

**MIMIMUM ANTI-
CORRUPTION CAPACITY FOR
DEPARTMENTS AND
ORGANISATIONAL
COMPONENTS IN THE
PUBLIC SERVICE**

Anti-corruption co-ordinating Committee

SUBJECT: MIMIMUM ANTI-CORRUPTION CAPACITY FOR DEPARTMENTS AND ORGANISATIONAL COMPONENTS IN THE PUBLIC SERVICE

PURPOSE

1. Requirements for the establishment of a minimum anti-corruption capacity in all departments and organisational components of the Public Service.

SUMMARY

2. In January 2002 Cabinet approved that, as part of the implementation of the Public Service Anti-corruption Strategy, a minimum anti-corruption capacity be established in departments. This entails:
 - (a) That a specified minimum anti-corruption capacity be established in all departments and public entities that fall under the jurisdiction of departments
 - (b) Guidelines on structures to accommodate the minimum functions
 - (c) National functions with regard to coordination and reporting on corruption in departments
 - (d) An implementation plan and implementation support to departments.

BACKGROUND

3. The draft of the Public Service Anti-corruption Strategy that was discussed by the Cabinet Lekgotla in July 2001 and subsequently in the Inter-Ministerial Security Committee (IMSC) proposed that a minimum anti-corruption capability be established with departments. The IMSC raised concerns about the capacity of departments to fight corruption and its relation with national anti-corruption agencies.
4. Flowing from these discussions, the Department of Public Service and Administration (DPSA) and the Office of the Public Service Commission launched a joint initiative to audit the anti-corruption capabilities of departments. The purpose of the audit was to collect information on existing anti-corruption capabilities in order to

formulate proposals to Government on the minimum anti-corruption capabilities of departments.

5. The Public Service Anti-corruption Strategy was approved by Cabinet during January 2002. The Strategy calls for increased institutional capacity to fight corruption and in this area focuses on the following three areas: The capacity of courts to preside over corruption cases, improved coordination and effectiveness of departments and agencies that have national anti-corruption mandates and improved capacity of departments to focus on anti-corruption within the departments.
6. A better understanding of the departmental capabilities compliments the review of South Africa's national anti-corruption agencies that was completed in 2000. The audit that was completed of the anti-corruption capabilities of departments also needs to be assessed in relation to other work in this area, particularly the research conducted on the effectiveness of hotlines in the Public Service and the capabilities of the internal audit functions in the Public Service.
7. The audit was completed in two phases. Phase 1 consisted of a desk-bound assessment of anti-corruption capabilities of departments, based on a questionnaire. 85 Departments participated in Phase 1. The questionnaire focused on 17 areas. The table below sets out a summary of the areas and findings:

Area	Extract/summary of findings
1.Number of departments with dedicated anti-corruption unit or unit that does similar work	57% of departments have a dedicated anti-corruption unit.
2.Existence of whistle blowing policy and mechanism	42% of departments have a mechanism in place, 35% have only a policy in place and 30% of departments have a mechanism and policy in place.
3.Experience of head of unit	Of the departments that have units, 71% of unit heads have relevant experience, 18% have no relevant experience and 10% failed to answer this question.
4.Reporting lines of unit	Of the departments with units, 90% have clear reporting lines.
5.The effectiveness of the anti-corruption unit (self-	8% rated the units as completely effective, 61% rated the units as mostly

assessment)	effective, 16% rated the units as mostly ineffective whilst 4% rated the units as completely ineffective.
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8. Phase 2 of the audit consisted of a more detailed assessment of a sample of 23 departments selected from the 85 departments that participated in Phase 1. The next table sets out a summary of the findings that focused on 10 areas and relates to 20 of the 23 departments¹:

Area	Extract/summary of findings
1. Departmental policy or mandate on anti-corruption	40% of departments have a fairly comprehensive mandate or policy of reasonable quality, together with evidence of implementation, in place. The remaining 60% have no or very basic policies, of poor quality.
2. Fraud prevention plan	15% of the departments have fraud prevention plans of excellent quality together with evidence of implementation and integration. 40% have fairly good policies in place whilst the remaining 45% have no or poor quality fraud plans.
3. Strategic objectives related to fighting corruption	10% of departments have clear written objectives which are well integrated with other objectives and with evidence of planning and monitoring against the objectives. 45% of departments have written objectives where the strategy can be deduced from whilst the remaining 45% have poorly formulated and applied objectives (5%), or no strategic objectives in place (40%).
4. Investigative procedures	15% of departments have advanced investigative capacity and 25% have a basic capacity. Of the remaining departments, 30% have a basic procedure but little awareness and 30% have no clear investigative procedure.
5. Effectiveness of	20% of departments have clear reporting

¹ Three of the participating departments (all Mpumalanga departments) could not accommodate interviews and their results are available separately.

reporting lines	lines, accountability structures and regular monitoring of effectiveness, 20% have basic reporting lines with evidence of effectiveness and good accountability, 50% have basic reporting lines but no evidence of effectiveness and 10% of the departments have no reporting lines at all.
6.Whistle blowing policy	25% of departments have whistle blowing mechanisms and policies in place, with evidence of effectiveness. 25% have either a policy or mechanism, but no indication of effectiveness. 50% have no policy or mechanism in place.
7.Public service regulations regarding corruption and fraud and staff awareness thereof	30% of departments have these available and assess these regularly, whilst 45% have these but have no evidence of assessment. 25% do not have these regulations available.
8.Anti-corruption workshops	20% of departments have had anti-corruption workshops, 60% indicated they have had workshops but gave no evidence and 20% did not have any anti-corruption workshops.
9.Cooperation with agencies	40% of departments have documented arrangements. 50% indicated that coordination arrangements existed but could not give proof and 10% have no arrangements.
10.Systematic approach to fighting corruption	50% of departments are addressing corruption in a systematic way, 40% have attempted to do so but are experiencing substantial shortfalls and 10% have no systematic approach.

9. The audit also revealed that a stronger anti-corruption capacity exists in national departments. This is of concern as more than 70% of employees are employed in provincial departments and as the majority of basic services are delivered in the provinces. Another concern is that great backlogs in the handling of disciplinary cases have been identified and six of the sample departments have attended to less than 10% of disciplinary cases.

10. In essence the audit report indicates the nature of the anti-corruption capabilities of a sample of departments and the report

provides some recommendations of a general nature. The recommendations pertain to improved reporting lines, implementation of whistle blowing mechanisms and policies, training and awareness, improved information systems, the formalisation of cooperation arrangements and sharing of anti-corruption resources.

11. In September 2003, Cabinet approved proposals for the establishment of minimum anti-corruption capacity in all Departments and organisational components of the public service. The requirements discussed below define a minimum anti-corruption capacity for departments and public entities under the jurisdiction of departments, provides guidelines to accommodate these functions within departments, allocates national responsibilities and establishes a framework for implementation.

DISCUSSION

Minimum anti-corruption capacity for departments and public entities under the jurisdiction of departments

12. The Public Service Anti-corruption Strategy emphasizes fighting corruption in a holistic manner and promotes preventative action. Main elements of corruption prevention within departments and entities include preventing and managing risks, solid management systems and practices, access to report wrongdoing and integrity of the whistleblowing system, and ongoing focussed training of employees. In terms of the Public Service Act and the Public Finance Management Act, accounting officers (heads of departments/organisations) are responsible to manage the employees and the other resources of organisations and to account for their management of these resources.
13. In order to fight corruption in departments (as defined in the Public Service Act) and public entities under the jurisdiction of departments (as listed in Schedule 3 of the PFMA), each accounting officer must, for his/her department/organisation-
 - (a) Specifically focus on and analyse corruption risk as part of risk assessment required in terms of the PFMA
 - (b) Implement fraud plans required in terms of the PFMA, which fraud plans must specifically address the corruption risk

- (c) Verify the previous employment, qualifications, citizenship and criminal record of all persons before they are employed
- (d) Establish a system or systems that encourage and allow employees and citizens to report corruption, which system or systems must provide for confidentiality of reporting, the recording of all allegations of corruption received through the system or systems and a formal institutional arrangement for acting on such allegations
- (e) Establish a capacity to-
- investigate allegations
 - institute and complete disciplinary action for cases of corruption
 - detect corruption
 - refer allegations of corruption to a relevant law enforcement agency or other appropriate agencies/bodies in terms of a formal arrangement
- (f) Establish an information system that-
- has record of all allegations
 - is able to track the progress with the management of each allegation
 - reveal systemic weaknesses and recurring risks, and inform managers and employees of systemic weaknesses/risks
 - provide feedback to employees on the management of corruption allegations
 - provide minimum information to designated national departments (see **National functions with regard to coordination and reporting on corruption in departments** discussed below)
- (g) Establish (a) programme(s) that-
- Inform employees on an ongoing basis on what constitutes corruption
 - Promote the departmental and national policies that must be adhered to, including the values and principles of public administration as contained in the Constitution and standards of professional conduct
 - Inform employees of corruption risks
 - Encourage employees to report corruption
 - Informs employees on the nature and working of protected disclosures and witness protection

- Informs employees of obligations and rights in terms of the Access to Information and Promotion of Administrative Justice Acts.
- (h) Ensure that the employees responsible for the minimum functions-
- Have positive security clearances
 - Disclose financial interests to the accounting officer on an annual basis.

Guidelines on structures to accommodate minimum anti-corruption capacity

14. Departments differ vastly in terms of organisational culture, levels of decentralisation of decision making, location (centrally located, geographical distribution of offices, etc.), size and risk profiles. Departments also have existing organisational capacity that performs some of the required minimum functions required above. Such capacity may be located in existing anti-corruption units, Internal Audit units, Inspectorate units and/or Labour relations units. Executive authorities are responsible to structure departments, and considering this autonomy, existing capacity and the mentioned differences, it is not advisable to prescribe the nature and location of the organisational structures that must ensure the minimum anti-corruption capacity required above. In view of this, the guidelines below should be considered when departments establish (a) structure(s) to accommodate the minimum anti-corruption capacity:

- (a) Departments should consider whether to accommodate the minimum functions in a single anti-corruption unit or to disperse the minimum functions in more than one unit, whether existing or new units. Departments that have regional offices should also consider whether to establish the minimum functions centrally or also in its regional offices. The decision on the nature of the unit(s) should primarily be informed by the corruption risk profile of the department.
- (b) Whether departments locate the minimum functions in a single unit or not, responsibilities, accountability and reporting requirements should be clearly defined.

- (c) Departments should ensure that the unit(s) responsible for the minimum functions enjoy unfettered access to accounting officers.
- (d) Departments that have existing units, should assess whether such units can perform the minimum functions.
- (e) Whilst it must be recognised that Internal Audit units perform a valuable role in ensuring integrity of internal processes, such units should ideally not perform the minimum functions as such units also have an audit role with regard to the anti-corruption functions and structure(s).
- (f) Departments, especially provincial departments, may consider shared capacity.

National functions with regard to coordination and reporting on corruption in departments

15. Information on the prevalence of corruption and the efficacy of departmental anti-corruption work is scarce and does not allow for analysis and risk identification on a sectoral or Public Service-wide basis. In order to address these deficiencies, the DPSA is establishing baseline information and a central management information system on corruption (Corruption MIS). The baseline and Corruption MIS will assist with compliance monitoring, risk analyses, sharing of information and learning between departments as well as policy improvement and will also aid other bodies such as Parliament and the Public Service Commission with oversight and monitoring and evaluation functions. In addition to this role of the DPSA, the National Treasury requires reporting with regard to risk assessment and fraud plans, and the Public Service Commission has the function to monitor and evaluate the application of public administration practices. In this regard the following is required:

- (a) Departments provide the DPSA with the following information at the end of each financial year:
 - (i) Number of allegations of corruption received per defined categories (categories as defined in Prevention of Corruption Bill) and service delivery areas (eg. vehicle licensing, award of housing, etc.)
 - (ii) Number of allegations in (a) handled in terms of disciplinary procedure

- (iii) Number of allegations in (a) referred to law enforcement agency or other body
 - (iv) Number of allegations in (a) not investigated for disciplinary purposes or nor referred.
 - (v) The names and relevant particulars (eg. Persal/identity numbers) of employees and non-employees (eg. bidder) guilty of corruption.
 - (vi) Description of corruption risk areas.
- (b) Departments certify in its annual report to the National Treasury that corruption risk has been assessed and that the risks are specifically addressed in fraud plans.
- (c) The Public Service Commission be requested to, on an annual basis, evaluate the efficacy of a sample of departmental risk assessments and the implementation of fraud plans, specifically focussing on corruption risk.

Implementation plan and implementation support

16. Departments need to accommodate the establishment on minimum anti-corruption capacity within budget and planning, and the nature of the structure(s) to accommodate the minimum functions needs to be informed by risk assessment. Departments may also require implementation support. Therefore Departments are required to establish the minimum anti-corruption capacity **by 31 July 2004 at the latest.**
17. Departments may require implementation support and DPSA, under the direction of the Anti-corruption Coordinating Committee and in conjunction with members of this Committee, develop a single guideline document that includes the following information:
- (a) A case study on one or more existing anti-corruption units, describing its location, functions, human resource capacity, budget relative to budget of department, accountability arrangements, reporting lines, cooperation arrangements with law enforcement agencies, etc.
 - (b) The minimum requirements of a departmental information management system (recording, tracking, etc.).
 - (c) An explanation of protected disclosures and witness protection, and the differences between the two.
 - (d) An explanation of the Access to Information and Promotion of Administrative Justice Acts.

- (e) A framework agreement for referrals to law enforcement agencies and other bodies, including information on the type of cases handled by each agency and body.
- (f) A framework agreement with civil society organisations to provide support to whistleblowers.
- (g) Guidelines on the application of the Code of Conduct.
- (h) Service providers that offer training programmes for employees typically staffing anti-corruption units.
- (i) Service providers that offer whistleblowing/hotline services.