



REPUBLIC OF SOUTH AFRICA

DIRECTIVE ON THE INSTITUTIONALISATION OF THE ETHICS OFFICER FUNCTION IN THE PUBLIC SERVICE

ISSUED BY THE MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION

DATE: 21 FEBRUARY 2024

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ANNEXURE A: GUIDE ON THE INSTITUTIONALISATION AND PROFESSIONALISATION OF THE ETHICS OFFICER FUNCTION IN THE PUBLIC SERVICE

DEFINITIONS

“**DPSA**” means the Department of Public Service and Administration;

“**EO**” means the Ethics Officer’;

“**HOD**” means the Head of Department as defined in section 1 of the Act;

“**Minister**” means the Minister for the Public Service and Administration;

“**ORW**” means Other Remunerative Work outside an employee’s employment in the relevant department;

“**PAMA**” means the Public Administration Management Act, 2014;

“**PDA**” means Protected Disclosure Act, 2000;

“**PSA**” or “**the Act**” means the Public Service Act, 1994;

“**The Regulations/PSR**” means the Public Service Regulations, 2016; and

“**This Directive**” means this Directive on the Institutionalisation of the Ethics Officer Function in the Public Service.

1. INTRODUCTION

- 1.1 Government departments are expected to perform a range of anti-corruption and ethics functions. This requirement predates the PSR, 2016. In September 2003, the Cabinet approved the Minimum Anti-Corruption Capacity Requirements for the Public Service. These requirements were infused into Chapter 2, Part 3 of the PSR, 2016.
- 1.2 The PSR, 2016 is, however, not prescriptive on the ethics organisational arrangements of departments, because it is within the power of the executive authority to structure their departments. Furthermore, departments differ vastly in terms of size and risk profiles. Hence, Regulation 23(1) of the PSR, 2016, requires an executive authority to designate or appoint a number of EOs to perform the functions stated in this Regulation.
- 1.3 It has been found that in many departments, the ethics and anti-corruption function is regarded as an add-on function to employees who also have other full-time responsibilities in the department. Many of these employees, therefore, spend most of their time on ethics administrative/compliance duties and very little on the more proactive/preventive activities such as ethics awareness-raising and ethical culture-building in the department.
- 1.4 This practice has become problematic because the workload in performing the ethics functions has increased to such an extent that most EOs struggle to attend to even the most basic compliance requirements relating to e.g., financial disclosures, acceptance of gifts, and applications to perform other remunerative work. They find it even more difficult to do justice to their preventative functions (e.g., awareness raising, advocacy and advisory services), complaints handling/referral and lifestyle reviews.
- 1.5 Where the ethics function is an add-on allocation, a major constraint is that the relevant employees prioritise their main jobs with the result that the ethics function gets less attention. The concern is also that, as the ethics function grows, those who are performing this function on an add-on basis, will no longer be able to perform the function adequately, given their overall workload.
- 1.6 Against this background, the Department of Public Service and Administration (DPSA) has taken several steps to institutionalise the EO function, including:

- (i) the EO function has been included in the new occupational dictionary as a distinct occupation;
- (ii) the PSR, 2016 has been amended to make provision for either the designation or appointment of an EO within the resources of the department and other factors such as the risk profile of the department; and
- (iii) the development of the guidelines at **Annexure A** and the sample job description.

2. PURPOSE

The purpose of this Directive is to guide the institutionalisation of the EO function in the public service by:

- (a) guiding executive authorities, within their department's internal resources, to appoint or designate Ethics Officers to perform ethics functions as stipulated in Regulation 23(1) and assist the Head of Department with their functions stipulated in Regulation 22; and
- (b) further advise executive authorities on how to go about this process through the Implementation Guidelines (Guidelines) attached as **Annexure A**. The Guidelines address the following issues:
 - (i) organisation of the ethics function; and
 - (ii) staffing of the ethics function, including a sample job description (**Annexure A of the Guidelines**).

3. AUTHORISATION

This Directive is issued by the Minister in terms of section 3(1)(h), 3(2) and 41(3) of the Act.

4. SCOPE OF APPLICATION

This Directive applies to all departments and its employees employed in terms of the Act and to members of the services, educators, or members of the Intelligence Services only in so far as the provisions of this Directive are not contrary to the laws governing their employment.

5. STATUTORY FRAMEWORK

This Directive is mandated by the following legislative framework:

5.1 Public Service Act, 1994: Section 3(1)(h) of the Act provides that the Minister is responsible for establishing norms and standards relating to integrity, ethics, conduct and anti-corruption in the public service;

Section 3(2) of the Act states that the Minister shall give effect to subsection (1) by making regulations, determinations and directives, and by performing any other acts provided for in this Act;

Section 41(3) of the Act provides that the Minister may issue directives which are not inconsistent with this Act to elucidate or supplement any regulation;

Section 32(1) of the Act empowers the EA or head of a department to direct an employee under his/her control temporarily to perform any functions other than those ordinarily assigned to the employee or appropriate to his/her grade or post.

5.2 Public Service Regulations, 2016: Regulation 23(1) requires that an “executive authority shall **designate or appoint** such number of ethics officers as may be appropriate...”, for the department to perform the functions listed under this Regulation.

5.3 Regulation 63 of the PSR, 2016 stipulates that an employee directed to perform other functions in terms of section 32(1) shall perform the functions so directed for a period not exceeding 12 consecutive calendar months.

6. DESIGNATION OR APPOINTMENT OF AN ETHICS OFFICER

6.1 DESIGNATION OF ETHICS OFFICERS

- (i) Designation in the context of this Directive means a situation where the executive authority or HOD directs an employee to temporarily perform the ethics officer function over and above those ordinarily assigned to this employee as per his/her existing grade or post which is permitted in terms of section 32(1) of the Act, read with Regulation 63 of the PSR, 2016.

- (ii) Regulation 23(1) has been amended in such a way that it allows departments to either designate or appoint EOs. The designation option accommodates departments that cannot as yet afford to appoint full-time employees to perform the ethics functions or if they have relatively low risk profiles. In terms of section 32(1) of the Act the executive authority or HOD may designate employees to temporarily perform the ethics functions over and above those ordinarily assigned to them as per their existing grade or post.

6.2 APPOINTMENT OF ETHICS OFFICERS

(a) Appointments in the public service are done through section 9 of the Act which states that an executive authority “may appoint any person in their department in accordance with this Act and in such a manner and on such conditions as may be prescribed”. The executive authority should consider the following factors in deciding whether it is appropriate to appoint or designate an EO and the appropriate number of EOs:

- (i) **Risk profile of the department:** PSR 22(a) requires the HOD to analyse ethics and corruption risks as part of the department's system of risk management. Various sources of information could be used to determine the ethics and corruption risks faced by the department (see point 2.2 of **Annexure A**).
- (ii) **Ethics management strategy:** After assessing the ethics and corruption risks facing the department, the HOD is required to develop and implement an ethics management strategy that prevents and deters unethical conduct. The ethics management strategy should also determine what kind of internal capacity is required to implement the strategy.

6.3 FUNCTIONS OF ETHICS OFFICERS

To be effective, EOs are required to perform a range of functions, including the following:

- (a) Promote integrity and ethical behaviour in the department;
- (b) advise employees on ethical matters;
- (c) identify and report unethical behaviour and corrupt activities to the head of department;
- (d) manage the financial disclosure system, including conducting lifestyle review;

- (e) manage the processes and systems relating to ORW and the acceptance of gifts by employees;
- (f) assist and support the HOD with the:
 - (i) analysis of ethics and corruption risks to guide the development and implementation of the ethics management strategy that prevents and deters unethical conduct and acts of corruption;
 - (ii) establishment of a system that encourages and allows employees and citizens to report allegations of corruption and other unethical conduct (commonly known as “whistleblowing” mechanisms).
 - (iii) establishment of an information system that records and monitors allegations of corruption and unethical conduct, including the identification of systemic risks and recurring risks; and
 - (iv) raising awareness around the prohibition on employees in conducting business with the state.
- (g) Support the Ethics Committee in carrying out its functions as stipulated in Regulation 23(2) of the PSR, 2016.

6.4 ORGANISATIONAL AND STAFFING ARRANGEMENTS

- (a) On 18 November 2015, the DPSA issued guidelines on the various support functions that should be provided for in Programme 1: Administration/ Support Functions. These guidelines suggest that under the grouping “*Executive Support, Strategy, and Governance*”, provision should be made for the functional cluster “*Risk and Integrity Management*” to ensure objectivity and independence. The configuration of ethics functions is contingent upon various criteria, including the risk profile, ethics management strategy, and complexity and proportionate representation of approved staff establishment within the Department.
- (b) There are essentially three scenarios that require different staffing solutions for the ethics functions:

- (i) For departments with relatively low-risk profiles, these functions could be designated as an add-on to officials who have other responsibilities e.g. risk management, or human resource management.
- (ii) For departments with medium risk profiles, the model can either be the add-on scenario or the full-time one, depending on the ethics risk assessment, the ethics management strategy, and the workload.
- (iii) For departments with relatively high-risk profiles, it is desirable to create dedicated unit(s) to perform the ethics functions.
- (iv) When departments design or redesign their organizational structures to accommodate the EO functions, consideration should be given to career pathing possibilities for EOs – see some suggestions in **Table 3 of Annexure A**.

6.5 SAMPLE JOB DESCRIPTION

- (a) As a start, a sample job description for the EO position is attached in **Annexure A**.

7. DATE OF IMPLEMENTATION

This Directive shall take effect on 01 April 2024.



MS N KIVIET, MP
MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION
DATE: 21/02/24



REPUBLIC OF SOUTH AFRICA

IMPLEMENTATION GUIDELINES FOR INSTITUTIONALISATION OF THE ETHICS OFFICER FUNCTION IN THE PUBLIC SERVICE

DATE:

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LIST OF ABBREVIATIONS AND ACRONYMS

Abbreviation/Acronym	Description
AGSA	Auditor-General of South Africa
CFO	Chief Financial Officer
CRO	Chief Risk Officer
DPSA	Department of Public Service and Administration
EOs	Ethics Officers
EPA	Ethics Practitioners' Association
EP(SA)	Ethics Practitioners South Africa
EU	European Union
Hawks	Directorate for Priority Crime Investigations of SAPS
HOD	Head of Department
MEC	Member of the Executive Council
NACS	National Anti-Corruption Strategy
NPA	National Prosecuting Authority
NQF	National Qualifications Framework
ORW	Other Remunerative Work (i.e., remunerative work outside their employment in the relevant department)
PA-EID-TAU	Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit
PAMA	Public Administration Management Act 11 of 2014
PDA	Protected Disclosures Act 26 of 2000
PSA	Public Service Act 103 of 1994
PSC	Public Service Commission
PSRs	Public Service Regulations 2016
SAPS	South African Police Services
SIU	Special Investigating Unit
TEI	The Ethics Institute of South Africa

1. INTRODUCTION

In terms of the Public Administration Management Act, 2014 (PAMA), the Public Service Act, 1994 (PSA) and the Protected Disclosures Act, 2000 (PDA), as well as the regulations issued in terms of these acts, government departments are expected to perform a range of anti-corruption and ethics functions.

To do so, departments are required to designate such number of Ethics Officers (EOs) as may be appropriate. Some departments have institutionalised the performance of these functions by establishing dedicated ethics and/or integrity management units while other departments have opted to use existing units or serving staff members to achieve the same objectives. The latter includes the informal designation of staff who have other full-time functions, to perform the role of EOs.

To understand how departments have responded to these requirements, and what can be done to strengthen these departmental responses, interviews were conducted with a sample of EOs from national and provincial departments over November and December 2021.

Key among the list of constructive suggestions was that the Department of Public Service and Administration (DPSA) should provide guidance on the organizational structures for the ethics function; the roles and responsibilities of EOs; their knowledge, skills, and experience requirements; reporting arrangements; and the levels at which they should be appointed.

Although the respondents encouraged the DPSA to continue with professionalising the EO function, i.e. encourage professional membership and certification of EOs, that issue is not yet addressed in these guidelines and in the Directive¹. It was also recommended that additional (mandatory) training programmes should be considered.

Following this, a decision was taken to provide advice to departments (as per these guidelines) on the organisation and staffing of the ethics function, considering variables such as their relative size, risk profile and workload. It was also agreed that the guidance will include sample job descriptions and that these job descriptions will be subjected to job grading², so that these can be used with little or no modification by departments. Furthermore, it was resolved that the guidance would not only indicate the typical job functions of EOs, but also indicate their required core competencies, qualifications and experience as well as suggested career pathing options and opportunities.

¹ Directive on the Institutionalisation of the Ethics Officer Function

² This is planned for completion during a second phase (pending the availability of the job grading system).

2. ORGANISATION OF THE ETHICS FUNCTION

2.1 Orientation

The Public Service Regulations 2016 (PSRs) are not prescriptive on the ethics organisational arrangements of departments, because, firstly, it is within the power and authority of executive authorities (typically Ministers and MECs) to structure their departments, and secondly, because departments differ vastly in terms of e.g., their size and risk profiles.

Nevertheless, departments have over the years been encouraged to establish a minimum anti-corruption capacity, even pre-dating the PSRs. In fact, in September 2003, Cabinet approved proposals for the establishment of minimum anti-corruption capacity in all departments (and public entities under their jurisdiction).

However, as the Public Service Commission (PSC) has noted³, in practice the ethics function is frequently an add-on designation to staff who also have other responsibilities. Lack of capacity means that they spend most of their time on administrative duties such as managing disclosure of financial interest, and very little on the pro-active activities such as awareness-raising and culture-building.

2.2 Factors to be considered

PSR 22(a) requires of a Head of Department (HOD) to analyse ethics and corruption risks as part of the department's system of risk management. In theory, data about the prevalence of corruption should be used to guide the HOD in determining the extent of these risks, and to develop and implement an ethics management strategy that prevents and deters unethical conduct. Such an ethics management strategy should also determine what kind of internal capacity should be put in place to perform the functions mentioned in paragraph 2.3 (in line with the well-known organisation design principle of “*structure follows strategy*”).

However, in practice such data is hard to find because corruption is usually a hidden phenomenon and attempting to determine its prevalence is therefore difficult. Hence departments should consult a variety of data sources to determine the extent and prevalence of these risks, while also anticipating future risks.

³ Public Service Commission. Report on the Outcomes of the SA-EU Dialogue on a Values-driven Public Service held on 30 September and 1 October 2019, p.20.

Typical sources of data to be considered, include the following⁴:

Table 1: Typical data sources for use in ethics risk assessments

a) Internal disciplinary and criminal cases, as well as successes and challenges in instituting disciplinary action or prosecuting such cases.
b) Perceptions surveys on ethics undertaken by e.g. The Ethics Institute of South Africa (TEI), on behalf of the DPSA or perception surveys within the department itself.
c) Reports by the Auditor-General of South Africa (AGSA) and Internal Audit, PSC and the DPSA on Financial Management, Supply Chain Management and Human Resource Management, as well as reports on financial disclosure by officials in the department.
d) Data on public sector corruption and maladministration contained in other official reports such as those of the Special Investigating Unit (SIU), Public Protector and National Treasury or Provincial Treasuries/Offices of the Premier.
e) Results of fraud and anti-corruption investigations conducted by the South African Police Services (SAPS), the Directorate for Priority Crime Investigations (DPCI), or the Investigating Directorate of the National Prosecuting Authority (NPA)
f) Research reports that contain aggregated quantitative and qualitative data on illegal or unethical conduct by public servants as well as the prevalence of crime and corruption.
g) Data on corruption as reported to corruption hotlines run by the state and/or civil society.

One of the most corruption prone government activities is Supply Chain Management. The reasons for this include the volume of transactions and the financial interests at stake as well as the complexity of the process, and the close interaction between officials and businesspeople.⁵

The Judicial Commission of Inquiry into State Capture (“Zondo Commission”) confirmed this in Chapter 4 of Part 1 of its report. Various patterns of abuse were identified in each stage of the procurement cycle e.g., procurement of goods/services which are not needed or not meant to be supplied (during the pre-tendering phase); retro-active changes to bid criteria (during the tendering phase); and contract variations and expansions (during the post award phase).

The list of potential unethical procurement practices is long: It includes uncompetitive bids; state employees participating in bids; non-compliance with supply chain management legislation, inadequate contract management, ineffective control systems, uncompetitive bidding, acceptance of less than three quotations, using an incorrect preferential point system and thresholds, and irregular expenditure.

Departments with large procurement budgets, typically for infrastructure spending, are at higher risk especially in instances where governance and internal controls are poor and

⁴ National Anti-Corruption Strategy (NACS). Diagnostic Report. October 2016. P.7.

⁵ United Nations Office on Drugs and Crime. E4J University Module Series. Module 4: Public Sector Corruption.

technical skills are in short supply. Typical corrupt practices in infrastructure procurement are collusion and fronting.

The recently released report of the SIU into COVID-19-related procurement by State institutions confirmed that there was widespread misuse of public funds in the purchase of goods and services by several departments, including health and education departments. This confirms that corruption, fraud and illicit money flows are certainly not confined to infrastructure departments.

The NACS Diagnostic Report highlight several services provided by the public sector that are prone to corruption and unethical conduct. These include:

- Policing.
- Asylum system.
- Border management.

The above list is not conclusive, and each department would have to determine its services that are at high risk.

2.3 Typical functions to be performed

Since HODs will require support to fulfil their obligations in terms of PSR 22, and considering the provisions of PSR 23(1), the typical functions of EOs include the following:

- (a) Promote integrity and ethical behaviour in the department;
- (b) advise employees on ethical matters;
- (c) identify and report unethical behaviour and corrupt activities to the head of department;
- (d) manage the financial disclosure system, including conducting lifestyle review;
- (e) manage the processes and systems relating to remunerative work (ORW) performed by employees outside their employment in the relevant department, and the acceptance of gifts by employees;
- (f) assist and support the HOD with the:
 - (i) analysis of ethics and corruption risks to guide the development and implementation of the ethics management strategy that prevents and deters unethical conduct and acts of corruption;
 - (ii) establishment of a system that encourages and allows employees and citizens to report allegations of corruption and other unethical conduct (commonly known as “whistleblowing” mechanisms).
 - (iii) establishment of an information system that records and monitors allegations of corruption and unethical conduct, including the identification of systemic risks and recurring risks; and

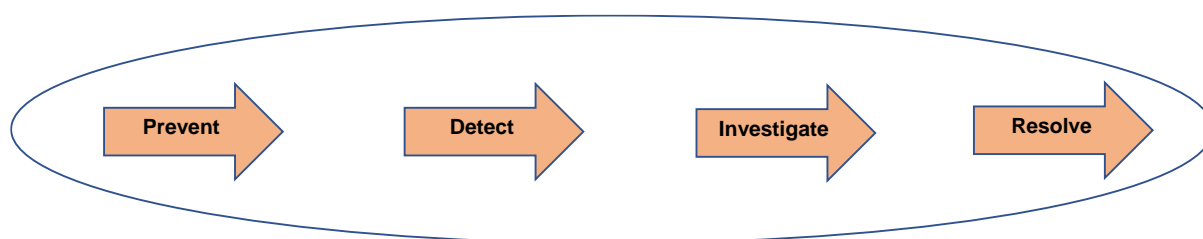
- (iv) raising awareness around the prohibition on employees in conducting business with the state.
- (g) Support the Ethics Committee in carrying out its functions as stipulated in Regulation 23(2) of the PSR, 2016.

2.4 Present work arrangements

The interviews that were conducted with EOs over November and December 2021, indicated that departments with relatively **high maturity levels in ethics and integrity** management, have dedicated units and full-time officials focusing on all, or most parts, of the ethics value chain.

The ethics value chain consists of the following inter-related parts:

Figure 1: Ethics Value Chain



Furthermore, the literature confirms that mature anti-corruption and ethics institutions/units follow a triple strategy of:

- Prevention
- Education
- Enforcement

To achieve results, all three parts of this strategy must be given adequate attention and be allocated sufficient resources. The departments that focus on all these parts of the value chain and the triple strategy mentioned above, have dedicated units and full-time officials. They are mostly departments with high-risk profiles, with large staff complements and budgets. However, even for these departments, there was a sense that their ethics work organisation and staffing can be improved. The most pertinent challenges identified were the following:

- The workload in performing the ethics functions has increased to such an extent that most departments struggle to meet the basic compliance requirements relating to e.g., financial disclosures, acceptance of gifts, and ORW. They find it even more difficult to do justice to their preventative functions (e.g. awareness raising and training); complaints

handling/referral and lifestyle audits; and conducting of own investigations or referral to law enforcement bodies.

- The ethics functions are dispersed across most departments. For example, different units receive complaints about e.g. alleged poor service delivery, ethics breaches and investigations (whether of officials suspected of misconduct and/or criminal conduct), which makes it difficult to coordinate, keep track of, and measure the effectiveness of the ethics function.

On a positive note:

- Most departments have made the link between risk management and the ethics/integrity management functions and have therefore grouped them together. In some cases, the designated Ethics Officer (EO) is also the Chief Risk Officer (CRO).
- Where investigations (or pre-investigations) are performed, there is normally a link with the anti-corruption or security function⁶.
- Furthermore, there is also a link with the Human Resource and Labour Relations unit/s, especially regarding misconduct/disciplinary cases (because a preliminary investigation may find that a provision of a disciplinary code or code of conduct has been breached which must trigger a formal disciplinary process).
- The other link is with external investigating units such as the Hawks, the SIU or the Investigating Directorate and/or the Asset Forfeiture Unit of the NPA if criminal conduct involving fraud and corruption is suspected and specialised investigations and/or asset forfeiture and/or prosecutions are required.
- Some have established dedicated units focusing on prevention and education while fraud and corruption complaints as well as internal investigations are handled by different units (so as to provide focus and attract specialist skills).

In those departments with **lower ethics and integrity risk profiles and/or maturity levels**, the ethics function is an add-on task to e.g. the risk manager, security manager, supply chain manager or the human resource manager. Here the focus is mainly on compliance with the most basic ethics and integrity requirements relating to e.g. financial disclosures and ORW. A major constraint is that the relevant officials prioritise their main jobs with the result that the ethics function gets less attention. The concern is also that, as the ethics function grows, those who are performing this function as an add-on, will no longer be able to do justice to this because they will be unable to perform this work with their existing capacity.

⁶ The security function is typically involved in physical security (e.g., access control to buildings and monitoring of closed-circuit television cameras) and vetting of staff (criminal record clearance, and security risk assessments in conjunction with the State Security Agency)

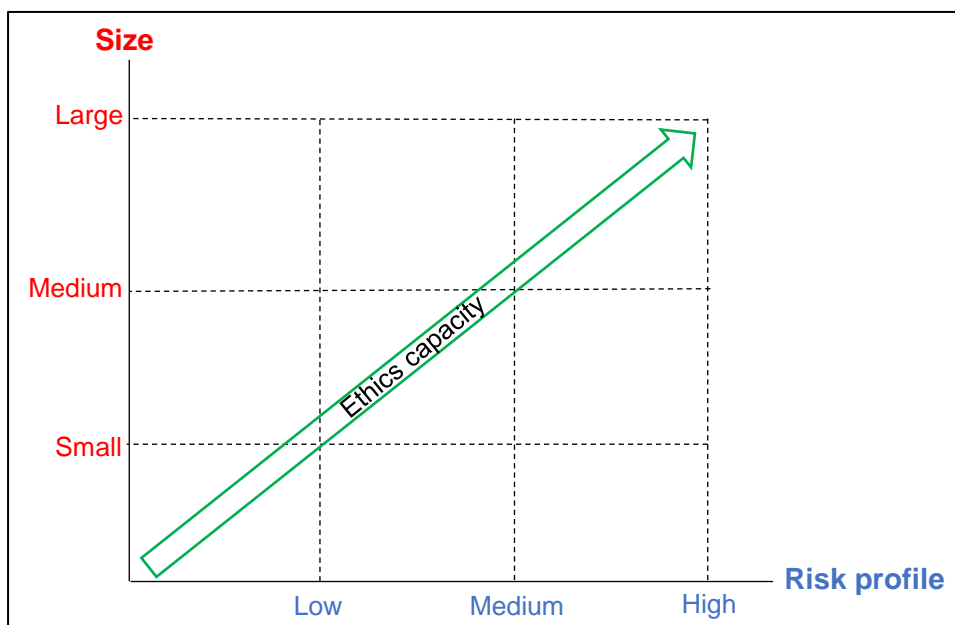
2.5 Guidelines on work arrangements

The **size** of departments is clearly a factor to consider in deciding on the ethics management and anti-corruption capacity to be put in place. **Risk profile** is the other important factor.

For example, it would be appropriate for a small department with a low risk profile to designate officials with other responsibilities as its EOs to perform the ethics function of the department on add-on basis. However, for larger departments with higher risk profiles, it would be irresponsible to do the same. The larger the department, and the higher its risk profile, the more extensive and full-time its internal capacity for ethics, integrity and anti-corruption should be.

This is illustrated in **Figure 2** :

Figure 2: Ethics capacity in relation to size and risk profile of department



Although hard and fast rules cannot be provided, **Table 2** may be helpful to departments in deciding what kind of ethics and integrity capacity they should put in place. The idea is not to categorise departments in terms of size but to provide broad guidelines that could be used to determine the ethics capacity of the department. Executive authorities still have a responsibility to ensure that the department is capacitated (at least through the organisational structure) to perform this function. Other factors like the availability of resources will also play a role in this decision.

Table 2: Ethics capacity guidelines

Description of size of department	Value of annual goods & service plus capital budget (R million)	Total number of employees (headcount)	Guideline in terms of internal anti-corruption, ethics & integrity capacity to be established
Small	Typically, a goods and services + capital budget of less than R1,000,000,000	Typically, less than 1 000 employees	Designate at least 1 official to perform the ethics, integrity and anti-corruption functions on an add-on basis. If, despite its small size, a department has a high aggregate risk profile and the workload justifies this, then a full-time official can be appointed to perform the ethics, integrity and anti-corruption functions and/or (an) existing unit can be assigned these functions.
Medium	Typically, a goods and services + capital budget of between R1,000,000,000 - R5,000,000,000	Typically, between 1 000 – 10 000 employees	Designate the ethics, integrity and anti-corruption functions to one or more officials on a full-time basis or two or more officials on an add-on basis. The decision whether or not to appoint officials on a full-time basis would depend on the risk profile of the department and the workload attached to these functions.
Large	Typically, a goods and services + capital budget of over R5,000,000,000	Typically, over 10 000 employees	Create (a) unit/s or assign to (an) existing unit/s the ethics, integrity and anti-corruption functions, including two or more full-time officials who can perform these EO functions - the number of units and officials required to be informed by e.g. level of centralisation/decentralisation of the department, its risk profile and the workload.

2.6 Location and reporting lines of the ethics, integrity and anti-corruption unit/s

Over time national and provincial departments have introduced different ways of organising themselves in terms of performing their ethics, integrity and anti-corruption functions. For example, some provincial administrations have introduced shared services where functions such as internal audit and forensic investigations are provided to all the departments in the province from a central point (e.g. the Office of the Premier). This promotes economies of scale and improves efforts to recruit and retain staff with scarce skills.

Generally, however, ethics, integrity and anti-corruption functions are located within (Budget) Programme 1: Administration/Support Functions, of departments. On 18 November 2015, DPISA issued guidelines on the various support functions that should be provided for in Programme 1. These guidelines suggest that under the grouping “*Executive Support, Strategy and Governance*” provision should be made for the functional cluster “*Risk and Integrity Management*”. In larger departments and/or those with high-risk profiles, this cluster could

possibly be split between units for Risk Management, Fraud and Corruption Complaints and Investigations, as well as Ethics and Integrity Management.

The Risk Management function often reports to the Chief Financial Officer (CFO) and some departments have Chief Risk Officers (CROs). In some instances, the CRO is also the EO, or the EO function reports to the CRO. The Risk and Ethics committees of departments are also often one and the same, or they have overlapping membership to ensure the necessary coordination. Since the risk management and ethics, integrity and anti-corruption functions are closely related and mutually inter-dependent, it makes sense for them to be clustered together.

There is also a close link with the CFO, given that the incumbent is often responsible for enterprise risk management as well as loss control and fraud prevention.

The other link is with internal and external audits which may point to instances of fruitless and wasteful or irregular expenditure which may need to be investigated further and/or trigger disciplinary or criminal processes.

3. STAFFING OF THE ETHICS FUNCTION

3.1 Staffing model

As indicated in the previous paragraph, there are essentially three scenarios that require different staffing solutions for the ethics, integrity and anti-corruption functions:

- i. For smaller departments with relatively low risk profiles, designate these functions as an add-on to officials who have other responsibilities in e.g. risk management, security management, supply chain management or human resource management.
- ii. For medium-sized departments with higher risk profiles, the model can either be the add-on scenario or the full-time one, depending on the ethics risk assessment, the ethics management strategy and the workload.
- iii. For larger departments with relatively high risk profiles, it is desirable to create (a) dedicated unit(s) to attend to these functions.

The implementation modalities of these models are explained in more detail below:

3.1.1 Add-on model

To implement this model, it will be desirable to formally amend the job description/s and performance agreement/s of the official/s to be designated to perform the EO functions. The other option is to direct the official/s, in terms of section 32(1) of the PSA and PSR 63(1), to temporarily perform these functions. These would be appropriate in cases where a process is

under way to create a dedicated unit(s) and posts to perform these functions and an interim solution is required. The drawback is that such a direction can only be issued for a period not exceeding 12 months. Both these options will require consultation with the relevant officials, and they must be able and willing to perform this additional workload.

The rank and salary grade of the official/s to be designated as EO/s will depend on the level and complexity of the work that the official is expected to perform. For small and medium sized departments with relatively low risk profiles, it should be adequate to allocate the EO functions to a person at Deputy Director level, on the understanding that an Ethics champion⁷ is available at Senior Management Service (SMS) level to provide strategic direction or when the EO needs to escalate matters to that person. Alternatively, the designated EO can also be a member of the SMS, but on (a) level/s lower than the Ethics champion.

3.1.2 Full-time model

This model will require collaboration with the Organization Development/Design unit of the department to design an appropriate organizational structure for the ethics, integrity and anti-corruption unit/s, the development of appropriate job descriptions and the grading of these. Alternatively, an existing unit (such as risk management) can be (re-)configured to accommodate the EO functions. In this case, the functions of the relevant unit and the job descriptions of the affected officials may have to be aligned.

The department's capacity requirements should in all instances be informed by the department's risk assessment and its ethics management strategy while the number and level of posts to be created (or aligned) should be informed by data about the actual workload, its complexity, the specialisations required, and the department's risk profile. In addition to collaboration with the Organisation Development/Design unit, consultation with the department's management structures and the Risk/Ethics Committee is advisable. The Human Resource Management unit should also be consulted to ensure that performance agreements for the incumbents are put in place.

⁷ On 25 September 2019, DPSA issued an Ethics Committee Guide. In it (par 4), DPSA suggested that the Ethics champion should chair the departmental Ethics Committee. The Guide suggested that this should be a senior manager at the level of Deputy-Director General [see also PSR 23(2)].

3.2 Occupational classification

Since the Ethics Officer function is still fairly new, it was not previously recognised as a distinct occupation in the Public Service. However, a new Occupational Dictionary⁸ has been developed by DPSA which includes recognition of the EO occupation as a distinct occupation.

3.3 Sample job description

Depending on the size and risk profile of a department, as explained earlier, the ethics, integrity and anti-corruption functions can either be allocated as an add-on to officials with other jobs, or a dedicated unit/s and posts can be created to this end alternatively, an existing unit (such as risk management) can be configured to accommodate the EO functions.

As a start, a sample job description for the EO position is attached at **ANNEXURE A**. This job has not yet been evaluated.

3.4 Career pathing possibilities

In medium to large departments and/or those with a high-risk profile, it may be necessary to create a unit with several positions as well as (a) supervisory or management layer/s.

The form of such a unit will be determined by its actual functions while the number as well as the level of the positions will be determined by factors such as the complexity/specialization of the work as well as the workload.

The basic assumption is that the officials tasked with the ethics, integrity and anti-corruption functions will be the main drivers and implementers of the department's ethics management strategy, and that they may be supported by other specialist staff, e.g., forensic investigators and fraud examiners if such a need exists in the department.

When departments design or redesign their organizational structures to accommodate the EO functions, consideration should be given to career pathing possibilities for EOs – see some suggestions in **Table 3**.

⁸ This dictionary revises, refines and consolidates the occupational classification systems being used in the Public Service, i.e., the Occupational Classification System (OCS) and the Code of Remuneration (CORE). The Occupational Dictionary also improves how occupations in the Public Service are categorised and defined to provide a basis for grouping of occupations that can be used in the development of job profiles. This will also assist with improved human resource management and reporting.

Table 3: Ethics Officer Career Pathing Possibilities

Target group and competency considerations	Type of position (and possible job title)	Suggested salary grading	Possible career path
Persons with a national certificate/matric and with the personal characteristics, aptitude and interest to pursue a career in ethics management. (No prior work experience required)	Entry level (Ethics Officer)	To be determined by departments themselves if there is a need for such a position and once a job description has been compiled and the job has been graded	Ethics Officer (subject to meeting the advertised job requirements and a position being available)
Persons with an appropriate degree/diploma or post graduate degree/diploma, preferably inclusive of a module dealing with ethics/integrity, with prior work experience in ethics/integrity/anti-corruption or a related field such as human resource management, labour relations, supply chain management, risk management or security, and who have the required ethics competencies (knowledge, skills, abilities and personal characteristics)	Middle management level (Chief Ethics Officer)	To be determined in accordance with the sample job description at Annexure A and once the job has been graded by DPSA	Chief Ethics Officer or any other management position in a related field (subject to meeting the advertised job requirements and a position being available)
Persons with an appropriate degree/diploma or post graduate degree/diploma, preferably inclusive of a module dealing with ethics/integrity, with extensive prior work experience in ethics/integrity/anti-corruption or a related field such as human resource management, labour relations, supply chain management, risk management or security, and who have the required ethics as well as senior management/leadership competencies (knowledge, skills, abilities and personal characteristics)	Senior Management position	To be determined by departments themselves if there is a need for such a position and once a job description has been compiled and the job has been graded	Executive management position in a related field (subject to meeting the advertised job requirements and a position being available)

3.5 Recruitment and selection

In addition to the competency requirements suggested in Table 3 and the sample job description for the EO at **Annexure A**, departments should pay attention, when designating/appointing EOs to the need for them to reflect the demographics of society, especially in terms of race, gender and disability. This will not only assist departments in

meeting their employment equity legislative and regulatory obligations but will also assist EOs themselves in relating comfortably with the different demographic groups in their departments, including familiarity with their diverse languages and cultural practices, while being sensitive to the needs of vulnerable groups.

3.6 Professional development

Considerable effort has already gone into the development and roll-out of customised courses and training for EOs. DPSA will continue with these efforts in partnership with the National School of Government (NSG), institutions of higher learning and other training providers. Courses that have already been rolled out for the benefit of the public service⁹ are:

- E-learning course on ethics in the public service.
- Anti-corruption training for practitioners.
- Promoting anti-corruption in the public service.
- Investigate corrupt activities and related offences.
- The detection and combatting of bid rigging in the public sector.

DPSA also hosts information sharing sessions, e.g., the EO Forum. These could also be used to share experiences and good practices on workable institutional arrangements. As an optional extra, EOs can consider registration with The Ethics Institute of South Africa (TEI) after completing the Ethics Officer Certification Programme (EOCP) or any other institution that provides for the need of Ethics Officers.

⁹ National School of Government. Course Directory.

ANNEXURE A: SAMPLE JOB DESCRIPTION FOR ETHICS OFFICER

SECTION A: JOB INFORMATION SUMMARY			
Job Title	Ethics Officer	Occupational category	Major category: Professionals Sub-major category: Organisational and Administration Professionals Minor category: Administration Professionals Unit category: Policy Administration Professionals
Job Incumbent		Salary Level	This is subject to job evaluation
Post Reports to	Depends on each department's organisational arrangements	Date of appointment to post	
Branch	Administration/Corporate Services/Chief Financial Officer	Chief Directorate	Depends on each department's organisational arrangements
Directorate	Depends on each department's organisational arrangements	Sub-Directorate	Depends on each department's organisational arrangements
Location			
<p><i>Portray position on the Organisational Structure. (As per approved Departmental Organisational Structure)</i></p> 			
SECTION B: JOB ALIGNMENT			
Job Purpose (overall aim):			
To develop and implement departmental systems, policies and processes in ethics, integrity and anti-corruption.			

Main objectives (Key Performance Areas):	
<p>Analyse ethics and corruption risks as part of the department's system of risk management.</p> <p>Develop and implement an ethics management strategy that prevents and deters unethical conduct and acts of corruption.</p> <p>Help to establish a system that encourages and allows employees and citizens to report allegations of unethical conduct, corruption and non-compliance to the Public Service Act and Public Service Regulations ("wrongdoing").</p> <p>Support the establishment of an information system that records and monitors allegations of corruption and unethical conduct, including the identification of systemic risks and recurring risks.</p> <p>Identify and report unethical behaviour and corrupt activities to the Head of Department (HOD) and support her/him in taking the necessary action.</p> <p>Promote integrity and ethical behaviour in the department.</p>	
Key Performance Area	Performance Indicators
Analyse ethics and corruption risks as part of the department's system of risk management.	<ul style="list-style-type: none"> • Support the HOD and the Ethics/Risk committee in assessing the departmental ethics and corruption risks. • Analyse the prevalence of unethical conduct or practices and develop a risk profile of the department. • Strengthen existing anti-corruption and ethics systems.
Assist with the development and implementation of an ethics management strategy that prevents and deters unethical conduct and acts of corruption.	<ul style="list-style-type: none"> • Based on the department's unique ethics risk profile, assist the HOD and the Ethics/Risk Committee by drafting or revising the ethics management strategy. • As part of the implementation of the ethics management strategy, review the effectiveness of, and compliance with, the department's policies and procedures around matters such as giving or receiving gifts, procurement, and managing conflicts of interest.
Help to establish a system that encourages and allows employees and citizens to report allegations of unethical conduct, corruption and non-compliance to the Public Service Act and Public Service Regulations ("wrongdoing").	<ul style="list-style-type: none"> • Support the HOD and Ethics/Risk Committee in reviewing the effectiveness of the existing wrongdoing systems and procedures of the department. • As part of this review process, ensure that PSR 22(c) is complied with, namely that these systems and processes provide for • confidentiality of reporting; and the effective recording of allegations of corruption and unethical conduct. • Review or develop a wrongdoing policy¹⁰ for the department. • Establish if the HOD has issued delegations to other managers to execute their powers or perform their roles in terms of the PSA Section 16A(2) and PSR 22(c), and if so, to whom. • If these delegations do not exist or are deficient, work with the Legal and Human Resource units to put these in place or to correct them.

¹⁰ DPSA has explained in its wrongdoing guidelines of August 2018, that departments should draft a policy for the reporting of unethical conduct, corruption and non-compliance to the Public Service Act, 1994 (PSA) and the Public Service Regulations, 2016 (PSR), which will outline systems and procedures for reporting.

	<ul style="list-style-type: none"> Advise employees of the appropriate avenue to follow when they want to report wrongdoing, that is whether the normal wrongdoing channels should be followed, or if a protected disclosure¹¹ is advisable.
Support the establishment of an information system that records and monitors allegations of corruption and unethical conduct, including the identification of systemic risks and recurring risks.	<ul style="list-style-type: none"> Monitor and report on allegations processed through the whistleblowing systems¹² and procedures of the department; and Address the root causes of such allegations (systemic and recurring risks).
Identify and report unethical behaviour and corrupt activities to the HOD and support her/him in taking the necessary action.	<ul style="list-style-type: none"> Support the HOD to ensure that allegations of corruption and unethical conduct are referred to the relevant law enforcement agency; and/or that investigations are undertaken to determine whether disciplinary steps must be taken against any employee of the department and if so, that such disciplinary action is instituted.
Promote integrity and ethical behaviour in the department.	<p>Policies, systems, processes and/or initiatives introduced to: -</p> <ul style="list-style-type: none"> advise employees and raise awareness on ethical matters, including potential or actual conflicts of interest; foster management and employee awareness of the public service's and the department's standards on ethical behaviour, as established in the Code of Conduct; manage the financial disclosure system and the declaration of gifts; manage the processes and systems relating to considering requests to perform other remunerative work; assist with conducting lifestyle audits (in particular the lifestyle review part of these); promote whistleblowing and protect whistleblowers; raise awareness around matters such as the prohibition on employees in conducting business with the state; and undertake analytical work and prepare a variety of reports and communications, including regular communications to all employees and management on ethics matters.
SECTION C: INHERENT JOB REQUIREMENTS	

¹¹ That is in cases where the report is about conduct that is of a serious nature and of which the reporting may lead to victimisation, violence, recrimination or dismissal.

¹² Whistleblowing systems can include a hotline/call centre; an online, web-enabled reporting mechanism; or a dedicated e-mail address or telephone/cellphone numbers; or walk-in centre or helpdesk.

Competencies		
Managerial Skills (where applicable)	Generic Skills	Technical (Specialisation) Skills
N/A	<ul style="list-style-type: none"> • Fairness/objectivity • Professionalism • Diversity management • Facilitation • Negotiation • Report writing • Computer literacy 	<ul style="list-style-type: none"> • Proven conceptual, analytical, and evaluative skills; and an ability to conduct independent research and analysis. • Strong interpersonal skills – including the ability to work effectively in a team/task force as participant or team leader, and with employees and senior managers. • Excellent communications skills (oral, written and presentational) and proven ability to prepare, present and discuss findings and recommendations on ethical issues clearly. • Leadership Skills to exercise authority on behalf of the department in various platforms. • Strategic thinking skills; and • The ability to probe and cross examine. • Data base design (elementary) • Proficiency in Microsoft Word, Excel and Power Point • Knowledge and information management • Monitoring & evaluation
10. Knowledge, Attributes and Statutory Requirements		
Knowledge	Attributes	Statutory Requirements (where applicable)
<ul style="list-style-type: none"> ▪ Constitution of the Republic of South Africa ▪ Public service Act (PSA) and Public Service Regulations (PSR) as well as relevant directives, determinations and guidelines issued in terms of these 	<ul style="list-style-type: none"> ▪ Diligent ▪ Open to new ideas ▪ Innovative ▪ Demonstrated ability to make sound judgments based on legal grounding and ability to communicate advice with authority. 	<p>Chapter 2 of PSR</p> <p>Sections 8, 9 and 15 of PAMA</p> <p>Directives, determinations and guidelines issued in terms of the PSA, PSR and PAMA</p> <p>PDA and regulations issued in terms thereof</p> <p>Acts, regulations and directives that govern the</p>

<ul style="list-style-type: none"> ▪ Public Administration Management (PAMA) as well as relevant directives, determinations and guidelines issued in terms of this Act ▪ Public Service Commission Act (PSC Act) ▪ Public Protector Act (PP Act) ▪ Protected Disclosures Act (PDA) and regulations issued in terms of this Act ▪ Prevention and Combating of Corrupt Activities Act (PRECCA) ▪ Witness Protection Act (WPA) ▪ Special Investigating Units and Special Tribunals Act (SIU Act) ▪ Labour Relations Act (LRA) Government programs such as the National Development Plan, Outcome 12, Key Strategic Priorities of Government ▪ Knowledge of ethics and integrity management standards and good practices. 	<ul style="list-style-type: none"> ▪ An impeccable record for integrity and ethical behaviour. ▪ Demonstrated ability to communicate effectively on highly sensitive issues with employees and managers at all levels, with particular emphasis on developing trust and demonstrating fairness. ▪ Ability to apply attention to detail. ▪ Detachment from the influences of those whom the EO must oversee and advise. 	<p>powers, functions and operations of South Africa's Constitutional Institutions and law enforcement agencies</p>
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11. Qualifications and Experience Required

Formal Qualifications:	Relevant Experience:	
	Managerial (where applicable) (years & context)	Technical (years & context)
<p>Relevant degree, diploma or other qualification having a rating of at least NQF 6, preferably inclusive of a module dealing with ethics/integrity</p>	<p>N/A</p>	<p>Prior work experience (around five (5) years') in a field related to ethics, integrity and anti-corruption such as supply chain management, risk management, security management, human resource management and/or labour relations</p>

Professional registration:	<p>It is recommended that EOs register with the Ethics Practitioners Association (EPA) as either an Associate or as an Ethics Practitioner South Africa [EP(SA)], depending on their qualifications and experience.</p> <p>As an optional extra, EOs can also consider registration with The Ethics Institute of South Africa (TEI) after completing the Ethics Officer Certification Programme (EOCP).</p>
Short courses:	<p>Depending on their specific job functions and the level of specialisation required of them, it is advisable that EOs complete relevant short courses offered by e.g. the National School of Government.</p> <p>Although EOs are not required to be fraud examiners or forensic investigators/auditors themselves, it would be useful for them to be trained in the basic principles of fraud and corruption investigations, so that they are aware of the intricacies and legal processes that are involved.</p>

12. Key Relationship Interfaces

Internal Relationships (to the DPSA)	External Relationships
<p>This would depend on the organisational and management arrangements of each department, but apart from a direct reporting line to their supervisors, it is recommended that EOs also have a dotted reporting line to their HODs (via the Ethics champion) and to the PA-EID-TAU of the DPSA, depending on the severity and/or confidentiality of the issue at hand.</p>	<p>Since allegations of corruption or ethics breaches may require investigation by an appropriate Constitutional Institution such as the Public Protector or Public Service Commission or a law enforcement agency such as the SIU or Hawks, it may be necessary to refer such allegations to such an institution or agency, after following the necessary protocols dictated by the relevant legislation and policies.</p>

13. Career Pathing Possibilities

Depends on the specific institutional arrangements of the department for the ethics, integrity and anti-corruption functions.

SECTION D: JOB DESCRIPTION CONFORMITY

14. Amendments to Job Description

In terms of the PSRs, the Director-General or his/her delegate shall review job descriptions and titles at least once every three years. However, as soon as significant changes to the job content have been effected and after due consultation with the jobholder, the job description should be reviewed.

15. Performance Agreement

The Performance Agreement of the incumbent, which contains a personal development plan and work-plan, specific targets, should be read as an extension of this job description. The performance agreement may contain an annexure outlining any standard operating procedures that the incumbent should adhere to during the execution of his/her key performance areas.

Disclaimer

The information in this job description indicates the general nature and the level of work performed by an employee appointed to perform this job. It is not designed to contain or be interpreted as a comprehensive inventory of all duties, responsibilities and qualifications required of employees assigned to this job.

Signatories

Signature of Post holder

Date:

Signature of Supervisor

Date:

I hereby confirm that there is no duplication of the key performance areas specified in this post.

Signature of Branch Head

Date:

Official Use:

Date received:

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Received by (name):

File no:

Signature:

Last Job Evaluation Date: