ASSESSING CHALLENGES OF CORRUPTION IN THE EASTERN
CAPE DEPARTMENT OF EDUCATION

BY

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A DISSERTATION SUBMITTED TO THE UNIVERSITY OF FORT HARE, IN FULFILMENT OF REQUIREMENTS FOR THE DEGREE OF MASTERS OF PUBLIC ADMINISTRATION

SUPERVISOR
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COMPLETED
OCTOBER 2010
DECLARATION

I, Price Mike Basopu, hereby declare that this dissertation, submitted to the University of Fort Hare, for the Degree of Masters in Public Administration, has never been previously submitted by me for a degree, at this or any other university; that this is my own work in design and execution and that all material contained therein has been duly acknowledged.

Signed........................................

Date...........................................
DEDICATION

I dedicate this study to my family members especially my wife Phjliswa, who supported me throughout the academic journey.

To the officials of the Department of Education, who supported me unreservedly in the research process.

To my late friend, a comrade, a mother, a true revolutionary and a communist until the end, Ms Ncumisa Kondlo, the former MEC for Social Development in the Eastern Cape Province, who inspired me throughout my life.

To my former Lecturer on Local Government and Public Administration at the University of Fort Hare, the late Ms B. H. Skakane.

To all those, who contributed towards the completion of this research report.
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A special word of gratitude to my supervisor, Professor M. H. Kanyane, who has been instrumental in guiding and encouraging me throughout this research process, under difficult circumstances, given my tight schedule at work.

Dr T. R. Mle, for the foundation he laid and encouragement he provided when we started this programme; which was a partnership between the Eastern Cape Provincial Legislature, the University of Fort Hare and the European Union.

The Premier of the Eastern Cape Provincial Government and former Speaker of the Eastern Cape Provincial Legislature, Ms Noxolo Kiviet, who initiated this programme and being part of it.

The researcher in the Portfolio Committee on Health in the Eastern Cape Provincial Legislature, Ms Unathi Millie, as well as Ms Puculwa Kondlo, a Librarian, in Buffalo City Municipality, and my former personal assistants, Ms Tobeka Balani and Ms Tandi Sipuka, for their unwavering support in the research processes.
EXECUTIVE SUMMARY

In the new dispensation, there are many challenges, especially concerning corruption. In this regard, the Eastern Cape is viewed as the most affected province, with the Department of Education identified as culprit number one engaging in corrupt activities. There are a number of contributing factors, as attributed in the study, but most prevalent among these is the vastness of the department, with fewer personnel and less capacity. Challenges of corruption in the Department of Education are perpetrated mainly by the civil servants.

This study, researched the challenges of corruption in the Department of Education in the Eastern Cape, in particular by focusing on both the achievements and the limitations that have been experienced; and indeed, there are still numerous issues to be addressed and accomplished. The research, therefore, has been significant in that it touched on critical issues, such as, the public sector in general, which is corrupt. Misappropriation of public resources and corruption immersed the nation, as a whole, into a greater challenge rather than focusing on service delivery issues.

There are situations, within the department, where the majority of senior officials, who may be in possession of valuable information, are always under suspension. In all the financial years the Department of Education existed, it always obtained disclaimer or adverse reports from the Office of Auditor-General (AG), despite numerous attempts and interventions by the AG’s office and the Provincial Treasury to rectify the situation.

There are also serious challenges of leadership crises in the Department of Education, both administratively and politically. During the research, that is, between the 2008 and 2010 financial years, there has been no permanent Head of Department; people were only acting in the capacity.
Even those seconded from national education, could not finish the designated term, because of pressure mainly from the unions.
DEFINITION OF TERMS

Definition of terms is beneficial in that it clarifies the meaning and content of the research.

ACCOUNTABILITY

Accountability in essence means to be answerable for one’s actions. Accountable means having the obligation to answer questions regarding decisions and or actions taken. Accountability goes beyond reporting of the facts and the figures, but asks for explanations and a justification; therefore, it enquires not just what was done, but why it was done.

TRANSPARENCY

Transparency delineates openness. It is a process of doing things in a candid and frank manner.

EFFICIENCY

Efficiency demarcates producing satisfactory results without wasting time or energy. This is one of the tools used in government departments, to measure the performance of government officials. It entails maximum output with minimum input.

EFFECTIVENESS

Effectiveness defines producing the intended results. It further allocates making a striking impression and finishing on time. It entails achieving the goals set.
BRIBERY
Bribery involves a promise, offering or giving of a benefit, which improperly effects the actions or decisions of a public servant. This benefit may accrue to a public servant, another person or entity. A variation of this manifestation occurs where a political party or government is offered, promised or given a benefit that improperly affects the actions or decisions of a political party or government. A traffic officer, who accepts a cash payment in order not issue a speed fine, can be cited as an example.

ABUSE OF PRIVILEGED INFORMATION
This implicates the unauthorised use of privileged information and knowledge, by a public servant invested in an office, in order to obtain an unfair advantage over another person or entity, with the aim to obtain a benefit.

ABUSE OF POWER
This comprises a public servant using the relevant vested authority to benefit another public servant, person or entity, improperly. For example, during a tender process, before the actual selection of a successful contractor, a specific individual is earmarked to obtain the contract; or the head of the department expresses a personal wish to see the contract awarded to a specific person.

EMBEZZLEMENT
This includes theft of resources by persons entrusted with the authority and control of such resources.

FRAUD
This implicates actions or behaviour by public servants, other persons or entities, fooling others into providing a benefit that would not normally accrue to the relevant public servants.
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<thead>
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<tr>
<td><strong>ABET</strong> Adult Basic Education and Training Programme?</td>
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<td><strong>ACF</strong> Anti-Corruption Forum</td>
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<td><strong>ACU</strong> Anti-Corruption Unit</td>
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<td><strong>AFS</strong> Accounting Financial System</td>
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<td><strong>AG</strong> Auditor-General</td>
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<td><strong>ANC</strong> African National Congress</td>
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<td><strong>BAS</strong> Basic Accounting System</td>
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<td><strong>CEO</strong> Chief Executive Officer</td>
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<td><strong>CFO</strong> Chief Financial Officer</td>
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<td><strong>COO</strong> Chief Operations Officer</td>
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<td><strong>DG</strong> Director General</td>
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<td><strong>DORA</strong> Division of Revenue Act</td>
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<td><strong>EBT</strong> Electronic Benefit Transfer</td>
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<td><strong>IT</strong> Information Technology</td>
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<td><strong>IMT</strong> Interim Management Team</td>
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<td><strong>IYM</strong> In Year Monitoring</td>
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<td><strong>LOGIS</strong> Logistical Information System</td>
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<td><strong>MEC</strong> Member of the Executive Council</td>
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<td><strong>MFMA</strong> Municipal Finance Management Act</td>
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<td><strong>NGO</strong> Non-Governmental Organisation</td>
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<td><strong>PERSAL</strong> Personal Salary System</td>
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<td><strong>PFMA</strong> Public Finance Management Act</td>
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<td><strong>PSC</strong> Public Service Commission</td>
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<td><strong>SAPS</strong> South African Police Service</td>
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<td><strong>SNP</strong> School Nutrition Program</td>
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CHAPTER ONE
INTRODUCTION AND GENERAL ORIENTATION

1.1 Introduction and background
In 1994, when the democratic government, led by the African National Congress, assumed power, nine provinces were created in line 6 Section 103 (1) of the Constitution of the Republic of South Africa 1996. These are: Eastern Cape, Free State, Gauteng, Kwazulu–Natal, Limpopo, Mpumalanga, Northern Cape, North West and Western Cape.

According to the South African 2007/08 financial year survey, the Eastern Cape Province is the third largest with a population of approximately 7 million; it integrates three administrations that is the Cape Provincial administration, which includes some parts of the Western Cape, the Ciskei and Transkei Bantustans. The Eastern Cape Province is the second poorest province and constitutes mainly rural areas. It is a province where the public sector is a key determinant of socio-economic well-being. The main challenges that faced the Eastern Cape Government then were the integration of these administrations, as well as how to integrate new people, who were in the liberation movements and not necessarily part of the old dispensation, into the civil service.

The primary task of the government was to transform the public service by encouraging people to take packages. As a result, there were lots of uncertainty and people started looting government properties, some creating anarchy within the departments, taking advantage of the fact that those in authority had not yet taken charge of the situation. The other challenge was the historical background of the homeland system, where fraud and corruption were rife. People, who occupied senior positions in government departments, were employing relatives and friends and no one could challenge these practices. If anyone attempted to challenge these practices, such individuals would land in jail for undermining the authority of the day.
The mission statement of the Eastern Cape Provincial Government is to promote a culture of integrity and to restore confidence in the fight against fraud and corruption. Therefore, it has to ensure effective implementation of the Public Service Anti-Corruption Strategy and strengthen measures to protect all people from victimisation, when exposed to corrupt and unethical practices. Ultimately, its vision is for a government free from corruption and geared towards accelerated service delivery.

With regard to this research, corruption can be described as any conduct or behaviour in relation to a person, entrusted with responsibilities in the public office, who violates the designated duties as a public official, aiming to obtain undue qualification of any kind for self or others. Section 4.5.3 of the code of conduct for Public Service states that an employee should not use his/her official position to obtain private gifts or benefits for him-/herself during performance of duties nor should he/she accept any gifts or bribes when offered, as these may be construed as bribes.

Currently and in general, corruption is rife in South Africa. This is not because there was no corruption in the past, but because in the context of democracy there is a greater awareness of the need for transparency and accountability. In addition, the Constitution of the Republic of South Africa, 1996 provides the legal basis for combating corruption, promoting good governance and moving away from apartheid and colonial bondages. Various pieces of legislation that explicitly address the issue of corruption have been developed, such as:

- the Promotion of Access to Information Act 2 of 2000,
- the Promotion of Administrative Justice Act 3 of 2000,
- the Protected Disclosure Act 26 of 2000,
- the Financial Intelligence Centre Act 3 of 2000, and

However, the implementation of these legislations leaves much to be desired; hence, this research to unravel the issue at hand, namely, corruption.
Specific bodies and mechanisms have been established to deal with the issue of corruption in different ways. These include the following:

- Independent Complaints Directorate,
- South African Police Service (SAPS),
- Anti-Corruption Units (ACUs),
- Special Investigating Unit,
- Investigating Directorate for Serious Economic Offences,
- National Crime Prevention Strategy,
- National Intelligence Agency,
- Public Protector,
- Auditor-General (AG),
- National Directorate for Public Prosecutions,
- Public Service Commission (PSC),
- Department of Public Service and Administration, and
- SAPS Commercial Crime Unit.

According to the report of the 2nd Session of the Anti-Corruption Learning Network 2009, an Anti-Corruption Learning Network was established in July 2008 by the Minister of Public Services and Administration under the theme “Increasing Capacity to Fight Corruption in the Public Service.” Its intended purpose was to promote information sharing and knowledge exchange of anti-corruption good practices. It created a platform for anti-corruption practitioners to reflect openly on the challenges faced by the departments in as far as developing the requisite capacity to fight corruption.

Likewise, it created a platform in finding solutions to challenges in implementing normative and legislative anti-corruption frameworks, to ensure uninterrupted service delivery. The 2nd Session of the Anti-Corruption Learning Network was held in Port Elizabeth on the 30th - 31st of July 2009. The theme for the 2nd Session was. “An Integrated Approach in Fighting Corruption: revisiting the implementation of anti-corruption strategies in the public sector.” The discussions in this Session were centred on the following thematic areas:

- Detecting corruption through the use of internal and external mechanisms;
- Managing conflicts of interests in the work place;
• Investigating corrupt activities using both internal and external resources; and
• Communication and awareness as preventative measures in the fight against corruption.

The objectives of the Session were to encourage the practice of benchmarking and the sharing of techniques from departments that have successfully established internal anti-corruption mechanisms. Additionally, the Session also deliberated on challenges and explored possible solutions in the implementation of a holistic approach in fighting corruption.

1.2 Statement of the problem
The Department of Education in the Eastern Cape has been crippled by the challenges of corruption, mainly perpetrated by public servants. According to the Interim Management Report 2000, in the 1997/98 financial year, mismanagement of finances in the Eastern Cape Province led to a deficit of R1.314 billion. This resulted in the application of Section 100 (1) (a) of the Constitution of the Republic of South Africa 1996:57, Section 100 of the Constitution states that when a province cannot or does not fulfil an executive obligation in terms of the Constitution, the national executive might intervene by taking appropriate steps to ensure fulfilment of that obligation.

Bribery, fraud, nepotism and systemic corruption are some of the forms of corruption that takes place in the Department of Education in the Eastern Cape. There are a number of contributing factors, including the fact that people, who were not part of the previous dispensation, now control state power in a context where the state is a major mechanism of accumulation of resources. This may manifest as a promise for a favour in return for something else, which in itself constitutes corruption.

According to the AG’s report of March 2006 financial year, it was evident during the audit that deficiencies existed in the procurement processes of the Department of Education. The root cause for these deficiencies was the inadequate monitoring of Supply Chain Management processes. Contracts awarded revealed unsatisfactory results regarding the payment of and procurement for goods and services.
It was also reported that the department outsourced the procurement and the tender process for its School Building and School Furniture projects to implementing agents, without the approval of treasury and the then Provincial Tender Board. As a result, payments made in this regard totalling R289.970 million appeared to be contrary to the relevant Supply Chain Management prescripts. The report, therefore, concluded that in these circumstances fraud and corruption could not be excluded. It is now crystal-clear that the enforcement of Supply Chain Management is a potential source of corruption, instead of being a mechanism to prevent and control it.

To elaborate further evidence, in the report of March 2007 financial year, it was revealed that material uncertainty existed, mainly due to lack of documentation provided, regarding the validity of contracts awarded and the expenditure incurred. Contracts and service level agreements could not be provided for tenders totalling R48.8 million. Documentation confirming decisions taken in bid evaluation and adjudication meetings could not be provided for tenders totalling R9.5 million. In addition, the department could not provide adequate supporting documentation for payments made to meal servers involved in the School Nutrition Programme (SNP) and therefore it was not possible to confirm the accuracy and validity of these payments. Furthermore, it was also revealed that the department did not have an approved risk management strategy and fraud prevention plan.

According to the 2008/09 annual report of the Department of Education, there was inadequate segregation of duties to prevent fraudulent data and asset misappropriation. General information technology (IT) controls had not been designed to maintain the integrity of the information system and the security of the data. Generally, the organisational structure of the department did not address areas of responsibility and lines of reporting to support effective control over financial reporting. Moreover, ongoing monitoring and supervision to enable the assessment of effectiveness of internal control over financial reporting were not undertaken.

Commissions in the form of the Ncholo Report, Interim Management Team Report, and the Pillay Commission were instituted to investigate fraud and corruption taking place in the province, particularly in the Department of Education. In 2008, Ngubane and Company released a report of forensic audit into the alleged irregularities in the
Department of Education on SNP. Senior officials have been suspended and are being charged. There has been an outcry from the civil society, media and public, in conjunction with a growing demand that the provincial government should prevent this issue from becoming an all-consuming problem. Simultaneously, there is a growing realisation that government should get a grip on this phenomenon in order to address it.

Having introduced the key critical issues, the following questions are raised:

- To what extent is this department affected by corruption?
- What are possible ways to tackle the fight against corruption?

**1.3 Objectives of the study**

The general objective for the study was to analyse the effectiveness of the anti-corruption strategy in the province. More specifically the objectives of this study are to:

- Examine the nature and the extent of corruption in the Department of Education.
- Examine the role of the Department of Education in dealing with corruption, in order for this study to provide insight into what is expected from the department to fight the problem.
- Identify and analyse the achievements, limitations and constraints pertaining to the formulation and implementation of the Anti-Corruption Strategy within the department.
- Provide practical recommendations for improving the fight against public service corruption in the Department of Education.

**1.4 Hypothesis**

This study is based on the following hypothesis:

- Corruption in the Department of Education can result in poor service delivery and ultimately in the collapse of services.

**1.5 Significance of the study**

The study should be of assistance to the department to formulate a clear strategy to address the challenges identified in the research. This research contributes in raising public awareness on issues of corruption. Furthermore, it enlarges the proliferation of corruption literature in the field of public administration.
This research also contributes to policy development in an attempt to curb fraud and corruption within the department. In this way, the new knowledge obtained enhances the study of public administration.

1.6 Scope and limitations
The Department of Education is an enormous department and compared to other departments, it has the highest allocation of the budget in the province ascribed to it. According to the annual report of 2008/09 the department has a staff compliment of approximately 68 000 00 employees. The study was confined to senior managers in the province's, regional and district offices. The government departments keep highly confidential information, which may not readily be available for public scrutiny when required. In addition, government officials and Members of the Executive Council (MECs) are not always available to provide required information. Moreover, information about sub judice cases may not be made available.

There are situations, within the Department of Education, where the majority of senior officials, who may be in possession of valuable information, are always under suspension. In order to overcome these obstacles, the researcher had to utilise the provisions of the Access to Information Act 2000, which allows the constitutional rights of access to any information held by the state and any information that is held by another person. The Accounting Officer of the department had to be sensitised on procedures followed in this regard, in order to avoid any misunderstanding. As such, the relevant officer responded positively in writing, but certain conditions were stipulated (see Annexure A).

1.7 Chapter outline
The dissertation document has been organised in the following manner:

- **Chapter One: Introduction and general orientation**
  Chapter one is the introduction of the dissertation proposal. It comprises the background, the problem statement, objectives of the study, hypothesis and significance of the study.
• **Chapter Two: Literature review**
  Chapter two provides a theoretical platform, from which to answer the research questions. It provides the organisation of literature in relation to the problem, presentation of literature, summary of literature, statement of hypothesis and in addition, highlights aspects used in the study.

• **Chapter Three: Research methodology**
  Chapter three is the research methodology, which outlines and justifies the design that has been selected.

• **Chapter Four: Data presentation and analysis**
  Chapter four is the data presentation and analysis. This is the presentation and analysis of findings. Findings are linked to the literature and some conclusions are drawn.

• **Chapter Five: Conclusions and recommendations**
  Chapter five provides conclusions on all major findings and recommendations to address the challenges identified within the Department of Education.

1.8 **Conclusion**
  The Department of Education is an enormous department and compared to other departments, it has the highest allocation of the budget in the province ascribed to it. According to the department’s annual report of the 2008/09 financial year, it has a staff compliment of approximately 68 000 00 employees. It can be concluded that the Department of Education is characterised by a number of instances of corruption perpetrated mainly by civil servants.

Bribery, fraud, nepotism and systemic corruption are some of the forms of corruption that takes place in the Department of Education in the Eastern Cape. There are systems in place to curb corruption, but these are weak and ineffective. The anti-corruption strategies, put in place in the Department of Education, have in general, functioned poorly.
There is glaring non-compliance with the Public Finance Management Act (PFMA), the National Treasury Regulations, the Procurement Procedures of the department et cetera, within the Department of Education.

According to the 2008/09 annual report of the Department of Education, there was inadequate segregation of duties to prevent fraudulent data and asset misappropriation. General IT controls had not been designed to maintain the integrity of the information system and the security of the data. Generally, the organisational structure did not address areas of responsibility and lines of reporting to support effective control over financial reporting.

In addition, ongoing monitoring and supervision to enable an assessment of the effectiveness of internal control over financial reporting were not undertaken. According to the Interim Management Report 2000, in the 1997/98 financial year, mismanagement of finances in the Eastern Cape Province led to a deficit of R1.314 billion. Furthermore, according to the AG’s report 2006 financial year, it was evident during the audit that deficiencies existed in the procurement processes of the Department of Education. The root cause of these deficiencies was the inadequate monitoring of Supply Chain Management processes.

There are serious challenges facing the leadership of the Department of Education, both politically and administratively. During the research process, that is, between the 2008 and 2010 financial years alone, there was no permanent HOD in the department; people were only appointed in an acting capacity. Even those that were seconded from the national government could not finish the specified terms, because of pressure from the unions. Change of leadership has caused both instability in the department and uncertainty among the officials of the department.

The organisational structure of the department does not address areas of responsibility and lines of reporting to support effective control over financial reporting. Management’s philosophy and operating style do not promote effective control over financial reporting. There is inadequate segregation of duties to prevent fraudulent data and asset misappropriation.
According to the management report, this has not taken place and the root cause is that control activities identified as necessary, are not being applied properly. Ongoing monitoring and supervision are not undertaken to enable an assessment of the effectiveness of internal control over financial reporting.

The majority of officials in the department are unsure about being protected or fear persecution should any employee report any corruption. Public officials’ level of confidence in reporting corruption is clearly dependent on the degree, to which individuals believe there will be protection from adverse consequences, should anyone proceed with reporting corruption. There are situations where the majority of senior officials in the Department of Education, who may be in possession of valuable information, are always under suspension. These challenges therefore highlight the need for capacity building on anti-corruption programmes, as required by the legislation within the department.
CHAPTER TWO
LITERATURE REVIEW

2.1 Introduction
A literature review provides a critical analysis of the literature available and identifies gaps in the literature in relation to the topic. It also provides an opportunity to explain what contribution the researcher is making to research in general and in the field of the study. The information for the literature study was obtained from relevant books, policies, journal articles, official reports and Acts.

2.2 Definition of corruption
According to Klitgaart (1996:28), the word corruption is used to describe a dishonest, bribing, fraudulent or dishonourable action by a political office-bearer, public official or other person. Kanyane in Mafunisa (2000:11) clearly defines corruption as the misuse of public funds and the failure of public trust. If public money is not properly utilised to attain government objectives, it is likely to be misused to promote selfish interests. Kanyane further argues that corruption, resulting from appalling conditions, made public officials incapable of committing themselves to public service in the former homeland governments. Services were poorly delivered, which aroused negative societal responses to the government. This made the system ungovernable (Mafunisa, 2000:11).

From another perspective, Fox and Meyer (1996) define corruption as the unlawful or unethical abuse of authority in order to gain personal or group advantages. Due to various cultural values in various societies, there are no universal norms to define the nature and the extent of the corruption. Mafunisa (2000:509) explains that the problem of a politicised bureaucracy model is its subjection to abuse by corrupt elected representatives and senior public servants. An emphasis in the politicised model is patronage rather than an on merit principle.
According to Klitgaart (1996:134), corruption sometimes cuts across national boundaries where foreign firms bribe local officials, or are extorted by local officials, or both. When agreed-upon, certain rules and penalties are scarce, anti-corruption efforts can come down to bargaining and negotiating. Kanyane (2005:84) defines corruption as the promotion of selfish interests at the expense of public interests, against the overall objectives of the government, by whosoever in charge and responsible within the area of work. Corruption takes many forms, but a common silver thread that runs through all, is the misuse of power and resources for private benefit. Corruption is born out of deep-rooted conflict between the power of those who rule and the claims of those who do not.

Ramaite (1999:161) argues that although there is a great deal of evidence to indicate that corruption has been around for many years, there is no single acceptable definition, which clearly and succinctly sets out its exact nature. The various attempts to define corruption have focused largely on those identifiable acts of public officials, which constitute corruption, without paying particular attention to the exact nature and effect of these acts against the backdrop of the purpose, for which said acts are performed. Economists have examined corruption mainly from the viewpoint of its impact on the economy, whereas political scientists have largely concentrated on finding its causes within the functioning of its structures and the institutions of government.

In its broad context, corruption involves abuse of authority by persons in positions of power, authority or trust. It is a perversion of the integrity or fidelity of a person in relation to the discharge of individual duties. The act or conduct in question is deplorable and morally reprehensible, precisely because it is dishonest or unfaithful. There is obviously a close relationship between defining corruption and finding a solution to the problem. In as much as corrupt practices are fashioned by a number of societal factors, these factors must be taken into account in fashioning anti-corruption work and strategies.

Ramaite (1996) indicates that in South Africa, corruption is currently only narrowly defined in the Corruption Act as the “giving, or agreeing to give a benefit to an official or agent and the receiving, obtaining or agreeing to receive or attempting to obtain a benefit by a public official or agent”. This definition has two narrow areas of focus, the identity and the differentiation of the parties to the act of corruption, namely the ‘corruptor’ and the ‘corrupee’.
This author concludes by indicating that the definition of corruption as contained in the Corruption Act has some serious practical shortfalls. Firstly, as long as the prohibited conduct is pegged to an official or an agent’s strict sphere of duty, the focus of detection and investigation will largely fall on the sphere of duty as prescribed, without taking into consideration other acts, which do not fall within this sphere. Secondly, it enables corrupt officials to arrange or rearrange personal activities in such a way that these do not appear to fall within individual spheres of duty. Corrupt officials can therefore easily disguise personally motivated activities to avoid detection. Thirdly, under this act, an ex post facto reward to an official or agent does not qualify as corruption, unless it is shown that the official exercised the designated power wrongfully. This results in an exclusion from the definition of corruption of those instances, where an official or agent is rewarded without a prior agreement.

According to Smith (1999:183) corruption, in a general sense, can be defined as any practice, act or omission by a public official, private individual or company that deviates from or violates the laid-down or generally accepted norms, rules, procedures and principles governing the expected performance of official duties, with the intention or expectation of personal or group gain or advantage. This author further submits that South African common law distinguishes between active and passive corruption. Active corruption is the unlawful giving of an advantage to an official or the making of an offer or the conclusion of an agreement, to give an advantage to an official as compensation, behaviour in the future or the past that the official might undertake or did undertake in his official capacity. Passive corruption is the unlawful, international receipt of an advantage or the conclusion of an agreement to receive an advantage by an official as consideration for the relevant official capacity.

Smith (1999) describes the way in which corruption occurs as follows:

- Financial, such as, bribery or blackmail to secure a contract, concession or licence or to obtain a favourable legal framework.
- Political, such as, the misuse of power to allocate economically valuable rights or resources, for example, shares in a privatised concern as well as selective law enforcement in a manner calculated to confer benefits or cause damage to rivals.
- Patronage and nepotism.
- International dereliction of duty.
Cameron (1995:77) defines corruption as an instrument that violates the public order. It is destructive and incompatible with a system of public order. Corruption is a system of public disorder, which exalts the common interests of public officials. Van der Merwe (2006:37) analyses the causes of corruption as poor checks and balances, greed, lack of ethics, inefficient management, lack of trust by officials in colleagues, public apathy, perceived economic adversity as well as weak law enforcement.

Webb (2005:152-153) argues that corrupt activities can take on many forms. General definitions of corruption include public officials, who deviate from prescribed norms, indiscriminately administer a law or adopt a subjective or partisan approach in dealing with clients and diligence in the performance of official duty. Corruption is defined as any international and unlawful conduct or behaviour by any person entrusted with responsibilities in public office, which violates the duties of such a public official, and which is aimed at obtaining undue gratification of any kind for self or for others. Corruption manifests itself as bribery, embezzlement, fraud, extortion, abuse of power, nepotism, conflict of interest, cronyism, influence peddling, appropriation of public funds assets and property for private use and the abuse of privileged information and favouritism.

In the above list of corrupt behaviour, activities such as fraud and embezzlement can be undertaken by an official alone and without the involvement of a second party. While others, such as, bribery, extortion and influence peddling, involve two parties, the giver and taker in a corrupt deal. Kroukamp (2006:206-207) claims that corruption in developing countries is assumed to be part of the natural maturation process.

With the advent of democracy in 1994, in South Africa, the newly elected, inherited a distorted system of governance. The existing institutions were in direct conflict with the imperatives of sustainable economic growth, social development, and reintegration into the world economy and the community of nations.

Corruption is harmful in developing countries, such as, South Africa, due to these countries having fewer resources to be most effective; in addition, these countries experience a lack of confidence in the government. According to Cloete (1995:22), corruption is a dishonest, bribing, fraudulent or dishonourable action by public officials, political office-bearers or any other person.
Corruption will always take place where a person makes an offer of a gift, payment of a sum of money or benefit to influence the recipient to act dishonestly and thus commit an offence.

Fox and Meyer (1996:29) describe corruption as the unlawful or unethical abuse of authority in order to gain personal or group advantages. Due to various cultural values in various societies, there are no universal norms to define the nature and extent of corruption. Diale (2005:296) defines corruption and maladministration, coupled with the culture of secrecy within the modern industrial system of democratic governance, as a serious epidemic with the potential of destroying the very essence of democracy. In order for governments to deal with it effectively, governments need citizens and/or employees of conscience, vigour and exceptional courage to expose such maladies.

At this stage in South Africa, corruption is narrowly defined in the Corruption Act 1992 as the “giving, offering, or agreeing to give benefit to an official or agent and receiving, obtaining or agreeing to receive or attempting to obtain a benefit by a public official or agent”. The restriction of acts of corruption to an official’s or an agent’s restricted sphere of duty, impacts significantly on the manner, in which anti-corruption policies are formulated, furthermore inhibiting effective investigation, prosecution and adjudication of cases of corruption. Abrahim (1999:60) outlines corruption as moral deterioration, depravity, an instance or manifestation of this. It boils down to perversion of a person’s integrity in the performance (especially official of public) of duty or work by bribery et cetera, a change for the worse of an institution, custom, and the like, a departure from a state of original purity.

The English language therefore considers that the term ‘corruption’ describes that behaviour, especially of public officials, which ranges from a perversion or moral deterioration to bribery. Although corruption is made an offence in the law, this is a much wider definition than the law permits.

Abrahim (1999) concludes by emphasising that in essence, any perversion of a person’s integrity in the performance of a duty; falls within the ordinary meaning of corruption. Such a meaning of corruption, however, covers an exceedingly broad spectrum.
It would literally include a lack of transparency, where this is not prohibited, a lack of accountability, an improper exercise of power or discretion, nepotism, extortion, bribery, fraud, and theft. Nonetheless, these forms of deviant behaviour are not all deemed corrupt in terms of the Corrupt Act 94 of 1992 and as amended in 1997. The legal definition of corruption therefore occupies only a narrow band within the otherwise broad spectrum of deviant behaviour committed by public officials.

According to Van der Merwe (1999:239), the word ‘corruption’ is widely accepted as a reference to anything, person, situation et cetera, which engages in any activity for the worse. Hence the sayings, “…a person has been corrupted” or “…a principle has been corrupted” or “…the world and the moral fibre of our society are in a process of decay and corruption”. The use of the word, in this general way, is certainly accepted. Therefore, for the sake of practical policy development and because anti-corruption politics are so highly charged, the meaning of the word ‘corruption’ must not be allowed to become meaningless.

Goba (1999:226) is of the opinion that corruption refers to dishonest or preferential use of power or position, which has the result of one person or organisation being advantaged over another. It involves a breach of public trust and promotes exploitation of individuals by public officials. The most obvious expression of corruption is bribery, but it can express itself in other forms, such as, sexual favours and different kinds of extortion. Corruption is stealing the resources of the state as well as the community.

According to van der Merwe (2001:9-10) the prevailing dominant view on corruption and ways to address it, is generally defined as the abuse of power for private or sectional gain or profit. This view of corruption is characterised by the following perceptions:

- Corruption is (almost exclusively) found in the public sector only, that is, in government departments and among civil servants or politicians. Public power is interpreted as being the powers vested in the public sector, wielded in the hands of politicians and civil servants.
Corruption is confined to certain forms of corruption, such as, bribery and extortion in the public sector; where the public sector and the private sector interact, for example, in awarding contracts and procurement.

Fighting corruption is largely the function of the state and the state agencies, such as, police, the AG, specific anti-corruption bodies, the justice system and Parliament.

Corruption is seen as well addressed when strong action is taken in the public sector. Unfortunately, corruption, in the private sector or elsewhere, is not addressed or referred to, or is largely ignored.

Most of the attention focuses on the actions, behaviour or attitudes of politicians and civil servants.

The systemic or structural side of the problem concerns the policies or procedures or the way in which government departments operate, the lack of an independent judicial system, the lack of democracy in the political system, and limitations on the freedom of the press.

The focus (important as it is) seems to be on the development of administrative and legal mechanisms and procedures for dealing with corruption in the public sector.

The issue of governance mainly focuses on the way, in which government should function. The requirement for corporate governance or general good governance in civil society organisation does not receive the attention it deserves.

Strategic thinking often merely deals with how to make existing mechanisms in the public sector or the interaction between the public and private sectors more effective.

Where broader strategic thinking does exist, talk of anti-corruption strategies involving role-players from the private sector and from civil society amounts to proposals to rally around government attempts at addressing corruption within the public sector.

The major part of corruption sits in the ‘developing’ countries of the world, like South Africa. People often refer to “those corrupt regimes in Africa” or “Latin American dictatorships”, and justifiable so.

White-collar crime within the private sector is seen as “something different, though related to corruption”.
For example, when the directors of a company unduly reward themselves with payments and incentives at the expense of shareholders and customers, it is seen as bad governance, or white-collar crime, and not as part of the ‘real’ corruption problem.

- Corruption in the organs of civil society largely goes unnoticed, for example, the abuse of funding for personal enrichment. The role of corruption in this area within the bigger picture of the problem is therefore disregarded. In addition, the potential powerful role of civil society in anti-corruption strategies is often ignored or overlooked.

Van der Merwe (2001) further argues that credit for many of the developments in South Africa to fight corruption, should go to the following:

- Those with foresight, who started to raise, and continue to raise, the issue of corruption in government circles as a matter for public discussion and public concern.
- Those, who develop and refine laws, policies, procedures and other mechanisms (even engineering devices) to fight corruption in the public sector.
- Those, who use personal expertise to develop often-sophisticated ways to prevent, detect, apprehend, prosecute and punish perpetrators of corruption in the public sector and who recover the ‘loot’ from corrupt practices.
- Those, who exercise the courage to fight corruption in the public sector and who, as a result, may experience serious psychological and even physical harassment and other forms of pressure. This includes receiving death threats or even being killed for uncovering corruption.

### 2.3 Nature and extent of corruption in South Africa

In general, a present, corruption is rife in South Africa. This is not because there was no corruption in the past, but because there is a greater awareness of transparency and accountability. Corruption is so bad that public confidence in government is eroded every day. Corruption does not only take the form of the cash nexus, it also takes the form of corruption values. It reinforces the banality of evil and its ability to implicate its complexity, its ability to violate the laws of nation states, flout international conventions and treaties and undermines democratic values and ethos.
Corruption is anarchy that has been loosed upon the world in which we live. It undermines community and perpetuates poverty, inequality and underdevelopment. Corruption also erodes the common good and peoples’ loyalty; in addition, it alienates citizens from the very officials the voters have elected.

Van der Merwe (2001:21) debates that corruption, even in its most commonly known form bribery, is not only a cross-sectoral problem in the sense that it is found in the public and private sectors and civil society. Corruption also occurs at different levels of society or the social realty. It ranges from the level of individual or group attitudes and behaviour, local community levels, provincial, national and international levels (i.e. the relations between defined countries), to transitional or supranational levels, where state borders become incidental and almost irrelevant. Gains, profits or proceeds of corruption are often seen as financial or material gain only. However, it could be anything from financial to social (e.g. special privileges) political (e.g. political power or position in the organisation) and economic gain (e.g. unfair competitive advantage, or even sexual favours).

In view of the broader understanding of corruption set out above, the victims could be any or more of the public mentioned earlier on. It is nevertheless widely accepted that the most vulnerable, powerless and disempowered people in society are, in the main, the ultimate victims of corruption. However, the victims of this “victimless crime” hardly ever receive attention in the perception of corruption or in the anti-corruption strategies.

Van der Merwe (2001:11) also maintains that some questions need to be raised: Why would familiar forms of corruption, such as, bribery and undue personnel enrichment, in the private sector (i.e. in business-to-business transaction) or in organs of civil society not be included in mainstream anti-corruption drives? These are the same kind of problems experienced in the public sector. Why are different forms of the abuse of power in the private sector and in civil society, such as, match fixing in sport, insider trading on a stock exchange or the abuse of moral power by religious leaders over followers, not included in anti-corruption strategies or not covered by anti-corruption drives, laws or conventions?
This source offers some explanations. There is no adequate theoretical basis (i.e. an understanding of the problem) for dealing with different and a wider range of issues than what is commonly referred to as corruption. Many practitioner, agencies, organisations, and the like have neither given any or adequate attention to analysing personal understanding of the problem, nor are these individuals or groups prompted or guided to do so. For some, such discussions are dismissed as a mere waste of time. In such cases, a limited understanding and approach to the problem largely takes place by default. A more fundamental question is that of blatant intellectual dishonesty. The suspicion is that a limited view of corruption is promoted and maintained by design. As a result, the problem is being cut in such a way that it fits those in power. The need to broaden the understanding of corruption is explicitly ignored and/or even actively suppressed by very powerful players and concerns in countries or internationally, since dealing with it may just be too cold for comfort. As such, these role players in the anti-corruption drive become part of the overall problem and need to be cited as such.

Key elements in understanding the problem of corruption, according to Van der Merwe (2001), are as follows:

- **Agents**: These are the abusers of public power and responsibility.
- **Systems**: These systems provide room for corruption and/or are forms of it in themselves.
- **Loot**: This refers to exclusive personal or sectional gains or profits.
- **Victims**: These are the people, who are supposed to benefit from the public power and responsibility, but suffer because of the abuse of power.

Who or what the Powerful agents and agencies are in the position to trim or circumvent the problem in such a way that certain areas or aspects of the agents are, and the size and substance of the loot, differ from one situation to the next. Moreover, the profiles of the agents, the loot and the victims differ in terms of what corruption is understood to be. The victims of corruption are those of neglected aspects in dealing with corruption. Corruption is often regarded as a victimless crime. The reason is that, if corruption is seen as bribery, extortion or nepotism then both parties benefit. As a result, anti-corruption theory and action become perpetrator-oriented.
A victim-oriented view on corruption helps to understand and challenge prevalent approaches to and mechanisms against corruption. Obviously, the profile and indications of who and/or what the victims of corruption are, also vary from situation to situation.

... problem that might be getting too close for comfort are not addressed. The victims of corruption do not share that luxury and suffer even more, owing to this limited approach to corruption. The most basic aspect of changing the understanding of corruption is to view it as a complex and all-pervasive societal problem. It should be understood and treated in the same way as racism, gender discrimination, HIV/AIDS, and so on. To achieve this, a mental shift needs to take place in the way people are thinking.

Baqwa (1999:136) argues that it is a fact of human existence that maladministration, abuse of power, crime and corruption occur not only in the lowest, but also in the highest of places. Corruption is defined as:

- Destruction or spoiling of anything, especially by disintegration or decomposition.
- Making or becoming morally corrupt; the fact or condition of being corrupt; moral deterioration; depravity.
- Perversion of integrity by bribery or favour, the use or existence of corrupt practices.
- Perversion of anything from an original state of purity.
- The abuse or unjustifiable exercise of power could be an indication of the deterioration of ethical standards or the perversion of integrity, as would unfair, capricious, discourteous or other improper conduct on the part of an official. Even undue delay by an official could indicate such deterioration or perversion.

Corrupt behaviour occurs where there are opportunities for personal or sectional gain through the misuse of entrusted power and individuals or groups, who are prepared or inclined to misuse designated entrusted power. T

Corruption, according to Baqwa (1999), can be seen as acts of involving the misuse of entrusted power for personal or sectional gain. Corrupt practices in government undermine democracy, for these distort normal decision-making processes and subvert the policy objectives of legitimate democratic government.
Corruption perpetuates discrimination as it results in unfair advantage or undeserved benefit. Ultimately, corruption, if unchecked, can destroy a democratic society.

This means that anti-corruption strategies must attempt to limit opportunities for corruption through implementing various preventative and public education measures and make corruption a high-risk venture through effective law enforcement and deterrence mechanism.

In support, Goba (1999:227) disputes that corruption is rife in the new South Africa, not because there was no corruption in the apartheid era, but because in the context of democracy there is a greater awareness of the need for accountability and transparency. Public officials in the new political context are expected to demonstrate traits of public honesty and accountability. However, unfortunately, many newly appointed officials have not received proper training for the position held and the exposure to corrupting influences is very high. It is therefore not surprising that there are serious problems of corruption in the public sector.

Part of the corruption, according to Goba, is promoted by the prevailing entitlement mentality that informs the behaviour of many black public officials. There is no doubt the spirit of good accountable governance and proper public administration maintains that corruption is morally wrong. It is wrong because it destroys public trust. Van der Merwe (1999:240) reasons that the most basic aspect of understanding corruption is to recognise that it is a complex and all-pervasive societal problem. Once this (mental and conceptual) shift has taken place and been internalised, the accepted definitions of corruption not only assume wider and different theoretical meaning, but also prove to be more helpful in addressing corruption in practice and in a more creative and comprehensive manner.
This analysis of corruption is not definitive. It is aimed at unveiling aspects of the problem, which remain hidden in the dominant understanding of corruption, and are largely untouched by policy processes aimed at addressing corruption. Allan, Millie and Mattes (2002:vii), claim that much of the theory attempting to explain the high prevalence of corruption within African states, starts from the assumption that continued prevalence of traditional cultural and moral values within African societies, is a key enabler of corrupt behaviour.

Whereas Western public administration is marked by strict separation between private interests and public responsibility of officials, this is not the case, in what has been termed 'neo-patrimonial' states within Africa. In these states, the receipt of gifts and payments by officials are deemed culturally acceptable. Therefore, a need exists to move beyond debates about whether traditional African culture inadvertently lends itself to corruption. Such perspectives often reproduce the fatalistic assertion that corruption is inevitable in Africa. Allan et al (2005) conclude by indicating that the presumption of an association between cultural values and pre-modern administrative practices in African states have also served to shape internal policy thinking on corruption in Africa over the last five decades.

Smith (1999:184) argues that corrupt practices can be categorised into two groups: ‘grand corruption’, which occurs at the highest organisational levels and ‘petty corruption’. Grand corruption distorts competition and induces incorrect decisions that result in the implementation of inappropriate programmes, inflated prices and inappropriate contractors. Petty corruption occurs at lower levels and is damaging, because it increases transaction costs, excludes those who cannot pay foster contempt for public officials and erodes capacity for revenue collection.

According to van der Merwe (1999:236), the role of civil society in anti-corruption strategies is often ignored or overlooked for the following reasons:

- Popular understanding regards corruption as a public sector–specific problem.
- The general perception of corruption is that it is confined to forms, such as, bribery and extortion within the public sector; or where the private sector interacts, for example, in awarding contracts.
- White-collar crime in the private sector is seen as something different from, though related to, corruption.
- Fighting corruption is the function of the state and the state agencies, such as, the police, the AG, specific anti-corruption bodies, the justice system and the Parliament, (for example promulgating policies, legislation and procedures aimed at addressing corruption).
- Corruption is seen as addressed, when people see (political and bureaucratic) ‘heads roll’, and tough investigations as well as strict policing (‘blood on the walls’) take place.
- The focus (important as it is) seems to be the development of administrative and legal mechanisms and procedures to deal with corruption.
- Where broader strategic thinking does exist, talk of anti-corruption strategies, involving role players from private sector and civil society, amounts to proposals to rally around government attempts at addressing corruption in the public sector.

Rev. Richard Menatsi, in the Second National Anti-Corruption Summit Report (2005:42), described corruption as an enormous handicap to the development of democracy in a developing country like South Africa. On this basis, to religious people, corruption is understood as a form of sin, unethical and a grave injustice to society. Corruption is a form of moral disintegration, since it leads people away from living a life in accordance with Christianity. As such, corruption results not simply in alienation from God, but also in a failure to realise a human being’s destiny as the person one ought to be.

Mr Thabo Mbeki, the former President of the Republic of South Africa, in his presentation at the Second National Anti-Corruption Summit stated, “Corruption is inimical to development; it constrains the ability to fight poverty, negatively affects the economic development, damages social values and undermines democracy and good governance.” The former President in addition also argued that corruption might be understood to be the abuse of power for illegitimate and illegal gain or profit, whether it is exercised in the private or in the public domain. Any unethical conduct by public officials destroys the trust of citizens in public institutions and governance processes. Corruption is a systematic and institutional phenomenon involving all sectors of society.
It undermines democratic processes and corporate governance and erodes social cohesion and values. Corruption also leads to losses in efficiency and opportunity, and to increased production costs. Hence, it adversely affects development; consequently, it results in poverty becoming more prevalent; there are alarming high levels of corruption in the private sector.

The African National Congress (ANC) resolutions tabled in the 50\textsuperscript{th} National Conference in 1997, declares, “It undermines the objectives of the National Democratic Revolution. Measures to combat corruption must deal with both those who corrupt as well as those who are corrupted”. The public have a crucial role to play in exposing corruption. The elimination of corruption should be placed high on the agenda of the ANC by ensuring that prompt disciplinary action be taken against any member, regardless of office, who is guilty of any corrupt practices.

In the report, referred to as the Interim Management Team Report, 2002, the Government of the Eastern Cape was faced with many challenges in addressing service delivery backlogs, the bulk, of which was related to its capacity. Due to persistent problems that were not sustainable, addressed by previous interventions and programmes, the then President of the Republic of South Africa, Mr Thabo Mbeki, and the then Premier of the Eastern Cape, Mr Makhenkesi Stofile, agreed to deploy the Interim Management Team (IMT) to the Eastern Cape Provincial Administration. As a result, in 2002, a multi-sectoral team was deployed within the Departments of Education, Health, Roads and Public Works, and Social Development, to deal with service delivery challenges as well as corruption. Judge Chris Nicholson, in his judgment in the Zuma case in 2008, against the National Directorate for Public Prosecution in Pietermaritzburg High Court, indicated that it would be naïve to suggest that the allegations concerning corruption relating to the arms deal have ceased or diminished in intensity. The Judge argued that corruption and maladministration are inconsistent with the rule of law and fundamental values of our Constitution.
These allegations undermine the constitutional commitment to human dignity, the achievement of equality and advancement of human rights and freedom. These allegations are the antithesis of the open, accountable, democratic government required by the Constitution. The Judge finally disputed that if allowed to go unchecked and unpunished, these issues will pose a serious threat to the country’s young democracy.

The former president of the Republic of South Africa, Dr Nelson Mandela, in his opening address to Parliament in 1999, emphasised,

“The hope for the future of our country depends on our resolution as a nation in dealing with scourge of corruption. Success will require an acceptance that in many respects, we are a sick society. It is perfectly correct to assert that all this was spawned by apartheid. No amount of self-induced amnesia will change the reality of history. However, it is also a reality of the present that among the new cadres of our movement in various level of government, you will find individuals who are corrupt as – if not more than- those they found in government. When a leader in a provincial legislature siphons off resources meant to fund service to the people, when employees of a government institution set up to help empower those who were excluded by apartheid, defraud it for their own enrichment, then we must admit that we have a sick society”.

Dr Mandela concluded by highlighting that this problem manifests itself in all areas of life.

Balia (1999:1) asks the question whether corruption is here to stay, as some would have the people believe. Is there an end in sight? Barlia argues that South Africa is certainly not the first emerging market to offer a haven for corrupt practitioners, but the signs are that the times are changing.

The road to the recovery of money and state assets is long and arduous, as Judge Heath is discovering, but the appetite for victory in battle, is ever-present. Corruption is as old as government itself, and where there is a public rand, there will always be a crooked hand. Fighting corruption is a multifaceted struggle with differing strategies being determined by a complexity of factors.
Discharging emphasis on this complexity, might assist in the formulation of more comprehensive programmes for future actions. Strategic choices to achieve efficacy in fighting corruption are not limited, but recognition that the perpetrators are infinitely able to adapt and work around almost any new framework, must leave little room for quick-fix solutions.

Du Plessis (1999:18) describes corruption as the misuse of public power for private profit or political gain, growing internationally. This source maintains that the increasing public awareness of the problem is forcing governments to crack down on corruption. Governments have also identified the need to cooperate internationally in order to facilitate improved management of the problem. Corruption is growing internationally because of several factors, including:

- Globalisation of economies, which greatly increase the financial stakes of, and opportunities for corruption.
- Advances in technology, especially the ability to do transactions electronically, making it much easier to hide criminal activity, and to transfer/divert the proceeds quickly.
- Transformation of nations in many parts of the world, rendering it difficult for those countries to raise revenue to protect borders, and keep criminal elements under control.

Furthermore, Du Plessis (1999) claims that in many countries, governments had to cut back on budgets, with the result that law enforcement agencies are not well prepared or well equipped to successfully address cross border crime and money-laundering problems. The author also submits that anti-corruption strategies cannot succeed unless investigative agencies apply new methods for dealing with criminals adept at using new technology. It must also be borne in mind that organised crime syndicates have access to some of the best professional advice available. Because of the lack of capacity and the greater sophistication of white-collar crime, investigating agencies are making use of the skills of forensic accountants and fraud examiners where this expertise can be afforded.
According to Ebrahim (1999:58), corruption has been identified as a scourge, capable of threatening the new democracy. Reports on incidences of corruption have become a recurring theme in the media, creating the impression that the new transforming administration of public service is corrupt and that the rot is setting in. The author states that there has been an outcry from the civil society, the media, and the public, and the growing demand that government should prevent this issue from becoming an all-consuming problem. At the same time, there is growing realisation that needs to get to grips with this phenomenon if the citizens of this country are to address it; and fortunately, government is taking the lead in this regard.

In general, the term 'corruption' has been used very loosely to describe a range of deviant behaviour by public servants. This has included theft, bribery, nepotism, improper appointments, and the award of lucrative contracts to friends or family members. Unfortunately, such descriptions do not help, as these tend to obfuscate the nature of the problem. Understanding the problem is made all the more difficult by politicians, who often use incidences of corruption as a tool to score political points against each other. Ebrahim argues that South Africans have also developed a warped sense of and response to corruption. The focus of attention is mostly on those, who are corrupted to the exclusion of those, who corrupt. On the one hand, it is socially acceptable to boast about how people are able to bribe an official, evade tax, or have a 'contact' in one department or another to expedite matters. On the other hand, reports on the involvement of public servants in acts of corruption are frowned upon, according to Ebrahim.

The public discourse on this matter, according to Ebrahim, tends to over-emphasise the combating of corruption at the expense of the measures to prevent it. This regrettable and too little effort is spent in dealing with the causes of the problem. Far too often solutions are sought in more legislation, rules, regulations, and harsher measures. Outside the public service, too little is being done to help bring about the transformation of the service into the respected profession that it ought to be. Furthermore, the real victims of corrupt practices, the ordinary citizen, are often ignored as key role players in the prevention of corruption.
In the Provincial Anti-Corruption Consultative Conference held in East London ICC Conference Centre on the 10th September 2010, Advocate W.H. Heath made the following submissions:

- That South Africans are not doing enough to combat corruption. The absence of definitive action creates the perception that it is acceptable to commit corruption and people are prepared to let corruption go unpunished.
- Both civil society and government should mobilise themselves to fight corruption. The main instigator of corruption is civil society. Civil society finds most willing partners in government.
- The media tends to highlight certain key cases, whereas this role player should focus on corruption on all levels, thereby acting as powerful watchdog in combating corruption.
- Corruption is extremely rampant and one of the main reasons for this is that South Africans have become exceptionally greedy and are prepared to sacrifice all principles. High profile people in civil society and government ascribe to no Code of Ethics and merely pay lip service to good governance and corruption prevention.
- It is often the very people, who are supposed to enforce society’s moral codes, which commit corruption and remain unpunished.
- Corruption undermines the constitutional rights to human dignity, equality and freedom. It endangers the stability and the security of societies and undermines the institutions and values of democracy.
- Corruption seriously jeopardises sustainable development, the rule of law and the credibility of governments and provides a breeding ground for organised and syndicated crime.

Corruption therefore becomes both the cause and consequences of underdevelopment and poverty in general.
2.4 Causes and effects of corruption

The Public Service Commission Report (2001:9) reflects that in most cases, the root cause of corruption is inadequate, inefficient and ineffective monitoring Supply Chain Management processes. Corruption tends to flourish where governance is weak and the same applies to institutions of accountability, such as Parliament, Public Accounts Committee and the AG’s office. There are many causes including the fact that people in administration are new and now controlling state power and resources.

Although corruption can occur at a variety of levels, attention has usually been directed at only two - namely, the high and low, and these are believed to reinforce each other. High-level corruption refers to misconduct at the top and by leading politicians. Since these people are generally well off and enjoy many privileges associated with the high office, such corrupt behaviour is not attributed to low pay and out of necessity to meet the living expenses of respective families. Instead, greed is considered the main motivating factor. At the other end, low-level corruption, such as, the underhand payment that has to be made to a traffic officer to expedite the issue of a driving licence has its own set of problems. In this case, the general perception is that civil servants, with insufficient salaries to meet the living expenses of individual families, are driven by necessity to engage in corrupt practices. The line between “need driven” and “greed driven” corruption is hard to draw, it is difficult to determine where one ends, and the other begins, maintains the Public Service Commission.

Ramaite (1999:161) explains:

- Economists have examined corruption mainly from the view point of its impact on the economy;
- Political scientists have largely concentrated on finding its causes with the functioning of the structures and institutions of government;
- Jurists, seek to understand it mainly from the viewpoint of the specific acts, which constitute criminal conduct.

There is obviously a close relationship between defining corruption and finding a solution to the problem. Corruption generates economic distortions in the public sector by diverting public investment into capital projects, where bribes and kickbacks are more plentiful.
Officials may increase the technical complexity of public sector projects to conceal or pave the way for government dealings, thus further distorting investment. Corruption also lowers compliance with the construction environment; other regulations, reduces the quality of government services and infrastructure and increases budgetary pressures on government. Corruption does not only take the form of the nexus, it also takes the form of corruption of values. Corruption reinforces the inability of evil and its conceit in its ability to implicate, its complexity, its ability to violate the laws of nation states, flout international conventions and treaties and undermine democratic values and ethos. Corruption is an issue that dominates political and administrative discourse general in South Africa. Corruption hurts everyone. It deepens poverty, and distorts social and economic development. Corruption erodes the provision of essential public services and it undermines democracy. Corruption can have undesirable consequences on both the revenue and the expenditure sides of the government budget (Ramaite, 1999).

According to Hanekom (1983:79), corruption occurs only if a person lacks integrity and honesty. However, other reasons may also be proposed as to why corruption may occur in the public institution. Democratic governments may create the impression with the electorate that every person can influence public policy by individual voting power. These expectations are shattered when the voter finds that in some cases, policy can be influenced by appointed officials in the public institutions. As the voting power or support cannot be used by the voter anymore, the individual is compelled to resort to drastic measures, such as, bribery, et cetera, in order to attain the desired effect. Officials responsible for administration are granted discretionary authority in a number of cases.

An act, applicable to the activities of a department, will normally provide only a broad framework for action. It is then entrusted to the administrative official to provide flexibility in the provisions of the enabling act or policy guidelines, by adapting decisions to meet particular circumstances. By awarding discretionary authority to the administrative official, flexibility is obtained. At the same time, an opportunity is created for decisions and actions that may be influenced by personal considerations, or bias.
Decisions or actions may be influenced by pressure exercised by the individual or group that may benefit from it. The opportunity for corruption thus arises, endangering the integrity and proper processes of administrative functions.

It is often found that members of the public take little interest in governmental activities. This is particularly the case at municipal level in South Africa, where a voting percentage of 20 or less, at municipal elections, is a common occurrence. The lack of interest is also found in civic associations that campaign for improved services and benefits. The lack of public interest could result in ineffective scrutiny of the executive actions. This in turn could result in less sensitivity among officials to the need for integrity and honesty in the public services. It may even increase the danger of corruption, as it may be accepted that corrupt practices will not be noticed, or even that no one will want to become involved in exposing the corruption (Hanekom, 1983).

Goba (1999: 249) argues that civil society and its organs are very much part of the overall problem of corruption. One is often appalled by the extent and forms of corruption in different organs of civil society. These include:

- Mismanagement of funds and other assets of an organisation.
- Harassment and other threatening behaviour by persons and structures of authority, particularly towards actual and potential whistle-blowers.
- Lack of accountability to stakeholders, such as, staff, boards, members, beneficiaries and donors.
- Donors demanding accountability and transparency from organisations, but not displaying similar levels of transparency towards recipient organisations.
- Donors abusing the power of money, by unduly interfering in the management agenda of an organisation.
Unfortunately, very little concrete information is publicly available on the extent and impact of corruption in civil society. Hanekom (1996:154) maintain that, although disclosures of unethical conduct by public officials in South Africa, are made from time to time, the general level of conduct of public officials is of a high standard. The ethical standards of public officials however, are directly related to society as a whole. If the public accepts that in order to secure an expeditious response, from a public official, some pecuniary or other incentive is necessary, and the official accepts the incentive, then the standards of ethical conduct of officials and the public are in fact in harmony from the point of view of the public. Furthermore, Hanekom et al (1996) argues that, the corruption of public officials by private interests, is usually very subtle, favours by the public to the official, put the official under obligation and the officer gradually substitutes personal public loyalties to those supplying the favours. It is quite possible that the official believes and claims that personal decisions are not influenced by the benefactors.

Kotuwa (2005) describes corruption as a scourge, a menace, a disease and epidemic. It has been widely acknowledged that it poses a threat to both human development and security. Economically, corruption has a disastrous effect. It impedes development and weakens social stability.

According to du Plessis (1999:33), corruption in the procurement process, is probably one of the most serious threats to the public sector. The outcome of this, usually bribery and kickbacks, is difficult to detect, as it constitutes off-book frauds. Off-book frauds occur outside the accounting environment, where no audit trail is likely to exist. If an employee received a bribe for selecting a certain supplier, that payment would be made by the supplier to the employee and would therefore not be reflected in the books of the affected company. It is indirectly reflected in the price of the goods or services. These frauds are detected indirectly. There can be complaints from other suppliers, suspicion about the lifestyle of a particular employee, et cetera. For the identification of such off-book payments to be successful, the sources as well as the uses of the funds must be identified.
Du Plessis (1999) further highlights the fact that in some instances an employee-fraudster receives a kickback, simply for directing additional business to a supplier, for which there might not be a need. There might be no over-billing involved in these cases, the supplier simply pays kickbacks to ensure a steady stream of business from the purchasing company. However, in most instances, kickbacks begin as over-billing schemes, in which a supplier submits inflated invoices to the victim company. The false invoices either overstate the cost and services or reflect fictitious sales. The author concludes by mentioning that corrupt employees might also prepare false supporting documentation to make it appear that fraudulent invoices are legitimate.

Where proper controls are in place, supporting documentation is required before the accounts payable section will pay an invoice. A critical factor is for the fraudster to create a purchase order that corresponds to the supplier’s fraudulent invoice. The fraudster might forge the signature of an authorised party on the purchase order to show that acquisition was approved. Where the payables system is computerized, an employee with access to a restricted password can enter the system and authorise payments on fraudulent invoices.

Cochrane (1999:50) is of the opinion that corruption is a symptom of general malaise in the body politics. Corruption is part of the human condition historically and it is not something new that is a well-known factor. However, where it becomes endemic, where it becomes the identifying mark of a society or its institutions, where it flourishes and is not checked, it raised profound questions about the nature and foundation of that society itself.

Heath and Rich (1999:258) argue that corruption and fraud are not restricted to race, gender, political affiliation, social status or financial standing. It is a disease, which affects the poorest of the poor and the richest of the rich. It affects the socio-economic climate of a country and influences potential international investment, and can cause the economical downfall of a country if it is not curbed and measures are not in place to combat it, this includes bringing people to book, holding each individual accountable and ensuring that the heaviest sentence is handed down as deterrent. The criminal justice system is one of the most important weapons in this battle according to this duo. A number of initiatives have been taken since the 1994 election.
These are indicative of the commitment by the present government to root out corruption, fraud and maladministration in public as well as private sector.

2.5 Attempts to resolve corruption

South Africa’s transition to democracy has been characterised by high levels of corruption in all spheres of governance. Several initiatives have been undertaken to promote accountability and fight corruption within the public sector. These efforts include legislation that have been promulgated as well as the hosting of anti-corruption conferences and platforms in the fight against corruption. Smith (1999:185) implores that the devastating effect that corruption has on effect service-delivery must never be underestimated. Even petty corruption, which is often engaged in to facilitate ‘survival’ or to ensure a marginally better lifestyle than the official can afford, contributes to ineffectiveness.

Combating corruption must improve effectiveness and that is not an end in itself, but rather instrumental in the broader goal of more effective, fair and efficient government. Section 41(1) (c) of the Constitution of the Republic of South Africa 1996, commands all spheres of government to provide effective governance and co-operate with one another to the end. Combating corruption to improve effectiveness requires political commitments, practical anti-corruption strategies, stamina to sustain such campaigns, the allocation of adequate resources to such campaigns, and the establishment of integrity systems at all spheres of governance from local to national, argues Smith (1999). Politicians cannot afford to pay lip service to combating corruption. Politicians have to become champions of the anti-corruption campaign. Championing a campaign that may identify and put an end to private gains or advantages, because of abuse of public power, is an extremely unpopular position to take and may is dangerous. It requires those elected office-bearers to set, where necessary, respective and personal houses in order.

As public representative, politicians must stop nepotism, patronage and cronyism, refuse recommendations not to comply with procurement procedures and rules, ensure that terms of reference for work to be performed by consultants, are clear and precise and, more importantly, treat every complaint about alleged corruption seriously, quickly and decisively.
Public managers, who do not engage in corrupt practices, need the support of political office-bearers, to name those colleagues and subordinates, who are corrupt.

Special measures must be introduced to protect the identity of anyone who identifies a corrupt superior, whether elected or appointed. Smith (1999) concludes by indicating that fighting corruption is not an end in itself, but a means of achieving a broader goal of effective and accountable government. Corruption may contribute significantly to ineffective services. Improving effectiveness and at the same time eliminating or at least drastically reducing corruption, requires a very urgent and serious commitment to implement the policy, improving accountability and introducing evidence-based planning. Fighting corruption needs the commitment not only of elected office-bearers and management, but also of every person working in or for an organ of state. Members of the public must be assured of protection if individuals are to report corruption in line with the Protected Disclosure Act 2000.

Hanekom (1983:80-81) asserts that, as there may be various reasons for a public official to succumb to bribery and other corrupt practices, no single and simple solution can be proposed. Considering the large number of officials employed at the three spheres of governance and the large amounts of money involved in public activities, the elimination of malpractices will remain the utopian goal. However, according to this source, the following measures could be considered in an effort to eliminate such activities:

- **Centralisation** of the decision-making and administrative arrangements ensures that officials find it difficult to deviate from the laid-down policy and procedures. This could limit the occurrence of corruption, but conversely it could also result in cumbersome procedures and delays that are not in the interests of the public sector’s drive to improve efficiency and effectiveness.
• *Training and development* can help to improve the skill and the ability of officials in the sector.

• *Improvement of control* is required, because public officials are appointed to render services to the community and to ensure that the goals set by the legislature are indeed achieved. Control in the public sector should not be aimed solely at determining whether the results attained meet the expectations quantitatively and qualitatively. It is expected of public officials and political office-bearers to be able to explain individual actions in public. Therefore, the control that is instituted should make provision for the identification of corrupt actions or possibility of corruption, and act preventively instead of remedially. Control should be imposed to prevent the occurrence of corruption rather than to eliminate it. Judicial control is normally accepted as one of the most effective ways of controlling administrative actions. However, it should be taken into account that courts of law usually act only on factual considerations. When corruption can be proved, the court is in a position to act, but is incapable of effective action when kickbacks cannot be established beyond doubt. An important development was the establishment of the Ombudsman in the Republic of South Africa. The Ombudsman Act, 1999, allows investigation into possible misappropriation of state money as well as corrupt practices. The Ombudsman can provide a valuable aid for the curbing of corruption (Hanekom, 1983).

• *Elimination of excessive secrecy* is probably one of the most conducive factors to the development of corrupt practices in the public sector activities. Such a situation may not only enable an official to become guilty of accepting bribes, but may also create the impression that not all actions have to be accounted for in public. Care should be taken, therefore, that all public activities that do not endanger the state or result in members of the public obtaining unjustifiable benefits, should be made public. This could result in the availability of more information on public activities, making it more difficult to hide corrupt practices.

• *De-politicisation of administration* prohibits politicians from becoming involved in executive actions in an effort to prove to the electorate that personal election promises are indeed fulfilled. This contributes to pressure on the officials to act in such a way as to satisfy the politicians.
Innovating the administrative arrangements to meet the increasing demands of the community for an honest administration, curbs the unjustified interference of the politician in the executive actions. In an effort to counter the danger of politically inspired administrative actions, attention should be devoted to the degree, to which administration should allow politicisation.

- *Increased responsiveness* is a particular attempt to make public institutions responsive to the views of the public on public affairs. Excessive emphasis on the security of the state could give rise to increased secrecy, and the creation of unresponsive officials.

Cloete (1994:84) points out that it has been explained that personnel administration concerns people as such. The human factor cannot be eliminated, which implies that some degree of subjectivity is present in such activities as appointment and promotion. However, the introduction of measures, to deter nepotism at least, could prove to be worthwhile. The mere presence of a merit system in personnel administration will prevent nepotism or patronage. The operation of the system should be closely monitored, to ensure rationally defensible decisions in all personnel activities. The central personnel authority, such as, the Commission for Administration in South Africa, could play an important role in the prevention, exposure, or remedy of nepotism or related malpractices. For most government activities, Parliament is the supreme controlling body; therefore, it is expected of Parliament to ensure that services are rendered efficiently and effectively. Furthermore, it is considered a duty of Parliament to safeguard the rights and privileges of all citizens. If Parliament is awarded the opportunity to obtain sufficient information and the opportunity to discuss the reports, malpractices, in the personnel administration, could be detected. The possibility of detection could serve as an important deterrent against nepotism.
According to Goba (1999:246-247), no simple and fragmented, quick-fix, ad hoc solutions should be attempted, though what can and must be done immediately should be done, as long as it is seen as part of a broader multi-pronged strategy. The only mistake that should be avoided is a too narrow understanding and analysis of the problem. Strategies for addressing corruption should be inclusive in the sense that as many role-players as possible should be allowed to play a part in respective areas and levels of expertise.

Given the broadened understanding of the nature, extent and the impact of corruption as societal issue, it is suggested that the core of an anti-corruption strategy would be to develop, establish, strengthen and sustain a South African system of integrity against corruption. The rationale for this approach is that corruption is a very complex and broad-ranging, crosscutting, systemic and societal problem. A comprehensive and coherent anti-corruption strategy should be developed as a massive process of social engineering or transformation. The source also states it should be acknowledged that no single individual, group, organisation or institution could deal with corruption comprehensively and effectively on its own. All efforts need to be seen as part of a broader strategy and dynamic.

Goba (1999:250) further argues that civil society must also deal with the issue of corruption as a new area of formal and informal social activism. This should be seen as in line and interlinked with initiatives on a variety of social issues such as racism, gender issues, religious concerns, development/transformation of society, democratisation, socio-economic justice, consumer issues and the debt of South Africa. Camerer (1999:198) submits that other than sufficient monetary resources, a number of important requirements can be identified for an anti-corruption agency to function effectively.
Goba (1999:251) outlines the work that can be done by organs of civil society (media included) as follows:

- **Outcome-oriented networks of initiatives, organisations and structures in civil society with similar focus areas are to cooperate as far as possible and augment one another’s efforts, for example religious communities, sports’ bodies, women’s organisations, developmental organisations, research organisations, consumer bodies, educational institutions, unions and employer organisations.**

- **Outcome-oriented networking with relevant institutions and individuals in the public and private sector on different levels.**

- **Policy interventions, internal - organs of civil society (for example, to improve internal systems and cultures of integrity and individual behaviour), external - towards the public sector (for example, relevant policy and legislation on different tiers and departments and agencies of government, political ethics, public sector ethics, business ethics and economic ethics).**

- **Monitoring and research, each citizen has an obligation to monitor the abuse of power as encountered. Adequate and trusted complaint structures (for example, toll-free numbers) should be in place.**

- **Different types of research can be done from raw data, investigative research, case studies, best practices, prominent failures, analysis and trends as well as tendencies to policy research. There is therefore, space and roles to play for all individuals, research institutions, journalists, the media et cetera.**

- **Corruption-related research is still largely untapped, apart from ‘high profile’ public sector and private scoops. Research on corruption, should not only be on corruption taking place, but also on what is being done about it, and what can or should be done.**

- **Public awareness: different focus groups could undertake or participate in public awareness campaigns by different means (e.g. posters, stickers, leaflets, reports in the media, etc.). Community-based organisations (including political parties) are particularly important, because these groups mobilise a responsible groundswell against all forms, aspects and dimensions of corruption.**
• Training and education: corruption and corrupt-related issues could be incorporated into existing training and education initiatives, such as, civic education, human rights education, voter education, democracy education, good governance training, integrity training and ethics training.

• Take necessary steps “to make corruption less profitable” and integrity more rewarding.

• Civil society should formally be recognised as an essential role-player in developing, implementing and sustaining an anti-corruption strategy.

• Finally, organs of civil society can only play a meaningful role if adequate capacity and a pool of resources (funds and skills) are developed.

Heath (1996:257) describe the role of criminal justice, in the fight against corruption, as overshadowed by tremendous increases in violent crime, robbery and similar criminal activities. In addition, the poor situation of the criminal justice system, the meagre salaries earned by prosecutors and magistrates and the backlog of cases, waiting to be presented to the courts, have led to a situation that is in dire need of rectification.

At the 1998, Public Sector Anti-Corruption Conference, the need was identified to deal with corruption in the public sector in a harsh and speedy manner. Similar sentiments have been echoed by the private sector, because this sector annually loses millions, due to white-collar crime. However, the system, as it is structured at present, does not allow for the speedy conclusion and possible conviction of people investigated for corruption, in either the public or private sector. People, who have been investigated by any of the many anti-corruption agencies, are let out on bail, pending a formal hearing, and it has become common practice for such individuals, to flee the country and never to be seen or heard of again.

Corruption is more than rife in South Africa. It varies from the simplest case of bribery to the most sophisticated and devastating cases of corruption. Many of these cases are masterminded from outside the country and implemented by well–placed syndicates, who have contacts in every corner of South Africa. Fighting corruption requires a sophisticated approach with a lot of training, expertise, experience and multidisciplinary direction.
It must include teamwork by experienced experts, who train the younger, inexperienced generation to ensure continuity of the system and an ever-growing pool of dedicated people.

According to Heath et al (1999:265), it is time for South Africa to deal with the facts of crime and in particular serious crimes that affect society. Corruption is not only impoverishing South Africa, but is also paralysing the administration and private enterprise. A concerted effort by police, prosecutors and presiding officers not to impede the courts with pettiness and to develop a spirit of serious business, will go a long way towards solving the problem of overcrowded courts. If matters are not going to be taken seriously, corruption will continue to erode a healthy economy and confidence in the criminal justice system. Those who are employed in the criminal justice system and who do not take the work seriously are as corrupt as those, who operate in organised crime and syndicates. The Department of Justice must not become a syndicate, which in its own way, corrupts the democracy in South Africa.

The Third National Anti-Corruption Summit, held on the 4th and 5th of August 2008, reaffirmed its commitment in fighting against corruption. The following commitments were made:

- Build on the outcomes of the two previous National Anti-Corruption Summits;
- Be cognisant of the central role of the strong leadership in the fight against corruption.
- Affirm the fundamental significance of the National Integrity System in the fight against corruption in South Africa.
- Recognise that South Africa has acceded to the United Nations, African Union, Southern African Development Community and Organisation for Economic Co-operation and Development’s internal legal instruments on anti-corruption.
- Note that corruption undermines the democratic ethos and principles of the constitution, while eroding the social contract between citizens and the state.
- Recommit at an individual level and collective level to the process of moral regeneration and adhere to a value system of ethical conduct.
Addressing the Third National Anti-Corruption Summit, the former Minister of Public Service and Administration, Ms Geraldine Fraser-Moleketi, indicated that to this end; the country as a whole must return to the central values, which have shaped the struggle for national liberation, the democracy built and the historic transformation project undertaken. Good governance is a prerequisite to preventing and combating corruption; while corruption undermines good governance, it can be viewed as a governance challenge. The minister regarded corruption as systematic, and focus therefore had to be on effects rather than intentions. The effect of corruption is that it undermines the value system, the norms and the very cohesion of society.

The Minister of Public Service and Administration finally suggested that a National Integrity System, out of necessity, must be built on the following:

- A strong code of ethics in the work place.
- The political will to enforce this ethos.
- Transparency and accountability of public servants, both for the service deliverer and for the work ethic, to work inefficiently and ineffectively, causing the people of the nation to stand interminably in line-ups, is unethical.
- Rewarding exemplary conduct.
- Managers should lead by example and must abide by the highest of ethical standards.
- Subjecting misconduct should lead to disciplinary sanctions.
- The training of public servants in integrity, conflict of interest and democratic ethos should be a high priority.
- The training of public servants in both administrative and constitutional law.
- Afford a high priority to the public and serving the public.

These are the essential preconditions for the elimination of corruption, conflict of interests and malpractice in the public sector. According to the Cabinet Memorandum 45 of August 2003, Cabinet approved the establishment of a National Anti-Corruption Hotline for the public service, which was managed by the PSC. In terms of Sections 195 and 196 of the Constitution, the mandate of the commission is to:

- Promote a high standard of professional ethics in the Public Service.
- Investigate, monitor and evaluate the organisation and administration.
• Investigate and evaluate the application of personnel and public administration practices and report to the relevant executing authority.

The objectives of the National Anti-Corruption Hotline are to:

• Detect incidents of corruption, encourage whistle-blowers to report witnessed incidents occurring in the Public Service.

• Ensure the successful investigation of alleged corruption and provide feedback to whistle-blowers.

• Assist the Public Service in identifying areas of corruption risk in order that preventative and detective control measures can be appropriately improved or developed,

• Raise awareness that government takes corruption seriously, and

• Enable callers to report corruption anonymously, thus encouraging whistle-blowers.

The report of the PSC, *Measuring the Effectiveness of the National Anti-Corruption Hotline 2007* identified that one of the obstacles, in the fight against corruption in the Public Service, is the fact that public servants are often too intimidated to speak out on corrupt and unlawful observed activities, occurring in the work place. Often those who report corruption may experience victimisation and intimidation. The report indicates that government has attempted to address this concern through the Protected Disclosure Act 2000. This Act, however, only deals with employee and employer relations and does not refer to members of the public, who are willing to report corruption.

Addressing a consultative forum on the United Nations Convention against Corruption in Pretoria on the 18th March 2004, Minister Fraser-Moleketi said corruption has no boarders and ought to be tackled in a collective approach. For the nation to be effective in fighting corruption there is a need to extend and align all efforts across the borders, adding that no country is immune to corruption. The minister explained that the decision of the United Nation’s General Assembly to establish a new convention against corruption, put the international community in the advantageous position of taking stock of workable solutions, developed at the multilateral level.
“This also gave the opportunity to explore, with the benefit of the broadest possible participation, the experience of the existing joint efforts that have enabled innovative solutions to emerge and address new problems, such as, the transfer of funds of illicit origin and their return,” she said.

The Minister also indicated that participation in forging agreements, such as, the SADC Protocol against Corruption and the African Union Convention on Preventing and Combating Corruption, is emphasised, because these are the stepping-stones to improved international relations. Ms Fraser-Moleketi explained that it is clear that these frameworks reflect a political will to change the regional and continental approach to combating and preventing corruption. Finally, the Minister indicated that South Africa had a long–standing quest for addressing the scourge of corruption through partnership and co-operation.

According to Ebrahim (1999:65), there are two most important Chapter 9 institutions to deal with corruption, that is, the Public Protector and the AG. The Public Protector has the power to investigate any conduct in state affairs or in the public administration that is alleged or suspected to be improper or to result in any impropriety or prejudice. The Public Protector is obliged to be accessible to all persons and communities, who may be aggrieved by the action of any public official and make public reports arising from any such investigation. However, when the government assumed power, it became extremely concerned about the level and extent of corruption within the public service. Accordingly, legislation was passed establishing a Special Investigative Unit and Tribunal, commonly referred to as Heath Unit, to carry out investigations into alleged corrupt practices within the public service. This Unit had the necessary authority through the Tribunal, to pursue and recover monies lost to the state, through improper means.

Ramaite (1999) describes corruption as a crime and evil of government and society that cannot be analysed and addressed in a single contribution. It is hoped, however, that this contribution, will stimulate thought and prompt the development of a broad perspective of corruption as an inhibiting factor in the provision of quality service and ascendancy of good governance.
In addition, it is also hoped that it will prompt a realignment of the target and focus of anti-corruption policies and strategies and, in particular, provide law-enforcement officers with a tool for developing strategies, processes and methods that are more aligned to the insidious nature of corruption.

Furthermore, Ramaite (1999) argues that the trust of the contribution is that, corruption being an insidious crime; it should be targeted from a broad perspective, namely its impact on the administration of public affairs and the quality of service provided by administrators of public affairs. Good administration of public affairs enhances good governance; good governance involves absolute accountability.

Goba (1999:228) maintains that while acknowledging that there will always be elements of corruption in every society and organisation, the need to promote professional training in the area of professional ethics and developing codes of conduct, which enhances organisational efficiency and accountability, is required. This code of conduct embraces the following values: integrity, incorruptibility, good faith, impartiality, openness, accountability, justice, respect, generosity and leadership.

Now all these are very important ideas, which can be promoted through a comprehensive educational process on professional ethics.

Choices that promote zero tolerance for corruption must be the hallmark of good organisation, geared to serving the community and society. Public officials, who have a record of corruption, should not be encouraged to hold public office. The statement at the moral summit about corruption highlights the moral choice that is expected of the South African society, “Corruption is a cancer eating the life branches of our community. It weakens the criminal justice system, promotes the misuse of political authority, and spreads its tentacles into educational, medical, commercial, agricultural, labour, media, entertainment and religious areas”.

Goba (1999) emphasises that this recognition of corruption as a cancer, requires a radical cure if choices have to be made in developing the moral educational programme that will inform all aspects of public and private life. Public officials need to choose the type of leadership to be promoted through the respective organisations. Policies should also demonstrate a commitment to clean governance, and accountability in the consolidation of a new democratic order.
Moreover, Goba (1999:231) also points out that to shape the future of the society, there is a need to rediscover values of compassion, integrity, honesty, truth, justice, freedom and respect for one another. The future of the society will depend on the determination to reclaim common destiny and learn to develop a sense of shared and collective responsibility.

According to the Report on International Anti-Corruption Day 2005, on the 9th of December 2005, marking International Anti-Corruption Day, the United Nations Global Compact launched a worldwide effort to raise awareness and deepen the commitment of its participants to combat and eliminate corruption. The Global Compact focused on providing background information, guidance and tools to participating businesses and other organisations around the world. Among the principles adopted in the summit was that businesses should work against corruption in all forms, including extortion and bribery. Corruption was recognised as one of the world’s greatest challenges.

Corruption is a major hindrance to sustainable development, with a disproportionate impact on poor communities and is corrosive on the very fabric of society. The rapid development of rules of corporate governance around the world was seen as prompting companies to focus on anti-corruption measures as part of the mechanisms to protect reputations and interests of the shareholders. In the International Anti-Corruption Day, key reasons for avoiding involvement in corrupt practices were identified.

“Regardless of what form a corrupt transaction may take, there is obvious legal risk involved. Not only are most forms of corruption illegal where it occurs, it is also increasingly becoming illegal in a company’s home country to engage in corrupt practices in another country”.

The principle that it is illegal to bribe foreign officials was first established in the US Foreign and Corrupt Practices Act of 1977 and since then, this principle has gained legal standing in a number of other countries. It is a principle that was universally recognised in 2003, through the adoption of the United Nations Convention against Corruption.
In developing countries and emerging markets, where the opportunity for corruption has been rife, because of weak laws and regulations, corruption has become an issue of significant political importance and there is a growing determination to act and take those accused of corrupt practices to court. This changing environment of law, regulation and enforcement makes it harder for business managers to assess and quantify the legal risk, to which corruption exposes its operations. Change brings uncertainty.

Based on the experience of recent years, companies whose policies and practices fail to meet high ethical standards, or who take a relaxed attitude to compliance with laws, are exposed to serious reputational risks. It is of critical importance for a company to be able to squash any unfounded allegations quickly, by demonstrating that it acts in a transparent manner and has designed policies and procedures to prevent corruption.

There is now clear evidence that in many countries, corruption adds upwards of 10% to the cost of doing business and as much as 25% to the cost of public procurement. This undermines business performance and diverts public resources from legitimate sustainable development. By engaging in corrupt practices, company managers expose themselves to blackmail. Consequently, the security of staff, plant and other assets are put at risk. It is now clear that corruption has played a major part in undermining the world’s social, economic and environmental development. Resources have been diverted to improper use and the quality of services and materials used for development seriously compromised. The impact on poorer communities, struggling to improve lives has been devastating, in many cases undermining the very fabric of society. It has led to environmental mismanagement, undermining labour standards and restricted access to basic human rights; this is according to the report of the International Anti-Corruption Day 2005.
One aspect of anti-corruption activity in South Africa, which clearly has substance, is the legal framework. Corruption in South Africa is prosecuted in criminal terms through the Corruption Act, 1992 (Act 94 of 1992) that effectively makes corruption a criminal offence. The ability to report corruption in a confidential and anonymous way helps overcome such concerns.

One of the mechanisms used worldwide to provide whistle-blowers with access to report corruption are mechanisms commonly known as “Corruption Hotlines”, according to the report. The PSC is responsible to ensure that the National Anti-Corruption Hotline is effectively managed and that it produces outcomes that are in keeping with the purpose for which it was established. However, to meet such obligations, it has had to work in close partnership and co-ordination with departments.

Hanekom (1996:154) argues that although, in South Africa, disclosures of unethical conduct by public officials are made from time to time, the general level of conduct of public officials is of a high standard. The majority of officials uphold the high standard required by public office and are devoted to promoting the general welfare. The ethical standards of public officials are however, related directly to society as a whole.

The corruption of public officials by private interests is usually very subtle: favours by the public to the official put the official under obligation and then the official exchanges personal public loyalties to those doing the favours. The ethical dilemma that faces the public functionary with regard to corrupt practices, because of private interests, primarily concerns the individual’s personal reactions to the situation. If a corrupt practice or an attempt to corrupt is discovered, it is quite possible that the functionary’s personal loyalties or party political affiliation will be in conflict with the official duties.

Lack of transparency promotes corruption, because where there are no rules and procedures to guide how public affairs are to be dealt with, public officers have an opportunity to engage in acts of corruption. In October 2000, the Eastern Cape Provincial Legislature established a statutory body called the Network against Corruption in an attempt to fight corruption. This structure was designed to allow members of the public to refer reports of corruption to legislative portfolio committees for onward referral to relevant departments.
In so doing, it was expected that this would improve legislative oversight of the executive and governments’ departments’ performance in combating corruption (Allan et al, 2002:59). The objectives of the network were:

- To rally support for anti-corruption strategies in the public sector by educating and mobilising public officials, members of the provincial legislature and the community in the province.
- To encourage the reporting of suspected corruption by alerting officials and the public to appropriate mechanisms for efficient receipt, processing and referral of such reports.
- To make an ongoing assessment of anti-corruption strategies, policies and initiatives.
- To facilitate the exercising of oversight by the Governmental Legislature’s response to reported cases of corruption in the province.
- To identify, establish and maintain strategic relationships with all necessary stakeholders.
- To act as a resource to the Legislature and Portfolio Committees.
- To assist the Legislature to monitor the effectiveness of internal mechanisms of departments to deal with reporting, investigation, disciplinary mechanisms and education in corruption and combating thereof.

Heath (2010:6) explains that to fight corruption, there is a need to be practical and there is nothing theoretical about the crime of corruption. Merely drafting policies and legislation is not effective to counter corruption. Policies and legislation is an essential component, but it must be remembered that corruption has become a profession and those perpetrating it are experts. The work of Chapter 9 Institutions needs to have greater support from government and the private sector. A full analysis should be done on each of these organs of state, to establish where the successes and failures lie. This will empower government to build effectively on the successes of each institution, but more importantly establish the reasons for failures and inefficiencies, so that these can be properly remedied. If needs be, the structure and composition of each institution should be reviewed and amended on a regular basis.
The media, its members and its independence may never be threatened. This role player should be allowed to work without any interference. Government and the private sector must learn that it is fortuitous to interact effectively with the Press. This should only be qualified by the fact that editors must ensure that all journalists report accurately, fairly and without real or perceived prejudiced.

In addition, the criminal justice system needs to be thoroughly revamped. Many presiding officers, in especially the lower courts, are not equipped to understand the intricacies of corruption. Currently, the SAPS and prosecutors must all undergo training in understanding, investigating and prosecuting corruption. Not only is there a severe lack of understanding of corruption in the criminal justice system, but also particularly disturbing is the theft and/or sale of police dockets, with the indication that prosecutors, court interpreters and police officials are involved. Within the Department of Justice, the most common acts of corruption involve the theft of warrant vouchers, the destruction of case dockets, and withdrawal of charges in return for money (Heath 2010).

Heath concludes by suggesting that each government department or parastatal must undergo a thorough review to establish:

- The main types of corruption in each department;
- The main areas where corruption takes place;
- Identify contributing factors to the problem; and
- Assess the impact of the departmental anti-corruption strategies adopted in the past.

Government departments need to devise, design and implement, inter alia, the following:

- Effective and well-documented control measures and policies;
- Sound recruitment and disciplinary procedures;
- Strong internal audit systems;
- Well-managed and effective internal investigating procedures within government institutions;
- Policies for government institutions to have good liaison arrangements with the police and other investigating agencies and the National Prosecuting Authorities;
- Effective and workable structures for whistle-blowing;
- Corruption Prevention Plan to be introduced in all government departments; and
- Guidelines for government institutions to compile evidence internally to assist the authorities for the purposes of disciplinary action and civil action.

Finally, Heath (2010) asserts the best way of combating corruption, is to be able to anticipate, recognise and thereby prevent corruption. A very useful tool in creating corruption prevention structures is to evaluate and assess each current and future service provider and supplier to the Eastern Cape Provincial Government.

2.6 Conclusion
It is evident that the government, at all levels, has put mechanisms in place to fight fraud and corruption. The Constitution of the Republic of South Africa, 1996 provides the basis for fighting corruption and promoting good governance in moving away from apartheid and the colonial past. Various pieces of legislation that explicitly address the issue of corruption have been developed, as outlined in the introduction, and others are in the process of being promulgated, such as the:

- Promotion of Access to Information Act 2 of 2000,
- Promotion of Administration Justice Act 3 of 2000,
- Protected Disclosure Act 26 of 2000,
- Financial Intelligence Centre Act 3 of 2000, and

Specific bodies and mechanisms have been established to deal with the issue of corruption in different ways. These include:

- SAPS,
- Anti-Corruption Unit (ACU),
- Special Investigating Unit,
- National Directorate for Public Prosecutions,
- Investigating Directorate for Serious Economic Offences,
- National Crime Prevention Strategy,
- National Intelligence Agency,
- Public Protector,
- AG,
• Public Service Commission.

However, the implementation of these legislations and the effectiveness of these bodies, in dealing with corruption, leave much to be desired, because of the continued corrupt activities in the Department of Education.

Seminars at all spheres of governance have been held and resolutions taken to fight corruption, Anti-Corruption Networks and Hotlines have been established, but one can conclude that these are not effective; hence, corruption is still the order of the day. Even though highly respected people in the communities, like former Presidents of South Africa, Mr Nelson Mandela, Mr Thabo Mbeki, Mr F.W. De Klerk, Bishop Desmond Tutu and many others have raised their voices, warning the people about the ills of corruption in the new democracy, these appeals have landed on deaf ears.
CHAPTER THREE
RESEARCH METHODOLOGY

3.1 Introduction
Research methodology is generally concerned with formulating systematic and logically coherent sets of methods for acquiring knowledge and information. In this study, besides meeting the criteria of rigor and replication, the methodological design had to meet the following criteria:

- The issues raised were potentially sensitive, controversial and emotive. This demanded the need for careful attention to item construction and quality assurance in respect of disclosure of confidentiality and reliability.
- The participation levels were expected to be low. The study anticipated this, undertook activities to facilitate participation, and obtained increased rates of response. This involved obtaining the endorsement of the former speaker of the Eastern Cape Provincial Legislature the Hon. Noxolo Kiviet and Provincial Director-General (DG), Dr Sibongile Mthwa.

The purpose of the study relates to the investigation and explanation of specific aims. In addressing these aims, two components have been used, namely:

- A theory construction component based on literature study, and
- A theory testing component, where a research questionnaire and an interview survey were conducted.

There are two types of social research, namely qualitative and quantitative research. However, the researcher opted to use a qualitative research. In this approach, procedures are not strictly formalised, while the scope is more likely to be defined and a more philosophical mode of operation is adopted. Creswell (1994:10) propagates that in qualitative research the rules and procedures are not fixed. Qualitative research is open and emerging, and therefore this design calls for an individual, who is willing to take risks inherent in an ambiguous procedure. Clear processes and skilled planning of the research are therefore crucial aspects of qualitative research.
Data collection was carried out and an analysis conducted. Certain government officials, law enforcement agencies and members of the executive council for finance and education were interviewed, because those officials’ views were required. The researcher personally administered the in-depth interviews.

3.2 Target group
The officials of the Department of Education, the law enforcement agencies, MECs as well as officials of the Department of Justice were targeted. These office bearers are the custodians of regulation and the information needed to assist the research process are contained in these relevant departments.

If there is suspected irregularity or misappropriation of funds within a department, the Accounting Officer is required, by the law, to conduct an investigation, by appointing either an internal or an external investigating team. The majority of serious cases pertaining to the Department of Education were investigated by the external teams of Ngubane & Company, Gobodo & Associates and KPMG. Given the nature of the investigation and the sensitivity of the information, it is kept highly confidential; hence, the Head of the Department was approached to assist in the process. Of course, not all information was made available; for example, the investigation on irregularities on infrastructure, where a number of senior officials were suspended; however, these individuals have since been reinstated and the matter seemed to have been put to rest.

3.3 Permission to conduct research
Prior to the collection of data for the purposes of this study, the researcher wrote a letter to the office of the Superintend–General in the Department of Education, requesting permission to conduct the research. The response to this communication was favourable, even though a considerable amount of time lapsed, before permission was granted. In addition, the offices of the ACU in the Premier’s office, the Office of the AG, Public Service Accountability Monitor and Provincial Commissioner of Police were contacted telephonically. All of the aforementioned agreed to cooperate.
3.4 Data collection techniques and procedures

According to David and Sutton (2004:27), data are what the researcher actually receives from the respondents, be it social or physical. Informal interviews were conducted given the sensitivity of the topic. This was augmented by observation of the system and practices of the senior government officials. Data were also drawn from government documents as outlined below. The study utilised both documentary sources and interviews with key role players.

Documentary sources include:

- Documentation published by the Department of Public Service and Administration;
- The PSC,
- Provincial Government Anti-Corruption Agencies;
- The reports of the AG’s Office;
- Annual reports of the department; as well as
- Reports by civil society organisations focusing on corruption in public service, such as, Public Service Accountability Monitor.

The researcher further interviewed relevant people from the Provincial Government Anti-Corruption Agencies. The aim of the interviews was to solicit additional information, in particular about issues and questions not covered in the published documents. These documents provided details about strategies in place, as well as information on the operations of the anti-corruption agencies in the province. Concerning the research procedures, impromptu appointments were made with officials, who occupy strategic positions, where possible written submissions were sought (see Annexures B & C).

The abovementioned was not an easy exercise, given the sensitivity of the topic itself. Interviewees were reluctant to divulge information, due to fear of repercussions. Some senior officials, who might have been in possession of valuable information, were suspended for fraudulent activities. The process took longer than was expected. Furthermore, the change and volatility of leadership in the Department of Education constrained the researcher’s efforts to accelerate the process in order to meet targets.
However, the former HOD, Professor R.H. Nengwekhulu, finally facilitated the process by instructing officials of the department to cooperate, albeit with certain conditions as outlined in the correspondence reflected in Annexure A.

3.5. Documentary reviews

Documentary sources include documentation published by the Department of Public Service and Administration, PSC, Provincial Government Anti-Corruption Agencies, AG’s Office reports, the annual reports of the Department of Education and reports by civil society organisations like the Public Service Accountability Monitor. These documents are available for public scrutiny and therefore it was easy for the researcher to secure these from the relevant offices and libraries. The documents were very useful in that these contained all the relevant information needed for the research project.

Legislation and other controlling instruments related to public financial management are explained below:

3.5.1 The annual reports of the Department of Education Eastern Cape from 2000 to 2009

The Accounting Officer of the department is required by the Finance Management Act to keep full and proper records of the financial affairs of the department. This office bearer must prepare financial statements for each financial year in accordance with generally recognised accounting practices. These reports, after being tabled in Parliament, are available for public scrutiny and the researcher obtained these from the Committee Section in the Legislature.

3.5.2 Public Finance Management Act 1999 (Act 29 of 1999)

In terms of this Act, the Accounting Officer of the department is required to keep full and proper records of financial affairs of the department in accordance with any prescribed norms and standards. Furthermore, after preparing financial statements the officer is supposed to submit these financial statements, within two months after the end of the financial year, to the AG for auditing as well as to the relevant treasury, who prepares consolidated financial statements in terms of Section 8 and 9 of this Act.
3.5.3 **National Treasury Regulations 2005**

Section 9.1 of the National Treasury Regulations state that the Accounting Officer of the department must exercise all reasonable care to prevent and detect authorised irregular, fruitless, and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial risk management.

3.5.4 **The Management Report on the Regulatory Audit and Audit of Performed Information in the Department of Education Eastern Cape for the 2007/08 – 2008/09 financial years**

In this report, the audit was conducted in accordance with International Standards in Auditing. These standards require that the AG plan and perform the audit to obtain reasonable assurance that financial statements are free of material misstatements. An audit includes among other things:

- Examine, on test basis, evidence supporting the amount and disclosures in financial statements.
- Assess the accounting principles used and significant estimates made by management.
- Review the performance information for the financial years under review.
- Evaluate the overall financial statement presentation.

3.5.5 **Interim Management Task Team Report 2000**

This multi-sectoral management team was dispatched to the Eastern Cape to intervene in the administrative affairs of the province. The report, was the product of the discussion between the then President of the Republic of South Africa, Mr Thabo Mbeki, and the former Premier of the Eastern Cape, Reverend Makhenkesi Stofile, in a significant move to combat corruption. The team was to tackle service challenges within the Department of Education, Health, Social Development as well as Roads and Public Works. The task team was charged, among other things, to improve internal controls and accountability within the four departments, through the establishment of an internal audit function. In addition, the team was tasked to improve anti-corruption strategies, discipline and ethics.
During the process, 18 audits were completed. A Disciplinary Task Team was set up to deal with backlogs and emerging disciplinary cases. The team recorded 1324 cases on its database. A hotline was established for reporting of corruption cases.

3.5.6 The Constitution of the Republic of South Africa 1996

In terms of the constitution, Section 133(2) MECs are accountable collectively or individually to the legislature for the exercise of the powers vested in these offices and the performance of these specified functions. Section 100 (1) of the constitution states, “When a province cannot or does not fulfil an executive obligation in terms of legislation or constitution the national cabinet may intervene by taking any appropriate steps to ensure fulfilment of that obligation including among other things, issuing a directive to the provincial executive describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations”.

3.5.7 Report of the Second Session of the Anti-Corruption Learning Network 2009

The learning network is a platform that provides anti-corruption practitioners and decision makers in the public sector with the opportunity to deliberate on issues of common interests and devise systems and measures to address these concerns. Of paramount importance is its intended purpose to promote information sharing and knowledge exchange of anti-corruption good practices. In this report, discussions were centred on the following thematic areas:

- Detect corruption utilising the internal and external mechanisms;
- Manage conflicts of interests in the work place;
- Investigate corrupt activities, using both internal and external resources, and
- Communication and awareness as preventative measures in the fight against corruption.

In addition, the following issues were agreed upon as resolutions of the session:

- Inclusion of conflict of interests in departmental induction manual;
- Constant awareness raising on ethical conduct and professional ethics;
- Implementation of pre-screening directives as early warning mechanisms;
- Constant enforcement of policies, framework and codes of conduct;
- Keeping and maintaining of an electronic data-base of declarations;
Life-style audits should be part of conflict of interest policies; and
Enforcement of disciplinary measures for non-compliance to the framework.

3.5.8 Report of Forensic Audit into alleged irregularities in the Department of Education in the Eastern Cape to the School Nutrition Programme 2007

The forensic audit was conducted for full reconciliation of the finances of the Department of Education related to the SNP for the 2006 financial year. The investigation was limited to SNP payments made to suppliers from March 2006 to December 2006. In this report, the following irregularities were identified:

- There was no Service Level Agreement signed with about twenty suppliers.
- About fifty-six Suppliers’ Application Forms (1401) could not be found.
- Suppliers submitted false, forged or invalid company registration information.
- Payments were split to allow officials to sign for higher amounts than designated authorisation allowed.
- Suppliers submitted false ownership particulars, false addresses and banking details to the department in order to claim undue payments.
- Suppliers were paid in excess, over and above the budget allocation.

3.5.9 The Public Audit Act 2004 (Act 25 of 2004)

Section 20 (2) of this Act states,

“An audit must reflect such opinions and statements as may be required by any legislation applicable to the auditee, which is subject of the audit, but must reflect at least an opinion or conclusion on whether the annual financial statement of the auditee fairly represent, in all material respects, the financial position at a specific date and the results of its operations and cash flow for the period, which ended on that date in accordance with the applicable financial frame work and legislation and; the auditee’s compliance with any applicable legislation relating to financial management and other related matters”.

3.5.10 Division of Revenue Act 2005 (Act 1 of 2005)

In the Division of Revenue Act (DORA) 2005, the accounting officer is required to indicate to what extent the allocation to the department achieved its purpose and outputs. Furthermore, the officer must also indicate any non-compliance with this Act, and the steps taken to deal with the non-compliance.

3.6 Delimitation of the study

The government departments keep highly confidential information, which was not readily available for public scrutiny when required. In addition, government officials and MECs were not always available to provide required information. Access to the district offices to gather information, also posed another challenge and in addition, prohibited access to information about sub judice cases also compounded the challenge. Another obstacle limiting the study was the vast number of senior officials under suspension within the Department of Education.

In order to overcome the abovementioned limitations the researcher utilised the provisions of access allowed by the Information Act, 2000 (Act 2 of 2000). This Act empowers the constitutional rights of access to any information held by the state and any information held by another person. The Accounting Officer was sensitised on procedures to be followed in this regard to avoid any misunderstanding.

3.7 Conclusion

This process was not a smooth and easy one given the sensitivity of the topic. The government departments keep highly secretive information, which is not always available for public scrutiny. People were reluctant to divulge information for fear of ensuing repercussions. Some senior officials, who might possess valuable information, were suspended for fraudulent activities. The change and volatility of leadership in the Department of Education, also constrained the researcher in speeding up processes in order to meet targets.

The researcher, being familiar with the terrain, had to use certain skills to acquire certain information. In addition, the former HOD, Professor H. Nengwekhulu finally facilitated the process by instructing officials of the department to co-operate, but under certain conditions as stipulated in Annexure A.
However, when Professor Nengwekhulu left the process, it once again became difficult, as the new incumbent was reluctant to cooperate, because of the bad image of the department perpetuated by the media. Furthermore, the strike of civil servants, which lasted almost three weeks, affected the research process negatively, because there was no one to assist in obtaining the information from the department.
CHAPTER FOUR
DATA PRESENTATION AND ANALYSIS

4.1 Introduction
Data analysis involves what has been seen, heard, and read in order to make sense of the data collected. In this chapter, the gathered data were analysed by means of a case study, mapping and filtered techniques. The data extracted from documents, interviews and observations were triangulated and validated through utilising of the referred techniques.

It is significant that many officials of the Department of Education surveyed, demonstrated an incomplete understanding of the concept of corruption. However, the majority believed that it was understandable and that accepting gifts in return for performing services, which form part of the relevant job description, should not be punishable. This finding indicated that there is an urgent need for the department's MEC and the senior management to provide education and training to all officials on the definition, identification and adverse social impact of corruption. The officials of the department should be left with a clear realisation that when public resources are abused, the entire society that suffers as a result. Another very important aspect, which must be understood, is that social infrastructure, such as, buildings, a domain where the department has a huge backlog; buildings for sports’ facilities; and provision of school furniture, will not be provided.

4.2 Auditor-General's Office Report 2005/06
According to 2005/06 annual report of the Department of Education, the AG’s office identified the following irregularities in the management of finances of the department:

4.2.1 Procurement
During the audit, it was evident that deficiencies existed in the procurement process of the department and these were contrary to various laws, regulations and other directives pertaining to the procurement and provisioning system. The root cause of these deficiencies was the inadequate monitoring of Supply Chain Management processes.
Audit testing of samples of expenditure transactions and contracts awarded revealed unsatisfactory results regarding the payment of and procurement for goods and services. In addition, the department outsourced the procurement and tender process for its School Building and School Furniture Projects to implementing agents.

This arrangement was originally approved by the then Provincial Tender Board in December 2000. Subsequent to that, no approval was available to validate the whole arrangement. As a result, payments made in this regard totalling R283.97 million appeared to be contrary to relevant Supply Chain Management prescripts. The possibility of collusion, fraud and corruption could not be excluded.

4.2.2 Personnel placement
The personnel and salary systems had never been sufficiently updated to reflect staff movements. Employees were transferred between pay points without documentation, and approximately 1500 employees were not allocated to a workstation as at 31st March 2006. Employees, who left the service, were not always deactivated on the system timely. Pay point managers did not always certify payrolls to confirm that employees listed thereon were actually employed at the relevant pay points nor returned certified payrolls to the district office to effect changes identified and safeguard payrolls. This resulted due to management’s non-adherence to the department’s pay point monitoring framework. It culminated in the existence of 46 employees, who could not be verified, costing the department an amount of R3.93 million in the financial year under review.

4.2.3 Departmental hostel revenue
The department had no approved policy and procedure framework for revenue collection at the time. Its monitoring procedures on learner hostel fees were ineffective. Receipts of R5.72 million in this regard for the financial year under review were included as part of the total sales of goods and services to the annual financial statements. The department could not provide a listing of hostels, which acted as the collecting agents and from whom the revenue should be collected, how many learners resided in each hostel, or which institutions had actually submitted hostel fees for the year under review. Amounts received by the schools were also utilised for maintenance or other costs not approved and might in fact have been unauthorised expenditure.
It was not possible to determine whether all revenue for services provided were actually charged, received and recorded in the accounting system.

4.2.4 Verification of payments under Programme 6
During the year under review, an ad-hoc investigation was conducted by the department’s internal auditors regarding the verification of payments made to educators in the Adult Basic Education and Training Programme (ABET). The report was issued subsequent to year-end and many discrepancies were discovered, which were indicative of the lack of proper management monitoring framework. The most significant of these findings were that claim forms were not reconciling to amounts paid, and numerous forms could not be verified as these were claimed to be missing.

4.3 Auditor–General’s Office Report 2006/07
According to 2006/07, annual report of the Department of Education the AG identified the following discrepancies in the financial management of the department:

4.3.1 Internal controls
The department did not have a well-defined and understood process for managing and dealing with employees and suppliers. Evidence of this was the lack of timeliness in the processing of employee and the supplier payments. Access to resources and records was not adequately restricted and accountability for the custody thereof was not adequately assigned.

4.3.2 Risk assessment
The department had neither an approved risk management strategy nor a fraud prevention strategy. These shortcomings also hindered the effectiveness of internal audit efforts required by management driven assessment of risks, which in turn prevented the efficient and effective achievement of its predetermined objectives.
4.3.3 Special investigations in progress or completed

A review of infrastructure planning, implementation and management within the department and its implementing agents was performed during the year under review. The review positively revealed a significant control environment, but negatively there were internal control weaknesses, non-compliance with legislation and lack of accountability. The report further resulted in the suspension of two key members of management. A forensic investigation into the alleged irregularities surrounding the procurement and payment processes within the SNP was conducted. At that time, the investigation had not been completed, but since then it has resulted in the suspension of five departmental officials. The effect that the findings of the investigation would have on the annual financial statements of the department could not be determined. Therefore, collusion and fraud could not be excluded.

4.3.4 Personal gain from public business

Payments totalling R541 000 were made to suppliers, who were also employees of the department. The employees concerned did not disclose personal involvement in remunerated work outside of the public service and did not have the necessary approval to conduct business with the department.

4.3.5 Expenditure

Material uncertainty existed, mainly due to a lack of documentation provided with regard to the validity of contracts and validity and accuracy of expenditure incurred. Findings included the following:

- Payment vouchers and supporting documentation could not be provided for payments totalling R7.8 million.
- Contracts and service level agreements could not be provided for tenders totalling R48.3 million.
- Documentation confirming decisions taken in bid evaluation and adjudication meetings could not be provided for tenders totalling R9.5 million.
- Ex post facto approval was granted for contracts of R2.4 million as these were considered emergency cases, but did not appear to meet the definition of emergency cases.
• A payment of R4.3 million was made in terms of a lease agreement, which was due for payment eight years earlier.
• Payments totalling R6.8 million were made to a consortium, contracted to assist the department in the establishment and improvement of corporate service centres, during the year under review. Confirmation of the deliverables due and received from this consortium for the current year could not be provided by the department.

The department outsourced the procurement function for its School Furniture Programmes to implementing agents including the Department of Public Works. While arrangements in place between the department and these implementing agents were considered to be valid, the department relegated all control and accountability in respect of these programmes to the implementing agents and by so doing, did not comply with section 38(1)(a)(iii), (1)(b), (1)(d), and (1)(j) of the PFMA 1999. Consequently, payments to the implementing agents amounting to R370.3 million were spent during the year and regarded as irregular expenditure; therefore, it should have been disclosed as such.

According to 2007/08 annual report of the AG, the following discrepancies were detected in the financial management of the department:

4.4.1 Irregular expenditure
In terms of the PFMA, irregular expenditure is defined as expenditure, other than unauthorised expenditure incurred in contravention of, or that is not in accordance with, a requirement of any applicable legislation. Audit testing performed on a sample of goods and services, assets, Supply Chain Management and compensation of employees revealed that irregular expenditure had occurred for the following amounts:

• Payments and expenditure incurred totalled R105.9 million was paid without the necessary approval by a delegated official.
• Expenditure of R17.9 million was incurred without the correct procurement procedures applied.
4.4.2 Leave entitlement

Leave entitlement amounting to R86.9 million, disclosed in note 22, was incomplete. This was caused by the following deficiencies:

- Leave taken not recorded in the attendance register and not reviewed on a weekly basis.
- Leave days taken per the attendance registers were not supported by the leave forms.
- Leave forms in the employees’ files did not agree with the attendance register.
- Leave days taken were not captured on the personnel salary system in time.
- An additional amount of at least R505 594 was not included in note 22. This related to employees’ leave credits that were not included in the calculation used for the amount in the disclosure note.

4.4.3 Compensation of employees

The department could not submit sufficient appropriate audit evidence for an amount of R11.7 billion disclosed as compensation of employees and the AG’s Office was unable to conclude on the occurrence and accuracy of this amount, which comprised:

- Adequate supporting documentation for debit journals of R110.5 million and credit journals of R110.5 million allocated to the compensation of employees account balance was not presented for audit purposes.
- 26% of the documentation and information relating to housing allowances, requested to support other non-pensionable allowances, included in the R708.9 million, as disclosed in note 5.1 were not provided.
- The occurrence and accuracy of basic salaries amounting to R8.7 billion included under compensation of employees could not be confirmed due to the following:
  - 69% of employees’ files requested did not contain appointment letters.
  - 48% of employees’ files requested did not contain application forms for subsidised vehicles.
  - 48% of subsidised vehicles requested for verification were not presented for physical verification.
  - 69% of the documentation relating to suspended employees that were requested was provided.
85% of employees’ files requested to test supplementary payments were not provided.

22% of the documentation requested to test performance awards paid to employees, to the amount of R32.2 million, as disclosed in note 5.1 was not provided for audit purposes.

48% of the documentation requested to test payments made to employees at unknown pay points were not provided for audit purposes.

85% of the documentation requested to test payments made to employees with the same bank accounts (as per the Personnel Salary System - PERSAL) were not provided.

55% of the documentation requested to test payments made to employees with the same bank account as suppliers was not provided.

- Supporting documentation was not provided to explain the reason for the movement in circumstantial/compensative payments, amounting to R20.7 million from the 2006-07 financial year to the 2007-08 financial year.

This resulted, because the department did not adequately control the recording and maintaining of employees records. The department’s records did not permit the application of alternative procedures regarding payments made to employees.

4.4.4 Goods and services
The department could not provide sufficient appropriate audit evidence to support the following:

- Payment vouchers amounting to R10.1 million;
- Supplier application forms for supplier payments of R13.1 million;
- Payments of R8.8 million, which were made into the bank account numbers other than those on the supplier application forms or those stated on the suppliers’ invoices was not submitted.
- Original invoices order forms, goods and received vouchers and commitment certificates to the value of R34.2 million.
- Journals of R9.9 million, debited into goods and services and journals of R28.6 million credited out of goods and services.
4.4.5 Transfers and subsidies

The department did not submit the following documentation to support the amount of R501.6 million disclosed under transfers and subsidies:

- The department was unable to provide details relating to schools and the relevant school bank accounts, into which these transfers and subsidies were made. The Basic Accounting System (BAS) reflected only that the payments were made to a district office.

Both head office and district offices were contacted to provide details of the schools, to which these funds were transferred and both were unable to provide this information. Therefore, the AG’s office was unable to confirm whether R22.9 million, included in the transfers and subsidies in the state of financial performance, actually reached the intended recipients.

- The department provided a list of transfers and subsidies that had been made to incorrect schools. These funds had subsequently been transferred to the correct schools, however, no evidence was supplied to illustrate that the amounts of R317,852, which was transferred incorrectly, had in fact been refunded to the department.

- Payment vouchers for transfers and subsidies of R4.8 million were not submitted by the department.

- Journals totalling R7.3 million were debited into transfers and subsidies and R3.6 million was credited out of transfers and subsidies, without there being adequate supporting documentation.

- Journals for R4.4 million debited into transfers and subsidies, and R4.4 million credited out of transfers and subsidies, were not provided for audit purposes.

The entity’s records did not permit the application of alternative audit procedures regarding transfers and subsidies. As a result the AG’s office was unable to determine the occurrence and accuracy of the disclosed as transfers and subsidies.

This report was provided to the Accounting Officer of the Department of Education in connection with the audit of financial statements and the review of the performance information for the year ended 31st March 2009. In this report, the following irregularities were identified:

4.5.1 Irregular expenditure
The department did not disclose irregular expenditure identified during the audit to the value of R1.539 billion, which was incurred during the financial year under review, because of incorrect procurement processes being followed, non-adherence to financial delegation of authority, transfer payments budget being exceeded and irregular payments being made to employees.

4.5.2 Fruitless and wasteful expenditure
The department incurred fruitless and wasteful expenditure amounting to R47.9 million. This was due to inadequate monitoring and supervision that was undertaken to enable the assessment of the effectiveness of internal control over financial reporting.

4.5.3 Budgetary control
The department underspent the budget for Programme 2, Public Ordinary Schools and Programme 5, Further Education and Training by R44 million and R5.6 million respectively. This negatively affected service delivery.

4.5.4 Accounting discipline
A recurring issue in recent years is the number of suspense accounts that are not reconciled and cleared in a timely manner. The impact of these uncleared accounts is a potential misstatement of accounts payable.

4.5.5 Financial reporting systems
The department does not have reliable information systems for recording and reporting commitments and accruals. The impact of this lack in the system is that auditors were unable to obtain sufficient appropriate audit evidence, on which to base an audit opinion on these disclosures.
4.5.6 Information systems’ audit controls and internal controls

Information systems’ controls play a significant role in determining the effectiveness of internal controls. Weak information controls diminish the reliability of other internal controls associated with an application. Without effective information systems’ controls, other controls may be rendered ineffective by overriding, circumventing, or modifying.

4.5.7 User account management procedures

User account management is the systematic process of managing the access of a user to the network and applications and includes the establishment, review, disabling and removal of user accounts. The following user accounts management weaknesses, which relate specifically to BAS/Personal Salary System (PERSAL)/LOGIS application, were identified:

- User account management procedures not formally documented approved and communicated (BAS).
- Lack of communication of user account management procedures to users (PERSAL/LOGIS).
- Non-compliance to the access request authorisation process (BAS/PERSAL/LOGIS).
- Access of former users not terminated timely (BAS/PERSAL/LOGIS).
- Active accounts not logged on to the system for 30 days and longer (BAS/PERSAL/LOGIS).
- System controller’s activities not regularly reviewed by an independent person or by a supervisor (BAS/PERSAL/LOGIS).
- User’s access rights not periodically reviewed for validity (BAS/PERSAL/LOGIS).
- Inadequate minimum password (BAS).
- User accounts not automatically logged off after predefined period of inactivity (BAS).
4.5.8 Internal audit
The following weaknesses of the internal Audit Function were observed during the audit:

- No approved policies or procedures were available to guide the Internal Audit Function (formally adopted approach and methodology).
- As per annual plan the majority of the follow up audits were not conducted to monitor the progress of the audit findings and recommendations made.

4.5.9 Risk assessment
The department did not undertake a risk assessment to assess any risk for fraud. Consequently, it had also not developed a fraud prevention plan, as required by Treasury Regulation 27.2.1

4.5.10 Unavailability of expected information
The department does not have an adequate documentation management policy and system in place to ensure that all documents are maintained as required by the National Treasury Regulation. Despite significant efforts made, the department has so far failed to submit all information, returns, documents, explanation, and motivations to the AG, as required by Section 41 of the PFMA, 1999 (Act No. 29 of 1999).

4.5.11 Non-compliance with applicable legislation
- The department did not:
  - Obtain written approval from a MEC for the use of overdraft facilities as required by Section 3(2) of the Borrowing Powers of Provincial Government Act 1996.
  - Commence investigations into alleged financial misconduct of officials within 30 days of discovery of the alleged misconduct as required by paragraph 4.1.1 and 4.1.2 of the Treasury Regulations.
  - Settle all monies due to creditors within 30 days of receiving the invoices as required by paragraph 8.2.3 of the Treasury Regulations.
  - Submit the request for rollover to the relevant treasury by 30 April as required by Treasury Regulations, paragraph 6.4.2.
• The accounting officer did not:
  Withhold transfers and subsidies to entities when this officer was not satisfied that the funds were being used for its intended purpose as required by paragraph 8.4.2 of the Treasury Regulations.
  Ensure that control procedures surrounding attendance registers were implemented as required by Education Circular 19 of 2008.
• Not every member of the senior management disclosed personal interest as required by chapter 3 of the Public Service Regulations 2001.
• Annual performance assessment documents for employees selected for performance rewards were not attached to the employees’ files and not submitted for the purposes of audit.

4.5.12 Prior year observations and recommendations addressed
Management did not take sufficient action to clear all audit findings. The following issues identified were to be addressed urgently.

• The department does not have a complete asset register or a process to verify the physical existence of assets on a regular basis or to assess the condition of assets, to ensure that these are appropriately maintained.
• Reconciliation should be prepared between assets purchased and the additions registers.
• Assets no longer utilised by the department should be removed from the fixed asset register.
• The department has not addressed the weaknesses in controls surrounding the complete and accurate capturing of leave, as the attendance registers are not monitored and the leave process is still not being complied.
• A problem still exists with the department’s information management system, as there are still vast amounts of information requested that were not submitted for audit purposes, which resulted in a number of scope limitation qualifications.
• Confirmation from the banks to the department confirming the completeness and valuation of housing guarantees, are still outstanding; this has again resulted in qualification for the contingent liability.
### 4.5.13 Key governance responsibilities

The PFMA, 1999 (Act 29 of 1999) tasks the accounting officer with a number of responsibilities concerning financial and risk management and internal control. The following shortcomings were identified:

- Annual financial statements were not submitted for auditing as per legislated deadlines.
- Glaring deficiencies in the design and implementation of internal control in respect of financial and risk management were evident.
- Deficiencies in the design and implementation of internal control in respect of compliance with applicable laws and regulations were also prevalent.
- A risk assessment and risk management strategy, which includes a fraud prevention plan as set out in the Treasury Regulation 3.2/27.2, were not conducted on a regular basis.
- Information systems were not appropriate to facilitate the preparation of a performance report that is accurate and complete.
- Adequate control processes and procedures designed and implemented to ensure the accuracy and completeness of reported performance information were not in place.

### 4.6 Report of Forensic Audit into alleged irregularities in the Department of Education Eastern Cape to the School Nutrition Programme 2007

According to the report of the forensic audit into alleged irregularities in the Department of Education on the SNP, the following findings have been identified:

The department could not provide policies that are in place to regulate the SNP. In most cases, investigators had to rely on the General Government Policies, such as, The Supply Chain Management Policy and the Public Service Finance Management Policy to reach reasonable findings. The SNP Management failed to adhere to the departments’ available Supply Chain Management guidelines and recommendations. Internal controls and procedures relating to procurement and accounting requirements as explained by the Supply Chain Management in the system's narrative were ignored.
There were no formal written procedures relating to receiving, verification and processing of the SNP payments found.

Suppliers who did not have award letters were allowed to render services and received payments from the department. In the absence of award letters supporting the inclusion of the suppliers on the SNP suppliers’ master file, investigators could not perform procedures to verify the original tender amounts awarded to these suppliers. During the inspection of the tender, the following were established:

- The number of schools provided to suppliers did not agree with the allocation per award letter.
- Tender amounts on the SNP schedule did not agree with the allocation according to the award letters.
- Suppliers had two award letters reflecting different dates, allocation of the number of schools, numbers of learners and tender amounts.
- Inconsistencies and unusual relationships or links between the number of students and the tender amounts awarded, existed.

The department could not provide Service Level Agreements for twenty SNP suppliers. In the absence of Service Level Agreement, it could not be confirmed that the suppliers’ master files provided were accurate and complete. Fifty-six Suppliers Application Forms (1401) could not be found. Therefore, it could not be verified whether payments, made to these suppliers during the period under review, were transferred to the correct suppliers’ bank accounts. Fifteen suppliers, who were awarded contracts, provided services and received payment from the department, but were not registered on the BAS system. To verify, BAS EBT Disbursements reports lodged enquiries with the System Controller, Roy Gelderblom, who confirmed that these suppliers were not found on the BAS system.

Twenty-three suppliers were under investigation for suspected criminal activities. Criminal files were compiled in preparation for presentation to the police. It was established that suppliers, who appeared not to have been paid on the BAS system, actually received payments, but in bank accounts of suppliers, who were not awarded SNP contracts.
The Supplier Application Forms (1401) were not pre-numbered, therefore it was impossible to verify whether all forms that could have been processed, were in fact processed in LOGIS and/or the BAS Systems, or whether all unauthorised 1401 Supplier Application Forms, which were processed through LOGIS and/or BAS systems were detected.

Suppliers submitted false, forged or invalid company registration information. In addition, supplies submitted false ownership particulars, false addresses and banking details to the department in order to claim undue payments. To add insult to injury, suppliers were paid in excess, over and above the stipulated budget allocation. The BAS system did not have a function for stopping or flagging order commitments exceeding the budget expenditure. SNP officials were given inappropriate access levels into the BAS and LOGIS, resulting in payments that were authorised by officials, who had no designated power to authorise such payments. Payments were split, to allow officials to sign for higher amounts than such officials were authorised to do and even after splitting payments, officials still signed for amounts above the designated level of authority. Moreover, there were even payments that were processed and paid, but were not authorised on payment advices.

Paid payment advices were not endorsed as “PAID”, which might have resulted in duplicate payments going through the system. Some payments did not have payment advices, which mean that formal approval in terms of procurement procedures was not made. It was found that there was proof of deliveries that were stamped with two different stamps of unrelated schools. Some of the Proof Deliveries were not signed by the school officials to confirm that the food was actually delivered. Payments were made by the department in the absence of Proof of Deliveries from the suppliers.

Payments were made by the department in the absence of Goods Received Vouchers from the schools. The office of the Chief Financial Officer (CFO - in the person of the since resigned, Tracy Cummings as the Accounting Officer, entrusted with the responsibility of safeguarding the finances of the department), did not comply with the provisions of the PFMA, 1999 (Act 29 of 1999) or the department’s accounting practices.
Due to non-compliance, unnecessary, fruitless and wasteful expenditures were incurred by the department, for example, overpayments and irregular expenditures. Payments have been deposited into suppliers’ personal accounts, even though business bank account details were provided in the registration forms. Of the fifteen officials investigated, five were still employed by the department at the time of investigation, on grounds of personal interest displayed as suppliers in the SNP.

During November 2005, a tender notice was advertised and service providers/suppliers had to bid for the SNP 2006/07 project in order to service the schools in the districts identified in the Conditional Grant Business Plan. The Bid closed on the 10th January 2006 and 325 bidders responded. Evaluation and selection of service providers were done based on specifications of the Department of Education. The Evaluation Team and Bid Evaluation Committee were elected to adjudicate the tenders of the SNP Project. The reports of both committees were supposed to be submitted to the Technical Committee, which did not take place. After the evaluation processes the expected total number of recommended suppliers was reflected as 93. However, according to the letter from the Assistant Director (Acquisition), 162 suppliers met the evaluation criteria. According to the list provided for the Forensic Audit, 110 suppliers were awarded SNP contracts and an additional 20 suppliers were selected as backup, in case the suppliers with awarded contracts failed to deliver.

4.7 Department of Education Annual Report 2008/09

According to 2008/09 annual report of the Department of Education, it was revealed that the department did not commence investigations into alleged financial misconduct of officials within thirty days of discovery of the alleged misconduct, as required by paragraph 4.1.1 and 4.1.2 of the Treasury Regulations. In addition, the accounting officer did not withhold transfers and subsidies to entities when the relevant officer was not satisfied that the requested funds were used for its intended purpose as required by paragraph 8.4.2 of the Treasury Regulations. According to the AG’s report, key officials and supportive documents were not available throughout the audit process; hence, the department received an adverse opinion from AG’s office.
4.8 Submission of the Manager Risk Management Department of Education

According to the response, during the interview with the Manager Risk Management of the Department of Education, Mr Charles Addae, most cases of corruption in the department emanates from the rather homogenous nature of the employees; approximately 90% are Xhosa speaking. Everybody knows somebody. Any application of punitive measures remains elusive. The department does have a fraud prevention plan and fraud response plan in place. However, a strategy can only be very effective if the mind-set of the population is proactive. For the moment he argued, its effectiveness is being tested. It should be remembered that the conception of “Imali yethu” (our money), is embedded in the minds of the people.

This manager also indicated that the strategies are limited, because it has been defined by the lack of meaningful punishment. If the department is unable to deal ruthlessly with fraud and corruption that would mean a losing battle is being fought. Punish to deter others, should be the motto. There appears to be a significant co-relation between the levels of corruption and quality of service delivery. The more employees enjoy the game of fraud and unpunished corruption, the more employees would not care to discharge personal social expectations.

The manager also indicated that during the timespan of this research, several cases were pending, and would normally be completed when the traditional law enforcement agencies (SAPS) managed to conclude the case dockets and obtain prosecution (see Annexure B – unabridged and unedited interview). It was quite clear that the manager was operating under extreme difficult conditions in that though the organogram for the section was approved, there was no budget to fill the vacant post. The manager was operating without even a secretary.

4.9 Submission of the Head of the Anti-Corruption Unit Premier’s Office

During the interview with the unit head of the ACU in the Premier’s Office, Mr Zola Tyikwe, it was indicated that the department has capacity challenges in terms of distinct structure, staffing, budget and training. These challenges handicapped the department in uprooting corruption. Mr Tyikwe cited the Department of Health, Local Government and Traditional Affairs, and Social Development as the provincial departments most affected by corruption.
Mention was also made that the departments have individual structures, though insufficient, as far as the adequate size required to effectively dealing with corruption. Concerning the co-operation with the law enforcement agencies it was confirmed that a structure called an Anti-Corruption Council was established, which is representative of Heads of Departments, Law Enforcement Agencies, PSC and Public Prosecutor (see Annexure C – unabridged and unedited interview). The disappointing area is the fact that no comparative study with other provinces has ever been drawn, where lessons could have been learnt. Furthermore, besides the challenges identified in the fight against corruption, there seemed no clear strategy to deal with corruption effectively.

4.10 Submission of the Provincial Commissioner South African Police Services

General P. Landu, Commissioner, SAPS, responded during the interview by stating that there are limitations or obstacles in tracking down the fraudsters in government departments, including the Department of Education. Corruption usually occurs inside the department and it is too difficult to obtain information from within the department. In cases where senior officials of the department are involved, junior officials are unwilling or reluctant to testify against the seniors. In most cases, even the Heads of the Departments are not co-operating.

There are also instances where the relevant documentation would not be accepted in court. The reasons why cases are delayed for court appearance, is the paper trail involved and it takes a long time for the banking institutions to assist. Cases of commercial crime are voluminous in nature, and one docket is tantamount to ten dockets.

Furthermore, the investigator has to travel extensively in an attempt to collect evidence all over the country. The Commissioner mentioned that police investigators are conducting investigations against wealthy and sophisticated criminals, so-called white-collar crimes. Therefore, that alone exposes investigating officers to enticement by the criminals. General Landu also acknowledged the fact that the law enforcement agencies are effective in fighting corruption in the province; that has been measured through convictions in courts of law. Some criminals attained severe sentences of up to 20 years imprisonment, without the option of a fine.
Concerning the fraud and corruption statistics during the past few years in the province, the Commissioner indicated that it was difficult to confirm, however, the police discovered that criminals are devising new trends of committing crimes repeatedly, with a marked increase especially in the sphere of local municipalities. Finally, General Landu made mention of the fact that during the research process, there were some pending cases in the Department of Education, some were pending at court, while others were with the prosecutors for decision (see Annexure D – unabridged and unedited interview).

4.11 Submission from the Auditor-General’s Office

The interviewee from the AG’s Office, Mr Singa Ngqwala, informed that the systems within the Department of Education are not conducive. As such, controls are weak, resulting in people interfering with the systems. There are no mitigating controls to reduce risks. Databases are infiltrated resulting in duplication of the system, which can develop ghost employees, ghost schools and ghost suppliers. Finally, in the end, it results in irregular payments, inflating of numbers of schoolchildren and ghost NGO’s, such as, Adult Basic Education and Grade R institutions.

There is a lack of monitoring and supervision in the Supply Chain Management. Numerous posts are vacant and those employed lack the necessary skills. A deliberate misunderstanding of the procedures is evident. The Department of Education is highly syndicated. Suppliers, who lost the tender processes, always challenge the department in court, resulting in delays in service delivery. In addition, a glaring instability in political and administrative leadership exists; as such, there is no positive tone to provide leadership. Furthermore, a lack of understanding of governance and the department itself also contributes to the situation. The administrative heads of the department do not stay longer than a year, because of pressure applied by union leadership and therefore, strategic objectives and good governance cannot be implemented.

In the financial management, there is a lack of financial discipline and production of monthly management accounts, where variances are explained. There is a high rate of vacancies, lots of suspension of staff and cases of fraudulent activities, which are not finalised. This results in instability and lack of understanding of acts and procedures. The AG recommends that the Department of Education should be taken over by the
Higher Department of Education to reinstate administration stability. National Treasury must assist in addressing internal control weaknesses and mitigating controls.

The department must have a fraud prevention plan and a risk assessment analysis. There should be monthly monitoring and supervision by all levels of management from the bottom to the top. Roles and responsibilities should be clearly defined from the principal of a school to the HOD. Principals of schools and district managers should be appointed as Accounting Officers. Service level agreements should be signed by all these employees in order to avoid undue expectations. All outstanding disciplinary cases should be cleared. In addition, critical vacant posts should be filled. Moreover, performance management systems should be strengthened and monitored regularly.

4.12 Submission of the Chairperson of the Portfolio Committee on Public Accounts

According to the interview respondent from the Portfolio Committee on Public Accounts, Mr Maxwell Mhlati, the major challenge in the Department of Education is the financial management systems that are very weak. Its internal audit is not effective at all though it was given an autonomous status by the Premier’s Office. Since its inception, the Department of Education has been getting either a disclaimer or an adverse report from the AG’s Office. There is a lack of commitment from the management, which does not take any action for the flouting of rules or regulations.

There is collusion between the officials of the Department of Education. The majority are the owners of companies that are tendering within the department. Employees are recruited from within the department, without the knowledge of the authority. In the year under review, an amount of R7.8 million was transferred twice to section 21 schools by different people and not recovered. Only one company supplies the furniture for the whole province, resulting in delays in the service delivery.
Managers at district level have no capacity on financial management, yet major expenditures are realised. There is no proper documentation kept for the expenditure incurred.

The department is highly unionised, which incurs pressure to the HODs. Members of the union want personal favourites to be employed. People are charged and suspended, but no one has ever been found guilty and sentenced. The department has been operating with acting HODs for a while. Even the present acting HOD is harassed by the union members. The department has no fraud unit, only the risk management with limited resources exists. There is a high vacancy rate within the department even though there is a budgetary allowance to recruit staff. Mr Mhlati is against the idea that the department must be taken over by the National Department of Education and argued that national has no capacity either. He recommended that treasury must appoint an external company to conduct a forensic audit in the department.

4.13 Knowledge about corruption
It is significant that many officials of the Department of the Education surveyed, demonstrated an incomplete understanding of the concept ‘corruption’. The majority believed that it was understandable and for an official to accept gifts in return for performing services, which is part of the designated job, should not be punishable.

This finding indicates that there is an urgent need for the department's MEC and senior management to provide education and training to all officials on the definition, identification and adverse social impact of corruption. The officials of the department should be left with the clear realisation that when public resources are abused, the entire society suffers as a result.

4.14 Possible causes of corruption
In most cases, the root cause of corruption is inadequate, inefficient and ineffective monitoring tools in the department. According to Charles Addae, most cases of corruption in the department, emanates from the rather homogenous nature of the employees, approximately 90% are Xhosa speaking. Everybody knows somebody. Any application of punitive measure remains elusive. It should be remembered that the concept of “Imali yethu” (our money), is embedded in the minds of the people.
Corruption tends to flourish where governance is weak. The department does have a fraud and corruption plan in place. However, a strategy can only be effective if the mindset of the population is proactive. The manager also indicated that strategies are limited, because it is defined by the lack of meaningful punishment. A significant co-relation between the levels of corruption and the quality of service delivery exists. The more employees enjoy the game of fraud and unpunished corruption, the more employees do not care to discharge personal social expectations. There are many causes of corruption, including the fact that the people in administration are new and now controlling the state power and resources.

4.15 Conclusion
It can be concluded that given enough time to conduct the research and conditions being conducive, there could be a bigger picture of financial irregularities within the Department of Education. There are cases that have not been finalised, but the affected individuals are back at work and nothing is happening. The continuous change of leadership has a bearing on following cases to its conclusion. The political instability in the province also has a negative impact in dealing with corruption, where the alleged perpetrators might have aligned with those in position of power at the time.

At the time of finalising the research there were newspaper reports about irregularities in the supply of learner support material and schools’ furniture, where some companies have taken the Department of Education to court. There were also reports that the computers from the Department of Education headquarters in Zwelitsha were stolen during the night and police were probing the links to the department’s crackdown on corruption. Professor H. Nengwekhulu described the Department of Education as ‘rotten to the core’ and the moral fibre of the department was completely lost. The Professor stated that 90% of the senior officials were tendering with the department - in one case, an employee with 17 registered companies, was doing business with the department. In addition, Professor Nengwekhulu explained that the Department of Education was overrun by corrupt managers, who have aligned themselves with political figures with one goal in mind – to grab top jobs and manipulate the system. According to the Professor, Lady Frere is the most corrupt district, claiming that a number of tenders to the value of more than R2 million had been awarded to a specific company, which was established in 2006 and has not done a stitch of work.
During the time of the research, about eight officials of the department were on suspension pending the outcome of a Special Investigations Unit probe into alleged fraud and corruption. Surprisingly, among those suspended were the officials, who were previously suspended and reinstated without being charged for the same allegations. The Professor, however, defended the department by indicating that the department cannot suspend everyone at a go, “First you have to check the content then go with the ones that are urgent”. Many more officials were to be charged and it was clear that corruption was deeper than was estimated in the Department of Education. To this end, this type of fraud has become contagious and as a collective, three years is needed to stabilize the department. Professor Nengwekhulu suggested that the method of payment to all officials of the department, including the MEC, should be a monthly salary cheque, to help trace ‘ghost’ personnel.
CHAPTER FIVE
CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction
A useful conclusion that has emerged from the current discussion and ongoing debate on the corruption issue is that corruption is a symptom of deep-seated and fundamental economic, political and institutional weaknesses and shortcomings in the country. To be effective, measures against corruption must therefore address these underlying causes and not symptoms. Emphasis must be placed on preventing corruption by tackling the root causes that give rise to it through undertaking economic, political and institutional reforms. Anti-Corruption enforcement measures, such as, oversight bodies, a strengthened police service and more efficient law courts will not be effective in the absence of a serious effort to address the fundamental causes.

5.2 Conclusions
The Department of Education in the Eastern Cape is an enormous department and compared to other departments, it has the highest allocation of the budget in the province ascribed to it. It has a staff compliment of approximately 68 000 00 according to the annual report of the 2008/09 financial year of the department. The researcher assessed the role of the Department of Education in addressing the issue of corruption within the department. The impact of corruption on service delivery remains a serious challenge in the Department of Education. While the department has tried its level best to put the required systems to fight corruption into place, it is clear that these systems are not effective; hence, corruption is still the order of the day in the Department of Education.

It can be concluded that the Department of Education is characterised by a number of challenges of corruption perpetrated mainly by civil servants. Bribery, fraud, nepotism and systematic corruption are some of the forms of corruption executed within the Department of Education in the Eastern Cape. There are systems in place to uproot corruption, but these are very weak and ineffective and therefore remain a challenge. The anti-corruption strategies put in place in the Department of Education had in general been dysfunctional.
Within the Department of Education, there is glaring non-compliance with the PFMA, the National Treasury Regulations, the Procurement Procedures of the department et cetera.

**Chapter One** introduced the study and outlined the nature and effect of corruption within the Department of Education. It also presented challenges facing the department in responding to service delivery.

**Chapter Two** presented the supporting literature on the impact of corruption in the department; furthermore, it scrutinized the concept and theories underpinning the study.

**Chapter Three** explained how the study was conducted and expounded who was involved, which data collection instruments were employed and additionally, the procedural aspects of collecting data were supplied.

**Chapter Four** reflected the findings of the study and the assessment of the role of the Department of Education in addressing challenges of corruption. According to the 2008/09, annual report of the Department of Education there was inadequate segregation of duties to prevent fraudulent data and asset misappropriation. General IT controls had not been designed to maintain the integrity of the information system and the security of the data. Generally, the organisational structure did not address areas of responsibility and the lines of reporting to support effective control over financial reporting. However, ongoing monitoring and supervision were undertaken to enable an assessment of the effectiveness of internal control over financial reporting. According to the Interim Management Report 2000, in the 1997/98 financial year mismanagement of finances in the Eastern Cape Province led to a deficit of R1.314 billion. Moreover, in the AG’s 2006 financial year report it was evident that during the audit deficiencies existed in the procurement processes of the Department of Education. The root cause of these deficiencies was the inadequate monitoring of Supply Chain Management processes. The majority of officials in the department are not sure about protection, or felt there would be no protection if individuals would report corruption. Public officials’ level of confidence in reporting corruption clearly dependent on the degree of protection against adverse consequences perceived, should any individual proceed and report such corruption.
There are situations within the Department of Education, where the majority of senior officials, who might be in possession of valuable information, are always under suspension.

The primary objective of the study was to investigate challenges of corruption in the Department of Education in the Province of the Eastern Cape. This has been achieved by firstly exploring the anti-corruption strategy of the province in general and the role of the Department of Education in dealing with corruption. Subsequently, the anti-corruption strategy, within the Department of Education, and its effectiveness as well as compliance with the relevant legislation was explicated. It was evident throughout the research that systems to fight corruption within the department were neither existent nor effective. The recently established unit called Risk Management, under directorship of Mr Charles Addea, was previously under Internal Audit. Within the Department of Education, there was evidence of glaring non-compliance with the PFMA, The National Treasury Regulation, the Procurement Procedures of the department et cetera. This was expounded in the reports of the AG’s Office, the reports of forensic audit into alleged irregularities at the department and the reports of Portfolio Committees on both education and public accounts.

The study reflected that neither the ACU established in the Premier’s Office nor the one in the Department of Education was able to function effectively. Underlying reasons were that the Units were managed by the junior officials at Deputy Director Levels, as well as the lack of co-ordination among the various departments in the province and the law enforcements agencies. This has resulted in some cases taking a long time to be completed and some struck off the roll, because of a lack of concrete evidence to prosecute the alleged perpetrators. Little organisational capacity, such as, human and financial resources were allocated to support the Units. The result was that other officials had to balance anti-corruption work as an ‘add-on’ in conjunction with other responsibilities, while some tasks were not carried out because of a lack of funds. Some officials within the Supply Chain Management of the department lacked the necessary skills.
There were a number of limitations that were hampering the effectiveness and efficiency of the Unit. These included the lack of capacity to conduct regular preventative audits and exercise based on pre-determined audit plans, the lack of capacity to ensure regular follow up on recommendations contained in the reports of the AG, and Portfolio Committees on both Education and Public Accounts. In fact, the involvement of some officials of the department in corrupt practices made it difficult for the department to uproot corruption. In addition, some officials of the department were suspended at the time the research was conducted and the majority were in acting capacities, including the Accounting Officer of the department. The change of leadership within the department hampered the service delivery; within a period of 15 years, seven MECs were appointed in this department.

There was a glaring non-compliance with Treasury Regulation 8.4.1, which resulted in transfer payments not being used for the intended purposes. Throughout the department and its institutions, proper procurement processes were not followed. As a result, many discrepancies occurred. The audit revealed that separate orders were placed with suppliers on the same date and for the same amount to avoid compliance with the departmental procurement policy. Treasury Regulation 9.1.2 requires an official of the department to report, upon the discovery of irregular expenditure, such expenditure to the Accounting Officer, but that was not case within the Department of Education.

According to the 2009 management report of the department, there was a salary reversal account sitting at R13,220,474,12, because of high rate of people leaving the department. There were payments that were debited in this account and processed for other accounts, which is abnormal. According to Treasury Regulations, such monies should be returned to the relevant treasury. This account is earmarked for reversed salaries, because employees are not entitled to these funds for various reasons, such as, employees who resigned, retired, died or did not work. This account is expected to have a zero balance at the end of the financial year as per its nature. The department continues to receive adverse or disclaimer opinions from the AG’s office like in all the previous years, because the information provided by the department was either inadequate or misleading.
The majority of officials in the department are not sure about protection, or felt there would be no protection if individuals would report corruption. Public officials’ level of confidence in reporting corruption, clearly depended on the degree of protection against adverse consequences perceived, should any individual proceed and report such corruption. This confidence is likely to be adversely affected by the exposure of high profile cases of the alleged corruption, where either the whistle-blower or investigator into the alleged corruption is not afforded the necessary protection. Worse still is, for whatever reason, the department proves too incapable of protecting its own senior managers, who have set out to stop corruption in the department; this is likely to have a particularly harmful effect on officials’ confidence.

A case at hand is that of the former HOD in the Department of Education in 2000, Mr Modidima Manya, who was at his appointment tasked with ridding corruption by the then Premier M. A. Stofile. After suspending eleven senior officials in the Department of Education within a period of three months, the HOD received numerous death threats and authorities inexplicably withdrew the assigned bodyguards. Mr Manya had no option, but to flee the department and the province.

5.3 Recommendations
In light of the critical issues raised, the following recommendations are drawn. The fight against corruption goes beyond merely enacting laws, which state that corruption is illegal and once discovered is punishable under the country’s laws. Therefore, a number of avenues of options need to be explored in order to uproot corruption entirely. Given the critical issues raised, the following recommendations are put forward as a way of improving the anti-corruption strategies in the province as well as in the Department of Education.

The ACU in the province should be strengthened, well capacitated and resourced. Senior officials should be dedicated to the ACU in order to give credibility and trust to the unit. The department’s strategic plans should clearly assign responsibilities to the department’s senior management to ensure appropriate delegation of duties and accountability for functions and departmental operations. The department should ensure that Risk Assessment is regularly performed and that an approved fraud prevention plan is in place.
The management of the department should ascertain that adequate monitoring and control mechanisms are developed and implemented to confirm that debtors’ balances are investigated and handed over to the State Law Advisors for collection, once all other collection methods have been exorted. Monitoring mechanisms and controls should be implemented to ensure that all losses are recorded in the register.

The department should investigate the matters reported, and take corrective action where necessary and report to the SAPS timely. Compliance with the relevant government prescripts should be monitored on a regular basis. The department should certify that proper internal controls are developed and implemented over revenue to the BAS take on acknowledge forms. Control measures should be in place to guarantee that all revenue is collected, received, recorded and utilised for intended purposes. Monitoring mechanisms and control procedures must be developed to ensure proper management of payrolls and the physical verification of the existence of staff members of the department in the payroll.

In addition, the department should develop and implement a clear mechanism to verify that all supporting documents are attached to payment batches. A more effective method of document management and control should be instituted to warrant accountability for location and movement of all documentation. A system of frequent review of debtors and the retention of all related documentation in a debtors file should be implemented. The current procedure followed, in allocating debtors payments to debtors accounts, needs to be reviewed and adjusted to remove inefficiencies. Oversight by senior staff to ensure that all procedures are performed should be implemented.

The department must confirm at all times that only registered and valid suppliers are utilised for procurement of goods and services. Delegation of powers should be in line with relevant legislation to ensure that payments are approved by delegated officials. Delegation should be given in writing and signed by the Accounting Officer.
The department should develop and implement control activities to ensure that adequate certification for goods or services received are given. Checks and balances should be in place in order to authenticate that payments are allocated to the correct bank accounts of service providers or suppliers.

Additional mechanisms and activities must also be documented and implemented that will prevent the duplicate payments of the expenditure transactions. The management should follow up the discrepancies and make the necessary adjustments. Management should verify that all transactions are approved immediately and the rejected transactions should be determined on a regular basis and follow up actions should be performed immediately. Management should confirm that sufficient explanations and evidence support the financial transactions. Monitoring mechanisms and control procedures must be developed to guarantee that all related parties are identified and disclosed in the register of director’s interest in companies.

Any official of the department, who fails to declare personal business interests, as stipulated in the Public Service Act, should be dealt with in line with the departmental internal processes. The department should develop and implement monitoring mechanisms to verify that the requirements of Supply Chain Management policies are adhered to, in order to avoid incurring irregular expenditure. In addition, to guide the department on approval of purchases in urgent and emergency cases, monitoring mechanisms and control activities need to be developed and implemented. The department’s policies and contracts should be reviewed and updated on a regular basis to safeguard compliance with the necessary legislation.

New contracts should be issued, which will reflect updated rates. As required by Treasury Regulation, the Accounting Officer of the department must cancel the contracts awarded to fraudulent suppliers. Where necessary steps should be taken to recover the money and allow the law to take its course. Programme managers, should on a monthly basis, prepare a Suppliers’ Performance Monitoring Tool Report and through monitoring, review that contracts are properly observed, simultaneously encouraging supplier adherence with the contract terms.
A service provider agreement, stipulating specific responsibilities, duties, timeframes, format documents and specification of documents to be submitted, format of documents and ownership as well as retention of documents should be drawn up between the department and East London Computer Bureau, to avoid any disagreements and ensure clarity of what is expected from each party. The department should check the National Treasury database to verify that none of the recommended bidders is blacklisted. Management must comply with the applicable laws and regulations as stated under Treasury Regulation 19, that is, to safeguard that no recommended bidders, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector.

Management should confirm that employees submit leave application forms on time, that is, within five working days after the date of absence. Management must ensure that leave is captured timely and in the correct leave cycle. All leave forms should be filed in the employee’s file immediately. The department must develop and implement control activities to guarantee that leave gratuities are correctly calculated and paid. Monitoring mechanisms and control procedures need to be implemented in order to avoid the splitting of quotes and ascertain that the procurement procedures are not circumvented, resulting in irregular expenditure being incurred.

The Department of Education seriously need to consider the outsourcing of the SNP to NGO’s for proper administration, as it is not the core-function of the department. The NGO’s should in turn, on a monthly basis, account to the department on the work done. The schools should, once a month, and not at the end of the year, submit a detailed monthly summary of the number of learners staying in the hostel, and the amount of revenue paid over by each school. This should be traced to the BAS report and reconciled to the actual amount received from the schools.

The Accounting Officer and all senior staff members of the department must sign performance agreements and undergo performance appraisals to ensure that accountability measures are in place and corrective action is taken where performance is inadequate. Management must ensure that performance contracts are discussed and signed at the beginning of each period under review.
Management should guarantee that proper job descriptions and contracts are compiled so that employees are aware of the respective roles and responsibilities and how individual performance will be measured. Staff capacity issues must be addressed at the provincial, district and school level. This will also assist in improving the management of finances of the department as well as its accountability. All officials who fail to comply with the above should be dealt with in line with the PFMA and other related legislation. In addition, any non-compliance by the Accounting Officer of the department should be charged with financial misconduct in terms of Section 81 (1) (a) & (2) by the MEC, failing which the officer should be fired for failing to execute the designated executive duties. The Portfolio Committee also proactively needs to monitor the department in-year-monitoring (IYM) performance to intervene in a timely fashion, where areas of concerns are raised.

The head of the department and the senior managers need to demonstrate a personal practical commitment to stop corruption through:

- Leading by example;
- Ensuring speedy disciplinary investigations and proceedings in cases of alleged corruption involving officials;
- Ensuring that disciplinary proceedings are brought to a swift conclusion;
- Keeping the Provincial Legislature, the media and public officials within the department constantly updated and informed of the outcome of disciplinary investigations and proceedings.

Human Resources and selection committees must verify the information reflected on candidates’ applications by means of a:

- Criminal record check;
- Financial/Asset record check;
- Previous employment verification; and
- Security clearance.
The department should convey a clear message that reporting corruption is encouraged as well as valued and that all public officials have a responsibility to report corruption, regardless of individual positions. There should be no assumption that some other officials will make the report. As a matter of urgency, the department needs to establish formal channels for reporting corruption internally to the department and ensure that officials, at all levels, are informed of these channels. Steps should also be taken to ensure that all officials are made aware of individual rights as whistle-blowers and the protection each employee is afforded under the Protected Disclosure Act 26 of 2000.

The ruling party should deploy competent and capable cadres to the executive authority of the department, in order to avoid change of the leadership before the end of a specified term. Coupled with this, is the need to have political will on the part of the political leadership within the department, to fight corruption. A structure comprising all departments in the province, the SAPS, Directorate of Special Operations, Special Investigating Unit, Department of Justice and Constitutional Development, PSC, Office of the AG and Public Protector should be established to co-ordinate anti-corruption work in the province as a whole. This structure should be allowed to co-opt other departments and agencies on a need and issue driven basis. The work of this forum should be made clear and public.

Finally, the Criminal Justice System in the province needs to be strengthened, starting from getting competent and better-qualified Presiding Officers over alleged fraud and corruption cases to Prosecutors and Special Commercial Crimes Court. All parties, whose work involves fighting fraud and corruption, need to cement personal work relationships, by signing a Memorandum of Understanding for co-operation and efficiency in the fight against fraud and corruption in the province.
BIBLIOGRAPHY


Cameron, R. G. 1995, Servicing the Public, CTP Book Printers Pty (Ltd), Caxton Street, Parow 2500, Cape Town.


Interim Management Team Report 2002, Public Service and Administration, Bhisho.


compress ([www.compress.co.za](http://www.compress.co.za))


Report on Forensic Audit into Alleged Irregularities in Respect of School Nutrition Programme 2007, Department Education, Bhisho.

South Africa (Republic), National Treasury Regulations 2005, Government Printers, Pretoria.


ANNEXURE A: LETTER OF PERMISSION FROM THE SUPERINTENDENT GENERAL TO CONDUCT RESEARCH IN THE DEPARTMENT OF EDUCATION

17 February 2010

Mr Price M Basopu
148 12 Avenue
Glenub
East London
5257

Dear Mr Basopu

REQUEST FOR PERMISSION TO CONDUCT RESEARCH ON CHALLENGES OF CORRUPTION WITHIN THE EASTERN CAPE DEPARTMENT OF EDUCATION.

1. Thank you for your correspondence received about the above-mentioned subject.

2. Your application to conduct the above mentioned research within the Education department is hereby approved on condition that:
   a. there will be no financial implications for the Department;
   b. Institutions and respondents must not be identifiable in any way from the results of the investigation;
   c. you present a copy of the written approval of the Eastern Cape Department of Education (ECDoE) to the District Directors before any research is undertaken at any institutions within that particular District as well as to the Senior Managers involved at Head Office;
   d. you will make all the arrangements concerning your research;
   e. the research may not be conducted during official working hours at Head Office and the Districts and not during the fourth school term at the institutions, except in cases where the ECDoE is of the opinion that such research will not interfere with exams at schools during that period. Such a request will have to be evaluated and determined by the Chief Director: Strategic Management Monitoring and Evaluation;
f. Should you wish to extend the period of research after approval has been granted, an application to do this must be directed to the Director: Strategic Planning Policy Research and Secretarial Services;

g. The research may not be conducted during the fourth school term, except in cases where the ECD&E deems it necessary to undertake research at schools during that period. Such a request will have to be evaluated and determined by the Chief Director: Strategic Management Monitoring and Evaluation;

h. Your research will be limited to the offices and schools for which approval has been granted;

i. A copy of the completed report, dissertation or thesis, accompanied by a separate synopsis (maximum 2 – 3 typed pages) of the most important findings and recommendations if it does not already contain a synopsis, must be provided to the Director: The Strategic Planning Policy Research and Secretarial Services upon completion of your research.

3. The Department wishes you well in your undertaking. You are most welcome to contact Mr. Richard Chigome on the following numbers should you need any assistance: 040-606 4537 or 079 043 692.

PROF. RH. NENGWEKHULU
ACTING HEAD OF DEPARTMENT

[Signature]

[Date: 11/2/2010]
ANNEXURE B: SUBMISSION OF THE MANAGER RISK MANAGEMENT

CHALLENGES OF CORRUPTION IN THE EASTERN CAPE DEPARTMENT OF EDUCATION.

QUESTIONNAIRE TO THE SUPERINTENDED GENERAL OF THE DEPARTMENT OF EDUCATION

1. What is the root cause of corruption that is taking place in the Eastern Cape Department of Education?

Ans. The most cause of corruption in the department emanates from the rather homogenous nature of the employees approximately 90% of the employees are Xhosa. Everybody knows somebody. Any application of a punitive measure remain elusive.

2. Is there any strategy in place to fight corruption in the department?

Ans. The department has a fraud prevention plan and fraud response plan.

3. If yes is this strategy effective?

Ans. A strategy can only be effective if the mindset of the population is proactive. For the moment its effectiveness is being tested. Remember the conception of “Imali Yetu” our money embedded in the minds of the people.

4. What are the obstacles or limitations thereof?

Ans. Strategies are limited because it has been defined by the lack of meaningful punishment. If we unable to deal ruthlessly with fraud, we shall be chasing a loose ball. Punish to deter others.

5. To what an extent is corruption affecting service delivery the department?

Ans. There appears to be a significant correlation between the levels of corruption and the quality of service delivery. The more employees enjoy the game of fraud and corruption unpunished the more they would not care to discharge their social expectations.

6. Are there any pending cases in the department and what is their status?

Ans. Several cases are pending and normally get completed when the traditional law enforcement agencies (SAPS) manage to conclude the case dockets and obtain prosecution.
ANNEXURE C: SUBMISSION OF THE HEAD OF THE ANTI-CORRUPTION UNIT

CHALLENGES OF CORRUPTION IN THE EASTERN CAPE DEPARTMENT OF EDUCATION

QUESTIONNAIRE TO THE HEAD OF ANTI-CORRUPTION UNIT

1. What are challenges faced by the unit in uprooting corruption in the Department of Education in the Province?

Ans. The department has capacity challenges in terms of a distinct structure, staffing, budget and training.

2. Which are the most affected departments by corruption in the Eastern Cape beside Education?

Ans. Health, Local Government and Traditional Affairs, Social Development and Housing

3. Does the department have its own similar unit or structure in fight against corruption?

Ans. Departments do have structures though insufficient in so far as the adequate size required to effectively deal with corruption.

4. Does the unit get proper co-operation from the law enforcement agencies in the province?

Ans. There is co-operation from the law enforcement agencies though the structure called Anti-corruption Council which is representative of heads of departments, Law Enforcement Agencies, Public Service Commission, Public Protector, etc.

5. How is the extent of corruption in the Eastern Cape Department of Education compared with other provinces?

Ans. No comparative study has been undertaken.
ANNEXURE D: SUBMISSION OF THE PROVINCIAL COMMISSIONER SOUTH AFRICANPOLICE SERVICES
CHALLENGES OF CORRUPTION IN THE EASTERN CAPE DEPARTMENT OF EDUCATION

1. What obstacles or limitations are there within the law enforcement agencies in tracking down the fraudsters in Eastern Cape Department of Education?

Ans: Corruption usually occurs inside the department and it is too difficult to get information from within the department.

2. Why in some instances cases take long time to be taken to Court?

Ans: Cases of commercial crime nature are of a voluminous nature, and one docket is tantamount to ten dockets. Furthermore the investigator has to travel a lot trying to collect evidence all over the country.

3. What causes some members of law enforcement agencies to collaborate with criminals in some instances?

Ans: Police investigators are conducting investigations against wealthy and sophisticated criminals as they are dealing with white collar crimes. Therefore that alone exposed them to enticement by the criminals.

4. Are the law enforcement agencies effective in the fight against corruption in the Province?

Ans: Yes, that has been measured through convictions in court of laws. Some criminals attained high sentence raging from 20yrs imprisonment without the option of fine.

5. In your assessment have the corruption statistics decreasing or increasing in the past few years in the province?

Ans: It is difficult to say so. But non - the less the Police discovered that the criminals are devising new trends of committing crime time and again.

6. Are there any pending cases within the Dept of Education and what is their status as of now?

Ans: Some are pending at court, and some are with the prosecutors for decision.
EDITOR CONFIRMATION LETTER
TO WHOM IT MAY CONCERN

I hereby state that I have edited the document:

ASSESSING CHALLENGES OF CORRUPTION IN THE EASTERN CAPE DEPARTMENT OF EDUCATION
BY
PRICE MIKE BASOPU
A DISSERTATION SUBMITTED TO THE SCHOOL OF GOVERNMENT, UNIVERSITY OF FORT HARE, IN FULFILMENT OF REQUIREMENTS FOR THE DEGREE OF MASTERS OF PUBLIC ADMINISTRATION
SUPERVISOR
PROFESSOR M. H. KANYANE
COMPLETED
OCTOBER 2010

Disclaimer
At time of submission to student, language editing and technical care was attended to as requested by student and supervisor. Any corrections and technical care required after submission to student is the sole responsibility of the student.

Kind Regards

Hani Sammons
D.Litt. et Phil (University of Johannesburg)

SOLI DEO GLORIA
Language Editing

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27 November 2010