents to specify their degree of agreement or disagreement with a range of declarations linked to an approach or item. The measure frequently comprises of two sections, namely: the item (which is likely to be a statement) and the assessment (whether the

respondent agrees or disagrees with the declaration and to what level). The assessment section was allocated as follows: 1 – strongly disagree; 2 – disagree; 3 – neutral; 4 – agree; and 5 – strongly agree.

- Section B (information: both formal and informal) – the literature review revealed that successful implementation of professional ethics and anti-corruption legislation requires collaboration between anti-corruption stakeholders which include government, business, labour, civil society and non-governmental organisations. Informed decisions are only possible when accurate information is available to both internal and external stakeholders. The researcher sought to comprehend whether the members of the Senior Management Service within the Social Sector possessed relevant and accurate information to make informed decisions to implement professional ethics and anti-corruption legislation within their departments.
- Section C (technology: mainly information technology) – the significance of technology when executing daily activities in the modern era cannot be underestimated. This becomes more relevant and evident at workstations as tasks are performed electronically. The availability of advanced technology in monitoring and investigating corrupt activities becomes a necessity. The study sought to establish the availability and application of technology within the Social Sector Cluster departments to assist with the implementation of professional ethics and anti-corruption legislation.
- Section D (processes: from individual tasks to broader business processes) – the literature review revealed, among others, that the consequences of corruption foster mismanagement in public institutions (Coetzee 2014). It is significant that processes within departments are understood by all employees to limit the opportunities for corruption. The researcher sought to comprehend whether transparent decision-making subsisted as well as business processes are communicated to all officials.



- Section E (objectives and values: covering formal strategies and personal goals and the influence of formal institutional forces) – as stated (cf. section 2.3), values and principles are key aspects of the study as outlined in section 195(1) Chapter 10 of the Constitution of the Republic of South Africa. Rossouw and Van Vuuren (2013:8) submit that “values are relatively stable convictions about what is important”. Haque (2011:173) clarifies that values inform the forms of conduct and deeds (by principles that are not given attention). The popularity of informal rules tend to supersede the existing formal rules. The researcher sought to comprehend whether the members of the Senior Management Service within the Social Sector Cluster adhere to departmental values by complying with the ethics and anti-corruption initiatives.
- Section F (staffing and skills: quantitative and qualitative aspects of competencies) – it was stated (cf. section 2.3.8) by Brand (2008:208) that to successfully manage ethical challenges, it requires all human capital managers to participate in and support programmes intended to promote principled behaviour in the organisation. The implementation of professional ethics and anti-corruption legislation requires a full staff complement. The researcher posed questions related to staff and skills to establish whether dedicated personnel with relevant skills were employed in the Social Sector Cluster to implement professional ethics and anti-corruption legislation effectively.
- Section G (management systems and structures: the formal aspects of organisation) – the *Anti-Corruption Capacity Requirements: Guidelines for implementing the Minimum Anti-Corruption Capacity Requirements in Departments and Organisational Components in the Public Service (2006)* as introduced by the DPSA requires, *inter alia*, that managers in the public service develop measures to avoid potential unethical conduct. The section of the questionnaire on management systems and structures considered management actions for the implementation of professional ethics and anti-corruption legislation.

- Section H (other resources: especially time and money) – it was argued (cf. section 3.4.1) that the allocation of resources to implementers need to keep pace with the expectation to implement available legislation. The section assessed whether financial resources were presented to implement anti-corruption initiatives. The section also sought to establish whether the funds that had been lost through corrupt activities were recovered and action taken against implicated officials.

Having outlined the research instrument, it is important to highlight the method that was used to validate the reliability and validity of the questionnaire. Christensen et al. (2015:154) clarify that reliability refers to “the consistency or stability of the scores of your measurement” while validity refers to “the extent to which your measurement is procedure is measuring what you think is measuring (and not something else) and whether you have used and interpreted the scores correctly”. As indicated in section 1.9, the study adopted the mixed method approach which requires “additional and competent skills” in data analysis. Hence, an expert on quantitative research was consulted to ensure the accuracy, predictability, dependability and consistency of measures utilised in the questionnaire. Attention to detail was prioritised to avert possible errors such as imperfection in the research instrument, misinterpretation of answers and inadequate design and planning of the research.

Furthermore, the pilot test of the questionnaire was distributed to a selected group within the Office of the Premier (Gauteng), Community Safety and Human Settlements. The questionnaire was distributed to five employees in May 2016. The pilot was conducted before the questionnaire was submitted for ethical clearance. No changes were proposed after the ethical clearance. This was to ensure content validity (correctness and appropriateness of the questions included in the pilot questionnaire) and face validity (appearance of the instrument to the participants).

### **6.5.2 Sampling**

According to Pascoe (2014:135), a sample can best be defined as a subdivision of a group that is measured to be descriptive of that particular group. Brynard et al. (2014:56) describe sampling as a system used to select a lesser group (the sample)

with the intention of defining the features of a big group (the population). The sample will reveal similar features as the big group if it is selected wisely. Kumar (2014:40) further clarifies that the intention of the sampling design is to reduce, within the confines of cost, the breach between the values attained from the sample and those dominant in the research group.

It should be noted that the research used purposive sampling with the purpose of triangulation. Purposive sampling refers to decisively selecting the features that the person conducting the research desires to include in the sample, considering an agreed list of features. The advantage of using purposive sampling is to ensure that all the features of the sample contribute to the study since each feature conforms to the group's limitations of the study. If a component does not conform, then it can be overlooked (Pascoe 2014:142-143). As indicated (cf. section 1.6.3) the research only targeted the 509 members of the Senior Management Service within the Social Sector Cluster in the Gauteng Province.

### **6.5.3 Questionnaire distribution**

The researcher considered that the response rate tends to be low when the questionnaires are distributed and left to the respondents to submit it when completed. It was decided that the best approach to acquire a high response rate would be to approach the Heads of Department and seek permission to attend the management meetings (which all SMS members attend). The intention was to request a few minutes to inform the SMS members at the meeting about the research, distribute the questionnaires and provide the respondents time to complete and collect immediately on completion of the questionnaires. The schedule of management meetings which were attended is as follows:

**Table 6.1: Schedule of meetings for distribution of questionnaires**

Department	Date	Venue
Gauteng COGTA	11 July 2016	SAB World of Beer, Johannesburg
Human Settlements	18 August 2016	Birchwood Hotel, Kempton Park
Social Development	19 August 2016	Emoyeni Hotel, Johannesburg
Community Safety	22 September 2016	Kiviets Kroon Hotel, Pretoria
Human Settlements	05 April 2017	St George Hotel, Pretoria

**Source: Researcher's own**

The questionnaires for the SMS members at the Office of the Premier were delivered to their offices. The researcher at the time of distribution was employed by this department. It should be noted that permission was not granted at the Gauteng Treasury, Education and Health with the Heads of Department for these departments citing the length of agenda items during the quarterly management meetings. It was suggested that the questionnaires should be e-mailed to the members of the SMS to complete during their spare time. This approach conforms to Kumar (2014:179) who posits that one of the approaches to administer a questionnaire is to send it to prospective respondents by mail. A multiple of various management meetings were postponed at the Gauteng Department of Sports, Arts, Culture and Recreation which prevented the direct distribution of questionnaires to their members of SMS although permission was granted. This contributed to the low response rate for these four departments.

#### **6.5.4 Response rate**

There were approximately 106 898 (N) officials who worked for the Social Sector Cluster in the Gauteng Province in July 2016 when the distribution of questionnaires commenced. From this study population, the research targeted all 509 members of the Senior Management Service within the Social Sector Cluster in the Gauteng Province. Table 5.1 below illustrates the breakdown of SMS members and response rate per department.

**Table 6.2: SMS members per department and response rate**

Department	Number of SMS members	% per department	Number of questionnaires returned	% response rate per department
Community Safety	27	5%	26	96%
Provincial COGTA	26	5%	15	58%
Education	104	20%	19	18%
Health	112	22%	30	27%
Human Settlements	44	9%	27	61%
Office of the Premier	61	12%	50	82%
Social Development	40	8%	26	65%
Sports	35	7%	8	23%
Treasury	60	12%	21	35%
<b>Total</b>	<b>509</b>	<b>100%</b>	<b>222</b>	<b>44%</b>

Source: Researcher's own

Table 5.2 above illustrates that 509 questionnaires were distributed to members of the SMS within the Social Sector Cluster. Overall, 222 respondents completed the questionnaire which translated to a response rate of **44%**.

## 6.6 SUMMARY AND CONCLUSION

Chapter six provided a description of the empirical approach conducted in the study. It was indicated that the unit of analysis for the study was identified as the Social Sector Cluster in Gauteng. There are nine departments which fall under the Social Sector Cluster. It was explained that the research is concerned with the effective implementation of ethics and anti-corruption programmes within the Social Sector Cluster in Gauteng and, therefore, was empirical in nature.

The chapter outlined the data collection methods used for the qualitative methodology. It was highlighted that the study also consulted secondary sources. For the quantitative method, a survey was used to collect data in the form of a structured questionnaire. The design of the questionnaire which based on the seven dimensions of the ITPOSMO model was discussed. The mentioned model is highly recommended for the effective implementation of the anti-corruption initiatives.

Furthermore, it was revealed that the study utilised purposive sampling with the purpose of triangulation. The questionnaire was distributed to the 509 targeted members of the Senior Management Service within the Social Sector Cluster in the Gauteng Province. It was further revealed that 222 out of 509 respondents completed the questionnaire which translated to a response rate of 44%. In the following chapter, the focus will be on the analysis and interpretation of the collected data.

## CHAPTER SEVEN

### ANALYSIS AND INTERPRETATION OF THE COLLECTED DATA

#### 7.1 INTRODUCTION

*“To get lost is to learn the way”.*

*– African proverb*

The purpose of the chapter is to analyse, focus on interpretation and draw findings from the data which was collected and captured by means of a survey. A questionnaire was developed for collecting data as explained in section 6.4.1 (cf. Annexure B). The design of the questionnaire is based on the seven dimensions of the ITPOSMO model which is highly recommended for the effective implementation of ethics and anti-corruption programmes. The dimensions were used as a guide to develop questions that would enable the researcher to get an indication of the views of the officials at management level that would assist to develop a framework for the effective implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.

The first part of the chapter describes the biographic profile of respondents which includes the familiar standard items like age, gender, salary level, years of service in GPG, name of department where they are employed and highest level of formal education. The other sections of the questionnaire focused on seven dimensions as follows (cf. section 6.4.1):

- Section B – Information: both formal and informal;
- Section C – Technology: mainly information technology;
- Section D – Processes: from individual tasks to broader business processes;
- Section E – Objectives and values: covering formal strategies and personal goals and the influence of formal institutional forces);
- Section F – Staffing and skills: quantitative and qualitative aspects of competencies;

- Section G – Management systems and structures: the formal aspects of organisation; and
- Section H – Other resources: especially time and money.

It is important to note that the unit of analysis for the research was identified as the Social Sector Cluster in Gauteng (cf. section 6.2). The chapter is further followed by an exploratory factor analysis to determine the construct validity and reliability of the seven dimensions. Inferential statistical analyses are lastly presented. The findings are expected to inform the main research question: How can the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province be enhanced?

## **7.2 BIOGRAPHIC PROFILE OF THE RESPONDENTS**

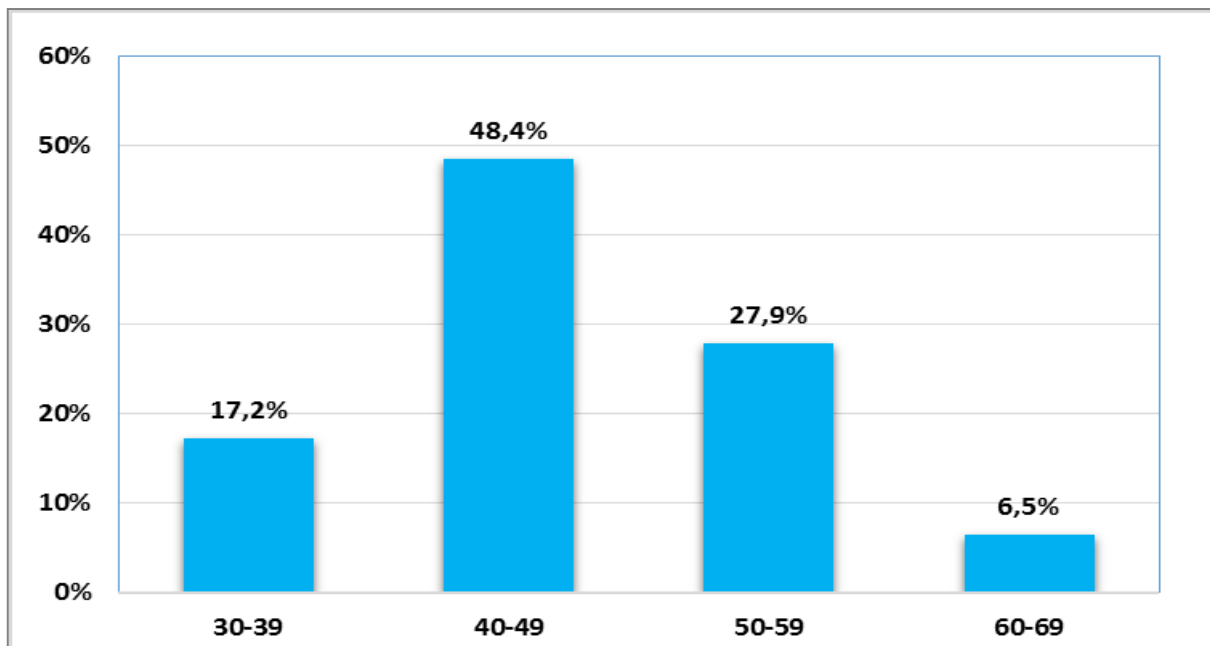
A total of 222 respondents completed the questionnaire. There were 509 members of the Senior Management Service across the nine departments within the Social Sector Cluster in Gauteng Province which constituted the sample as at 01 July 2016 when the questionnaire was distributed. This translates to a response rate of 44%.

### **7.2.1 Age distribution in the sample**

There were 215 out of the 222 respondents who provided their age on the survey. Of these respondents, more than three quarters of the respondents (76.3%) are between the ages of 40 and 59.



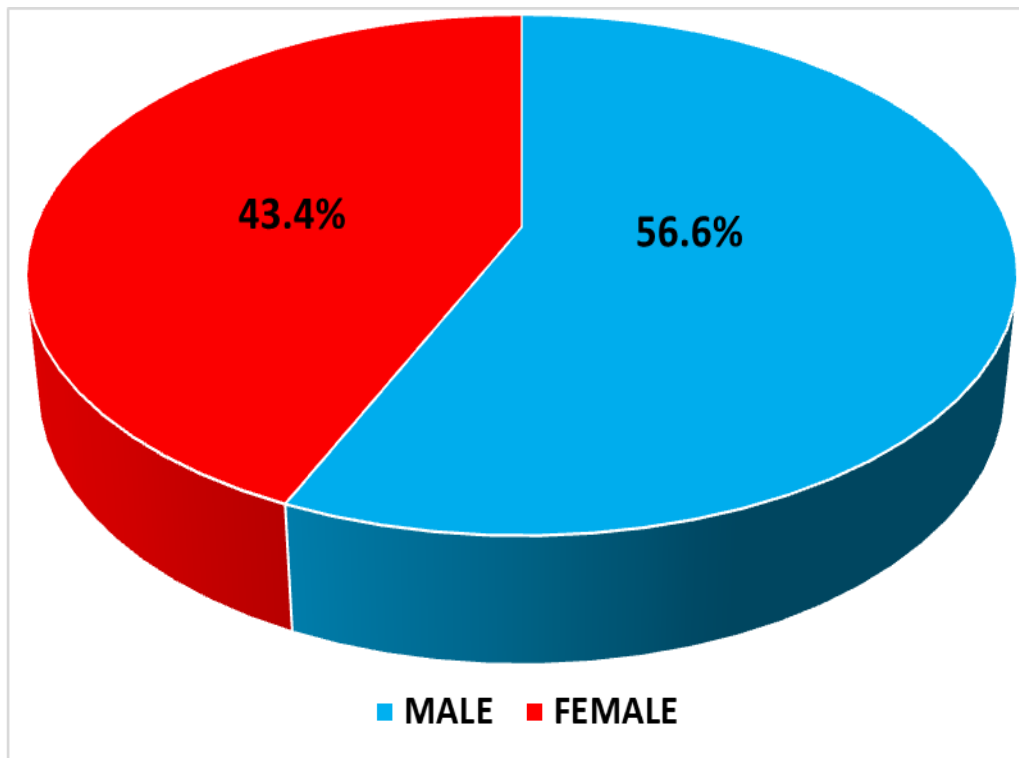
**Figure 7.1: Age distribution of respondents (N = 215)**



### 7.2.2 Gender

There were 219 out of the 222 respondents who indicated their gender for the survey. The gender profile demonstrates that there were slightly more male than female respondents. Female respondents constitute 43.4% while male participants constitute 56.6%.

**Figure 7.2: Gender composition in the sample (N = 219)**

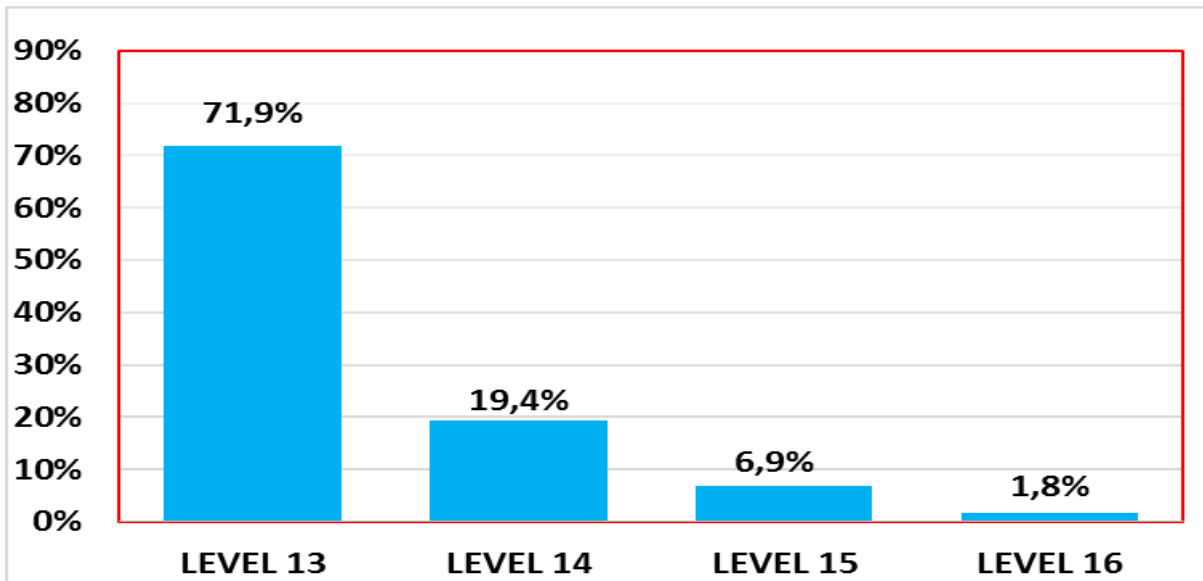


### **7.2.3 Salary level**

It is important to note that the salary levels for the members of the Senior Management Service within the South African national and provincial spheres of government are as follows:

- Level 13 – Director;
- Level 14 – Chief Director;
- Level 15 – Deputy Director General; and
- Level 16 – Head of Department/Director General.

**Figure 7.3: Salary levels of respondents (N = 217)**

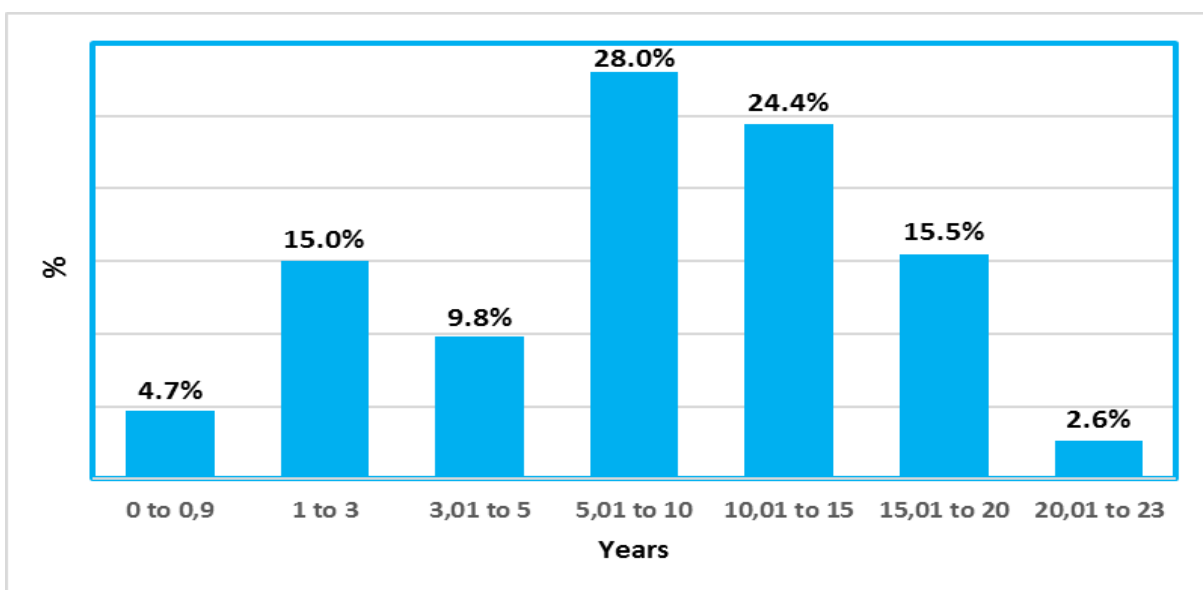


A total of 217 out of 222 respondents revealed their salary levels for the purpose of the survey of which the majority (71.9%) were appointed at level 13. There were 19.4% of respondents which are at salary level 14 and 8.7% of respondents in salary levels 15 and 16.

#### 7.2.4 Years of service

The results for the years of service in GPG are as follows:

**Figure 7.4: Years of service in GPG (N = 193)**

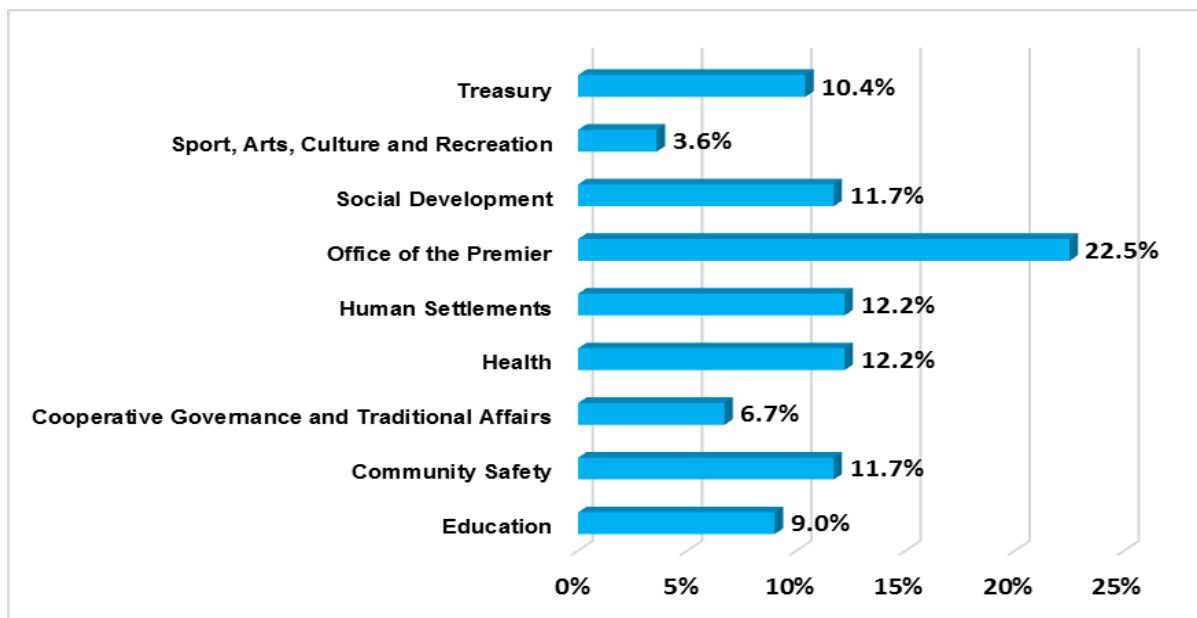


The results for years of service within the Gauteng Provincial Government ranged from 0 to 23 years with the consideration that the province was formed in 1994 (which means 23 years ago). Some respondents indicated that they have been in the service for more than 23 years and these were excluded from this graph. There are 193 out of 222 respondents who indicated their years of service within the range of zero to twenty-three. Out of this sample, just over half (52.4%) of the respondents have been in service of the Gauteng Provincial Government between 5 to 15 years. There is also a substantial 15.5% of respondents who have been with the province for a period of 15.01 to 20 years. It is thus observed that of the respondents are fairly well experienced in the province.

### 7.2.5 Name of department

The Social Sector Cluster in the Gauteng Province has nine departments and all the 222 respondents indicated their specific department within the Social Sector Cluster. The percentage of respondents per department is shown below.

**Figure 7.5: Respondents per department (N = 222)**



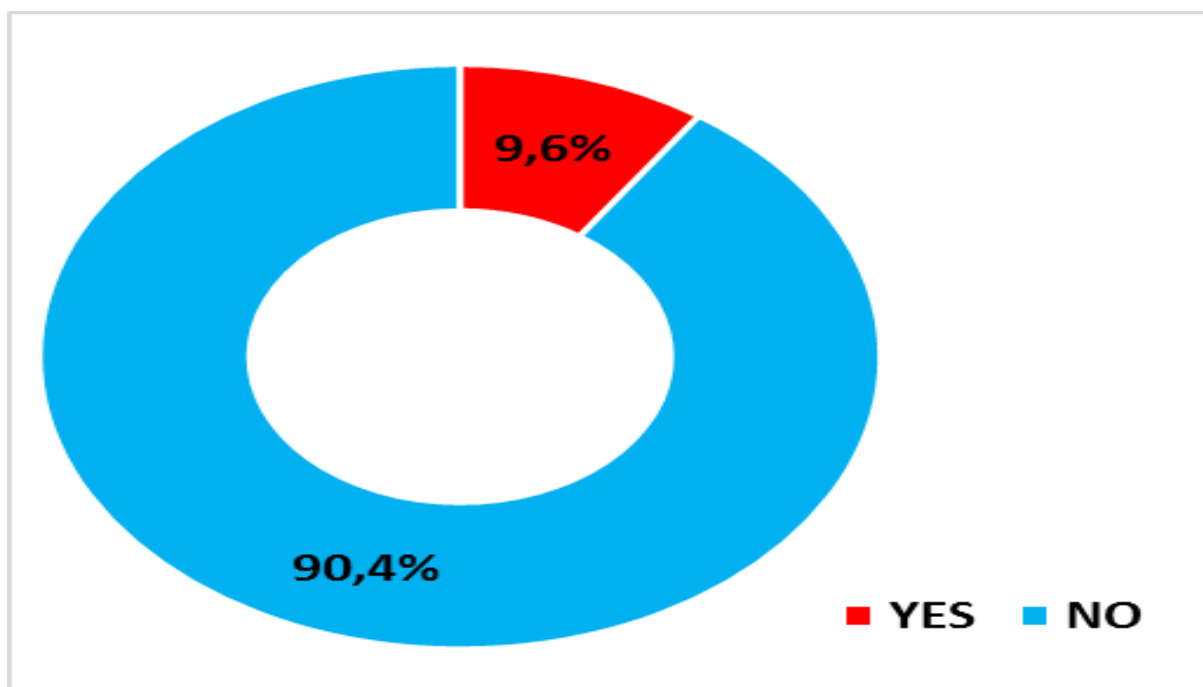
Almost a quarter (22.5%) of respondents is from the Office of the Premier. There were similar response rates for Human Settlements and Health (12.2%) as well as for Community Safety and Social Development (11.7%). The response rate for

Treasury was 10.4% and for Education was 9%. There were six departments whose percentages are between 9% and 12.2% i.e. Treasury, Social Development, Human Settlements, Health, Community Safety and Education. The lowest response rates were 6.8% at Cooperative Governance and Traditional Affairs and 3.6% at Sport, Arts, Culture and Recreation.

### 7.2.6 Association with former independent or self-governing states

As indicated previously the researcher decided to include an unfamiliar item in this section seeking to determine the average number of members of the Senior Management Service who are currently working for the departments in the Social Sector Cluster in Gauteng Province who had previously worked for the former independent states before 1994. The inclusion of the item is based on the argument by Chipkin and Meny-Gibert (2012:105) that “the uneven character of public sector performance at provincial level is partly a function of their relationship to former homelands administration and administrators”. The number of officials at decision-making level within the Social Sector Cluster from the formerly independent states is determined as follows:

**Figure 7. 6: Respondents who worked for IS or SGS (N = 219)**

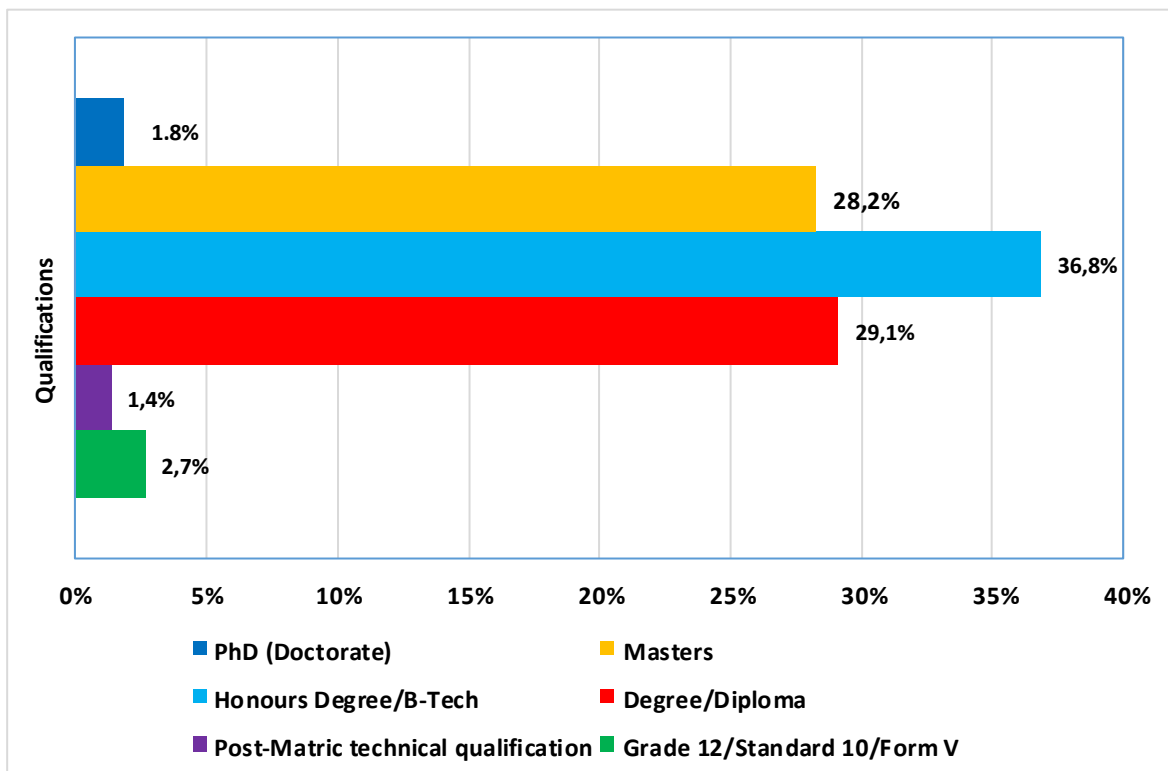


A total of 218 out of 222 respondents indicated their previous association with the former independent states (Transkei, Bophuthatswana, Venda and Ciskei) or self-governing states (Gazankulu, Lebowa, Qwaqwa, KaNgwane, KwaNdebele, KwaZulu) within South Africa. Of the sample, an overwhelming majority (90.4%) indicated that they have never worked for the former independent or self-governing states. Only 9.6% have previously worked for these states. The data therefore can be used as evidence to argue that Chipkin and Meny-Gibert (2012:105) claim is not applicable in the case of the Social Sector Cluster in Gauteng.

### 7.2.7 Qualifications of respondents

A total of 220 out of the 222 respondents provided their highest level of qualification. Of this sample, the majority (36.6%) of the respondents indicated that they have an honours degree/B-Tech followed by 29.1% of the respondents who have a degree or diploma. A large proportion (28.2%) of the respondents has a master's degree. Only 1.8% of the respondents have doctorate qualifications.

**Figure 7.7: Educational background of respondents (N = 220)**



## **The seven dimensions of the ITPOSMO model**

The collected data is based on the seven dimensions of the ITPOSMO model which is highly recommended for the effective implementation of ethics and anti-corruption programmes. The dimensions include information, technology, processes, objectives and values, staffing and skills, management systems and structures and other resources.

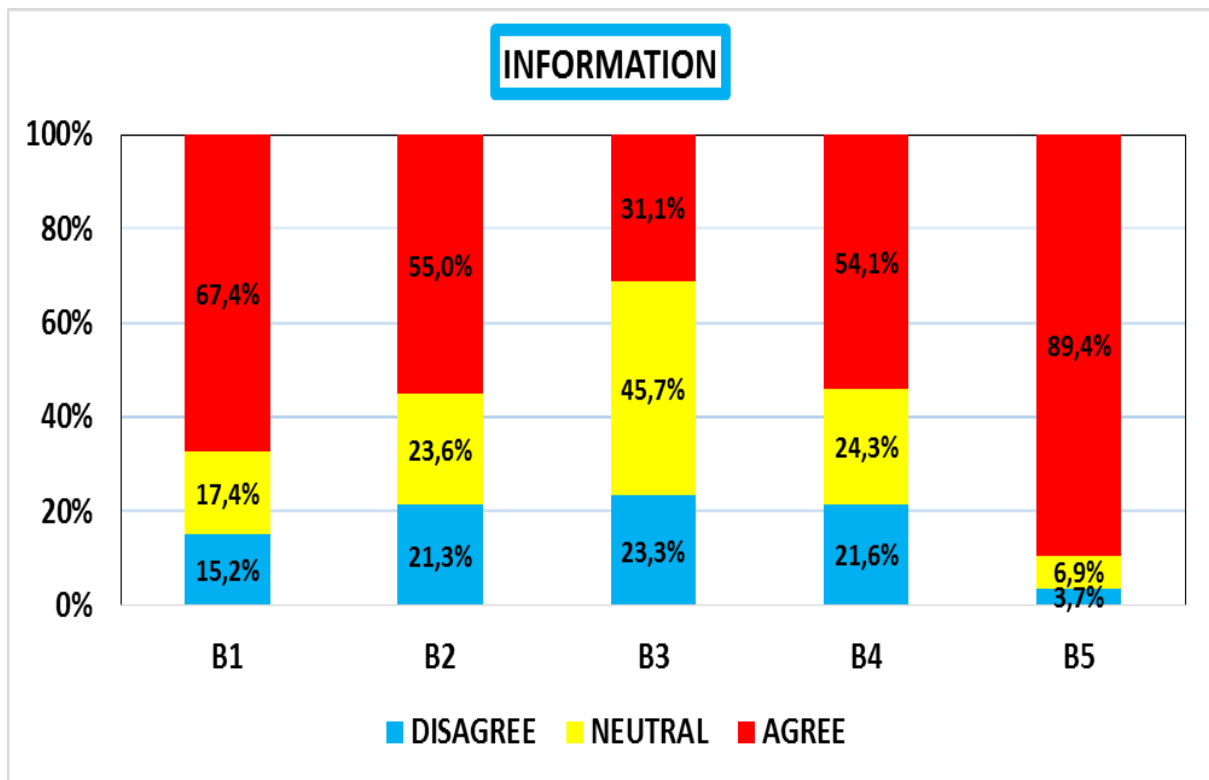
In the graphs below, the percentages of respondents that disagree and strongly disagree to the statement were summed up and is represented by disagree while the percentages of agree and strongly agree were summed and is represented by agree. The percentages for neutral were a separate category.

**It is important to note that rounding from the statistical package resulted to some percentages to be less or more than 100 percent by a small fraction i.e. 99.9% or 100.1%.**

### **7.2.8 Information**

The level of agreement to test the five statements for information is shown in figure 7.8.

**Figure 7.8: Respondents' views on information**



The overwhelming majority (89%) of the respondents are aware of their departmental processes of distributing information to external stakeholders. This might be informed by the fact that distribution of information to third parties is a punishable offence in the public service.

The results further indicated that more than two thirds (67.4%) of the respondents have the information about ethics and anti-corruption legislation which is related to their departments. It is however concerning that there is 15.2% of the respondents who indicated that they don't have the related information as the respondents are at decision-making level.

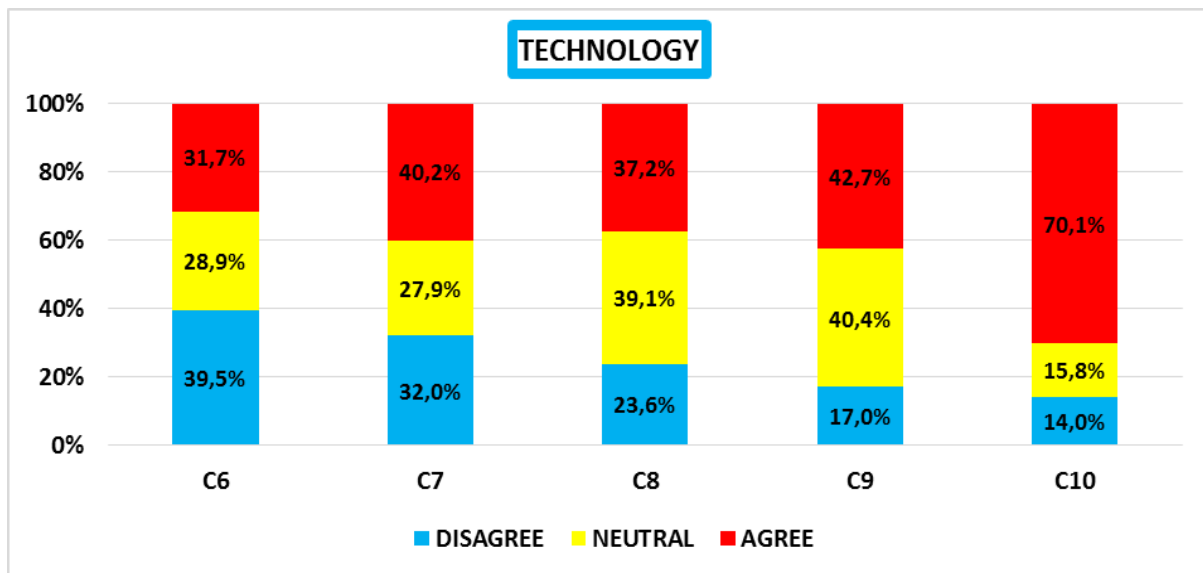
With regard to accuracy, relevancy and timeous communication of information just over half (55%) agree that the information is accurate and almost the same number of respondents (54.1%) agree that expectations are communicated timeously in their departments. While less than a third (31%) of the respondents indicated that the departmental stakeholders have relevant information.



## 7.2.9 Technology

The level of agreement to test the five statements for technology are shown in figure 7.9 below.

**Figure 7.9: Respondents' views on technology**



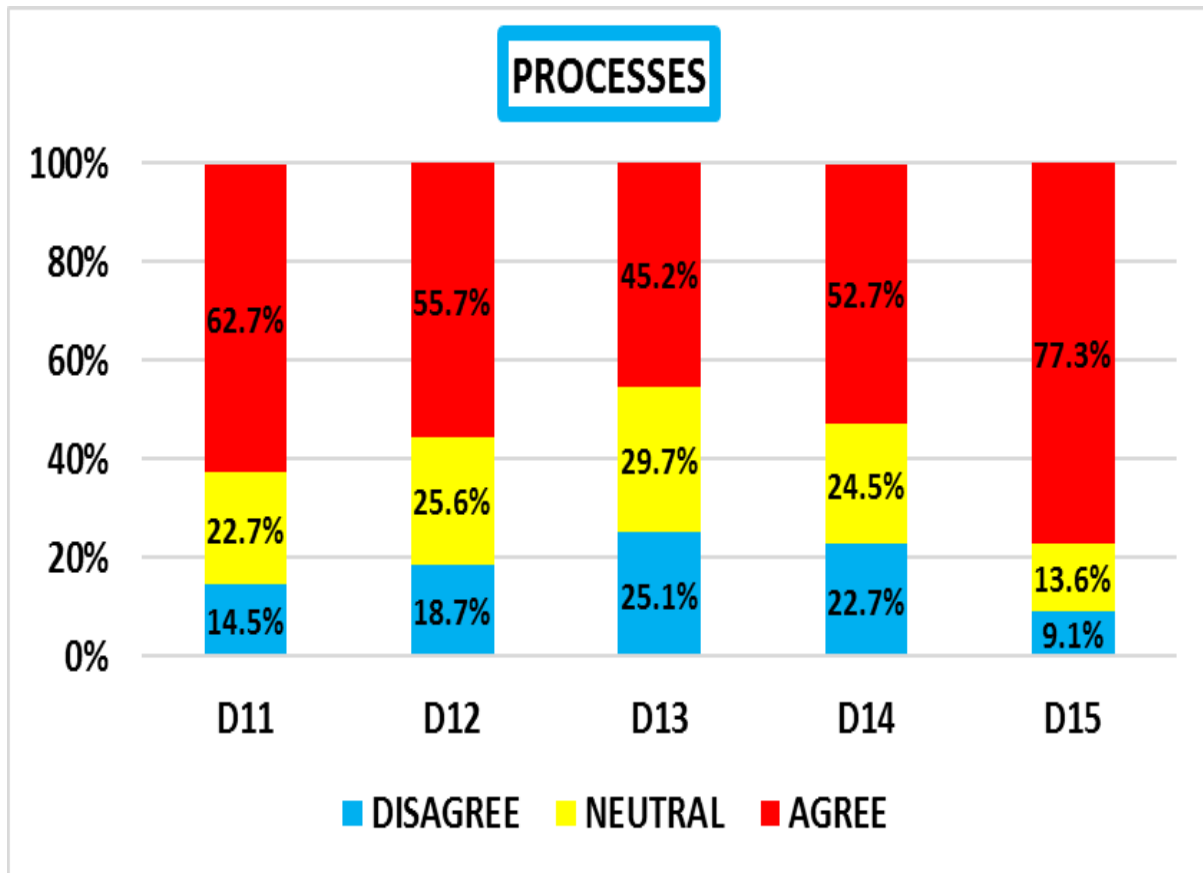
The majority (70.1%) of the respondents agree that strict procedures in accessing the computers of their colleagues are implemented within their departments. The results further indicate that almost 40% of the respondents disagree that computer software is available to investigate alleged cases of corruption. There is also just above 40% of the respondents who agree that abuse of telephones is continuously monitored in their departments while less than half (42.7%) of the respondents indicated the availability of systems within their departments to prevent hacking of information. These should be of serious concern to departments as it indicated lack of technology to monitor abuse of telephones by departmental officials and protect departmental information against hacking by external stakeholders.

The results for technology are well balanced. There are relatively large percentages for the respondents who are neutral (between 15.8% and 40.4%) across the five statements which were testing the level of agreement. This might indicate that officials tend to view technology as the competency of dedicated officials at IT directorates.

### 7.2.10 Processes

The level of agreement to test the five statements for processes is shown in figure 7.10 on the following page.

**Figure 7.10: Respondents' views on processes**



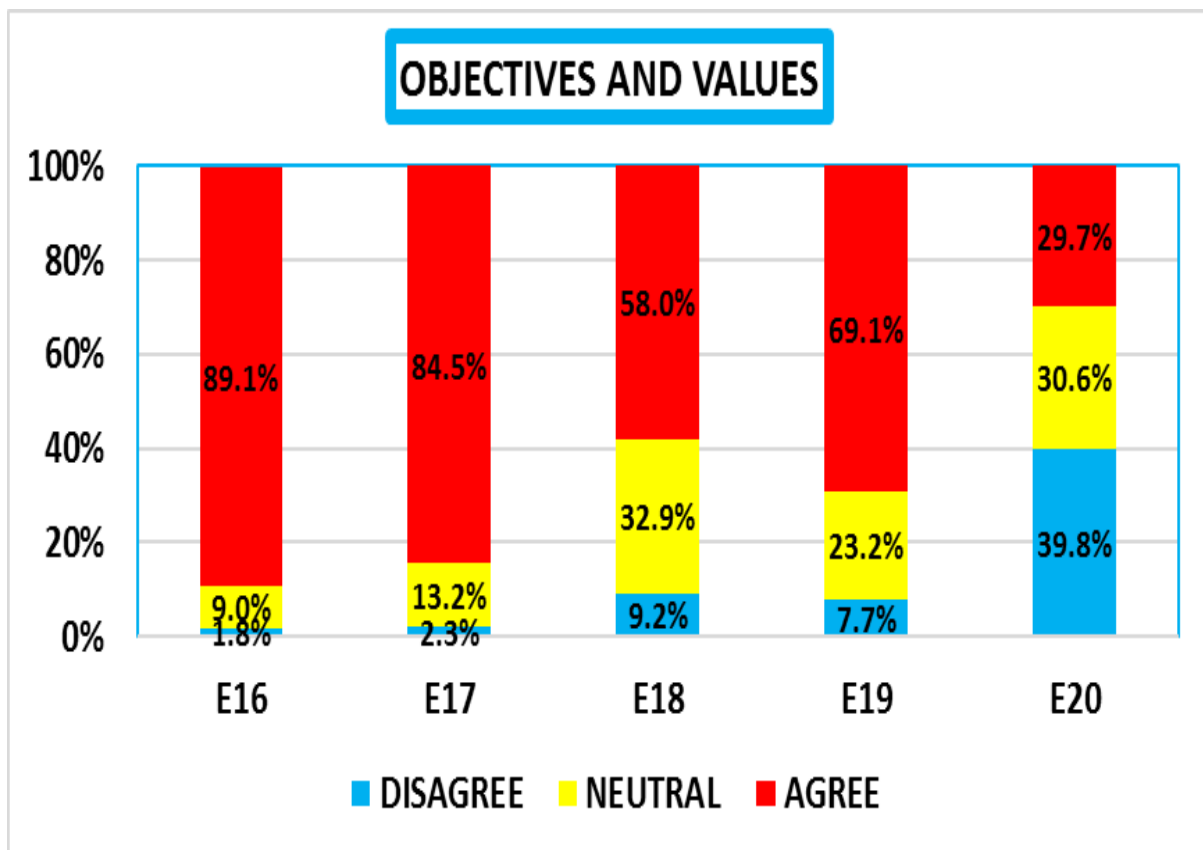
An overwhelming majority (77.3%) of the respondents agree that officials within their departments clearly understand their reporting lines. The results related to processes further indicated that the majority (62.7%) of respondents agree that information handling in their departments is prioritised to protect its confidentiality. It is a concern that however that 18.7% of the respondents disagree that decision-making processes are transparent in their departments and about 25.1% of the respondents feel that they are not consulted in their departments before decisions are implemented. Just over half (52.7%) of the respondents indicated that their departmental business processes are communicated to all officials.

The results demonstrate some challenges with the internal processes and these can pose serious challenges in the implementation of professional ethics and anti-corruption legislation. The main concern is that officials at management level are supposed to be providing guidance to the rest of the department on acceptable processes.

### 7.2.11 Objectives and values

The level of agreement to test the five statements for objectives and values are shown in figure 7.11.

**Figure 7.11: Respondents views on objectives and values**



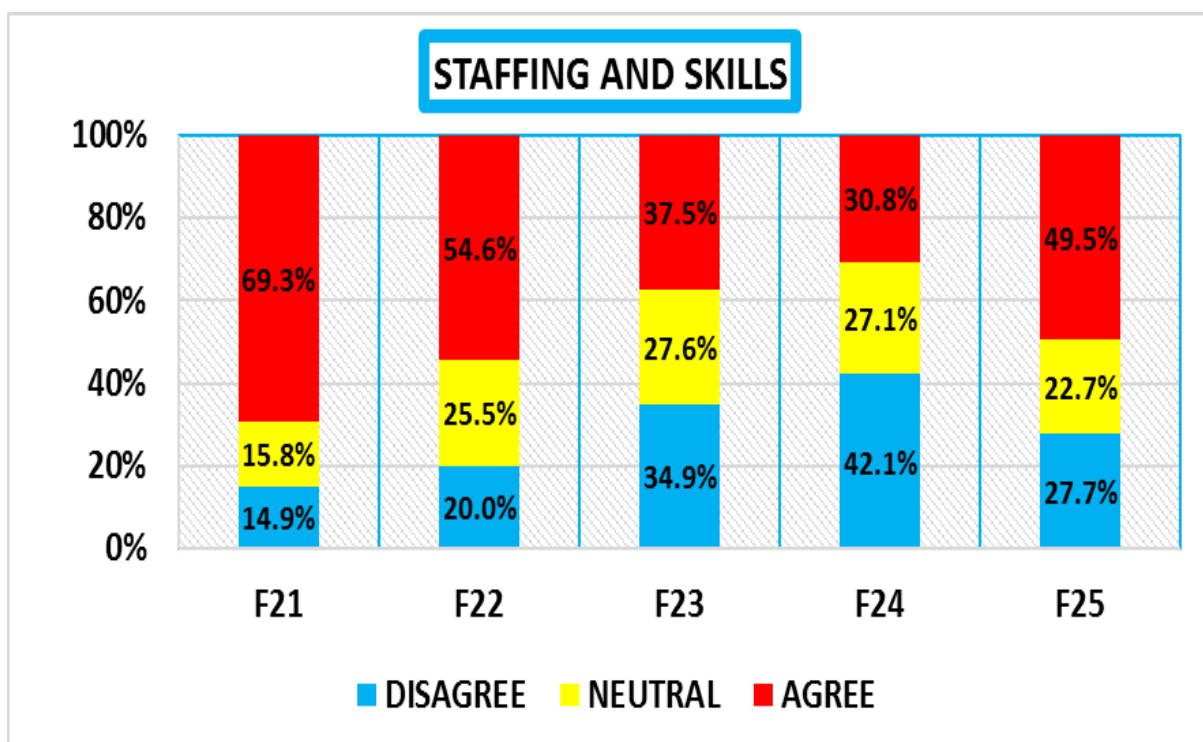
The results for objectives and values indicate that a very large majority (89.1%) of the respondents always emphasise to their sub-ordinates the importance of adhering to departmental values by complying with the existing legislation. A large majority (84.5%) of respondents are also confident that those who report to them can testify that they always comply with the ethics legislation.

It is also encouraging to note that close to 40% of the respondents disagree that there are informal rules within their departments. This can be linked to the fact that 58% of the respondents agree that senior management within their departments are leading by example in promoting professional ethics and anti-corruption legislation and 69.1% of the respondents agree that their departments have a relevant ethics and anti-corruption strategy.

### 7.2.12 Staffing and skills

The level of agreement to test the five statements for staffing is shown in figure 7.12 below.

**Figure 7.12: Respondents' views on staffing and skills**



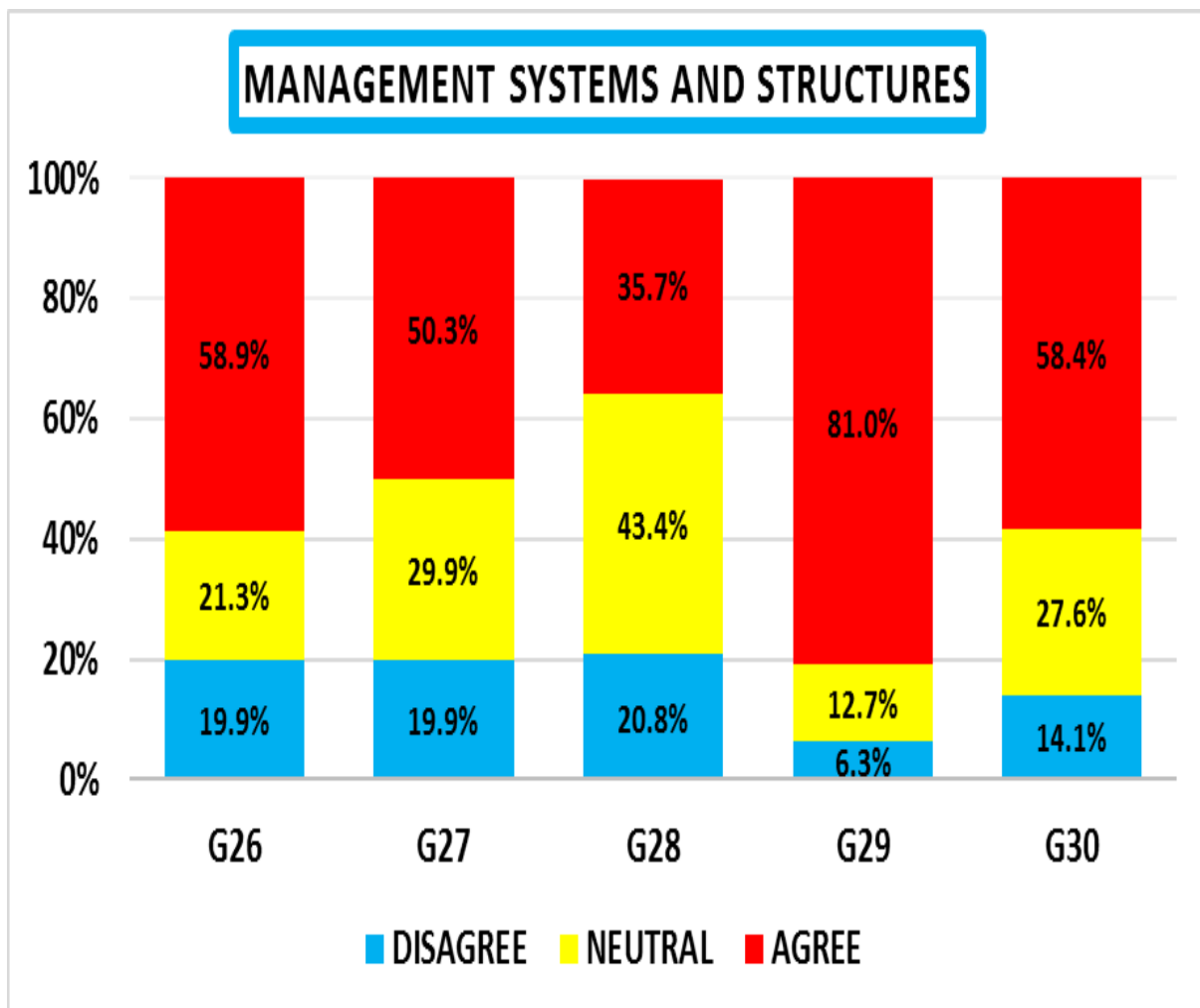
The results for staffing indicated that almost three quarters of the respondents (69.3%) of the respondents acknowledge that there are dedicated officials within their departments to effectively implement professional ethics and anti-corruption legislation. Just over half (54.6%) of the respondents agreed that they are capacitated with required knowledge to ensure effective implementation of ethics legislation.

A cause for concern though is to notice that almost half (42.1%) of the respondents disagreed that vacant posts are prioritised in their department to ensure effective implementation of the ethics legislation. Close to half (49.5%) of the respondents agreed that skills development is prioritised in their departments. This can be linked to the results which indicate that only 37.5% of the respondents agree that their staff members continuously attend ethics and anti-corruption capacity building programmes. It is the responsibility of the management to ensure that officials are capacitated according to their annual performance plans.

### 7.2.13 Management systems and structures

The level of agreement to test the five statements for management systems and structures are shown in figure 7.13 below.

**Figure 7.13: Respondents' views on management systems and structures**



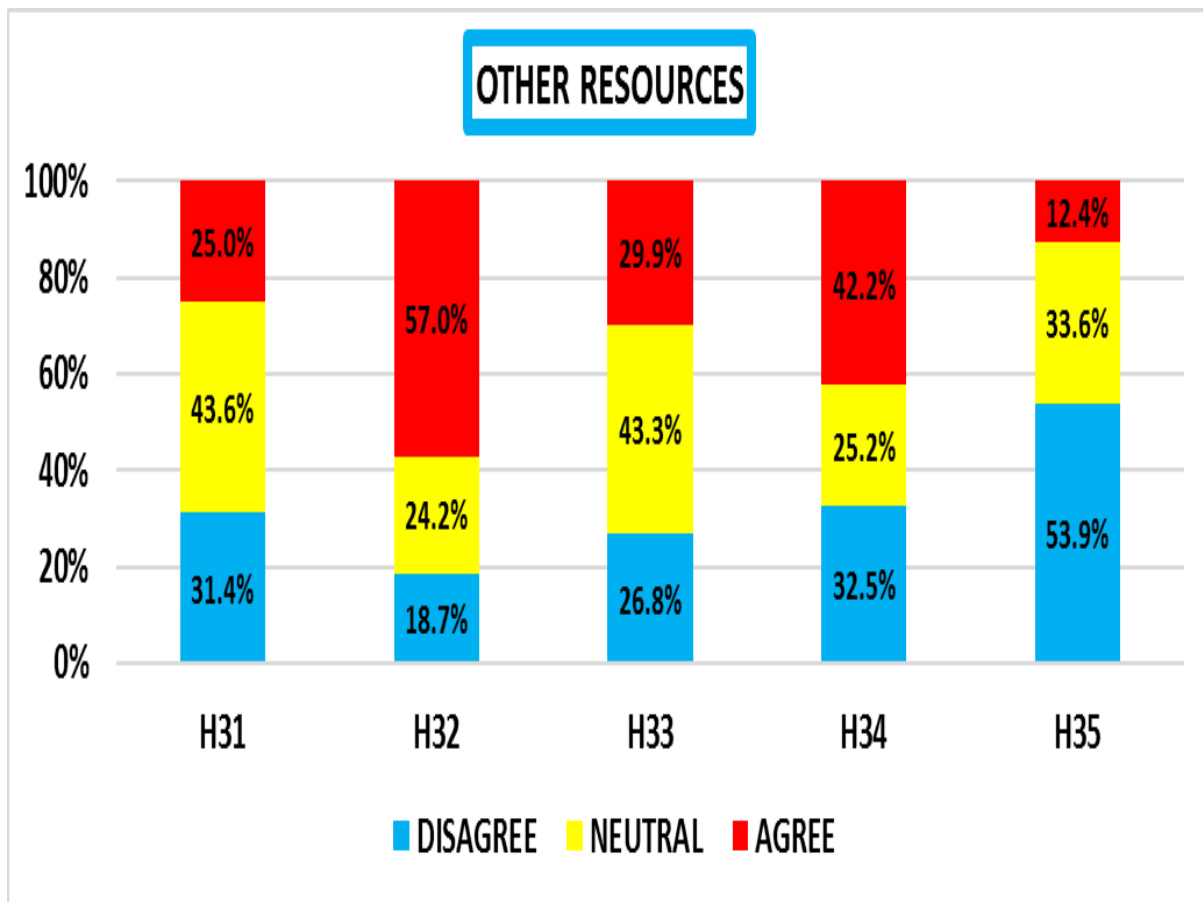
The results for management systems and structures indicate that over half (58.9%) of the respondents agree that management has introduced structures to effectively implement the professional ethics and anti-corruption legislation while just over half (50.3%) of the respondents agree that management takes decisive action against the perpetrators of unethical conduct. The majority (43.4%) of the respondents are neutral in relation to the consultation of their departmental stakeholders by management.

It is important to note that 19.9% of the respondents are not convinced of the role played by management. A large majority (81%) of the respondents agreed about the inclusion of key performance targets that are related to the implementation of professional ethics and anti-corruption legislation in the performance contracts. However, just higher than half (58.4%) of the respondents agree that there are available systems within their departments to implement the professional ethics and anti-corruption legislation which makes sense as 58.9% indicated that the management has introduced structures to effectively implement the legislation.

#### **7.2.14 Other resources**

The level of agreement to test the five statements for other resources is shown in figure 7.14 on the following page.

Figure 7.14: Respondents views on other resources



The results for other resources indicate that only a quarter (25%) of the respondents agree that there is adequate budget to fight corruption within their departments while just over half (57.1%) of the respondents agree that allegations of corruption are given the attention they deserve. Only close to a third (29.9%) of the respondents agree that recovery of funds which have been stolen through corruption are prioritised in their departments. There are 42% of the respondents who are aware of an official who has been dismissed for corrupt practices within their departments.

The majority (53.9%) of the respondents do not know officials within their departments who are paying back the money that was stolen. The results seem to suggest that departments are not allocating enough funds to support the investigation of alleged cases of corruption and communication need to be intensified to publicise the names of those who have been dismissed including those where government is recovering the lost funds.

This chapter on the analysis and interpretation of collected data, having considered the identified dimension, is commencing to determine the construct validity and reliability of the seven dimensions of the ITPOSMO model.

### **7.3 VALIDITY AND RELIABILITY OF THE SEVEN DIMENSIONS OF THE ITPOSMO MODEL**

Exploratory factor analysis was conducted to determine the construct validity and reliability of the seven dimensions as represented by their respective set items.

To determine the suitability of factor analysis, the Kaiser-Meyer-Olkin Measure of Sampling Adequacy and the Bartlett's Test of Sphericity was used. The main purpose of the Kaiser-Meyer-Olkin Measure of Sampling Adequacy and the Bartlett's Test of Sphericity is to assist in assessing the adequacy of the correlation matrices for factor analysis. In all instances, the Kaiser-Meyer-Olkin Measure of Sampling Adequacy should be greater than 0.5, to conduct a meaningful factor analysis and the Bartlett Test of Sphericity should indicate statistical significance ( $p < 0.05$ ).

An exploratory factor analysis was conducted, using principal axis factoring extraction and promax rotation, to determine the potential unidimensionality of each of the seven dimensions.

#### **7.3.1 Information**

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value for the information dimension is 0.776, which is above the recommended threshold of 0.5 and the Bartlett's Test of Sphericity was significant ( $p < 0.001$ ) for the five items dealing with understanding information, therefore indicating that a factor analysis was appropriate.

The analysis confirmed unidimensionality for the information dimension, as the analysis identified only one factor based upon the eigenvalue criterion (eigenvalue



greater than 1) and the factor explains 50.7% of the variance. The factor loadings are shown on the following page on table 7.1.

**Table 7.1: The Kaiser-Meyer-Olkin Measure – Information**

Construct	Item	Factor loadings	Cronbach alpha
Information	B1 You have all the information about ethics and anti-corruption legislation related to your department.	.688	.858
	B2 Accurate information about ethics and anti-corruption legislation is communicated timeously in my department.	.919	
	B3 The external stakeholders of my department have relevant information about ethics and anti-corruption legislation.	.632	
	B4 Expectations about ethics and anti-corruption legislation are communicated timeously in my department.	.868	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for information was found to be 0.858. As this value is above the knowledge threshold of 0.7, it was deemed satisfactory.

### 7.3.2 Technology

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value for the technology dimension is 0.756, which is above the recommended threshold of 0.5 and the Bartlett's Test of Sphericity was significant ( $p < 0.001$ ) for the five items dealing with the availability of technology, therefore indicating that a factor analysis was appropriate.

The analysis confirmed unidimensionality for the technology dimension, as the analysis identified only one factor based upon the eigenvalue criterion (eigenvalue greater than 1) and the factor explains 40% of the variance. The factor loadings are shown below on table 7.2.

**Table 7.2: The Kaiser-Meyer-Olkin Measure – Technology**

Construct	Item	Factor loadings	Cronbach alpha
Technology	C6 In your immediate working environment, computer software is available to investigate alleged cases of corruption reported by officials and other stakeholders.	.390	.743
	C7 Abuse of telephones by officials is continuously monitored in my department.	.625	
	C8 Your departmental external stakeholders have the necessary technology to report cases of fraud and corruption to ensure effective implementation of ethics and anti-corruption legislation.	.684	
	C9 There are systems in my department to prevent hacking of information.	.799	
	C10 There are strict procedures in accessing individual computers of my fellow employees.	.596	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for technology was found to be 0.743. As this value is above the knowledge threshold of 0.7, it was deemed satisfactory.

### 7.3.3 Processes

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value for the processes dimension is 0.810, which is above the recommended threshold of 0.5 and the Bartlett's Test of Sphericity was significant ( $p < 0.001$ ) for the five items dealing with the processes, therefore indicating that a factor analysis was appropriate.

The analysis confirmed unidimensionality for the processes dimension, as the analysis identified only one factor based upon the eigenvalue criterion (eigenvalue greater than 1) and the factor explains 55.1% of the variance. The factor loadings are shown below on table 7.3.

**Table 7.3: The Kaiser-Meyer-Olkin Measure – Processes**

Construct	Item	Factor loadings	Cronbach alpha
Processes	D11 Information handling in my department is prioritised to protect its confidentiality.	.641	.854
	D12 There is transparent decision making in your department by management.	.838	
	D13 There is always adequate consultation in my department before decisions are implemented.	.870	
	D14 The business processes in my department are clearly communicated to all officials.	.735	
	D15 Officials in my department clearly understand their reporting lines.	.586	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for processes was found to be 0.854. As this value is above the knowledge threshold of 0.7, it was deemed satisfactory.

#### 7.3.4 Objectives and values

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value for the objectives and values dimension is 0.640, which is above the recommended threshold of 0.5 and the Bartlett's Test of Sphericity was significant ( $p < 0.001$ ) for the five items dealing with the objectives and values, therefore indicating that a factor analysis was appropriate.

For the objectives and values dimension, the analysis identified two factors based upon the eigenvalue criterion (eigenvalue greater than 1). Thus, indicating that the objectives and values dimension is not unidimensional. The factor loadings are shown in table 7.4 and 7.5.

**Table 7.4: The Kaiser-Meyer-Olkin Measure – Objectives and values (1)**

Construct	Item	Factor loadings	Cronbach alpha
Objectives and values (1)	E16 I always emphasis to those who report to me the importance of adhering to departmental values by complying with the ethics and anti-corruption legislation.	.656	.722
	E17 Those who report to me can testify that I always comply with the ethics and anti-corruption legislation.	.915	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for objectives and values (E16 and E17) relating to objectives and values (1) was found to be 0.722. As this value is above the knowledge threshold of 0.7, it was deemed satisfactory.

**Table 7.5: The Kaiser-Meyer-Olkin Measure – Objectives and values (2)**

Construct	Item	Factor loadings	Cronbach alpha
Objectives and values (2)	E18 The senior management of my department are always leading by example in promoting ethics and anti-corruption legislation.	.785	.429
	E20 There are lots of informal rules in my department that contribute to non-adherence to ethics and anti-corruption legislation.	-.416	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for objectives and values (E18 and E20) was found to be 0.429. As this value is below the knowledge threshold of 0.7, and far below the exploratory research threshold of 0.6 it was deemed unsatisfactory. This sub-factor will thus not be used in subsequent analysis.

### 7.3.5 Staffing and skills

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value for the staffing and skills dimension is 0.728, which is above the recommended threshold of 0.5 and the Bartlett's Test of Sphericity was significant ( $p < 0.001$ ) for the five items dealing with the staffing and skills, therefore indicating that a factor analysis was appropriate.

The analysis confirmed unidimensionality for the processes dimension, as the analysis identified only one factor based upon the eigenvalue criterion (eigenvalue greater than 1) and the factor explains 43% of the variance. The factor loadings are shown below on table 7.6.

**Table 7.6: The Kaiser-Meyer-Olkin Measure – Staffing and skills**

Construct	Item	Factor loadings	Cronbach alpha
Staffing and skills	F21 There are dedicated officials in my department to effectively implement ethics and anti-corruption legislation.	.615	.786
	F22 Managers are capacitated with required knowledge to ensure effective implementation of ethics and anti-corruption legislation.	.780	
	F23 My staff members continuously attend ethics and anti-corruption capacity building programmes.	.633	
	F24 Vacant posts are prioritised in my department to ensure effective implementation ethics and anti-corruption legislation.	.652	
	F25 Skills development is prioritised in my department for all officials as outlined in their individual developmental plan.	.596	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for staffing and skills was found to be 0.786. As this value is above the knowledge threshold of 0.7, it was deemed satisfactory.

### 7.3.6 Management systems and structures

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value for the management systems and structures dimension is 0.813, which is above the recommended threshold of 0.5 and the Bartlett's Test of Sphericity was significant ( $p < 0.001$ ) for the five items dealing with understanding information processes, therefore indicating that a factor analysis was appropriate.

The analysis confirmed unidimensionality for the management and system dimension, as the analysis identified only one factor based upon the eigenvalue criterion (eigenvalue greater than 1) and the factor explains 46.3% of the variance. The factor loadings are shown in table 7.7 below.

**Table 7.7: The KMO Measure – Management systems and structures**

Construct	Item	Factor loadings	Cronbach alpha
Management systems and structures	G26 Management has introduced structures to effectively implement ethics and anti-corruption legislation.	.717	.836
	G27 Management takes decisive action against those who are not complying with ethics and anti-corruption legislation.	.807	
	G28 Management regularly consult with departmental stakeholders to ensure effective implementation of ethics and anti-corruption legislation.	.757	
	G30 There are systems in place in my department to implement ethics and anti-corruption legislation.	.721	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for management systems and structures was found to be 0.836. As this value is above the knowledge threshold of 0.7, it was deemed satisfactory.

### 7.3.7 Other resources

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value for the other resources dimension is 0.681, which is above the recommended threshold of 0.5 and the Bartlett's Test of Sphericity was significant ( $p < 0.001$ ) for the five items dealing with the other resources, therefore indicating that a factor analysis was appropriate.

For the other resources dimension, the analysis identified two factors based upon the eigenvalue criterion (eigenvalue greater than 1). Thus, indicating that the other resources dimension is not unidimensional. The factor loadings are shown in tables 7.8 and 7.9.

**Table 7.8: The Kaiser-Meyer-Olkin Measure – Other resources (1)**

Construct	Item	Factor loadings	Cronbach alpha
Other resources (1)	H31 There is adequate budget to fight corruption in my department.	.750	.759
	H32 Allegations of corruption are given the attention they deserve.	.781	
	H33 Recovery of funds which have been stolen through corruption is prioritised in my department.	.631	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for other resources (H31, H32 and H33) and labelled as allocation of resources was found to be 0.759. As this value is above the knowledge threshold of 0.7, it was deemed satisfactory.

**Table 7.9: The Kaiser-Meyer-Olkin Measure – Other resources (2)**

Construct	Item	Factor loadings	Cronbach alpha
Other resources (2)	H34 I know of an official who was dismissed after being found guilty of corruption in my department.	.689	.608
	H35 I know of an official who is paying back the money that was stolen in my department.	.703	

Using the Cronbach alpha coefficient, the internal consistency (reliability) for other resources (H34 and H35) labelled as decisive action was found to be 0.608. As this value is below the knowledge threshold of 0.7, but the above the threshold of 0.6 for exploratory research it was deemed satisfactory.

Factor-based scores were subsequently calculated as the mean score of the variable included in each of the identified factors above. There were eight new variables that were created as follows:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;
- Allocation of resources; and
- Decisive action.

#### **7.4 DESCRIPTIVE STATISTICS**

Webb (2010b:205) informs that the mean ( $m$ ), standard deviation ( $SD$ ), minimum ( $min$ ) and maximum ( $max$ ) values and the sample ( $n$ ) are defined by Diamantopolous and Schlegelmilch (2000:97-104) and Salkind (2004:19-41) as follows:

- Mean – the most common type of average or central measure of tendency that is used. It simply refers to the sum of all values obtained divided by the number of values in that group.
- Standard deviation – refers to the variability or how the scores differ from one another in a set of scores. In different terms, standard deviation refers to the average distance of scores from the mean. In other words, the larger the standard deviation, the larger the average distance each data point is from the mean of the distribution.



The descriptive statistics for the eight factor based variables are as follows:

**Table 7.10: Descriptive statistics for eight factors**

		Technology	Processes	Staffing and skills	Information	Individual objectives and values	Management systems and structures	Allocation of resources	Decisive action
N	Valid	222	222	222	222	222	222	222	222
	Missing	0	0	0	0	0	0	0	0
Mean		3.2252	3.5034	3.2551	3.3946	4.1816	3.3824	3.0900	2.7555
Median		3.2000	3.6000	3.4000	3.5000	4.0000	3.5000	3.2344	3.0000
Standard Deviation		.73419	.76952	.76566	.83650	.62796	.76915	.80660	.96253
Skewness		.012	-.381	-.189	-.448	-.725	-.420	-.540	-.136
Kurtosis		-.265	-.054	-.500	.070	1.331	.296	.022	-.494
Minimum		1.20	1.40	1.40	1.00	1.50	1.00	1.00	1.00
Maximum		5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00

The following can be observed from table 7.10 above:

- The variable for decisive action had the lowest mean value (mean = 2.75). This variable represents evidence of action that has been taken to deal with unethical conduct within the Social Sector Cluster in Gauteng Province. There are few officials who are knowledgeable of the officials who have been dismissed and held accountable for corrupt practices within their departments.
- The variable for individual objectives and values has the highest mean value (mean = 4.18) indicating that exemplary leadership is continuously demonstrated by those in management positions within the Social Sector Cluster in Gauteng.
- The skewness and kurtosis values also indicated that the factor variables can be assumed to be normally distributed as all values lies between -2 and +2.

## 7.5 RELATIONSHIPS BETWEEN THE EIGHT FACTOR VARIABLES

Pearson correlation coefficients were used to evaluate the strength and statistical significance of the relationships between the different combinations of the eight variables and the results are shown in table 7.11 below.

**Table 7.11: Summary of the Pearson correlation coefficients**

		Technology	Processes	Staffing and skills	Information	Individual objectives and values	Management systems and structures	Allocation of resources	Decisive action
Technology	Pearson Corr.	1							
	Sig. (2-tailed)								
Processes	Pearson Corr.	.555**	1						
	Sig. (2-tailed)	.000							
Staffing and skills	Pearson Corr.	.475**	.587**	1					
	Sig. (2-tailed)	.000	.000						
Information	Pearson Corr.	.406**	.433**	.577**	1				
	Sig. (2-tailed)	.000	.000	.000					
Individual objectives and values	Pearson Corr.	.309**	.339**	.295**	.311**	1			
	Sig. (2-tailed)	.000	.000	.000	.000				
Management systems and structures	Pearson Corr.	.508**	.571**	.730**	.510**	.371**	1		
	Sig. (2-tailed)	.000	.000	.000	.000	.000			
Allocation of resources	Pearson Corr.	.404**	.485**	.545**	.345**	.114	.577**	1	
	Sig. (2-tailed)	.000	.000	.000	.000	.089	.000		
Decisive action	Pearson Corr.	.216**	.271**	.282**	.249**	.136*	.234**	.278**	1
	Sig. (2-tailed)	.001	.000	.000	.000	.042	.000	.000	

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

The following should be noted regarding table 7.11:

- The results indicated that statistical significant relationships exist at the 1% level of significant between all combinations of the eight variables.
- It is assumed that there are no missing values on the collected data and hence the results are based on N = 222.
- The following categorisation of values is assumed:
  - Perfect correlation: near  $\pm 1$ ;
  - High degree of correlation: between  $\pm 0.50$  and  $\pm 1$ ;
  - Moderate degree of correlation: between  $\pm 0.30$  and  $\pm 0.50$ ;
  - Low degree of correlation: between 0 and  $\pm 0.30$ ;
  - No correlation: 0.
- According to Webb (2010b:250) the Pearson's product moment correlation coefficient (indicated by r) is the utmost broadly used measure of association for scrutinising the connection among variables.

- Technology obtained a positive and high degree of correlation with processes ( $r = 0.555$ ). The availability of updated technology coincides with effective processes to implement ethics and anti-corruption legislation. Technology obtained a positive and moderate degree of correlation with staffing and skills ( $r = 0.475$ ), information ( $r = 0.406$ ), individual objectives and values ( $r = 0.309$ ) and allocation of resources ( $r = 0.404$ ). Technology can assist to recruit competent staff and equip them with necessary skills; technology can also be used to communicate information on ethics and anti-corruption legislation as well as the departmental values. Technology obtained a positive and low degree of correlation with decisive action ( $r = 0.216$ ).
- Processes dimension has a positive and high degree of correlation with staffing and skills ( $r = 0.587$ ) and management systems and structures ( $r = 0.571$ ). Effective processes within government departments are necessary to ensure that the ethics and anti-corruption structures can deliver on their mandate. Processes dimension has a positive and moderate degree of correlation with information ( $r = 0.433$ ), individual objectives and values ( $r = 0.339$ ) and allocation of resources ( $r = 0.485$ ). Processes has a positive and low degree of correlation with decisive action ( $r = 0.271$ ).
- Staffing and skills has a positive and high degree of correlation with information ( $r = 0.577$ ), management systems and structures ( $r = 0.730$ ) and allocation of resources ( $r = 0.545$ ). The more staff is available and capacitated to implement ethics and anti-corruption legislation coincide with information being developed and distributed, effective systems and structures to implement programmes intended to address unethical conduct as resources will be allocated accordingly. There is a positive and low degree of correlation between staffing and skill dimension and individual objectives and values ( $r = 0.295$ ) and decisive action ( $r = 0.282$ ).
- Information has a positive and high degree of correlation with management systems and structures ( $r = 0.510$ ). Information has a positive and moderate degree of correlation with individual objectives and values ( $r = 0.311$ ) and

allocation of resources ( $r = 0.345$ ). There is a positive and low degree of correlation between information and decisive action ( $r = 0.249$ ).

- Individual objectives and values has a positive and moderate degree of correlation with management systems and structures ( $r = 0.371$ ). Adherence to values by officials coincides with effective management systems and structures. Individual objectives and values has a positive and low degree of correlation with the allocation of resources ( $r = 0.114$ ) and decisive action ( $r = 0.136$ ).
- Management systems and structures has a positive and high degree of correlation with allocation of resources ( $r = 0.577$ ) while there is a positive and low degree of correlation with decisive action ( $r = 0.234$ ). The management systems and structures coincide with more resources that are allocated to address the implementation of professional ethics and anti-corruption legislation.
- Allocation of resources dimension has a positive and low degree of correlation with decisive action ( $r = 0.278$ ). It appears that allocation of resources by the authorities is likely to coincide with the actions taken against those proven to be implicated in unethical conduct.

To determine whether statistical significant differences exist between the categories defined for the biographic variables gender, age, salary level and name of department regarding their perception regarding these eight variables, inferential statistical tests, namely the t-test and Kruskal-Wallis one-way analysis of variance by ranks were conducted.

### 7.5.1 Gender

The following hypotheses were firstly defined:

Null hypothesis: There exists no statistically significant difference between the females and males within the case study, regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;
- Allocation of resources; and
- Decisive action.

Alternative hypothesis: There exists a statistically significant difference between the females and males within the case study regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;
- Allocation of resources; and
- Decisive action.

The parametric t-test for independent groups was used to test each of the eight hypotheses. A 5% level of significance will be used. Table 7.12 below illustrates the results for the mean and standard deviation mean per group.

**Table 7.12: Group statistics**

Variable	Gender Profile	N	Mean	Std. Deviation
Technology	Male	124	3.2472	.73225
	Female	95	3.2013	.75060
Processes	Male	124	3.5371	.78071
	Female	95	3.4458	.76341
Staffing and skills	Male	124	3.3085	.78028
	Female	95	3.1704	.74922
Information	Male	124	3.4227	.87690
	Female	95	3.3520	.79655
Individual objectives and values	Male	124	4.2344	.60853
	Female	95	4.1184	.65863
Management systems and structures	Male	124	3.4769	.74318
	Female	95	3.2526	.79851
Allocation of resources	Male	124	3.0975	.82769
	Female	95	3.0761	.79172
Decisive action	Male	124	2.7737	1.01712
	Female	95	2.7291	.90041

**Table 7.13: Independent samples test**

		Levene's Test for Equality of Variances		t-test for Equality of Means		
		F	Sig.	t	df	Sig. (2-tailed)
Technology	Equal variances assumed	0.000	1.000	0.455	217	0.650
	Equal variances not assumed			0.453	199.852	0.651
Processes	Equal variances assumed	0.001	0.971	0.866	217	0.388
	Equal variances not assumed			0.868	204.600	0.386
Staffing and skills	Equal variances assumed	0.274	0.601	1.320	217	0.188
	Equal variances not assumed			1.327	206.277	0.186
Information	Equal variances assumed	0.362	0.548	0.615	217	0.539
	Equal variances not assumed			0.623	210.745	0.534
Individual objectives and values	Equal variances assumed	0.079	0.779	1.349	217	0.179
	Equal variances not assumed			1.335	193.809	0.184
Management systems and structures	Equal variances assumed	0.811	0.369	2.143	217	0.033
	Equal variances			2.122	194.647	0.035

		Levene's Test for Equality of Variances		t-test for Equality of Means		
		F	Sig.	t	df	Sig. (2-tailed)
	not assumed					
Allocation of resources	Equal variances assumed	0.409	0.523	0.193	217	0.847
	Equal variances not assumed			0.194	206.615	0.846
Decisive action	Equal variances assumed	1.488	0.224	0.338	217	0.736
	Equal variances not assumed			0.344	212.455	0.732

The null hypothesis of equal variances assumed could not be rejected ( $p > 0.05$ ) for all the variables. The relevant t statistic (equal variances assumed) was thus used in all cases. The t-test results indicated that no statistically significant difference exists between the females and males regarding seven of the eight variables of interest in this case study at the 5% level of significance. However, regarding management systems and structures a statistical significant difference exists between males and females at the 5% level of significance (Mean (male) = 3.47 and Mean (female) = 3.25). This shows that males agree more than females on the dimension for management systems and structures (the formal aspects of the organisation).

### 7.5.2 Age groups

The following hypotheses were firstly defined:

Null hypothesis: There exists no statistically significant difference between the age groups within the case study, regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;

- Allocation of resources; and
- Decisive action.

Alternative hypothesis: There exists a statistically significant difference between the age groups within the case study regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;
- Allocation of resources; and
- Decisive action.

The non-parametric Kruskal-Wallis one way of analysis of variance by ranks was used to test if statistical significant differences exist between the ages of respondents regarding each of the eight variables.

The Kruskal-Wallis test, a non-parametric test, can be used when two or more independent groups need to be compared. The test is applied when the sample from the population is small or if the data is ordinal. As the age group sizes were small, the Kruskal-Wallis test was applied to each of the eight hypotheses.

The test results are shown in table 7.14 below.

**Table 7.14: Age group test statistics** <sup>a, b</sup>

	Technology	Processes	Staffing and skills	Information	Individual objectives and values	Management systems and structures	Allocation of resources	Decisive action
Chi-Square	1.955	3.098	3.063	1.800	3.992	3.177	2.125	1.748
df	3	3	3	3	3	3	3	3
Asymp. Sig.	.582	.377	.382	.615	.262	.365	.547	.626

a. Kruskal Wallis Test

b. Grouping Variable: age groups



The results indicated that no statistical significant differences, at the 5% level of significance, between the age groups regarding the eight variables.

### 7.5.3 Salary levels

According to the questionnaire administered in this case study, the salary level of respondents was levels 13, 14, 15 and 16. The non-parametric Kruskal-Wallis one way of analysis of variance by ranks was used to test if statistical significant differences exist between the four salary levels of respondents regarding each of the eight variables.

The following hypotheses were firstly defined:

Null hypothesis: There exists no statistically significant difference between the salary levels within the case study, regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;
- Allocation of resources; and
- Decisive action.

Alternative hypothesis: There exists a statistically significant difference between the salary levels within the case study regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;

- Management systems and structures;
- Allocation of resources; and
- Decisive action.

The test results are shown in table 7.15 below.

**Table 7.15: Salary level test statistics** <sup>a, b</sup>

	Technology	Processes	Staffing and skills	Information	Individual objectives and values	Management systems and structures	Allocation of resources	Decisive action
Chi-Square	3.898	4.645	2.692	2.829	3.977	2.830	2.421	2.204
df	2	2	2	2	2	2	2	2
Asymp. Sig.	.142	.098	.260	.243	.137	.243	.298	.332

a. Kruskal Wallis Test

b. Grouping Variable: Salary level

The results indicated the following:

- There is no statistical significant difference, at the 5% level of significance, between the salary levels regarding the seven of eight variables.
- There is a statistical significant difference, at the 10% level of significance between the salary levels regarding the processes variable.
- Furthermore, regarding processes, the mean ranks indicate that official at salary level 13 tend to agree least (mean rank = 103.97) regarding the processes factor while officials at salary level 15 tend to agree the most regarding the processes factor (mean rank = 139.7). Refer to the mean ranks for salary levels at Annexure E.

#### 7.5.4 Name of department

According to the questionnaire administered in this case study, the participants were drawn from the nine departments under the Social Sector Cluster in the Gauteng Province, namely Education; Community Safety; Cooperative Governance and Traditional Affairs; Health; Human Settlements; Office of the Premier; Social Development; Sports, Arts, Culture and Recreation; Treasury.

The non-parametric Kruskal-Wallis one way of analysis of variance by ranks was used to test if statistical significant differences exist between nine departments regarding each of the eight variables.

The following hypotheses were firstly defined:

Null hypothesis: There is no difference between the departments regarding their level of agreement regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;
- Allocation of resources; and
- Decisive action.

Alternative hypothesis: There is a difference between the departments regarding their level of agreement regarding:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Individual objectives and values;
- Management systems and structures;
- Allocation of resources; and
- Decisive action.

The test results are shown in table 7.16.

**Table 7.16: Responses from departments' test statistics** <sup>a, b</sup>

	Technology	Processes	Staffing and skills	Information	Individual objectives and values	Management systems and structures	Allocation of resources	Decisive action
Chi-Square	30.306	26.354	35.605	31.508	4.097	26.473	30.459	14.515
df	8	8	8	8	8	8	8	8
Asymp. Sig.	.000	.001	.000	.000	.849	.001	.000	.069

a. Kruskal Wallis Test

b. Grouping Variable: Name of department

The results indicated that there is a statistical significant difference, at the 1% level of significance between the responses from departments regarding the following variables:

- Technology;
- Processes;
- Staffing and skills;
- Information;
- Management systems and structures; and
- Allocation of resources.

It is important to note that there is a statistical significant difference, at the 10% level of significance between the departments regarding the variable for decisive action.

Furthermore, regarding technology, the mean ranks indicate that three departments (Health, Human Settlements and Sport, Arts Culture and Recreation) tend to agree the least (mean ranks of 81.02, 83.69 and 88.56 respectively) regarding the technology variable while two departments (Education and Treasury) tend to agree the most regarding the technology variable (mean ranks of 137.05 and 162.63 respectively). Refer to the mean ranks for the names of department at Annexure F.

## 7.6 THEMES EMANATING FROM ADDITIONAL COMMENTS

The following themes are emanating from the additional comments which were submitted by the respondents:

### 7.6.1 Themes for information

The common themes from the additional comments submitted for the information dimension are as follows:

- **Communication:** requirements for effective implementation of professional ethics and anti-corruption legislation should be intensified.
- **Actions taken:** against those implicated in corrupt activities should be communicated to all stakeholders.
- **Awareness programmes:** on professional ethics and anti-corruption should be arranged on a regular basis for all stakeholders.
- **Accessibility of information:** on professional ethics and anti-corruption legislation should be improved.
- **Ethics Champions:** within departments must be tasked with dissemination of information.

### 7.6.2 Themes for technology

The common themes from the additional comments submitted for the technology dimension are as follows:

- **Abuse of telephones:** by officials within departments is not adequately monitored.
- **Policies on information technology:** are not effectively communicated to the rest of the departmental staff as this function is viewed to be the responsibility of the IT directorate.
- **Hacking:** of information pose a risk especially for officials connected to external servers.

- **Security measures:** should be improved to prevent unauthorised access of data among employees.

### 7.6.3 Themes for processes

The common themes from the additional comments submitted for the processes dimension are as follows:

- **Changes:** in business processes are not communicated.
- **Reporting lines:** among officials are not always clear.
- **Decisions taken by management:** departments need to improve the communication thereof.

### 7.6.4 Themes for objectives and values

The common themes from the additional comments submitted for the objectives and values dimension are as follows:

- **Managers are leading by example:** in communicating departmental values to their staff.
- **Consultants used:** to implement departmental programmes.

### 7.6.5 Themes for staffing and skills

The common themes from the additional comments submitted for the staffing and skills dimension are as follows:

- **Adequate capacity is not available:** in some departments to effectively implement professional ethics and anti-corruption legislation.
- **Competing priorities:** for staff to participate in ethics and anti-corruption capacity building programmes.
- **Intensify ethics capacity building programmes:** for lower level staff members.

### 7.6.6 Themes for management systems and structures

The common themes from the additional comments submitted for the management systems and structures dimension are as follows:

- **Poor systems:** within departments to ensure effective implementation of professional ethics and anti-corruption legislation.
- **Dedicated structures:** to deal with the implementation of professional ethics and anti-corruption should be established within departments.

### 7.6.7 Themes for other resources

The common themes from the additional comments submitted for the other resources dimension are as follows:

- **Communicate actions:** taken against corrupt officials.
- **Improve skills of Presiding Officers and Investigators:** within departments to effectively resolve allegations of corruption.
- **Recovery of funds:** within departments is generally poor.

## 7.7 SUMMARY OF EMPIRICAL FINDINGS

The following empirical findings for the Social Sector Cluster as informed by the analysis of the collected data are summarised below:

### 7.7.1 Findings on gender

There is no statistically significant difference that exists between the females and males regarding seven of the eight variables of interest in this case study at the 5% level of significance. However, regarding management systems and structures a statistical significant difference exists between males and females at the 0.5% level of significance (male mean 3.47 and female mean 3.25). This shows that males

agree more than females on the dimension for management systems and structures (cf. section 7.5.1).

### **7.7.2 Findings on information**

The results indicated that majority of the respondents have the information about professional ethics and anti-corruption legislation which is related to their departments. It is also important to note that an overwhelming majority of the respondents are aware of their departmental processes of distributing information to external stakeholders. This might be informed by the fact that distribution of information to third parties is a punishable offence in the public service (cf. section 7.3.1).

Moreover, regarding information, officials at salary level 13 tend to agree least regarding the information factor while officials at salary level 15 tend to agree the most regarding the information factor (cf. section 7.5.3).

### **7.7.3 Findings on technology**

The majority of the respondents agree that individual password for computers are strictly confidential within their departments (cf. section 7.3.2). The results for technology are well balanced as there are relatively large percentages for the respondents who are neutral across the five statements which were testing the level of agreement. This might indicate that officials tend to view technology as the competency of dedicated officials at IT directorates.

Additionally, it is important to note that regarding technology, three departments (Health, Human Settlements and Sport, Arts Culture and Recreation) tend to agree the least regarding the technology variable while two departments (Education and Treasury) tend to agree the most regarding the technology variable (cf. section 7.5.4). This is not surprising considering that most of the new innovative technological programmes in the province are led by these two departments. Hence, more focus should also be directed to technological tools that can assist with the implementation of ethics and anti-corruption legislation.



#### **7.7.4 Findings on processes**

The results related to processes indicate that majority of respondents agree that information handling in their departments is prioritised to protect its confidentiality while also an overwhelming majority of the respondents agree that officials within their departments clearly understand their reporting lines. The results demonstrate some challenges with the internal processes and these can pose serious challenges in the implementation of professional ethics and anti-corruption legislation. The main concern is that officials at management level are supposed to be providing guidance to the rest of the department on acceptable processes (cf. section 7.3.3).

#### **7.7.5 Findings on objectives and values**

The results for objectives and values indicate that majority of the respondents always emphasise to their sub-ordinates the importance of adhering to departmental values by complying with the existing legislation and are also confident that those who report to them can testify that they always comply with the ethics legislation. More interesting is the finding that the majority of the respondents agree that senior management within their departments are leading by example in promoting ethics and anti-corruption legislation (cf. 7.3.4). This is a positive aspect on the implementation of professional ethics and anti-corruption legislation as exemplary leadership is needed to address unethical conduct. It can additionally be submitted that this exemplary leadership at the top-level need to be accompanied by decisive action against those implicated in corrupt practices.

Further analysis of the collected data revealed that the variable for individual objectives and values has the highest mean value which indicates that exemplary leadership is continuously demonstrated by those in management positions within the Social Sector Cluster in Gauteng (cf. section 7.6).

#### **7.7.6 Findings on staffing and skills**

The results (cf. section 7.3.5) for staffing indicate that majority of the respondents acknowledge that there are dedicated, adequately capacitated officials within their

departments to effectively implement ethics and anti-corruption legislation. A cause for concern though is to notice that a sizeable portion of the respondent disagrees that vacant posts are prioritised in their department to ensure effective implementation of the ethics and anti-corruption legislation.

Almost half of the respondents agree that skills development is prioritised in their departments. This can be linked to the results which indicate that few of the respondents agree that their staff members continuously attend ethics and anti-corruption capacity building programmes. It is the responsibility of the management to ensure that officials are capacitated according to their annual performance plans.

#### **7.7.7 Findings on management systems and structures**

The results for management systems and structures indicate that majority of the respondents agree that management has introduced structures to effectively implement the ethics and anti-corruption legislation while almost half of the respondents agree that management takes decisive action against the perpetrators of unethical conduct. The majority of the respondents feel strongly about the inclusion of key performance targets that are related to the implementation of ethics and anti-corruption legislation in the performance contracts (cf. section 7.3.6). Hence, realistic targets to monitor the implementation of ethics and anti-corruption legislation should be considered for both administrative and political leaders.

The majority of the respondents agree that there are available systems within their departments to implement the ethics and anti-corruption legislation which makes sense as the majority indicated that the management has introduced structures to effectively implement the legislation.

#### **7.7.8 Findings on other resources**

The results for other resources indicate that few of the respondents agree that there is adequate budget to fight corruption within their departments while the majority of the respondents agree that allegations of corruption are given the attention they deserve. This requires departments within the Social Sector Cluster to prioritise

allocation of funds to support the implementation of ethics and anti-corruption legislation. A limited number of the respondents agree that recovery of funds which have been stolen through corruption are prioritised in their departments while majority of the respondents do not know officials within their departments who are paying back the money that was stolen. The results seem to suggest that departments need to take decisive action against officials implicated in corrupt practices and further intensify dissemination of information regarding the finalised cases of unethical conduct (cf. section 7.3.7).

This was further confirmed by an advanced analysis which confirmed that the variable for decisive action had the lowest mean value. A limited number of officials is knowledgeable of the officials who have been dismissed and held accountable for corrupt practices (cf. section 7.6).

## **7.8 CONCLUSION**

The chapter commenced by describing the biographic profile of respondents which includes the familiar standard items like age, gender, salary level, years of service, name of department and highest level of formal education. The chapter continued to present the identified variables. To determine the suitability of factor analysis, the Kaiser-Meyer-Olkin Measure of Sampling Adequacy and the Bartlett's Test of Sphericity was used. This assisted in assessing the adequacy of the correlation matrices for factor analysis.

The inferential involved factor-based scores which were subsequently calculated as the mean score of the variable included in each of the identified factors. There were eight new variables that were created. To determine whether exist statistical significant differences between the demographic groups for gender, age, salary level and name of department regarding their perception regarding these eight variables, inferential tests were conducted. Furthermore, the chapter focused on descriptive statistics, Pearson coefficient correlation and findings which were drawn from the collected data.

It can therefore be submitted that the purpose of the chapter which is to analyse, focus on interpretation and draw findings from the collected data has been achieved. In the next chapter, the overall conclusions and recommendations which, among others, include a proposed implementation framework for ethics and anti-corruption legislation, for the study are considered.

## CHAPTER EIGHT

### CONCLUSIONS AND RECOMMENDATIONS

#### 8.1 INTRODUCTION

*“However long the night: the dawn will break”.*

*~ African proverb*

The common feature presented by various academics and research institutions is that anti-corruption legislation is inadequate to fight corruption if not accompanied by robust implementation thereof. The Social Sector Cluster in Gauteng Province has not been exempted from this challenge. The primary research question (cf. section 1.4) was theoretically researched as follows:

- **How can the implementation of the professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province be enhanced?**

The research objectives as outlined (cf. section 1.5) were analysed to achieve the aim of the research throughout the preceding chapters as follows:

**Table 8.1: Research objectives and chapters**

#	Objectives	Chapters
1	To conceptualise professional ethics and anti-corruption within Public Administration.	Two
2	To examine the international best practice on the implementation of professional ethics and anti-corruption legislation.	Three and Four
3	To explicate the challenges and weaknesses in the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.	Five, Six and Seven
4	To contribute, in a form of a framework to the body of knowledge on the implementation of professional ethics and anti-corruption legislation by the departments in the Social Sector Cluster in Gauteng Province.	Eight

**Source: Researcher’s own**

The chapter will outline the findings, commendations and recommendations as they related to the research objectives. The basis of the chapter will be to propose a framework to clarify the research question, namely: *“What contribution could be made to ensure effective implementation of professional ethics and anti-corruption legislation by the Social Sector Cluster in the Gauteng Province?”* (cf. section 1.4). Furthermore, the conditions that created the limitations to this study will be revealed and an attempt will be made to encourage further research including the focus areas for consideration will be recommended.

## **8.2 FINDINGS OF THE RESEARCH OBJECTIVES**

The first chapter of this study delineated the research topic, reviewed existing literature, the motivation for the research, problem declaration, objectives of the research, and examined the anticipated research procedures. The introductory chapter set the stage against which the identified problem would be tested. This section of the chapter will endeavour to establish whether the research objectives have been achieved. The findings are as follows:

### **8.2.1 [RO1]: To conceptualise professional ethics and anti-corruption within Public Administration.**

Chapter 2 defined the field of public administration and argued that South African perception thereof, conforming to Minnowbrook III, should be to “rethink the role of government in view of the realities” of 2017. In the South African context, this would include contributing to the literature to ensure effective implementation of the professional ethics and anti-corruption legislation by the Gauteng Provincial Government departments. The adoption of the New Public Management was also underscored to have created challenges than provide solutions for the South African government. The most alarming impact associated with the NPM in the South African is the systemic reliance of the public sector on the private sector to execute their duties.

Attention was then focused on democratic standards that should guide the administration of the public service as enshrined in terms of Section 195(1) of the

Constitution of the Republic of South Africa, 1996. The primary arguments submitted for the values and principles included, *inter alia*, the following:

- **Maintaining and promoting professional ethics** – it was indicated (cf. section 2.3.1) that the first principle is closer to the overall objective of the research which is to contribute towards maintaining and promoting ethical conduct in Gauteng Province. It was stated that if this principle is fully adhered to by the public servants then there would be a compelling possibility that corruption would be arrested and reversed in the province. It was further noted that public servants should be encouraged to apply African values around the concept of *ubuntu* within the Gauteng Provincial Government departments. This will be a “local” approach to demonstrate standards of administrative ethics. The question of great concern is why should public servants be reminded to be ethical? This was linked with the suggestion by Kuye (2016:95) who advocates for the creation of management qualities based on the African ethical standards.

Furthermore, it was accentuated that the South African government has formulated copious legislation and established anti-corruption institutions to address professional ethics. However, Gillespie (2008) as quoted by Chipkin (2013:15) accentuates that the state “the strength or weakness of the state is not measured by the presence or absence of certain objects (laws, constitutions, departments, buildings, people, moneys and materials) but by the kinds of social relationships that emerge and the degree to which they do”. The element of improving social relations in South Africa should be considered as social relations can contribute towards the effective implementation of legislation. It was asserted to that professionalism requires those in leadership positions to consistently demonstrate ethical conduct and moreover, public servants need to be aware that they are leaders within their settings.

- **Efficient, economic and effective use of resources** – the argument by Box (2007:viii) was taken into consideration that citizens in countries that have representative democracy demand effective and efficient government. It was

posited (cf. section 2.3.2) that democracy is a significant and pressing matter in public administration because it provides a sufficient and conducive environment for efficient and effective utilisation of services. This is not to submit that there is no corruption in democratic societies, but to highlight that democracy is necessary to build an ethical society so that it can focus on the delivery of key services to the population. The effective and efficient utilisation of resources is critical for the Gauteng Provincial Government to implement its Transformation, Modernisation and Reindustrialisation (TMR) programme, which among others, seeks to attract foreign direct investment and play a leading role in the economy of the African continent.

- **Public administration must development-orientated** – it was submitted (cf. section 2.3.3) that it is necessary that whatever is implied by a developmental state in the South African perspective, good governance ought to be at the centre of developmental programmes with the intention to solve the challenges confronted by the majority of the poor communities and participation by civil society institutions should be encouraged. It was argued that regardless of an economic policy being implemented by government it would be difficult to achieve the country's developmental agenda if public administration is corrupt and does not promote professionalism. The scale of possible corruption as a result of the private sector is assumed to be lacking in this argument. Most of the projects intended to address developmental goals require a substantial sum of money. Therefore, the statutory principle that government must be development-oriented should be supported by the public servants who are sensitive to the developmental goals of the country. This is relevant to the Gauteng Province because it seeks to modernise its public transport infrastructure.
- **Services must be provided impartially, fairly and equitably** – it was underscored (cf. section 2.3.4) that for services to be delivered impartially, fairly and equitably it requires a public servant who is neutral in the execution of all its duties. The researcher argued that neutrality is a contestable aspect in public administration since instances of favouritism are reported on a regular



basis. As much as the processes need to be fair and impartial the focus should not compromise quality of providing services to the public. The impartial, fair and equitable distribution of public resources is also central to address corrupt activities in public administration.

- **Responsiveness and participation in policy-making** – it was highlighted (cf. section 2.3.5) that there is adequate and damning evidence in South Africa to signify that the lack of consultation has resulted in unnecessary conflict, differences and disarray. The Gauteng Province’s citizenry is relatively educated compared to most provinces in South Africa. It was revealed that Thomas (2010:175) accentuates that as education levels continue to rise, and as individuals become more educated, they become more resistant to governmental edicts and more insistent on having opportunities to speak to the nature of programmes that will affect them. This conforms to the majority (36.6%) of the respondents for this study who revealed that they have an honours degree/B-Tech (cf. section 7.2.7). The highlight of the principle of participation in policy-making is the suggestion by Nabatchi (2010:159) who refers to impressive citizen participation as: “deliberate democracy” which broadly refers to conveying public administration resolution processes with rational conversations and unified verdicts of all affected stakeholders. Nabatchi (2010:160-161) also argues that the reason why public administration should take deliberate democracy seriously include, *inter alia*, that it is central in upholding democratic principles which require members of the public to participate in decision-making processes. Deliberate democracy can help rediscover the role of the citizens in the discipline to determine community matters.
- **Accountable public administration** – it was argued (cf. section 2.3.6.) that the inclusion of accountability in both the Constitution, 1996 and Public Service Code of Conduct, which are two fundamental documents for a public servant in South Africa, underscores that they must constantly be aware that their actions and decisions stand to be scrutinised. This confirms that when politicians are elected into positions of power, they are not entirely independent because they

are answerable to the general public. Perhaps, it is worthy to consider the suggestion by Sindane (2009:498) that justifications for the lack of accountability should not be accepted irrespective of their rationale. It was affirmed that effective consequence management would result in public servants exercising due care of the public resources that they are entrusted with by the public.

- **Fostering transparency** – it was highlighted (cf. section 2.3.7) that brave individuals are needed to drive transparent processes in most instances, to expose secretive and corrupt deals. It was further stated that there will always be attempts to obstruct the disclosure of information. The principle of fostering openness seeks to encourage the general public to demand accountability from their leaders in public administration. It was revealed that the provincial government had introduced the Open Tender Process to ensure fair, transparent and equitable supply chain management processes within the Gauteng Provincial Government departments. It was highlighted that there are other areas where decision-making should be transparent, for example, human resource management because most cases of alleged corruption is reported in the province in that division. It was argued that the general public should also be able to influence the behaviour of corrupt government officials to make sense and complete the transparency value chain. This requires disclosure of information, investigation and implementation of appropriate sanctioning measures.
- **Cultivate good human resource management practices** – the argument made (cf. section 2.3.8) for this principle relies on the widely reported research by Adam Smith (*The Wealth of Nations* in 1776) which concluded that the nation succeeds not because of its natural resources, but its dedicated human resources. The competency of human capital is a significant influence for any government institution to deliver on its mandate. The argument was extended to underscore that the quality of human resource must be accompanied by professionalism. It was highlighted that the most important requirement for human resource management within the public sector is not only the

distribution of the Public Service Codes of Conduct but also to ensure effective implementation that would guarantee ethical behaviour.

- **Public administration must be broadly representative** – it was highlighted (cf. section 2.3.9) that South Africa has experienced certain challenges in the implementation of the legislation intended to address the imbalances of the past. These challenges have unfortunately resulted in great harm to the intended objectives. It was, therefore, argued that appointing officials who are unsuitable for their jobs compromises service delivery to communities and creates tension between employees in the working environment. Therefore, the Gauteng Provincial Government needs a representative public administration that is recruited on merit and is equally skilled to provide services to all who reside in the province.

Chapter two demonstrated that the democratic principles outlined in the Constitution of the Republic of South Africa should be fulfilled if public administration is to be realised and improved, especially taking into consideration that these principles are critical to solve challenges such as the fight against moral decay in South Africa.

### **8.2.2 [RO2]: To examine international best practice on the implementation of professional ethics and anti-corruption legislation.**

Chapter three considered specific protocols, as signed and ratified by the Republic of South Africa as well as programmes designed to combat unethical conduct by perceptible and reputable international organisations were briefly highlighted and scrutinised. It was reported that Transparency International, which is a coalition of international civil society institutions at the forefront to combat unethical behaviour with local chapters in more than 100 countries, received prominence after the ‘cancer of corruption’ lecture in 1996. The chapter provided a brief overview of international anti-corruption best practice in selected Scandinavian countries (Denmark, Finland and Sweden). It was noted that high-spending and high-taxation Scandinavian states are an ideal best practice to inhibit corruption because they are regularly ranked among the most ethical countries on earth. The chapter discussed key ‘Nordic’ factors which explained why the Scandinavian countries excel in

managing and controlling corruption. Examples of developing countries, for example, Botswana, Singapore [a developing country at an advanced stage] and Georgia that have done significantly well in fighting corruption was also presented. The general unanimity held among global organisations such as Transparency International (2006) and World Bank (2007) is that unethical conduct is the fundamental reason why developmental programmes perform poorly.

Chapter four is linked to RO2 because it is contextualised in the South African environment including the arguments presented by both Scandinavian as well as developing countries that have managed to inhibit the scourge of corruption. The arguments were summarised (cf. section 4.3) as follows:

- **The design of the implementation model:** The ITPOSMO model is highly recommended for effective implementation of anti-corruption legislation or initiatives.
- **Culture:** It was argued that society should guard against the use of culture to justify corrupt activities because stealing resources that are intended for others is against *ubuntu* (humanity – doing to others as you want them to do to you) which is the fundamental pillar to eradicate corruption and promote, among others, ethics of caring, honesty and trust.
- **Democracy:** It was argued that democracy is a necessary but not an adequate requirement to fight corruption as the South African case study has proven. Hence, it was submitted that attention should be on the ‘quality of government’ which requires that processes in the public service should consistently consider the principles of public administration. The components of the quality of government are similar to the principles expected from public servants as stipulated in Chapter 9 of the Constitution of the Republic of South Africa, 1996.
- **Political will:** It was argued that there is overwhelming evidence that South African politicians have not demonstrated political will in decisively managing the scourge of corruption. Hence, it was concluded that the affirmation by

Heeks and Mathisen (2012:1) in the South African context might, therefore, be considered true that the few political leaders who benefit from corrupt practices will not make a concerted effort to implement reforms since these would lessen their opportunities.

- **Collective action:** It was submitted that a lesson learnt regarding collective action is that public servants in partnership with political principals and the general public need to work as a collective to inhibit corruption. More profoundly, in conformance to arguments presented (cf. section 2.3.1) that exemplary leadership must be displayed and collective action should also be accompanied by effective consequence management to send a strong message to all who are implicated in corrupt activities could result in severe punishment.
- **Big Bang Theory:** It was argued that if a decision is taken to implement anti-corruption reforms, it should target the entire system and not certain aspects thereof.
- **Dedicated anti-corruption agency:** It was argued that the formation of a distinct and autonomous anti-corruption body is essential but not a determining factor to implement ethics and anti-corruption legislation. International best practice has revealed that Scandinavian countries have managed to control corruption without necessarily forming dedicated anti-corruption agencies.
- **Meritocracy:** It was argued that the implementation of meritocracy in the South African public administration should be prioritised and consideration should be exercised in ensuring that the imbalances of the past are equally addressed by employing the deserving individuals.
- **Increasing public servant's salaries:** It was stated that the call for a salary increase for public servants is not worth considering because evidence has revealed that these are already on par with their private sector counterparts.

Greed among public servants implicated in acts of corruption can be cited as a motivation rather than low salaries.

- **Rule of law:** It was concluded that the implementers of ethics legislation should scrutinise the alleged cases of unethical conduct and produce evidence because the justice system in South Africa is competent and trustworthy.
- **Collaboration with other sectors:** It was observed that the ineffectiveness of the National Anti-Corruption Forum is disadvantaging the efforts to fight corruption in South Africa. International best practice has revealed that the fight against corruption yields results when sectors of society combine their strategies and form strong partnerships to address this scourge.
- **Size of government:** It was argued that irrespective of the size of the public sector, accountability mechanisms must be implemented and used effectively i.e. Public Protector, Public Service Commission and National Prosecuting Authority.

It can, therefore, be affirmed that the study had achieved RO2 because the international best practice for the implementation of professional ethics and anti-corruption legislation which covered a total of six countries was examined. The features that enable these countries to successfully control the levels of corruption were contextualised for the South African environment.

### **8.2.3 [RO3]: To explicate the challenges and weaknesses in the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.**

The intention of chapter five was to specifically address RO3. It was highlighted that the implementation of legislation is defined by various scholars and practitioners because of the procedure by which legislation is actioned by the appropriate stakeholders. The three theories of implementation (cf. sections 5.3.1, 5.3.2 and 5.3.3) were explained in detail: top-down theory, bottom-up theory and hybrid theory

of implementation. Most importantly, the bottom-up theory of implementation which requires active citizenry which participates in the implementation of existing legislation and the member's expertise who can make informed decisions can be linked to the arguments (cf. section 2.3.5) which refers to impressive citizen participation as: "deliberate democracy". The latter broadly refers to imparting public administration resolution processes with rational conversations and unified verdicts of all affected stakeholders. Active participation of all stakeholders is required if corruption is to be addressed within the society.

Chapter five further provided an assessment of the implementation progress and concluded (cf. section 5.7) by noting the challenges identified in the implementation of legislation within the Social Sector Cluster in Gauteng Province as follows:

- Public Service Amendment Act, 2007 (Proclamation 30 of 2007);
- Special Investigating Units and Special Tribunals Amendment Act, 2001 (Act 2 of 2001);
- Public Finance Management Amendment Act, 1999 (Act 29 of 1999);
- Promotion of Access to Information Act, 2002 (Act 54 of 2002);
- Treasury Regulations (2001);
- Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);
- Public Service Regulations (2016); and
- Protected Disclosures Amendment Act, 2017 (Act 5 of 2017).

It can, therefore, be argued that RO3 was achieved because chapter 5 managed to explicate the challenges and weaknesses in the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province.

**8.2.4 [RO4]: To contribute, in the form of a framework to the body of knowledge for the implementation of professional ethics and anti-corruption legislation by the departments in the Social Sector Cluster in Gauteng Province.**

The details of the proposed framework for the effective implementation of professional ethics and anti-corruption legislation by the departments within the Social Sector Cluster in Gauteng Province (cf. section 8.5).

### **8.3 COMMENDATIONS**

The opening discussions of the study in certain instances is perceived negatively as an attempt to expose weaknesses and challenges of that particular setting. However, this was not the case. To demonstrate that research also seeks to elevate best practice for others to learn from, the commendations that observed by the researcher on both conducting the research as well as on the implementation of ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province are highlighted briefly. Firstly, the commendations for the actual implementation of ethics and anti-corruption legislation are as follows.

- **Full compliance with disclosure of interest** – full compliance by the departments within the Social Sector Cluster with the Public Service Regulations (2016) which, among others, requires members of the SMS to disclose their interests is commended. This can identify conflict of interest and punish those implicated in ethical violations.
- **Dedicated unit** – the establishment of the Integrity Management Unit within the Office of the Premier is commended because this will strengthen their role to provide oversight and monitor adherence to ethics and anti-corruption legislation by departments in the province.
- **Transparent procurement process** – the introduction of the Open Tender Process by the Gauteng Treasury to ensure transparency of the assessment



and awarding of tenders in the province. This will eliminate ethical violations associated with the supply chain management processes.

- **Reporting cases of financial misconduct** – the departments under the Social Sector Cluster are also commended for reporting the cases of financial misconduct to the Public Service Commission although the bulk of these funds have not been paid back by the implicated officials. This conforms to ensuring transparency processes within the public service.
- **Combining expertise to tackle the societal challenge** – the formation by the Office of the Premier of an Integrity Promotion and Anti-Corruption Committee to be chaired by an independent person and comprise of experts from various sectors is welcomed and conforms to the realisation that government alone will always struggle to implement ethics and anti-corruption legislation effectively.

Secondly, commendations for conducting the research are as follows:

- **Approval to conduct research:** the study was approved by the University of Pretoria and the Office of the Premier. The approval by Ms Phindile Baleni, Director General is commendable when one considers that corruption related studies are generally perceived as having malicious intent to expose wrongdoing rather than seek to eliminate the scourge. The Heads of Department who granted invaluable time during their management meeting to collect data are also commended.
- **Response rate:** the response rate which was 44% was considered sound under the circumstances that it targeted officials in management positions who are often overwhelmed to meet tight deadlines. They are commended for finding time to participate in the research.

## 8.4 RECOMMENDATIONS

The study evaluated the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. Certain pertinent findings were identified. The recommendations to address each finding are outlined. It is hoped that these findings and recommendations will contribute towards the development of the proposed framework. The specific findings and recommendations are as follows:

### 8.4.1 Limited number of employees are capacitated on ethics (including the Code of Conduct for the Public Service)

The research confirmed that a limited number of employees within the Social Sector Cluster are capacitated on ethics and anti-corruption (including the Code of Conduct for the Public Service). The latest available statistics (cf. section 5.4.1.1) from the Public Service Commission for 2014/2015 and 2015/2016 exposes the lack of prioritisation of ethics and anti-corruption programmes by departments within the Social Sector Cluster. This can be submitted as the evidence of non-adherence to the Minimum Anti-Corruption Capacity requirements which advise Accounting Officers to arrange the ethics capacity building initiatives which, *inter alia*, should encourage adherence to departmental and national policies as well as the principles required for an effective public service.

**Recommendation one : Compulsory ethics and anti-corruption capacity building programmes delivered with precision and relevant content**

The ethics and anti-corruption (including Code of Conduct for the Public Service) capacity building programmes within the Social Sector Cluster should be delivered in a group discussion method which focuses on communicating and clarifying aspects of existing legislation, empower officials with moral reasoning skills and encourage those in leadership positions to be exemplary in their conduct. This will ensure that ethics capacity building programmes have the desired result which can improve the level of understanding and adherence to the existing professional ethics and anti-corruption legislation.

The recommendation is further extended to consider the following two critical issues:

- **Development of user-friendly guides** – it is common knowledge that legislative documents tend to be extensive and bulky documents. The development, distribution and clarification of the user-friendly guides should be considered by the Integrity Management Unit at the Office of the Premier. The user-friendly guides are generally available from the national Department of Justice and Constitutional Development (DoJCD). The guides can be developed in consultation with the Chief Directorate: State Law Advisory Services, which is partially responsible for legislation-related issues when these are not available from the DoJCD.
- **Review the role of State Law Advisory Services** – the reviewed literature revealed that effective implementation of legislation could be enhanced if the existing pieces are not open to interpretation by public servants. It is suggested that the Chief Directorate: State Law Advisory Services at the Office of the Premier in consultation with Legal Units of the Social Sector Cluster be proactive to ensure a common understanding of the existing ethics and anti-corruption legislation. This will contribute towards the proper implementation of the ethics and anti-corruption legislation.

#### **8.4.2 Ineffective communication of success stories**

The literature review on the international best practice for the effective implementation of ethics and anti-corruption initiatives revealed, among others, that (cf. section 1.3.1) public shame for those implicated in corrupt practises is prioritised by countries that have managed to control the levels of corruption effectively. However, the case study revealed that only 42% of the respondents are aware of an official who has been dismissed after being found guilty of corruption within their departments. The majority of the respondents (53.9%) are unaware of officials within their departments who are reimbursing the money which they had pilfered (cf. section 7.3.7). The research has linked this finding to poor communication of success stories in managing corrupt activities by the departments within the Social

Sector Cluster. This is of concern because it implies that the majority of the officials at decision-making level within the Social Sector Cluster cannot relate to a situation of a decisive action on corruption in their immediate working environment. This has the potential to strengthen the perception that government's stance in general is very weak in managing corrupt officials in its ranks. Moreover, exposing corrupt high-level officials should be accentuated.

**Recommendation two : Regular dissemination of information related to finalised cases of corrupt activities and archetypal resolution of ethical dilemmas**

The Ethics and Anti-Corruption Units should collaborate with their Communications Units to ensure that the full details of the finalised corruption-related cases disseminated at regular intervals to all the departmental stakeholders. Platforms such as the departmental intranet, websites and newsletters can be used for this initiative. The information should be verified accurately in consultation with departmental Legal Advisors before it can be placed in the public domain to prevent posting inaccurate details that can result in litigation against the specific department. This will send a strong message that decisive action is taken against those implicated in corrupt activities. The following is also worthy of consideration when executing this recommendation:

- **Exposing senior corrupt officials** – the details of the officials at senior levels both at administrative and political level should be prioritised in the process of disseminating information related to corrupt activities. This can contribute towards the elimination of the perception that professional ethics and anti-corruption legislation only targets officials at junior levels while the “big fishes are not fried”.
- **Archetypal resolution of ethical dilemmas** – the continuous dissemination of information should not only be about corrupt practices but also include cases of exemplary resolution of ethical dilemmas by the departmental employees. This will elevate the status of the department by demonstrating that there are ethical employees within the environment.

### 8.4.3 Over-reliance on service providers

The research revealed (cf. section 2.2.1) that the most disquieting trend of the New Public Management in South Africa is the systemic reliance by the government on the private sector to execute their duties. This reliance has resulted in public servants assuming that the execution of their duties by the private sector absolves them from accountability. Although this was not specifically related to the Gauteng Province, the judgement of a high-profile case was submitted to demonstrate the scathing criticism of how public servants attempted to escape their constitutional obligations by placing their dependence on the private sector to protect them from being held accountable. Creecy (2015:8) confirmed that the Gauteng Province also spends substantial sums of its budget on the procurement of goods and services and advocates for public funds to be utilised in a cost-effective manner. The procurement of goods and services enable departments in the province to accomplish their aims and objectives.

It was argued that although NPM was not intended to fight corruption but rather to improve public sector performance, it was noted that the proposed approach has increased opportunities for corruption in the public sector. The Public Service Commission (2009:30) revealed the weaknesses that render the supply chain management vulnerable. In addition, the suggestion by Levin (2012:10) that a dedicated focus to address unethical conduct in the procurement of goods and services is needed to improve the state's anti-corruption institutional architecture was deemed worth noting. Furthermore, it was noted that both the National Treasury (cf. 1.3.3 section) and Auditor-General (cf. section 5.6.1) highlighted that, among others, specific vulnerabilities in the supply chain management system as one of the reasons of non-adherence to existing legislation. Hence, it was noted that there is adequate evidence to suggest that the system of procuring goods in the public service in general has resulted in increasing opportunities for corruption.

The case study revealed (cf. section 7.3.1) that only 31.1% of the respondents agree that their department's external stakeholders possess relevant information related to ethics and anti-corruption legislation. Most importantly, only 37.2% (cf. section 7.3.2) of the respondents agreed that their departmental stakeholders have the necessary

technology to report cases of fraud and corruption to ensure effective implementation of ethics and anti-corruption legislation. From the grouping of the revelations of the case study and literature, it can be concluded that there is a strong possibility that service providers within the Social Sector Cluster do not possess the relevant information and technology to report incidents of corrupt activities. This does not conform to effective implementation of professional ethics and anti-corruption legislation.

### **Recommendation three : Build capacity within organisational structures**

The departments within the Social Sector Cluster in Gauteng should consider developing their organisational structures to include internal capacity for services generally required from the service providers. This recommendation would probably require time for proper implementation but it's a step in the right direction in terms of eliminating corrupt practices associated with the procurement of goods and services.

#### **8.4.4 Meagre consultation with stakeholders**

It was argued (cf. section 5.3.1) that the description of the top-down theory consents the submission of an observation which conforms to the South African context, that is, a single national government formulates the relevant legislation and it is expected that the three spheres of government would implement the statute. This could point to a minute role played by stakeholders in terms of designing the ethics and anti-corruption legislation because central government is in full control. However, legislation can only be implemented effectively if the stakeholders within society participate in the process. There was no evidence to suggest that the stakeholders within the Social Sector Cluster do not participate in the ethics and anti-corruption legislation implementation process. In fact, the case study revealed (cf. section 7.3.6) that 35.7% of the respondents agree that management in their departments regularly consult with the departmental stakeholders to ensure effective implementation of professional ethics and anti-corruption legislation.

#### **Recommendation four : Encourage deliberate democracy**

There is a need to encourage what Nabatchi (2010) refers to a ‘deliberate democracy’ within the Social Sector Cluster. It is advised that public administration should consider ‘deliberate democracy’ seriously because it is central to upholding democratic principles which require members of the public to participate in the decision-making processes. ‘Deliberate democracy’ can help rediscover the role of the citizens in the discipline of determining community matters and more importantly, eliminating corrupt practices within society.

#### **8.4.5 Nominal provincial approach to resolving alleged cases of unethical conduct**

The research observed that the Social Sector Cluster has only four departments (Education; Community Safety; Health; Human Settlements) which have dedicated internal investigative capacity while five departments (Cooperative Governance and Traditional Affairs; Office of the Premier; Social Development; Sports, Arts, Culture and Recreation; Treasury) rely comprehensively on the Gauteng Provincial Forensic Audits for their investigations. As mentioned (cf. section 5.5), the Gauteng Provincial Forensic Audits is a centralised investigation unit based at the Provincial Treasury and mandated by the Premier to manage alleged cases of unethical conduct submitted by the general public and support is offered to departments who need assistance with their investigation at no cost. In addition, it has been reported that the Chief Directorate: Integrity Management based at the Office of the Premier has been established with the intention to instil integrity in business transactions by ensuring adherence to available ethics and anti-corruption guidelines across the Gauteng City Region. A closer scrutiny of the structure revealed that the Gauteng Provincial Audits is expected to be one of the directorates under Integrity Management.

International best practice on effective implementation of professional ethics and anti-corruption legislation revealed (cf. section 3.3.1.3) that coordination and cooperation among those tasked to fight corruption is fundamental if success is to be realised. It was observed that the Gauteng Provincial Audits and the Integrity

Management do not have a provincial approach to manage cases of alleged corruption. They seem to work independently with minimal resources. There is also a backlog in terms of investigating and finalising cases of alleged corruption (cf. section 5.4.3). The spontaneous arrangement with the Labour Relations Unit which, *inter alia*, is responsible for implementing the recommendations of the investigation reports is also contributing to this nominal provincial approach to resolving alleged cases of unethical conduct in Gauteng.

**Recommendation five : Restructuring of the provincial investigation and integrity management approach**

It is recommended that the Office of the Premier fast track the process of restructuring the investigation and integrity management provincial approach by ensuring coordination and cooperation between the Gauteng Provincial Audits, Integrity Management and Labour Relations. These should not be distributed between two departments but under a single department to maximise available scarce resources. It is anticipated that the restructured approach can benefit the departments within the Social Sector Cluster to implement the existing ethics and anti-corruption legislation effectively and, among others, assist with the following:

- **Fast track disciplinary cases** – it was revealed (cf. section 5.4.4.1) that there is a low rate of cases of disciplinary process that have been finalised within the prescribed timeframe. This is partly attributed to capacity challenges of Presiding Officers. Hence, the restructured approach has a potential to improve this rate and contribute towards effective implementation of ethics and anti-corruption legislation. The current pool of Presiding Officers will be increased and they will be rotated to ensure their effectiveness in finalising disciplinary cases.
- **Compiling relevant evidence** – it was concluded (cf. section 4.2.9) that the justice system in South Africa is competent and trustworthy. Implementers are required to realise ethics legislation, scrutinise the alleged cases of unethical conduct and produce relevant evidence for the justice system to take its course.



- **Big Bang Theory** – the restructured approach can ensure that if a decision is taken to implement anti-corruption reforms, it should target the entire Social Sector Cluster and the resources are utilised effectively during that process (cf. section 4.2.6). For example, there seems to be a duplication of functions between the Gauteng Provincial Audits and Integrity Management because these are responsible for intensifying ethics awareness programmes.

The role of the Gauteng Public Service Integrity Commissioner, which ensure impartial implementation of ethics procedures and further consider allegations related to political office bearers (Members of the Provincial Legislature including Members of the Executive Council), should be strengthened to effectively promote measures put it place to deal with unethical conduct.

#### **8.4.6 Poor rate of recovery of funds lost due to financial misconduct**

The research noted (cf. section 1.2) that due consideration must be given to the challenges being experienced with the enforcement of the Public Finance Management Act, 1999 (Act 1 of 1999) including Treasury Regulations which requires the department to both report and recover money lost due to financial misconduct. The PSC (2016:14-17) revealed that out of 649 cases of financial misconduct which was finalised during the five-year period from 2011/2012 to 2015/2016 financial years, a staggering sum totalling R90 696 200.08 was lost due to financial misconduct by the Gauteng Provincial Government departments. It was further revealed (cf. section 5.4.4.2) that according to the Public Service Commission (2017:18) the overall financial cost of cases of financial misconduct implicating the Social Sector Cluster departments for the 2011/12 to 2015/16 financial years was R18 641 710.50.

The amounts still need to be recovered by the Social Sector Cluster departments from the officials who had been implicated in each finalised financial case of misconduct. It was argued that the failure to recover funds lost due to financial misconduct is failure to effectively implement the legislation. The Treasury Regulations are clear in terms of demanding recovery of funds from those who are implicated directly. It important to highlight that the majority (53.9%) of the

respondents in the case study are unaware of an official who is reimbursing the money that was embezzled in their department (cf. section 7.3.7).

**Recommendation six : Detailed analysis of finalised cases for financial misconduct**

It is recommended that more than instituting criminal proceedings against the implicated officials, each departmental Labour Relations Unit in consultation with Legal Services, Human Resources and Anti-Corruption Units conduct a detailed analysis of all finalised cases on a quarterly basis. This will determine the process of deducting from the implicated employee's monthly salary or starting an official process of requesting to deduct money from their pension funds. The Pension Fund Act (including the rules of the Government Employees Pension Fund) can be consulted to determine which deductions are permissible in this regard.

**8.4.7 Lack of focused approach to instilling values**

It was argued that the writers of the Constitution, 1996 were expected to separate democratic values (transparency, accountability and participation), ethical values (integrity, honesty, respect, loyalty, compassion) and human values (civility). The separation of ethical values has the potential to encourage constant ethical behaviour among public administrators/servants. This could have been highlighted in the Constitution of the Republic of South Africa. The integration of values somehow decreases their significance because they are perceived as something that is needed "by the way".

**Recommendation seven : Intensify promotion of ethical values**

It is recommended that the components of the Social Sector Cluster prioritise the promotion of ethical values as these have a potential to eliminate unethical conduct.

#### **8.4.8 Dearth of cooperation with other sectors**

It was argued that the implementation of reforms to address unethical conduct is not the responsibility of the government alone but all sectors of society and further revealed that the international best practice has revealed that the fight against corruption yields results when sectors of society combine their strategies and form strong partnerships to address this scourge (cf. section 4.2.10). The ineffectiveness of the National Anti-Corruption Forum was noted. The initiative by the Gauteng Provincial Government to launch the Gauteng Integrity Promotion and Anti-Corruption Committee was perceived as the step in the right direction in terms of effecting expertise from various sectors to address unethical conduct in the province.

It was of concern that the majority of citizens in the province revealed that corruption is the primary threat to democracy (cf. section 1.2). This can be partially attributed to, among others, the lack of coordinated strategies by sectors in the province. The research also revealed that this has a potential to encourage citizens to take individual responsibility to fight corruption rather than formulate rules. For example, if the common factor as revealed (cf.1.3.1) in all religious beliefs is the castigation of corruption then the religious sector has a fundamental role to play in a highly religious society such as South Africa.

#### **Recommendation eight : Strengthen collaboration with other sectors of society**

Each department within the Social Sector Cluster should have an approved multi-sectoral plan to manage corruption decisively. These departmental plans can support the work of the Gauteng Ethics Advisory Council. The departmental plan can include, *inter alia*, the memoranda of understanding with religious organisations on how officials implicated in corrupt activities will be reported to their religious affiliations.

#### **8.4.9 Undetermined targets for political will**

The literature review (cf. section 1.3) was categorically clear that success of the implementation of anti-corruption reforms can only be realised if political will exists. Furthermore, the international experience (cf. section 3.3) for the three developed and three developing countries that have remarkably managed to control corruption, have proven the commonly held assertion true that the implementation of anti-corruption reforms are bound to fail if not complemented by a strong political will. Hence, the framework for the effective implementation of professional ethics and anti-corruption legislation for the Social Sector Cluster departments would not be able to consider this crucial aspect.

Although referring to officials at administrative level, it is also deemed appropriate for those at the political level. Thus, the finding is linked to the case study which revealed (cf. section 7.3.6) that the majority of the respondents (81%) agree that the implementation of ethics and anti-corruption legislation should be monitored through the manager's employment contracts.

#### **Recommendation nine : Setting realistic annual targets for political principals**

The annual performance plans of the political principals (Members of the Executive Council) responsible for departments within the Social Sector Cluster should include realistic annual targets for the implementation of ethics and anti-corruption legislation. These should include, *inter alia*, commitment to fully implement the recommendations of the chapter nine reports and 10 institutions and commit resources for ethics and anti-corruption programmes.

More importantly, the Members of the Executive Council within the Social Sector Cluster should commit to be exemplary at all times while occupying public office and accept that action must be taken against them when proven to have demonstrated unethical conduct. The political principals should also be advised to stay clear of the administrative processes within their departments.

#### **8.4.10 Apprehensive decision-making process**

Although the case study revealed (cf. section 7.3.6) that 58.9% of the respondents agree that management has introduced structures to implement the ethics and anti-corruption legislation effectively, the actual evidence would seem to suggest that challenges of unethical conduct within the Social Sector Cluster remain. It is in this regard that the referendary system which has proven to have assisted government departments in Finland with internal mechanisms for decision-making to limit the opportunities for public servants to participate in corrupt activities (cf. 3.3.1.1).

The referendary system is reported to be an effective measure to eliminate unethical conduct because the prospective briber must convince both the decision-making public servant and overseeing supervisor (referendary). Hence, the tightening of approval of decisions, particularly for the high-risk areas, has a potential to limit unethical conduct within the departments in the Social Sector Cluster.

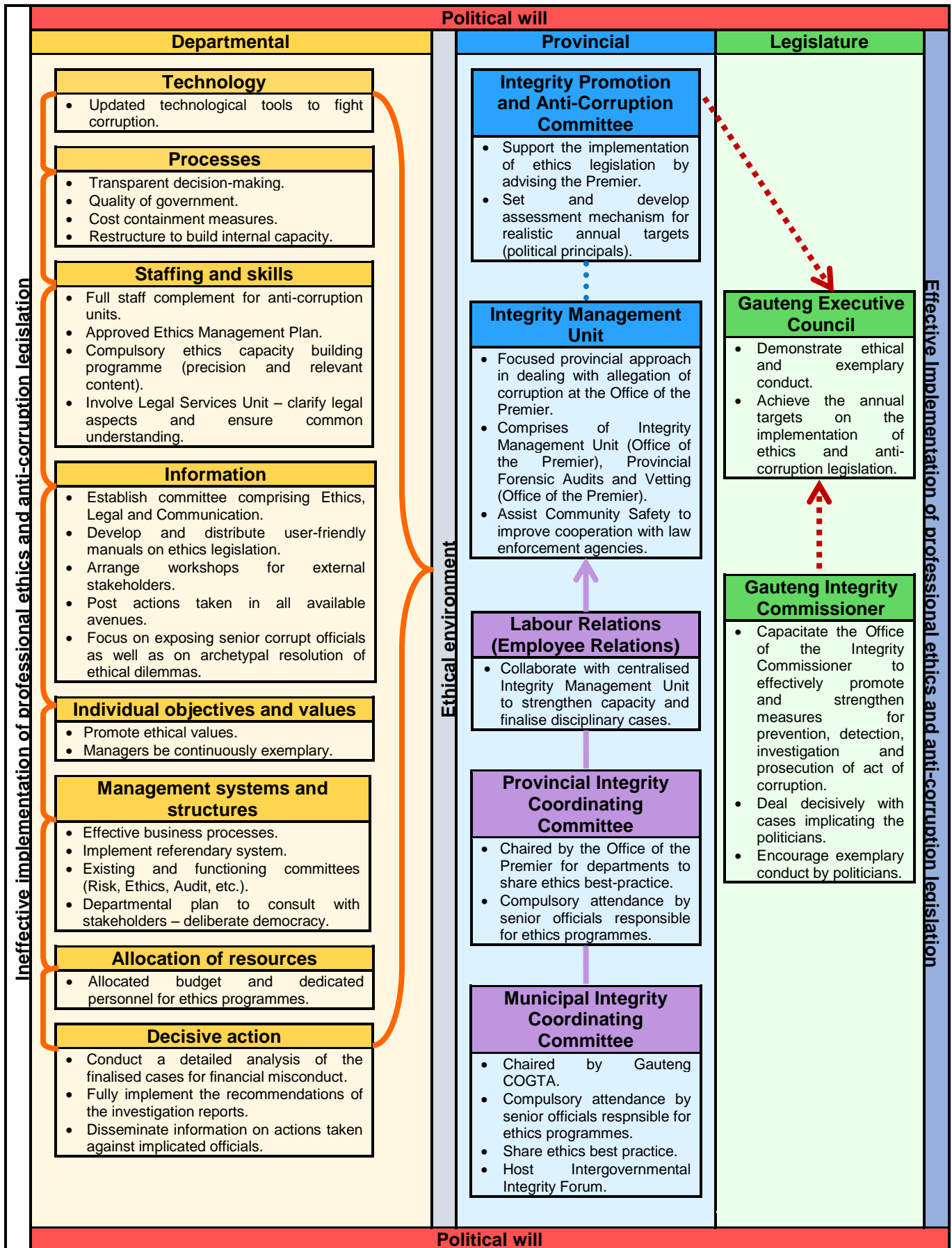
#### **Recommendation ten : Implement the referendary system within high risk areas**

It is recommended that the decision-making process for officials in high risk areas should be closely monitored by their supervisors and the officials should be requested to submit the evidence that enabled them to arrive at their final decisions. This recommendation is illustrated with the following scenario: The request for quotations in the public service is generally advertised in the newspapers and assessed by a committee for contracts that are above R500 000.00. Requests below this amount are generally left to the officials responsible for procurement to finalise the process. The immediate supervisor at Supply Chain Management and the Project Manager should request as part of the approval process the list of the service providers that were approached to submit quotations, verify the contact details that were used, time of request and submission as well as ensure that interested service providers are given an opportunity to submit quotations.

## 8.5 PROPOSED FRAMEWORK

The proposed framework for the implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster is shown in figure 8.1.

Figure 8.1: Proposed framework



The diagram illustrates the proposed implementation framework for the professional ethics and anti-corruption programmes within the Social Sector Cluster in Gauteng Province. The proposed implementation framework requires execution at three phases: departmental, provincial and legislature. The framework emphasises that political will is needed for the success of the actions to be implemented. It is important to note that the proposed framework at departmental phase is based on the eight new variables that were created after the seven dimensions of the ITPOSMO model was subjected to a factor analysis. The dimensions remained the same except the objectives and values which were specifically renamed individually. The dimension for other resources was divided into two dimensions: allocation of resources and decisive action. The actual implementation of the proposed framework is outlined below.

### **8.5.1 Technology**

The dimension for technology requires departments to have updated tools in fighting corruption. The availability of technology can simplify the work of those tasked to investigate allegations of corruption. Hence, the framework advocates for accessibility to technology to ensure that reporting allegations of unethical conduct, investigations and analysis of submitted disclosures by employees is conducted properly. This is directly linked to the allocation of resources by departments to support the implementation of professional ethics and anti-corruption legislation.

### **8.5.2 Processes**

The dimension for processes assumes that departments have transparent decision-making processes and officials are consulted on a regular basis before decisions are implemented. Hence, the dimension requires departments within the Social Sector Cluster to conduct a proper analysis of its procurement requirements. The departments must identify procurement expenditures that can be scaled down. This should be linked to the cost containment measures as introduced by the National Treasury.



The process must, however, not impact on the delivery of services to the citizens. A feasible plan should be developed on how organisational structures can be rearranged so that departments have internal capacity for the services that are generally required from the service providers. This will eliminate corrupt practices associated with the procurement of goods and services. More importantly, to ensure the 'quality of government', processes in the public service should be consistently considered with the principles of public administration. The values and principles as outlined in section 195 of the Constitution, 1996 refers hereto.

### **8.5.3 Staffing and skills**

Firstly, the dimension for staffing and skills assumes that the recruitment processes for departments within the Social Sector Cluster is based on merit. The competency of officials is significant because the literature review revealed that they have substantial influence on any government institution to deliver on its mandate. The inability of officials to perform their duties can contribute towards poor implementation of ethics and anti-corruption legislation because they can execute their duties incorrectly knowingly or in certain instances not even aware that they are performing prescribed tasks. It is, therefore, assumed that officials are competent and all the recruitment processes which include vetting have been performed accordingly. The second assumption is that the ethics management plan has been developed by the Ethics and Anti-Corruption Unit and approved by both the Ethics Champion (Deputy Director General level) and Head of Department.

After the basics have been achieved, the Ethics and Anti-Corruption Unit must arrange compulsory professional ethics and anti-corruption capacity building programmes which are delivered with a correct approach including relevant content. This implies that in a group discussion method, which focuses on communicating and clarifying aspects of existing legislation, empower officials with moral reasoning skills and encourage those in leadership positions to be exemplary in their conduct. This should also include Legal Services Units from the components of the Social Sector Cluster so that they can clarify legal aspects and ensure common understanding of the existing professional ethics and anti-corruption legislation.

#### **8.5.4 Information**

The dimension for information requires departments to compile accurate information on ethics and anti-corruption and have a strategy to disseminate this information to both internal and external stakeholders. This requires directorates responsible for Communication, Ethics and Anti-Corruption and Legal Services to continuously combine their efforts and seek the approval of the Head of Department to ensure the following:

- Inform departmental stakeholders on a regular basis about the developments within the ethics and anti-corruption space;
- Develop and distribute user-friendly manuals for new professional ethics and anti-corruption legislation;
- Arrange workshops for external stakeholders;
- Post details of the finalised cases on the available avenues i.e. intranet, websites, newsletters or newsflash; and
- Focus on exposing senior corrupt officials as well as on archetypal resolution of ethical dilemmas and promotion of ethical values.

#### **8.5.5 Individual objectives and values**

The dimension for individual objectives and values departs from the assumption that departments have values that they require their officials to identify with. Hence, the dimension requires the Ethics and Anti-Corruption Units to prioritise and intensify the promotion of ethical values because these have a potential to eliminate unethical conduct. In the process, the managers should be encouraged to be exemplary in executing their duties.

#### **8.5.6 Management systems and structures**

This dimension can be easily understood if management systems and structures are explained individually. Firstly, dimension for management systems requires internal business processes within the departments to be effective and not weak for probable

manipulation for unethical conduct. Hence, the referendary system should be implemented particularly for officials in high risk areas. The referendary system requires decision-making processes to be closely monitored by the supervisors and officials who are requested to submit the evidence that assisted them to arrive at their final decisions.

Secondly, the management structures assume that Audit, Risk and Ethics Committees within the department exist and are fully functional. These committees combine their effort to prepare the departmental input to the Integrity Promotion and Anti-Corruption Committee on a quarterly basis. Furthermore, the departments should have a plan on the consultation of their stakeholders and activities of this should also be in a departmental submission to the Integrity Promotion and Anti-Corruption Committee. This can be linked to suggestions for encouraging deliberate democracy within the Social Sector Cluster which is widely known to be central requiring members of the public to participate in decision-making processes and encourage citizens to participate in community matters which can include, *inter alia*, eliminating corrupt practices within society.

Having observed that there is no dedicated capacity within most departments to effectively implement ethics and anti-corruption legislation, the framework would be beneficial for the Social Sector Cluster components in a restructured approach to combine the activities of the Gauteng Provincial Audits, Integrity Management and Labour Relations. The limited available resources could be centralised under the auspices of the Office of the Premier to provide effective support to departments and decisively manage unethical conduct by fast tracking disciplinary processes, compiling relevant evidence for investigation and alignment of programmes for implementation across the system. Considering the referral of serious offences of corruption to the law enforcement agencies, the Integrity Management Unit will also assist the Gauteng Department of Community Safety to improve cooperation with law enforcement agencies.

The centralised Integrity Management Unit will monitor the implementation of ethics and anti-corruption legislation through the following provincial structures:

- **Provincial Integrity Coordinating Committee:** chaired by the Head of Integrity Management at the Office of the Premier with the primary aim of monitoring and assisting departments with the implementation of professional ethics and anti-corruption legislation. The effectiveness of this committee in achieving its intended objectives should be considered and intervention mechanisms be devised where necessary.
- **Municipal Integrity Coordinating Committee:** chaired by the Gauteng Department of Cooperative Governance and Traditional Affairs which has a legislative mandate to provide oversight on municipalities and supported by the Office of the Premier to monitor and support the implementation of professional ethics and anti-corruption legislation within the local government sphere.
- **Integrity Promotion and Anti-Corruption Committee (IPAACC):** chaired by the retired judge to support the implementation of professional ethics and anti-corruption legislation. The IPAACC will advise the Premier on ethics and anti-corruption matters and further assist to set and develop mechanism for realistic annual targets for politicians in general and Members of the Executive Council for the departments under the Social Sector Cluster in specific.

### 8.5.7 Allocation of resources

The allocation of resources to ensure effective implementation of ethics and anti-corruption resources has a direct link to the dimensions for technology as well as staffing and skills. The assumption for the allocation of resources is that departments have the allocated budget and dedicated personnel to implement professional ethics and anti-corruption legislation. The fundamental point for this dimension is that the available resources are spent effectively on their intended deliverables and the personnel focus solely on their key performance areas. Key to these performance areas is the compulsory ethics and anti-corruption capacity building programmes for all employees. There is a direct link between the dimension for allocation of resources and the dimension for staffing and skills.

### 8.5.8 Decisive action

The dimension for decisive action should be the responsibility of the key role players such as the centralised unit at the Office of the Premier, Integrity Commissioner at the Gauteng Legislature, departmental Ethics and Anti-Corruption Units. One of the key actions to ensure that money lost through financial misconduct is recovered will be to guarantee that a detailed analysis of the finalised cases for financial misconduct is conducted with the intention of devising feasible strategies to recover these funds.

More importantly is to ensure that the recommendations of the investigation reports are fully implemented by the department. The actions taken should be used as part of the information disseminated to all the stakeholders to demonstrate the will to implement professional ethics and anti-corruption legislation. Consequently, there is a direct link from the dimensions for decisive action and information to ensure that actions taken are communicated to the departmental stakeholders and is part of encouraging transparent processes in the public service.

It should be underscored that, as demonstrated by the framework, the success of this dimension is solely based on the political will. It cannot be further accentuated as the literature revealed that the success of the implementation of ethics and anti-corruption legislation is determined by the support received from high-level politicians. This can be partly realised by ensuring that the Annual Performance Plans of the political principals responsible for departments within the Social Sector Cluster include realistic annual targets on the implementation of professional ethics and anti-corruption legislation.

The proposed framework for the implementation of professional ethics and anti-corruption legislation will be able to assist the components within Social Sector Cluster to manage unethical conduct conclusively. Of greater significance is that the framework is proactive rather being reactive in that it creates an ethical environment that allows public servants to adhere to their ethical values.

## 8.6 RECOMMENDATIONS FOR FURTHER RESEARCH

The focus of the study was the Social Sector Cluster in the Gauteng Province and the findings are applicable only to the sample identified within this cluster. The following focus areas can be considered for future research.

- **Local government sphere** – the Fifth Administration in Gauteng Province seeks to harmonise the implementation of its programmes across the province. Hence, it is often called the Gauteng City Region. Research could be undertaken to determine the effectiveness of the implementation of professional ethics and anti-corruption legislation within the municipalities in the province. This study can formulate intervention mechanisms, especially taking into consideration the widely reported malfeasance at this sphere of government.
- **Other clusters** – Gauteng Provincial Government is divided into three clusters, namely: Social Sector Cluster, Economic Cluster as well as the Governance and Planning Cluster. Thus, further research could endeavour to include the same research project at either the Economic Cluster or Governance and Planning Cluster. A comparison could be made of the differences and similarities of the implementation of professional ethics and anti-corruption legislation within these clusters.
- **Actual implementers** – the sample for the study only reflected on the perceptions of the Senior Management Service (SMS) members within the Social Sector Cluster in the Gauteng Province. It is, therefore, assumed that further research focusing on officials at Middle Management Service or lower levels which are the actual implementers of government programmes might produce alternative findings. The placement of these officials within the departmental structures could result in them reflecting on different perceptions.
- **Different implementation model** – the collection of data for the research was solely based on the dimensions of the ITPOSMO model which is highly recommended for the effective implementation of anti-corruption legislation or

initiatives. The ITPOSMO model is one of many models to assess the effectiveness of programmes. Future research could use an alternative model to assess the effectiveness of programmes within a certain setting.

- **Specific legislation** – more than 17 pieces of legislation have been enacted by the South African government. The research was not specific in its assessment. Hence, future research can focus on the implementation of a specific piece of an anti-corruption legislation within the cluster than generalise.
- **The role of religion in addressing malfeasance** – it is demonstrated (cf. section 1.3.1) that the common factor in all religious beliefs is that corruption is castigated. It was revealed that approximately 80% of the South African population should be a deadly weapon in the fight against corruption on its own. Research should be conducted within a particular setting to determine whether officials apply their religious values at the workplace to understand the high levels of corruption in a highly religious society such as South Africa.

## 8.7 CONCLUDING REMARKS

The final chapter provided a summary of the findings, commendations and recommendations as they relate to the research objectives of the study. More significantly, the final chapter contributed towards the existing body of knowledge by proposing a framework for the effective implementation of professional ethics and anti-corruption legislation within the Social Sector Cluster in the Gauteng Province. The framework is based on eight dimensions with several directly linked to others and most importantly, the framework advocates a cooperative stakeholder approach by all based on creating an ethical environment to minimise unethical conduct.

Furthermore, the chapter revealed certain conditions that resulted in limitations of this study. Areas for future research are recommended to encourage research projects that can improve public administration within the province. In conclusion, the researcher holds that there is adequate professional ethics and anti-corruption legislation to manage unethical conduct in South Africa and specifically within the Social Sector Cluster. The recommendations for this study has demonstrated what is

required which is more than the eight dimensions of the proposed framework to create an ethical culture and genuine resolve among all stakeholders for effective implementation of professional ethics and anti-corruption legislation to be realised.



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**Annexure A :      Approved letters for the Ethical Clearance**

**Annexure B :      Consent letter**

**Annexure C : Correspondence with Professor Richard Heeks**

## Annexure D : Questionnaire

**Annexure E : Mean ranks for the salary levels**



**Annexure F : Mean ranks for the name of department**

**Annexure G : Editorial Certificate**