



**ANALYSIS OF THE ROLE AND EFFECTIVENESS OF THE PUBLIC  
PROTECTOR IN FIGHTING CORRUPTION: A CASE STUDY OF TSHWANE  
MUNICIPALITY IN GAUTENG PROVINCE, SOUTH AFRICA**

*by*

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**A Mini-Dissertation submitted in partial fulfillment of the requirement of the Degree of**

**MASTER OF PUBLIC MANAGEMENT**

**SCHOOL OF MANAGEMENT SCIENCES**

**UNIVERSITY OF VENDA**

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## DECLARATION

I, **PATRONELLA CHIEDZA MADZIMURE**, hereby declare that this mini-dissertation entitled “**The role and effectiveness of the Public Protector in fighting corruption in South Africa**” is my own original work and that all sources have been accurately indicated and acknowledged by means of complete references. This document has not previously in its entirety or in part been submitted at any university or this university in order to obtain an academic qualification. It is submitted for the degree of Masters in Public Management at the University of Venda.

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## DEDICATION

I dedicate this research work to:

- The Almighty God for all the providences rendered to me during the course of study.
- My husband, Ronald, for his understanding, endurance, tolerance, encouragement and financial support during the whole period of my studies.
- My children, Thelma and Russell my daughter and son, who had to sacrifice much and had to relinquish their motherly love for the whole period of my studies.

I am thankful to the Almighty God who kept me in a healthy state throughout the course of my masters' study. He provided the necessities I needed to complete this mini-dissertation. The Almighty, in His miraculous ways, saw to it that I complete this program against all odds.

I would like to express my sincere gratitude to the following people:

- My supervisor, Professor Khwashaba who was my source of encouragement and inspiration at every stage of my research. I register my tribute to him for his informative comments, constructive advice, unwavering guidance and academic prowess;
- My Co-Supervisor Mr E. Mahole for his professional support and guidance during the writing of the report;
- Dr. P. Tsvara for his professional support, encouragement and academic advice during the writing of the mini dissertation;
- All the investigators at the Public Protector's office who participated in the survey;
- All the 2012 Masters in Public Management classmates, friends and colleagues; and
- Most importantly, my husband (Ronald) for all the love and patience and most importantly for encouraging me to complete this degree in time.

Corruption is a universal problem that undermines growth and development by diverting resources away from development programmes. Its effects are particularly harmful to the poor in developing countries, thus fighting corruption becomes one of the most important challenges facing new democracies like South Africa. Consequently, South Africa has instituted a number of anti-corruption machinery to fight this scourge. However, as the anti-corruption machinery and strategies intensified in South Africa, the level of corruption in the country seems to be escalating. Given this background, the researcher was motivated to critically evaluate the role and effectiveness of one of the institutions established to fight corruption in South Africa, the Public Protector. The Public Protector is mandated to fight corruption in terms of section 2 of the Public Protector Act no 113 of 1998.

The researcher used the mixed research method. This entailed that the research used both qualitative and quantitative research approaches, in which data was collected through the questionnaires and interviews. Data was collected and analysed both quantitatively and qualitatively. Ethical considerations such as the need for voluntary participation, confidentiality and anonymity and informed consent were also observed.

The major findings of the study were that; the Public Protector is a critical institution, well positioned to fight corruption in South Africa. The study also provided evidence showing that the Public Protector has been effective in fighting corruption, although its effectiveness in this regard can be improved by providing sufficient resources and prioritisation of investigations.

The recommendations of the study are that, in order for Public Protector to be more effective in its mandate to fight corruption, sufficient resources should be provided for investigations and awareness campaigns to educate the public about all forms of corruption and how to report them. The Public protector should prioritise interventions in critical sectors such as health in order to enhance its effectiveness in alleviating the impacts of corruption on the ordinary citizens. In addition, findings from the study suggest that there should also be an amendment of the legislation to ensure that the Public Protector has sufficient enforcement powers, instead of only recommending interventions for implementation by other institutions.

## ACRONYMS



AERA: American Educational Research Association	i
AG: Auditor General	ii
BERA: British Educational Research Association	iii
CPI: Corruption Perception Index	iv
IACC: International Anti-Corruption Conference	v
NORAD: Norwegian Agency for Developing Cooperation	vi
NPM: New Public Management	vii
OECD: Organisation for Economic Cooperation and Development	viii
PAIA: Promotion of Access to Information Act	ix
PP: Public Protector	x
PSC: Public Service Commission	xi
RGDP: Real Gross Domestic Product	xii
SADC: Southern African Development Community	xiii
SIU: Special Investigating Unit	xiv
SPSS: Statistical Package for the Social Sciences	xv
UNDP: United Nations Development Programme	xvi

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## 1. Introduction

In developed and developing countries, corruption has been cited as one of the major societal problems requiring urgent attention. Consequently, numerous studies have attempted to explain theories of corruption. Various theories have been developed to explain the cause of corruption. According to Kautilya's Arthashastra (UNDP, 2008:4), written around 300 BC, "just as it is impossible not to test honey that finds itself at the tip of the tongue, so it is impossible for a government official not to eat up at least a bit of the King's revenue". This is a famous Indian quotation that explained why the problem of corruption by public office bearers who are bestowed with the fiduciary duty to manage public resources is so rampant. This problem has continued to grow from generation to generation, and the modern society has not been spared, with the poor bearing the worst brunt of it all.

In the modern society, corruption, as one of the oldest and most perplexing phenomenon in human society, seems to have found its permanent residence in Governments of developed and developing countries. Thus, political leaders have often been labelled by the public as greedy, selfish and abusers of public resources; and the majority of them have proved to be so. The Corruption Perceptions Index of 2011 showed that the bulk of countries ranked below four (highly corrupt) are in developing countries.

Grenham (2009:43) in his researches found out that, unless the problem of corruption is eradicated, developing countries will not have a hope of achieving even a modest level of development. This was also pronounced in the findings of Transparency International in 2000 in their annual Corruption Perception Index survey which showed a very strong correlation between the Corruption Perception Index and Real Gross Domestic product per capita (RGDP). Besides its negative impact on economic growth, corruption also results in misallocation of public resources, disruption of development priorities, loss of public trust in the Government and poor service delivery as corrupt public officials and politicians only concentrate on private gain, at the expense of the poor majority. This perhaps means that the problem of corruption, especially in developing countries, should be attended to as a matter of urgency, otherwise societies will be inevitably pushed into the vicious circle of social problems, which are a time-bomb that threatens the survival of the ordinary citizen on the street.

In various efforts to respond to this scourge of corruption that has caused untold suffering on the ordinary citizen, local, national, regional and international initiatives have been instituted. The United Nations Convention against Corruption, the Council for Europe anti-corruption convention, the Hong Kong independent Commission against Corruption, African Union Convention on Preventing and Combating Corruption, the SADC Protocol Against Corruption, Transparency International, Stability Pact anti-Corruption Initiative, and various World Bank programmes are some of key high level initiatives that were established to fight corruption in the world. Locally, the Government of the Republic of South Africa established Auditor General, Public Protector, Public Service Commission and the Independent Complaints Directorate as the main oversight bodies to fight corruption and promote good governance in the country.

Although so much efforts and financial resources have been committed to the formulation, implementation and monitoring of anti-corruption initiatives, it is arguable that these initiatives managed very little, if anything, in reducing corruption. If anything is to be said, the prevalence of corruption in developing countries seems to have actually increased and become complicated. It is against this background, that the researcher felt compelled to undertake a study on the effectiveness of the Public Protector in fighting corruption in South Africa.

## **1.1 Background of the study**

Corruption is a universal problem that has been in existence since the dawn of time. It undermines growth and development by diverting resources away from development programmes thus increasing poverty, inequality and underdevelopment. In a research conducted by Klitgaard and Fedderke in 2010 showed that countries with more corruption have less investment and each dollar of investment has less impact on growth. Moreover, bad governance has direct and negative effects on long term outcomes such as infant mortality and education among other basic amenities. Thus its effects are particularly harmful to developing countries and achieving good governance and fighting corruption is amongst the most important challenges facing new democracies such as South Africa, and in particular Gauteng Province because this is the economic hub of South Africa.

## 1.2 The problem of corruption in the context of South Africa



Corruption in South Africa has reached epidemic levels and threatens the lives of the general populace. Large amounts of financial resources which could have been used to better the lives of people, especially the poor, have been lost due to corrupt Government practices and officials.

The Global Financial Integrity report of 2010 estimated that South Africa had suffered an illegal outflow of R185-billion due to corruption in the public sector between 1994 and 2008. It is estimated that in 2009 government corruption totalled R70 billion. In 2010, a report by an audit firm, BDO (Chartered Accountants) South Africa, stated that company fraud in South Africa was “escalating at an alarming rate” and estimated that the “total annual leakage” from fraud, theft and corruption amounted to R100 billion. In a presentation to Parliament, the then head of the Special Investigating Unit (SIU), Hofmeyr in 2009, indicated that that between R25-billion and R30-billion of government’s annual procurement budget alone was lost to corruption, incompetence and negligence. He further indicated that currently four cases, valued at R171million and involving several departments within government are currently being investigated by the SIU. Naidoo (2011) of the Council for the Advancement of the South African Constitution, in an article said: "It's estimated that 20% of the GDP is lost to corruption annually."

Given the above scenario, it can be concluded that South Africa as a nation has lost a staggering R385 billion since 1994 due to corruption at every level in government, an amount which is double the country’s 1997 National Treasury Budget. This shows how much people have lost in terms of wasted public resources.

## 1.3 Post- Apartheid South Africa

South Africa is a relatively new democracy that emerged in 1994 after decades of struggle against the apartheid system. During the years of struggle, South Africa was a fragmented country and the majority of its people were subjected to a corrupt political, economic and moral regime. In 1994, the democratically elected government embarked upon a programme to reconstruct and develop South Africa to the benefit of its entire people thus the programme of growth, reconstruction and development was faced with obstacles and legacies created by

the apartheid regime. One such obstacle was the prevalence of corruption (Anti-corruption Framework 2009).



In the process, not much attention was given to other issues such as corruption in the new Government. This transitional period provided an opportunity for some cadres to misuse the public trust entrusted upon them by looting public resources for private gain.

The then President, Nelson Mandela in his opening address to parliament in 1999, bemoaned that the corruptness of the 'people chosen' cadres has made our society 'sick'. He made a statement stating that, it is a reality of the present that among the new cadres in various levels of government, you find individuals who are as corrupt as those they find in government. When a leader in a provincial Legislature siphons off resources meant to fund service by legislators 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 are a sick society (Grobler 2003:29).

He further said that the problem manifests itself in all areas of life: it could be business people who launder funds to curry favour with public servants; ordinary citizens who seek to buy themselves out of trouble; strange religious leaders who sing praises to criminals or hoard land acquired by the foul means of apartheid. The advice that he gave in his speech was that all people should work together for the redemption in South Africa..This culminated in the development of high level mechanisms to investigate and ensure proper punishment for these vile deeds.

#### **1.4 Current state of corruption in South Africa**

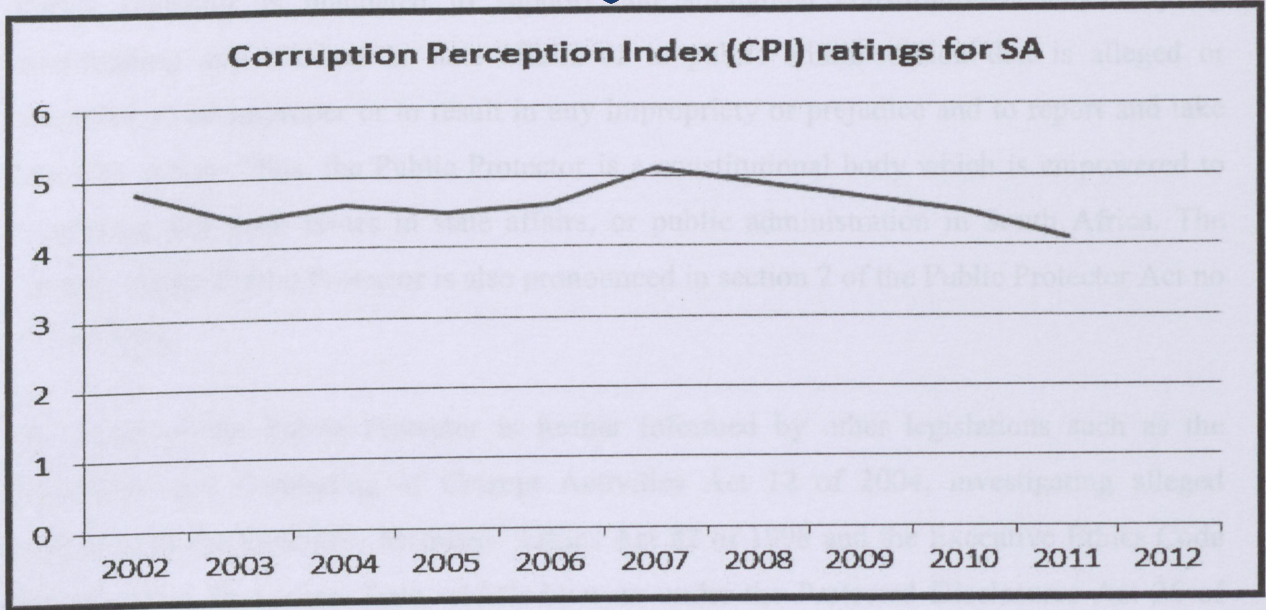
Over the past decade there has been extensive media coverage on corruption thus, indicating the significance of corruption as a newsworthy topic in South Africa. Ramaite, Sangweni and Balia (1999:158) mentioned that rampant crime, high levels of corruption in the private and public sectors have eroded the public's confidence in the criminal justice system's ability to confront and deal with these evils effectively. Consequently, many citizens who have been victims of corrupt officials in public offices have lost faith that their affairs will ever be administered in a good and just manner. Thus, such a situation threatens South Africa's nascent, hard won democracy.

South Africa has amongst others, the best pieces of anti-corruption legislation and policy frameworks to guide the behaviour and conduct of public servants and any other individuals that interact with them and to render services to the public sector. These have been largely developed after the end of the apartheid regime in 1994. Various regulatory mechanisms have been put in place to govern the conduct of political office bearers such as Premiers and Members of the Executive Council. These frameworks deal with issues of financial disclosures, conflict of interest and insider information among others. South Africa has also acceded to the United Nations, African Union, SADC and OECD international legal instruments on anti-corruption (Anti-corruption Framework 2009:17).

Although, the elements of an effective anti-corruption framework exist in South Africa, there have been debates on whether such framework is effective in its role of fighting corruption. There are notable inefficiencies within and between institutions implementing anti-corruption policies, notably, lack of effective follow up on complaints of corruption, inefficient application of disciplinary systems, underdeveloped management capacity in some areas and societal attitudes which weaken anti-corruption efforts.

According to a research conducted by Transparency International which focuses assessing the level of corruption in the public sector, the performance of a country in terms of fighting corruption and improving governance in the public sector can be measured by the Corruption Perception Index (“CPI”). The CPI rates (scores) countries on a scale from zero to ten, whereby a rating of zero means that the country is highly corrupt, while a rating of ten means that the country is very clean and free from corruption. These scores for each country are then compared across different countries that participate in the survey to come up with a ranking of the different countries according to their CPI ratings. For instance in 2007 South Africa was rated number 43 out of 180 countries and in 2008 number 54 out of 180 developed countries. The graph below shows the trend of CPI ratings for South Africa for the period 2002 to 2011:

Figure 1: The Corruption Perception Index ratings for South Africa



Sources: Transparency International and Treisman (2011)

The figure above shows that South Africa has not improved in being rated a corruption-free country. In fact, its CPI rating has remained stagnant, and actually worsened when comparing the rating in 2002 and the rating in 2011. Although South Africa's rating improved in 2007 to a rating above five in 2007, the period after 2007 witnessed a sustained decline in the country's CPI ratings. The deterioration of South Africa's CPI ratings could be a reflection of serious governance challenges in the public sector, as evidenced by the increase in service delivery protests across the whole country. Such a situation calls for some study to ascertain what could be done by different institutions within the country to ensure that the country's state of corruption improves.

### 1.5 Research Problem

Following the attainment of democracy in 1994, large amounts of financial and human resources have been committed in developing and implementing anti-corruption machinery in South Africa. Institutional bodies such as the Auditor General, Public Protector and the Public Service Commission have been established to term the scourge of corruption in South Africa. These institutions are bodies of statute which operate within the ambit of the relevant statutory laws to fight against corruption.

In terms of section 182(1)(a) of the Constitution of the Republic of South Africa Act, the Public Protector is mandated to support and strengthen constitutional democracy by investigating any conduct in state affairs or in public administration that is alleged or suspected to be improper or to result in any impropriety or prejudice and to report and take remedial action. Thus, the Public Protector is a constitutional body which is empowered to investigate any such issues in state affairs, or public administration in South Africa. The mandate of the Public Protector is also pronounced in section 2 of the Public Protector Act no 113 of 1998.

The work of the Public Protector is further informed by other legislations such as the Prevention and Combating of Corrupt Activities Act 12 of 2004, investigating alleged violations of the Executive Members' Ethics Act 82 of 1998 and the Executive Ethics Code and receiving disclosures from whistle-blowers under the Protected Disclosures Act 26 of 2000. For example the Prevention and Combating of corrupt Activities Act specifically gives the Public Protector the authority to investigate any improper or dishonest act, or omission or offences referred to in act with respect to public money.

Although there has been much effort and support to fight corruption in South Africa, as evidenced by the investigation and prosecution of high profile corruption cases, the country is still on a downward slide on the Corruption Perception Index of 2011. For instance, in 2011 the Public Protector's investigation and recommendation led to the suspension of Bheki Cele, Gwen Mahlangu and Sicelo Shiceka (Mail and Guardian 24 October 2011). Another notable success in the fight against corruption in South Africa was the conviction of Jackie Selebi in 2011 (Mail and Guardian 2 December 2011). However, the trend in the Corruption Perception index still shows that there is great need to evaluate the effectiveness of some of the institutions established to fight corruption in South Africa, such as the Public Protector. It is therefore, against this background that the researcher has decided to carry out a research to analyse the role and effectiveness of the Public Protector in fighting corruption in South Africa.

### **1.5.1 General Aim**

The primary aim of the study is to analyse the role and effectiveness of the Public Protector in fighting corruption in South Africa

## 1.5.2 Objectives of the study



In order to get answers to the researcher's primary aim, it is important that the study fulfils the following secondary objectives:-

- To identify and describe the role of the Public Protector in fighting corruption in South Africa;
- To determine the effectiveness of the Public Protector's anti-corruption framework in fighting corruption; and
- To evaluate the challenges being faced by the Public Protector in fighting corruption.

## 1.5.3 Research Questions

The results of the research will attempt to answer the following research questions, which emanate from the secondary objectives of the research. Each secondary objective will have two research questions:

- What is the role of the Public Protector in the fight against corruption in South Africa?
- Has the Public Protector been able to achieve its roles in fighting corruption in South Africa?
- What have been some of the challenges facing the Public Protector in fighting corruption?

## 1.6 Justification of the Study

It is no secret that the government of South Africa has invested a lot of financial and human resources in developing various anti-corruption machinery to root out the scourge caused by corruption in the country. Various state agencies and commissions of enquiry have been established to investigate corruption cases and to raise awareness on the public on the effects of corruption. Although the Public Service Commission did a review of the anti-corruption of anti-corruption agencies in the country in 2001, no follow-up to that exercise was carried out. In addition, there was not an in-depth analysis of the effectiveness of each anti-corruption agency in fighting corruption in the country.

It is against this background that the researcher decided to undertake an in-depth study into the analysis of the role and effectiveness of the Public Protector in fighting corruption in the country. The researcher feels that the results of this study will significantly contribute to the literature on corruption, and also highlight other areas which may be considered for future research. In addition, the researcher also hopes to make meaningful contribution to policy formulation in the country by making recommendations on how the effectiveness of the Public Protector in fighting corruption in the country can be improved.

### **1.7 Delimitation of the study**

In order to carry out this study, the focus is only on the activities of the Public Protector that are aimed at fighting corruption in the country. The study will give reference to all the anti-corruption frameworks, strategies, and activities implemented by the Public Protector to fight the scourge of corruption in South Africa. The researcher intends to conduct the research over the relevant period stretching from 2008 to 2012. This period will give the researcher enough information to assess the impact of all the strategies and activities of the Public Protector on the corruption landscape in South Africa.

### **1.8 Limitation of the study**

Limitations of the study are the problems or challenges that the researcher will experience in conducting the study. The first challenge of this study will be availability and reliability of certain data such as the number of corruption cases reported, investigated and finalised over the relevant period, the amount of resources spent on each investigation, and lastly the time frame in which the researcher will have to complete the study. The researcher may encounter problems of getting adequate information from the sampled population because this can be a sensitive topic. Due to the sensitivity of the topic the researcher is likely to experience participant bias whereby participants may provide information which the researcher may expect to hear. The other problem the researcher is likely to face is that of enough funds to cater for transport, typing and binding and in some cases recording. Although the researcher would want to highlight these challenges, there should be minimal effect of any such challenges on the credibility of the results of this research.

In this section the researcher will define the key concepts of the study.

- **Anti-corruption Machinery:** refers to the different structures, institutions and strategies developed by any country to fight corruption and promote good governance within the society (Public Service Commission 2008:5).
- **Bribery:** is the offering of money or other inducements to secure the desired action from public official and even from a political office bearer (Bauer and Van Wyk 1999:56)
- **Corruption:** The World Bank and the Transparency International define corruption as the abuse of public power for private gain. Corruption is a ‘behaviour which deviates from the formal duties of a public role because of a private-regarding (personal, close family, private clique) pecuniary or status gains: or violates rules against the exercise of certain types of private-regarding influence’ (Nye 1967:419).
- **Embezzlement:** is theft of resources by people who are put to administer it. When disloyal employees steal from their employers. This act involves theft or misappropriation of resources by persons entrusted with the authority and control over such resources (Prevention and Combating of corrupt Activities Act, No 12 of 2004).
- **Public Protector:** is an official appointed by the president, on recommendation of the National Assembly, in terms of chapter 9 of the constitution, 1996. The Public Protector is required to be a South African citizen who is suitably qualified and experienced and has exhibited a reputation for honesty and integrity. The official has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or result in any impropriety or prejudice (Public Protector: 2009)
- **Investigation:** is a fact finding inquiry into a specific complaint, state of affairs or a case (Public Protector 2009)
- **Investigator:** is a person who conducts investigations on complaints relating to “maladministration in state organs and parastatals, abuse or unjustifiable exercise of power or other improper conduct or undue delay by persons performing a public function, and any act or omission by persons in the employ of government which may result in improper prejudice to any person” (Public Protector, 2012).



- **Senior investigator:** is a person who could possess a minimum of Bachelor of Law degree or any other legal or relevant qualifications and a minimum of five years investigation experience (Public Protector, 2012)
- **Junior investigator:** is a person who should possess a minimum of Bachelor of Law degree or any other legal or relevant qualifications and a minimum of three years investigation experience (Public Protector, 2012).

## 1.10 Research Outline

This study consists of five chapters, as outlined below:

### Chapter 1 Introduction

This chapter will outline the background to the problem, the problem statement, the aim and objectives of the study, critical research questions, the significance of the study, the delimitation of the study, the limitation of the study, definition of key concepts and research outline.

### Chapter 2 Literature Review

This chapter will provide a comprehensive discourse and elucidation of the concept corruption. Theories that guide the study of corruption shall be explored to exhume the empiricism of the research. Finally the roles and mandates of the Public Protector shall be discussed in depth in relation to the fight against corruption.

### Chapter 3 Research Methodology

The focus of the chapter is the methodological aspects of the research. It will provide an overview of the research design to be utilized and will detail the various methods of data collection and analysis and interpretation which the researcher will use to ensure that the results there from are reliable.

### Chapter 4 Data Presentation, Analysis and Interpretation

In this chapter, data will be presented in the form of statistical graphs which include bar graphs and pie charts. This will be followed by the establishment of trends, patterns and

relationships as a way of data analysis. The interpretation of the data will address the most salient results emanating from the data obtained in the study.



## Chapter 5: Major Findings and Recommendations

The focus of the chapter is to give summary, conclusion and recommendations of the research findings. The researcher will make recommendations for policy makers and also for further research into other aspects that might be of importance in curbing corruption in South Africa.

The Public Protector is one of the various institutions established by the Constitution of South Africa in order to fight corruption. The Public Protector has a mandate to strengthen constitutional democracy by investigating and redressing improper and prejudicial conduct, maladministration and abuse of power in any sphere of government that is alleged or suspected to be improper or to result in any impropriety or prejudice. The history and role of the Public Protector in the fight against corruption will be discussed in detail below.

### 2.1.1 History and background of the office of the Public Protector

Most democracies have a national institution similar to that of the Public Protector although called by different names, amongst others, Ombudsman, Mediator, commissioner which is empowered by legislation to assist in establishing and maintaining efficient and proper public administration.

The idea of the Office of the Ombudsman originated in Sweden, and did not spread to other countries until the 20<sup>th</sup> century when it was adopted in other Scandinavian countries. In the early 1960 various Commonwealth and other mainly European countries established such an office. By mid-1953, there were about 21 countries with the Ombudsman offices at national level and about six countries with the Ombudsman at Provincial level, state or regional levels. In particular the transition of many countries to democracy and democratic structures led to the establishment of many more Ombudsman offices in many countries in Latin America, Central and Eastern Europe as well as in parts of Africa (Public Protector, 2009:2).

With the founding of a proper and genuine democracy in South Africa it was declared that such an institution should also form part of the establishment of institutions that will protect

## **2. Introduction**

The purpose of this chapter is to review the constitutional mandate of the Public Protector and its role in fighting corruption. The chapter will also review the different theories of corruption, causes, effects and remedies of corruption, and also review some of the cases that have been investigated by the Public Protector in South Africa.

### **2.1 The Public Protector**

The Public Protector is one of the various institutions established by the Constitution of South Africa in order to fight corruption. The Public Protector has a mandate to strengthen constitutional democracy by investigating and redressing improper and prejudicial conduct, maladministration and abuse of power in any sphere of government that is alleged or suspected to be improper or to result in any impropriety or prejudice. The history and role of the Public Protector in the fight against corruption will be discussed in detail below.

#### **2.1.1 History and background of the office of the Public Protector**

Most democracies have a national institution similar to that of the Public Protector although called by different names, amongst others, Ombudsman, Mediator; commissioner which is empowered by legislation to assist in establishing and maintaining efficient and proper public administration.

The idea of the Office of the Ombudsman originated in Sweden, and did not spread to other countries until the 20<sup>th</sup> century when it was adopted in other Scandinavian countries. In the early 1960 various Commonwealth and other mainly European countries established such an office. By mid-1983, there were about 21 countries with the Ombudsman offices at national level and about six countries with the Ombudsman at Provincial level, state or regional levels. In Particular the transition of many countries to democracy and democratic structures led to the establishment of many more Ombudsman offices in many countries in Latin America, Central and Eastern Europe as well as in parts of Africa (Public Protector, 2009:2).

With the founding of a proper and modern democracy in South Africa it was declared that such an institution should also form part of the establishment of institutions that will protect

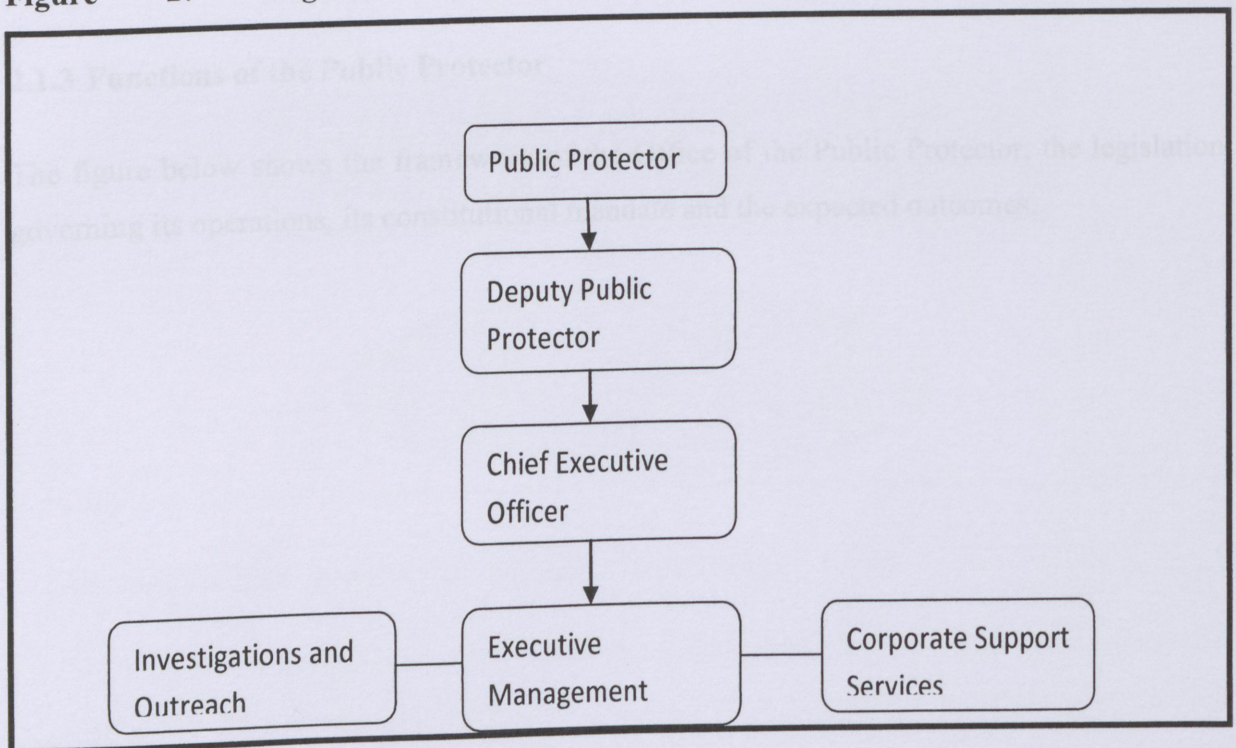
fundamental human rights and that will prevent the state from treating the public in unfair and high handed manner.

During the party negotiations that preceded the 1994 elections, it was agreed that South Africa should have a Public Protector. Thus the Public Protector was established by means of the provisions of the interim Constitutions of 1993 and confirmed as an institution that strengthens constitutional democracy by the final Constitution of 1996. The office of the Public Protector came into being on 1 October 1995, thus, the Public Protector is one of the various agencies established by the constitution, legislation and administrative instruments to combat corruption and promote good governance. (Public Protector 2009:2)

### 2.1.2 Structure of the Public Protector

The figure below shows the organisational structure of the Public Protector in South Africa.

**Figure 2: Organisational structure of the Public Protector**



Source: [www.pprotect.org](http://www.pprotect.org)

- The executive management includes the public protector, deputy Public protector, the Chief executive Officer, risk management staff and other executive support staff.

- Corporate support services include finance, supply chain, information technology, communications and other administrative staff.
- Investigations and outreach includes investigators in provincial, national and special investigation projects. An investigator conducts investigations on complaints relating to “maladministration in state organs and parastatals, abuse or unjustifiable exercise of power or other improper conduct or undue delay by persons performing a public function, and any act or omission by persons in the employ of government which may result in improper prejudice to any person” (Public Protector, 2013).
- Investigators can be classified as senior or junior investigators. Senior investigators should have a minimum of Bachelor of Law (LLB) degree or any legal or relevant qualifications, and a minimum of five years investigation experience. This is equivalent to the director level position in other government positions. On the other hand junior investigators should have a minimum of Bachelor of Law degree or any legal or relevant qualifications, and a minimum of three years investigation experience

### 2.1.3 Functions of the Public Protector

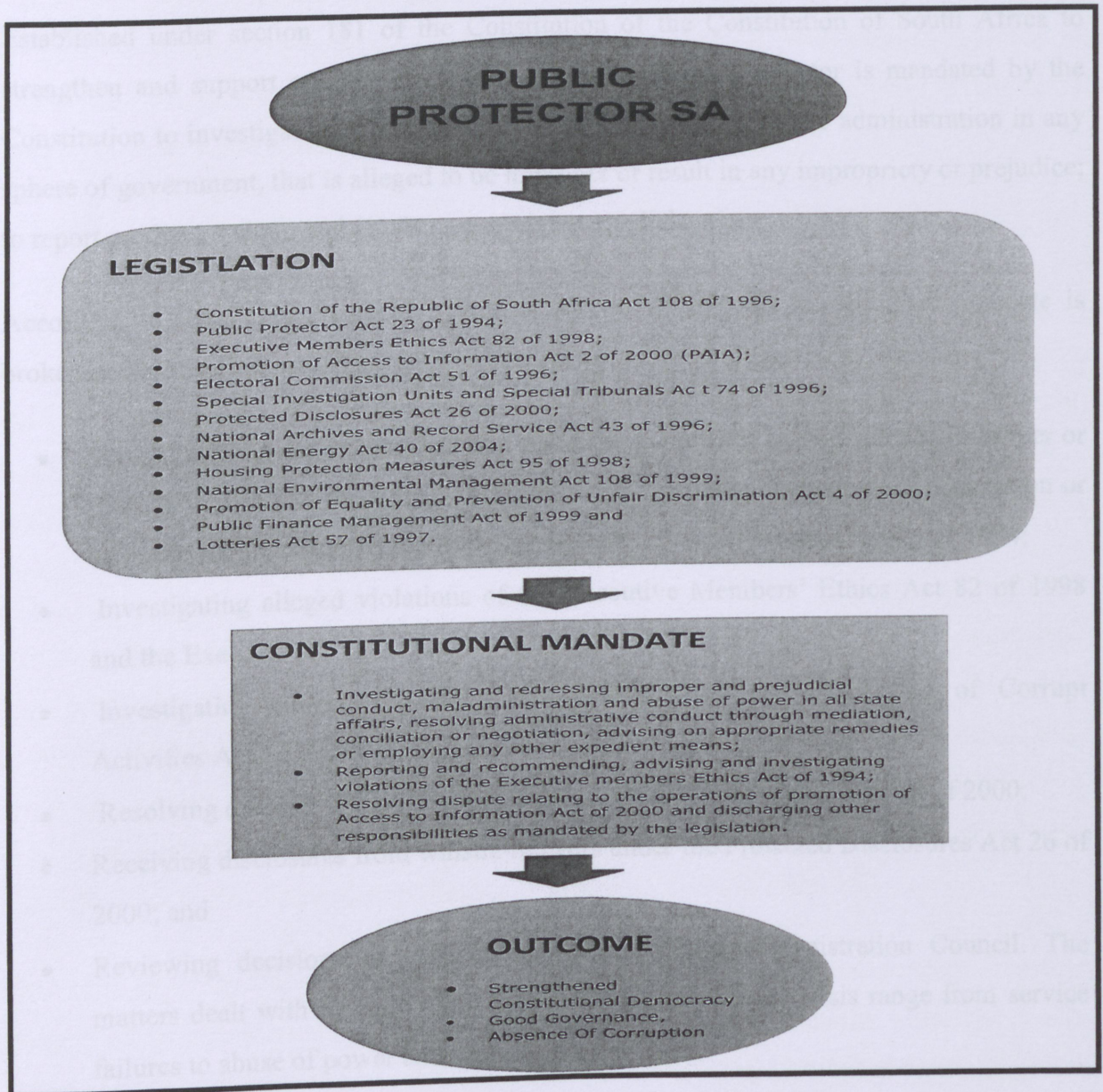
The figure below shows the framework of the Office of the Public Protector, the legislation governing its operations, its constitutional mandate and the expected outcomes.



Source: Adapted from the Office of the Public Protector SA

In terms of the diagram above, the goal of the Public Protector is to achieve strengthened constitutional Democracy, good governance and absence of corruption. These goals are an outcome of the mandate imposed upon the Public Protector by the Constitution of South Africa. In carrying out this mandate, the Public Protector's functioning is guided by various Acts such as the Public Protector Act, Executive Members Ethics Act and the Special Investigations and Special Tribunals Act, among others.

Figure 3: Functions of the Public Protector



Source: Adapted from the Office of the Public Protector SA

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## 2.1.4 Constitutional mandate of the Public Protector



Established under section 181 of the Constitution of South Africa to strengthen and support constitutional democracy, the Public Protector is mandated by the Constitution to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged to be improper or result in any impropriety or prejudice; to report on that conduct; and to take appropriate remedial action.

According to the Public Protector's Annual Report (2010), its constitutional mandate is broken down into six mandate areas listed below.

- Investigating maladministration and resolving disputes involving alleged improper or prejudicial conduct by organs of state through mediation, conciliation, negotiation or any appropriate means as provided for under the Public Protector Act 23 of 1994;
- Investigating alleged violations of the Executive Members' Ethics Act 82 of 1998 and the Executive Ethics Code;
- Investigating alleged violations of the Prevention and Combating of Corrupt Activities Act 12 of 2004;
- Resolving disputes under the Promotion of Access to Information Act 2 of 2000;
- Receiving disclosures from whistle-blowers under the Protected Disclosures Act 26 of 2000; and
- Reviewing decisions of the National Home Builders Registration Council. The matters dealt with by the Public Protector on a day-to-day basis range from service failures to abuse of power and state resources.

The Public Protector, whose position is equivalent to that of a Judge of the Supreme Court of Appeal, is independent and subject only to the Constitution and the law, and is required to be impartial, exercise powers and perform functions without fear, favour or prejudice. The current Public Protector, assumed office on 15 October 2009. Section 182(4) of the Constitution requires the Public Protector to be accessible to all people and communities. Subject to section 4 of the Executive Members' Ethics Act, any person or organisation may approach the Public Protector with any complaint involving improper or prejudicial conduct or service failure by a public official, office bearer or organ of state.

The services of the Public Protector are free and include a toll-free line for telephone complaints: 0800 11 20 40. A complaint may also be lodged directly at office of the Public Protector in all nine provinces or by writing to the Public Protector or by sending an e-mail or using their online services website. The Public Protector is constitutionally mandated to investigate, report and take remedial action ([www.publicprotector.org](http://www.publicprotector.org))

### **2.1.5 The role of the Public Protector in the fight against corruption**

The Public Protector has a long history of playing an effective role in the combating of corruption in South Africa. This role comes from its mandate of investigating maladministration which often involves abuse of power for personal gain which is corruption as mentioned in the constitutional mandate. Corruption that occurs within the public sector is often an indicative of systemic or structural defects. Thus the role of the Public Protector is to identify the problems and to suggest remedies for them.

For example an official who steals and defrauds public funds for self-enrichment or personal gain would be guilty of criminal conduct. When a complaint is received by the Public protector, the accused is requested to respond to the complainant. Subpoenas may be issued, buildings may be entered to be searched and documents may be seized. If a crime of corruption is identified the matter is handed over to the police and the relevant prosecuting authorities for further investigation (Baqwa in Sangweni & Balia 1999:147)

The approach of the Public Protector is two pronged in its fight against corruption. The first element of the approach is ensuring remedial action and ending impunity where the state's action has been improper or prejudicial. The Director of the Public Protector rightfully puts it across as she said 'South Africa need to end impunity which is a must otherwise all anti corruption and anti maladministration efforts are useless' (Mail & Guardian 3 April 2012).

The second element is to introduce or support systemic improvements with a view to promoting good governance this is because public accountability is critical for good governance and effective in combating corruption. The Public Protector in its role to combat corruption has also a role as a safe refuge for whistle blowers under the Protected Disclosures Act. Under the Protected Disclosures Act, the Public Protector, has the power to receive information from whistle blowers believing that criminal conduct or impropriety has occurred at their work places. The Public Protector has 20 office across the country where the people

can lodge a complain and report corruption any time during office hours without appointment. This can be done also through a toll free line , a letter. a fax or email. As such this accessibility helps the public to report corruption in an endeavour to promote good governance.

The public protector has also a role of protecting the public interest by playing its role of sensitising the public mood by pointing out or confirming to the public at large what is not or is not corrupt or an unacceptable conduct (Gary, 2000:15). Lastly, the Public Protector also aims to promote the development of ethical behaviour and accountability. It is expected that public officials will act ethically and as effectively and efficiently as possible with the knowledge that the Public Protector may investigate unethical practises and make his or her findings known to the public.

The Sowetan cited in Mafunisa (2000:41) states that the establishment of the Office of the Public Protector as a watchdog of the democratic process was probably one of the best things ever to happen to the Republic of South Africa and its people. The Public protector has helped to keep the nation's ethics thus why some call it the keeper of the nation's ethics. The following section will present the various definitions, forms, theories, causes and remedies of corruption.

## 2.2 What is Corruption?

There are many different but overlapping definitions of corruption that have been developed by different writers. Some of these definitions are:

- Corruption is a 'behaviour' which deviates from the formal duties of a public role because of a private-regarding (personal, close family, private clique) pecuniary or status gains: or violates rules against the exercise of certain types of private-regarding influence'. (Nye. 1967:419)
- Corruption 'all payments to agents not passed onto superiors. Such payments also include those not conflicting with formal law, such as tip to a waitress or waiter. (Ackerman, 1978:7)
- Corruption is defined as behaviour of public officials which deviates from acceptable norms in order to serve private ends. (Hungtington, 1989:377)
- Corruption is defined as the abuse of power for private gain that hampers the public interest. (United Nations anti-corruption toolkit 2001)



- In South Africa's Prevention and Combating of Corrupt Activities Act, Act no 12 of 2004, states that corruption is where a person(A) gives or offers to give someone in a position of power (B) something called gratification in the act to use that power, illegal and unfairly to the advantage of A or (or a third person). B will also be guilty of the same crime if he or she accepts or offers to accept the gratification to wrongly use his position. (Prevention and Combating of Corrupt Activities Act, No 12 of 2004)

From these and many other definitions, for the purpose of this research study the researcher defined corruption as the abuse of power for private gain.

### 2.3 Elements of corruption

The Gauteng Anti-corruption Framework (2009:22) identified the following as elements of corruption:

- Unlawfulness: the offences of corruption are committed only where there is benefit promised, given or received corruptly;
- Benefit: This offence is committed by promising, giving or receiving a benefit of whatever nature which is not legally due;
- Person: corruption is committed by any person who is charged with duty. In many instances the corruptor is also guilty as the corruptee and they can both be charged with corruption; and
- Intention: the intention to corrupt is basically an element of this offence.

Thus, these elements are inherent in any corrupt activity that takes place. This implies that in order for government to institute appropriate institutions to fight corruption, it must understand these elements as well.

### 2.4 Manifestations of Corruption

Corruption manifests itself in various forms. These include conducts such as bribery, embezzlement, fraud and extortion. The concepts can be partly overlapping and at times interchangeable with other concepts, they may identify some basic varieties of corruption. Nonetheless, the following section attempts to each aspect with some examples.

## 2.4.1 Bribery

Bribery is payment in the form of cash or kind given or taken in a corrupt relationship. According to Bauer and Van Wyk (1999:56) bribery is the offering of money or other inducements to secure the desired action from a public official and even from a political office bearer. Bribes can either be paid before or after an official has done the deed of favour, or a portion of the bribe can be paid before and the balance after the deed is done. Bribery often occurs together with nepotism. An example of a bribe is when an official gives a relative or an associate a job in exchange for a bribe either a gift or money.

## 2.4.2 Fraud

Fraud is an economic crime that involves some kind of trickery, swindle or deceit. Fraud involves a manipulation or distortion of information, facts and expertise by public officials positioned between politicians and citizens who seek to draw a private profit. (Eskeland & Thiele, 1999:56). Fraud is a broader legal term and popular term that covers more than bribery. (Fjeldstad, 1999:124). An example of fraud when politicians and state agents take a share for closing their eyes on economic crimes, and it is serious fraud when they have an active role in it.

## 2.4.3 Embezzlement

Embezzlement is theft of resources by people who are put to administer it, who are disloyal employees who steal from their employers. This act involves theft or misappropriation of resources by persons entrusted with the authority and control over such resources. (Prevention and Combating of Corrupt Activities Act, No12 of 2004). This is a serious offence when public officials are misappropriating public resources, when state officials steal from the public institution in which he or she is employed and from resources he is supposed to administer. For example an employee working at the Information Technology section steals computers and sells them to other people and he pockets the money for his benefit.

## 2.4.4 Extortion

Extortion is money and other resources extracted by the use of coercion, violence or the threats to use force. Extortion is a corrupt transaction where money is violently extracted by those who have the power to do it, but where very little is returned to the clients.

(Oslo2000:17). For example money can be started in the classical, well known mafia style where organised criminals use harassment and intimidation to extort money from individual citizens, private business and public officials.

#### **2.4.5 Graft**

According to Bauer and Van Wyk (1999:57) graft is defined as the misappropriation of public resources like money, property or opportunities for personal enrichment. This definition is often used to define the concept of corruption because there is a similarity. The latter can also be applied to an official who requests an additional fee for performing a function that is part of his job. Examples of graft committed by both public officials and political office bearers include manipulating a tender to such an extent that only one particular chosen company can be awarded the tender. This company usually belongs to a family member of the official or the official is a director of the chosen company.

#### **2.4.6 Nepotism**

Nepotism refers to the preferential treatment given to a member of an official's family, again ignoring meritorious consideration. Nepotism is a corrupt act because it is unethical and irregular. According to Meister in Bauer and Van Wyk (1999:65) nepotism in Africa is mainly tribally influenced. Cabinets and public offices are filled with members of the president's tribe to ensure the perpetuation of his power base and to ensure loyalty. Power and loyalty are bought with gifts, access to education, school, buildings, land and other projects given to relatives and tribesman. These gifts cannot be paid for out of legitimate salaries and corrupt acts are committed to pay for them. The inevitable result of nepotism is the exodus of good, qualified public servants because their chances of promotion are hampered as they are not tribally connected to officials nor are they relatives to these officials. Thus, corruption has manifested in various kinds of different degrees and forms from personal to political corruption.

### **2.5 Causes of Corruption**

Given the different forms in which corruption manifests, various studies have been undertaken to understand what causes corruption. Some of their research findings as causes of corruption are discussed below.

## 2.5.1 Greed



Temptation for material gain and self-enrichment is known as greed. Greed encourages a public official to sacrifice the public interest for personal gain. Hillard in Bauer and Van Wyk (1999:59) mentioned that impatient ambition, where the public official wants instant promotion and other rewards immediately, and the abuse of status in the governmental hierarchy all contribute towards corrupt behaviour. The absence of adequate supervision and controls gives the corrupt official plenty of opportunities to be devious. Greed can severely hamper efficient and effective public administration. Baai (Mavuso & Balia 1999:188) stated that seemingly, the cause of corruption revolves around greed.

## 2.5.2 Administrative Control

Inappropriately designed administrative control systems may create fertile ground for corruption. Ladikos (1999:30) suggested that if regularities and authorisations like issuing of passports and permits are controlled by one person or one department and these authorisations are not transparent, too much power is vested in those officials and this may lead to opportunities for these officials to demand bribes in exchange for authorisations. This then causes corruption.

## 2.5.3 Control of resources

Knowledge that one controls a critical resource may create a motivation to abuse such control for private benefit. Ladikos (1999:31) mentioned that in many countries the governments supply goods, services and resources to the public at less than the market related prices. In all these categories there have been incidents of corruption. These goods, services and resources include water, electricity and public housing, some rationed goods, access to public land. In many instances these resources are scarce and the public officials usually decide how these resources are to be distributed. This practice is conducive to corruption because someone wanting access to these resources badly enough will pay a bribe to achieve this.

## 2.5.4 Quality of the bureaucracy

The quality of the bureaucracy is largely determined by the recruitment criteria for its personnel, were they recruited on merit or not? As is the case generally and in South Africa it is no exception, the higher the appointments based on political affiliation, nepotism,

patronage and reward for loyalty as opposed to merit, capability and experience, the higher the incidence of corruption tends to be high (Ladikos 1999:31). Mbaku (1996:6) mentioned that individual rights are less important than the rights of the family, group or ethnic group. Thus individuals who become successful in the public sector are expected to share the benefits with the extended family and their ethnic cleavage. So a public official may engage in corrupt activities in an effort to meet personal obligations to members of his family or the ethnic group.

### **2.5.5 Excessive administrative secrecy**

Excessive administrative secrecy and lack of transparency where government keep pertinent information about political, military or foreign affairs way from the public can lead to corruption. Corruption occurs because public officials and political office bearers cannot be held accountable for their decisions. Secrecy enables officials to cover up any corrupt acts committed (Bauer & Van Wyk 1999:64).

### **2.5.6 The politicisation of the Public Service**

Bauer and Van Wyk (1999:63) suggested that the politicisation of the public service and political interference may lead to corruption. In many developing countries with the transition to colonialism the civil service has gone from serving the people by means of effective public administration, to serving the ruling political elites. The latter prefer a politically orientated public service and the public officials are expected to follow the orders of his/her political head of department, often at the expense of good service to the public. Corruption tends to increase where power is confined to one person or a small group of people.

### **2.5.7 The public sector wages**

There is perception that in order to combat corruption, the wages of the public officials need to be relatively high. This is a drain on the country's budget and it is not fool proof, as human beings are greedy by nature and if they are prone to corruption they will continue with corrupt practices to further enrich themselves (Ladikos 1999:31).

## 2.5.8 Lack of public interest



A lack of public interest may lead to corruption if the public does not take enough interest in the activities of the public officials and the office bearers. The impression may be given that no one is interested in exposing corrupt deeds committed by these officials. This is why a free press is essential as it acts as a watch dog, continually informing the public of corrupt acts occurring in the government and the civil service (Bauer and Van Wyk 199:63).

## 2.6 The corruption equation

In order to conceptualise corruption, Klitgaard (1998:185), developed a simple equation to illustrate how corruption is bred. The equation is represented as follows:

$$C = R + D - A$$

Where, C stands for corruption,

R stands for economic rent,

D for discretionary powers and

A for accountability

Mathematically speaking, we can say C varies directly with R and D, and inversely with A. Thus, the more opportunities for economic rent (R) exist in a country, the larger will be the corruption. Similarly, the greater the discretionary powers (D) granted to administrators, the greater will be the corruption. However, the more administrators are held accountable (A) for their actions, the less will be the corruption, and hence a minus sign in front of A.

The Norwegian Agency for Developing Cooperation (NORAD) report (2000), explained that a fertile ground for growth of a thoroughly corrupt system will emerge in a country if it satisfies the following three conditions:

- The country has a large number of laws, rules, regulations, and administrative orders to restrict business and economic activities and thereby creates huge opportunities for generating economic rent, and especially if these restrictive measures are complex and opaque and applied in a selective, secretive, inconsistent and non-transparent way;

- The administrators are granted large discretionary powers with respect interpreting rules, are given a lot of freedom to decide on how they are to be applied, to whom and in what manner they are to be applied, are vested with powers to amend, alter, and rescind the rules, even to supplement the rules by invoking new restrictive administrative measures and procedures; and
- There are no effective mechanisms and institutional arrangements for the country to hold administrators accountable for their actions.

## 2.7 Consequences of corruption

Corruption in South Africa has reached a cancerous proportion. In fact it has been so pervasive that this phenomenon has been labelled the Aids of democracy which is destroying the future of many societies in the region (Hope in Prinsloo & Naude 2001: 44). Corruption is certainly not an Africa only problem. Corruption has its consequences in the society and this is why the Director of the Public Protector made a public note in the Media that, “if corruption is not dealt with it will not only impact on good governance but has the potential to distort the economy and to derail democracy”(Mail & Guardian: 3 April 2012). The consequences of corruption are discussed below under the socio economic and political consequences.

### 2.7.1 Socio-economic consequences

Corruption and corrupt acts have many consequences among them being the damage they do to a country's economy. Mbaku (1996:3) explains that corruption allows politicians and government officials to supplement their incomes by allowing private business people to have monopoly decisions in the economy. The people most adversely affected by corruption are the majority who are poor.

Corruption results in inefficient delivery of goods and the suppliers still remain in business because they would have bought their contracts to supply goods and services to the government. This is detrimental to the economy because the suppliers are overpaid for poor services. According to a newsletter published by the Mvula Trust (Public Protector 2010) the author notes that, “it is widely accepted that the poor are the ultimate victims of corruption”. It is they who suffer the most from poor service delivery of goods or non-delivery of goods and services often resulting from corruption.

According to Mbaku (1996:3) corruption encourages governments to create self-serving economic policies that give bureaucrats and politicians the opportunity to line their pockets by bribing those seeking favours from the government. This sort of corruption works both ways since the business community that bribe these corrupt officials are themselves guilty of corruption. Thus corruption distorts economic incentives, discourages entrepreneurship, slows economic growth, encourages criminal elements and distorts trade.

Corruption in South Africa has enormous impact on socio economic in the country (Heath1999:9). It negatively affects industries like tourism and trade which in turn, damage the economy because worldwide people will carry a perception that corrupt country might not be worth visiting.

Heath (1999:11) noted that corruption, fraud, misappropriation of funds and other resources and maladministration problems exist in local government in South Africa. The result of these practices is the loss of millions of rands of the tax payer's money and lack of service delivery in communities impacting heavily on service delivery to the poor. This then leads to continued poverty to the poor. Mbaku (1996:6) then argues that pervasive and chronic poverty, extremely high level of material deprivation and severe inequalities in the distribution of resources also have been advanced as major determinants of corruption in African countries.

The Lima Declaration of 1997 states that corruption 'erodes the moral fabric of every society, violates the social and economic right of the poor and the vulnerable, undermines democracy among other effects'. This then undermines away good governance in a country. (UNDP 2007:2)

### **2.7.2 Political consequences of corruption**

Political consequences are other serious consequences of corrupt acts in the public sector. These political effects are pertinent in South Africa as they are in the rest of Africa.

Mbaku (1996:45) noted that the integrity of civil servants is compromised to such an extent that they engage in their official duties only for payment from the public. Civil servants should then stop pretending to serve the public and serve their own interests. Public servants

who are serving their own interests instead of the public are responsible for inflating the price of public goods at the expense of the economically marginalised.



The public sector becomes an increasing burden on the rest of the country as the public sector has to carry the costs of a bloated inefficient wasteful and parasitic public bureaucracy. Corruption tends to distort global trade and investment. Corruption also encourages drug dealing, money laundering and other activities by international organised crime syndicates. Cross border crime limits economic integration that is essential for trade relations. Lastly, corruption results in a country losing respect for the incumbent government and its institutions.

There are also other consequences resulting from corruption like crime resulting from fraud and illegal drug dealing. The negative impacts are that these activities are widespread. The stability as well as the economic development of the entire country is threatened. Police and other security forces have to direct resources to fight this scourge and this may result in the shortage of resources for development.

In conclusion the devastating consequences of corruption include poverty, weak and ineffective public administration and pervasive organised criminal activities and the most devastating of all is the cost to the country. This is why in South Africa the approach to corruption is multipronged. The main pillars are the law or legal framework, anticorruption agencies, and public mobilisation.

### **2.7.3 Remedies of corruption**

Corruption is one of the most difficult cases to prove in any court of law. (Mbaku 1996:10) It is therefore imperative that for any country that wishes to effectively combat corruption will have to embark on a more comprehensive approach extending beyond a criminal justice. Some of the approaches that can be used as remedies to corruption are discussed.

### **2.7.4 Decentralisation**

Against the background of centralisation and secrecy as the causes of corruption, Mafunisa in Olowu (1983:294) suggests that there should be greater decentralisation of the government process to local governments, parastatals and the private sector. This will enable the government system to be closer to the people. Decentralisation is the only way to reduce

bureaucratic inefficiency and lessen the temptation of officials to enrich themselves. Mafunisa (2000:9) noted that decentralisation favours the devolution of power, transparency and maximum public participation in decision making.



### **2.7.5 Awareness through education**

Decentralisation should be augmented by an appropriate education system, whereby people are made aware that they have the rights under the constitution to challenge any corrupt official. There is hope that an effective education system will eliminate people's ignorance of governmental matters (Mafunisa in Arora 1993:13-14).

### **2.7.6 Training and development.**

The institution of a training and development programme can help to improve the skill and ability of officials. An added advantage would be that the attitude of the official from the entrance level to the highest administrative level could be changed positively. This then would cause the official to view his duty as one of rendering service in the interests of the community he serves and to regard favouritism resulting from unjustified pecuniary gain an evil not to be tolerated in the public sector (Mbaku 1996:12)

### **2.7.7 Organisational sanctions**

Heath (1999:16) noted that organisational sanctions can root out individual cases of corruption. Corrupt officials should be penalised for minor offences, dismissed and possibly prosecuted under the criminal code for major offences. Mafunisa (Clarke 1983:297) argues that culprits should be demoted, transferred to less lucrative or totally unsuitable jobs or reprimanded.

### **2.7.8 Anti-corruption campaigns**

Awareness campaigns to the public about the causes and different forms of corruption can go a long way in fighting corruption at grass roots level. Mafunisa (Clarke 1983:26) suggested that anti-corruption campaigns be established and conducted properly with the aim of rooting out corruption. A population that is sufficiently alert, conscious organised and self-confident to blow the whistle is needed to control corruption. Cloete (1994b:26) supported the argument by noting that this is only possible if the citizens are knowledgeable and prepared

to take drastic measures against any institution that treats them unsatisfactorily. In addition anti-corruption machinery should be established that sources and publishes information on corruption in whatever form.

### **2.7.9 Depoliticisation of administration**

Politicians tend to become involved in executive actions in an effort to prove to the electorate that they indeed fulfil their election promises. This contributes to pressure on the officials to act in such a way as to satisfy politicians and sometimes it may even imply that favours are granted at the request of a politician. As such the exposure to politics could create the opportunity for unwarranted pressure on the official to make proposals that are politically expedient. As such in an effort to counteract the danger of politically inspired administrative actions, attention should be devoted to the degree to which administration should be allowed to become politicised to reduce the danger of politically expedient decisions and corrupt practices arising from this situation (Gildenhuis, 1991:83)

### **2.7.10 Improvement in the control system**

Public officials are appointed to render services to the community as such control is required to ensure that the goals set by the legislature are indeed achieved. Control in the public sector should be aimed solely on the public officials being able to explain their actions to the public. The control to be instituted should make provision for the identification of corrupt actions or the possibility of corruption (Cameron, 1995:134)

## **2.8 Theories of corruption**

In this section we discuss in detail the various theoretical approaches to the causes and control of corruption. Some of the theories discussed in this section include the Rational choice theory, Bad Apple theories, Clashing moral value and the Ethos of public administration theories.

### **2.8.1 The Rational choice theory**

The rational choice theory primarily looks at the level of the individual. This group is made popular by Rose-Ackerman (Ackerman, 1978: 213). The casual chain is that of an individual making a rational decision that leads to a predetermined outcome. The literature behind the rational choice theory is that the individual corrupt official tries to maximise his or her utility.

The individual in most cases a male is portrayed as a rationally calculating person who decides to become corrupt when its expected advantages outweigh its expected disadvantages thus a combination of possible penalty and the chance of being caught.

Ackerman (1978: 213) claims that public officials are corrupt for a simple reason. He believes that public officials perceive that potential benefits of corruption exceed the potential costs. Klitgaard (1988:70) shares the same view as that of Rose Ackerman to say that, if the benefits of corruption minus the probability of being caught times its penalties are greater than the benefits of not being caught, then an individual will rationally choose to be corrupt. Of course, the theory can be expanded when conditions that influence the cost-benefit calculations are taken into account. For example, trust can play an important role. When the state cannot be trusted to manage private property transfers, corruption might become more appealing (Gambetta, 1993: 112). Also, trust within close personal relationships increases the chance of getting the benefits from the delivered corrupt 'services' or reduces the chance of getting caught. In this kind of theory, actions of corrupt officials are caused by a rational conscious and deliberate weighing process of an individual.

Public choice theories lead to a discourse on corruption control that maximizes the costs of corruption and minimizes the benefits. Since the benefits of corruption are much harder to influence, most of the focus is on the costs of corruption. These costs can be made higher by improving the chances of getting caught and imposing steeper penalties. This can easily lead to a discourse asking for a comprehensive system of control based on surveillance, massive information gathering, auditing, and aggressive enforcement of a wide array of criminal and administrative sanctions (Anechiarico & Jacobs 1996: 203).

### 2.8.2 Bad apple theories

The bad apple theories primarily look at the level of the individual corrupt agent for the causes of corruption. These studies seek the cause of corruption in the existence of people with faulty (moral) character, the so-called 'bad apples'. There is a causal chain from bad character to corrupt acts; the root cause of corruption is found in defective human character and predisposition toward criminal activity. Causes are rooted in human weaknesses such as greed. When the focus is on the faulty character of an official, morality is assumed to determine behaviour. People are assumed to act on the basis of moral values. Thus the bad

apple theories assume that wrong values are therefore the cause of corruption. (Punch 200:317)

### **2.8.3 Clashing moral values theories**

These theories start with certain values and norms of society that directly influence the values and norms of individuals. These values and norms influence the behaviour of individual officials making them corrupt. Thus in many societies there is no clear distinction between one's private life and one's public roles. Ackerman (1999:91) views that private sector gift giving is pervasive and highly valued and it seems natural to provide jobs and contracts to one's friends and relations. Values are assumed to determine behaviour as such because of a clash of values connected to one's private and public role choices have to be made. And certain values lead to corruption. For example out of the obligation to friends or family which can be very important in certain cultures officials take bribes. Thus it can be not so much selfish personal gain the corrupt official is after, but rather the agent feels a need to be corrupt to fulfil important personal duties like ensuring loyalty to friends and family.

### **2.8.4 The ethos of public administration theories**

This type of theory is closely related to the organisational culture but varies in that the major concern is the culture within public management and society in general. In these theories political and economic structures are studied. Official performance has a causal path from societal pressure through the level of organisations. This combined with lack of attention to integrity issues, leads to a focus of the official on effectiveness making him or her to corrupt. (Heywood 1997: 429)

Under this theory the New Public Management change the culture within Public management in such a way that standards of ethical probity within public services are affected negatively leading to more instances of corruption. Economist approaches that do not address ethical dimension of public service or support virtues like public interest, guardianship, integrity, merit, accountability, responsibility and truth have according to some, subverted the ethos of public organisations by undermining public trust thus leading to more corruption.

In the following section, we will discuss the state of corruption in South Africa and also review some of the cases that have been recently investigated by the Public Protector.

## 2.9 Corruption in South Africa



South Africa has battled with corruption since the days of Apartheid. The country experienced more than 300 decades years of colonial rule, racial domination and apartheid. Such oppressive colonialism, dispossession and institutionalised racial discrimination enabled the ruling elite to abrogate to themselves power to state resources and exerted significant authoritarian control over all aspects of life, and thus creating fertile conditions for corruption to flourish.

The Civil Society Report (2006:7) documented that corrupt behaviour in South Africa has for centuries been systemic and perpetrated by individuals and groups within the dominant classes. The report also shows that the corruption of the past is causally related to present corruption. Thus in the present day society corruption in South Africa is characterised by the private use of public resources, bribery and improper favouritism. Jack(2010: 120) points out that the two most forms of corruption that are prevalent in South Africa are: (i) 'tenderpreneurism' were individuals enrich themselves through corrupting the awarding of government tender contracts, mostly based on personal connections and corrupt relationships, and (ii) the Black Economic Empowerment fronting which is the abuse of the rules governing Black Economic Empowerment.

Public Protector (2012:2) notes that the country is at a 'tipping point' and that the former president Mandela's warning that our hope for the future depends also on our resolution as a nation in dealing with the scourge of corruption remains valid hence the need to find ways to fight corruption in South Africa. Thus the Public Protector argues that South Africa needs a selfless leadership and an end to impunity in its battle against maladministration and corruption (Mail and Guardian 3 April 2012).

In response to such a call, South Africa has created more mechanisms for detecting, exposing and prosecuting corruption. This is evidenced by how the government of South Africa has aimed at bringing the fight against corruption in line with international anti-corruption initiatives, by developing policies that focus on:

- Promoting accountability , transparency and the rule of law
- Practice of good governance
- A free press to report forcefully to the public on corrupt practices

- And the establishment of government watchdog agencies to identify corrupt practices and bring them to the public for attention.

In order to show how South Africa has been using its anti-corruption mechanisms, notably the Public Protector, to fight corruption we present a selective summary of the corruption cases investigated by the Public Protector.

Table1: Cases investigated by the Public Protector

ISSUE INVESTIGATED	KEY FINDINGS	OUTCOME AND RECOMMENDATIONS
<p>Allegations of unethical and improper conduct by Deputy President P Mlambo-Ngcuka, relating to her unofficial visit to the United Arab Emirates (UAE) in December 2005. (Annual Report 2006/7)</p>	<ul style="list-style-type: none"> <li>• The Deputy President went on vacation to the UAE with the approval of the President, approval in this regard was granted by the Director General of the Presidency.</li> <li>• The hospitality that the Deputy President received from the UAE government did not constitute a 'gift' in terms of the Executive Ethics Code.</li> <li>• Under the circumstances it could not be found that the Deputy President acted improperly or that she failed to act in good faith and in the best interests of good governance or in a manner that is inconsistent with her office, as alleged. She was entitled, as is anyone else, to take her family, a friend and the children of her Private Secretary with her to the UAE, and no-one therefore improperly benefited from the trip.</li> </ul>	<ul style="list-style-type: none"> <li>• The investigation found that the Deputy President did not act improperly or in breach of the Executive Ethics Code when she went on vacation to the UAE in December 2005.</li> </ul>
<p>Possible breaches by Ministers and Deputy Ministers of the provisions of the Executive Ethics Code relating to the disclosure of financial interests. (Annual Report 2006/7)</p>	<ul style="list-style-type: none"> <li>• It is the legal responsibility of companies and close corporations to inform the Registrar of Companies and Close Corporations of changes to its directorship or membership.</li> <li>• Ministers and Deputy Ministers are under no legal obligation to ensure that the database of the Companies and Intellectual Property Registration Office is up to date, simply because of their current or former interests in corporate entities.</li> <li>• Only financial interests need to be disclosed in terms of the Code. Interests in section 21 companies or corporate entities that bear no financial advantage for its members or directors do not warrant disclosure.</li> </ul>	<ul style="list-style-type: none"> <li>• The Ministers and Deputy Ministers referred to in the Report of the Auditor General did not breach the Executive Ethics Code.</li> </ul>
<p>Allegation of a breach of the Executive Ethics Code by the Minister of Social Development, Dr Z Skweyiya. (Annual Report 2006/7)</p>	<ul style="list-style-type: none"> <li>• The final adjudication of the tender in question took place 1 year and 7 months before the loan was granted to Mrs Skweyiya. It could therefore not have constituted the risk of a conflict of interests as contemplated by the Executive Ethics Code in respect of the Minister's official responsibilities, if any, in respect of the awarding of the tender;</li> <li>• The contents of the complaint, media reports referred to, correspondence pertaining to the tender, tender documents, letters of demand from attorneys acting on behalf of I T Lynx and the pleadings filed in its civil claim against the State Information Technology Agency and the Minister that were considered during the investigation, contained no indication that Mr Majali or Invume Management was involved in I T Lynx;</li> <li>• The Minister was not involved in the loan transaction between his wife and Mr Majali. He was only informed about it after the arrangement had been agreed upon. The information obtained during the investigation provided no</li> </ul>	<ul style="list-style-type: none"> <li>• The allegation that the loan granted by Mr Majali to Mrs Skweyiya in December 2003 resulted in the Minister of Social Development exposing himself to a situation involving the risk of a conflict of interest which constituted a breach of the Executive Ethics Code, is unfounded; and</li> <li>• The failure of the Minister of Social Development to disclose the benefit of the interest free loan granted to his wife by Mr Majali in December 2003 constituted a breach of the Executive Ethics Code.</li> </ul>

	<p>indication that the evidence in this regard should be viewed with any greater circumspection.</p>	
<p>Allegations of impropriety relating to a gift that Ms G Fraser-Moleketi, former Minister of Public Service and Administration, received in August 2006. (Annual Report 2008/9)</p>	<ul style="list-style-type: none"> <li>From the investigation it appeared that Ms Fraser-Moleketi received documents relating to allegations of impropriety in connection with the affairs of MAPPP-Seta from the former CEO, whom she worked with previously, on 15 August 2006. On 24 August 2006, Ms Fraser-Moleketi received a birthday gift, valued at approximately R2 500 from MAPPPSeta, authorised by the former CEO.</li> <li>She accepted the gift without obtaining permission of the President and disclosing it to the Secretary of the Cabinet at the time, as required by the Executive Ethics Code.</li> <li>On 12 September 2006, Ms Fraser-Moleketi forwarded the documents that she the former CEO to the National Director of Public Prosecutions and the Minister of Labour.</li> </ul>	<ul style="list-style-type: none"> <li>By accepting the gift without the permission of the President and only disclosing it to the Secretary of the Cabinet a year later Ms Fraser-Moleketi violated the provisions of paragraphs 4.2 and 6.3 of the Executive Ethics Code.</li> <li>The President should attend to the violation of the Executive Ethics Code by Ms Fraser-Moleketi in the appropriate manner.</li> <li>The Secretary of Cabinet takes appropriate steps to ensure that Members of the Cabinet and Deputy Ministers are sensitised in respect of the provisions of the Code relating to gifts and the Minister of Labour ensures that the gift is appropriately disposed of.</li> </ul>
<p>Allegations that Dr P A Motsoaledi, the MEC, had abused his powers and breached the trust commanded by his office, in that he favoured certain suppliers of school furniture and mobile classrooms that were contracted at his request to supply goods to the Department. (Annual Report, 2008/9)</p>	<ul style="list-style-type: none"> <li>The allegations stated that the said suppliers were friends of the MEC and that he received an expensive gift in the form of a car from one of them.</li> <li>It was found that the allegations of improper conduct made against the MEC and officials of the department are unfounded and the failure of the department to develop and implement an effective and efficient supply chain management system, as required by the PFMA is a matter of grave concern.</li> </ul>	<ul style="list-style-type: none"> <li>The Public Protector recommended that the Head of the Department complies with section 38(1) (a) (iii) of the PFMA by ensuring that the department develops and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.</li> </ul>
<p>Report No 11 of 2011 of the Public Protector on an investigation into allegations of a Breach of the Minister of Cooperative Governance and Traditional Affairs, Mr Sicelo Shiceka, MP.</p>	<ul style="list-style-type: none"> <li>Mr Shiceka deliberately and advertently misled the President when he presented the purpose of his visit to Switzerland. In so doing he acted in violation of paragraph 2.3 of the Executive Ethics Code.</li> <li>His actions were accordingly unlawful and constituted maladministration.</li> </ul>	<ul style="list-style-type: none"> <li>The President to consider taking serious action against Mr Shiceka for his violation of the Executive Ethics Code and the Constitution referred to in the report.</li> </ul>
<p>Investigations into the alleged breach of section 2 of the executive members ethics Act, 1998 and implication the corresponding provisions of the Executive Ethics code by the Premier of the Gauteng Provincial Government, Ms N.P Mokonyane. (Annual Report, 2011)</p>	<ul style="list-style-type: none"> <li>The Premier's Office received the proposal by Nyathi addressed to the premier and referred it to the Department of Roads and Transport.</li> <li>The premier did not act in breach of the provisions of sections 2(1)(a) to (d) of the code and is consequently not guilty of any unethical behaviour.</li> </ul>	<ul style="list-style-type: none"> <li>Given that no adverse findings have been made against the Premier, no remedial action needs to be taken in respect of the complaint relating to the Executive Members' Ethical Act, 1998..</li> </ul>

Source: Public Protector Annual Reports 2006/07/ 08/ 09/ 10

The selective summaries above shows that the Public Protector investigated cases involving members of the Presidency of the country and also some ministers. The issues investigated

range from alleged unethical misconduct to failure to follow policy guidelines. Most of the cases were investigated in the Gauteng Province of South Africa.

## **2.10 Other institutions established to fight corruption**

The South African constitution has provided other institutional bodies to complement and fight corruption and these include the Auditor General and the Public Service Commission.

### **2.11.1. The Auditor General**

The Auditor General is established interms of section 188 of the constitution of the Republic of South Africa, 1996 ( act No 108 of 1996). The functions of the Auditor General are to audit and report on the accounts, financial statements and financial management of all national and provincial departments, municipalities or any other institutions required by national legislation to be audited by them. As the supreme Audit institution of South Africa it enables oversight, accountability and good governance in the public sector.

The office of the Auditor General is one of the most important when it comes to ensuring that the systems, procedures and the administration of state funds are in line with generally accepted accounting practice. The AG is capable of identifying any corrupt behaviour concerning state funds, it reports only to parliament and it is therefore in a strong position to transform public administration.

The Auditor General can also conduct investigations or special audits whenever it considers it to be in the public interest or on receipt of a complaint or request(Public Service Commission report 2008:8)

### **2.11.2. Public Service Commission**

The public Service Commission(PSC) manages the Anticorruption hotline that was established in 2004. The Commission also serves as the secretariat to the National Anticorruption Forum. The Commision has very specific constitutional manadate which is to promote a high standard of professional ethics in the Public Service and to investigate, monitor and evaluate the organisation and administration and the personnel practises of the public service(Public Service Commission 2008:14)

Sangweni(1999:120) explains that the commission is an oversight body with an oversight role that operates within the context of the powers and functions assigned to it by the constitution. Some of the functions include the promotion of values and principles of the public administration set out in section 195 of the constitution throughout the public service. It also investigates and monitor personnel practices of the public service.

The Public Service Commission has distributed a code of conduct for public service. The code provides guidelines for ethical behaviour by civil servants. The code of conduct is meant to bring about an ethos of professionalism, protect democratic values and create a new culture in which the highest standards of integrity and ethical behaviour are upheld in the workplace(Sangweni and Balia 1999:125)

Thus these two institutions among the other complement the works of the Public Protector in its aim to fight corruption in South Africa.

## 2.11 Conclusion

This chapter focused on reviewing empirical and theoretical literature on corruption, and the role of the Public Protector in fighting corruption. The following chapter will be discussing the methodology to be followed in this research.

### 3.1. Research approach

Cohen, Manion and Morrison (2000:44) state that methodology in research refers to a systematic way of gathering data from a given population or to understand a phenomenon and to generalise facts obtained from a larger population. Methodology embraces the research design, population, instruments used to collect data, ethical considerations, data analysis and its interpretation. Methodology therefore helps the researcher and the reader to understand the process of the research thus giving it a scientific merit.

In this study, a mixed methods research approach is used. This means that the research will use both qualitative and quantitative research approaches. Creswell and Plano-Chik (2007:243) noted that mixed research involves philosophical assumptions that guide the direction of collecting, analysing and mixing qualitative and quantitative approaches in many

## CHAPTER THREE: RESEARCH METHODOLOGY

### 3. Introduction

The previous chapter reviewed literature on the role and effectiveness of the office of the Public Protector. From such review, it can be deduced that the office of the Public Protector is making strides in curbing corruption in general. This chapter will describe the research design and methodology that directed this research survey. The purpose of this section is to explain the rationale behind the methodology to be used and to demonstrate how the research was conducted. It gives guidance and justified the steps that were taken to ensure responsible data collection, analysis, trustworthiness of the study and compliance to the various ethical considerations.

In order to come up with the relevant research methodology for data gathering, the researcher was guided by the research questions and objectives which sought to explore the role and effectiveness of the Public Protector in fighting corruption in South Africa. The researcher thought of integrating the exploratory and interpretative approaches as paradigms that guided the research methodology, data gathering techniques and data analysis procedures. This chapter starts by discussion of the research approach to be adopted for this study and is followed by the research methodology. Then finally, the chapter will conclude by discussing the ethical considerations that were observed in this study.

#### 3.1. Research approach

Cohen, Manion and Morrison (2000:44) state that methodology in research refers to a systematic way of gathering data from a given population so as to understand a phenomenon and to generalise facts obtained from a larger population. Methodology embraces the research design, population, instruments used to collect data, ethical considerations, data analysis and its interpretation. Methodology therefore helps the researcher and the reader to understand the process of the research thus giving it a scientific merit.

In this study, a mixed methods research approach is used. This entails that the research will use both qualitative and quantitative research approaches. Creswell and Plano- Clark (2007:243) noted that mixed research involves philosophical assumptions that guide the direction of collecting, analysing and mixing qualitative and quantitative approaches in many

phases in the research process. Mixed method focuses on collecting, analysing and mixing both quantitative (descriptive and inferential numeric analysis) and qualitative (description and thematic text or image analysis) data in a single study. Thus, both deductive and inductive strategies are present in the mixed methods approach. (Creswell, 2009:218). A mixed approach is used in this study because the data collected through the questionnaire can be analysed both quantitatively and qualitatively. The two aspects of data provide a supportive role to on each other, thus improving the robustness of the results by:

- Providing strength that offsets the weaknesses of using either quantitative or qualitative research alone;
- Helping to answer questions that cannot be answered by quantitative or qualitative research alone; and
- Providing an opportunity to corroborate views from the different approaches.

The following section describes how both the qualitative and quantitative research techniques will be used for this study.

### **3.1.1. Quantitative research method**

Quantitative research method is described by Brink and Wood (1998:5) as data that can be transposed into numbers, in a formal, objective, systematic process to obtain information and describe variables and their relationships. It is characterised by the following: It describes , examines relationships and determines causality among variables, where possible; Statistical analysis is conducted to reduce and organise data , determine significant relationships and identify differences and similarities within and between different categories of data; The sample should be representative of a large population; Reliability and validity of the instruments are crucial; Comprehensive data collected by employing different methods and or instruments should result in a complete description of the variable or the population studied; and It provides accurate account of characteristics of particular individuals, situations or groups. In the study, the quantitative nature of the research was based on calibrated responses obtained from the questionnaires and was also extended to secondary data obtained to the extent that it will be relevant to this study. The questionnaires were aimed at getting information of the role and effectiveness of the public protector in reducing corruption in South Africa.

### 3.1.2. Qualitative research

The study was based on qualitative approach and was based on responses from the interviews. Burns and Grove (2003:19) describe a qualitative approach as a systematic subjective approach used to describe life experiences and situations to give meaning. Qualitative research is a form of social enquiry that focuses on the way people interpret and make sense of their experiences and the world in which they live (Holloway & Wheeler 2002:30). Researchers use the qualitative approach to explore the behaviour, perspectives, experiences and feelings of people and emphasise the understanding of these elements. The researcher used a qualitative approach in the research so as to explore and describe the opinion of professionals of the Public Protector in their fight against corruption.

### 3.2. Research design

Research design can be described as the structure of the research which provides the conceptual framework and the action plan as defined by Creswell (2005). In this study, the researcher used case-study research design. Yin (1984:45) defines a case-study research as the empirical inquiry that investigates a contemporary phenomenon within its real life content. The advantage of the case-study method is that it is applicable to real life contemporary, human situation and its made public through written reports. Case-study allows the use of multiple sources and techniques in data collection like the use of surveys and interviews. As such the researcher used questionnaires and interviews to obtain relevant information on the role and effectiveness of the Public Protector.

Spring (1997:243) notes that case study brings researchers to an understanding of a complex issue or object and can extend experience or add strength to what is already known through previous research. Thus a case study refers to and in depth investigation of an issue (in this case the role and effectiveness of the Public Protector), at a specific instance and location (Tshwane Municipality, South Africa). The case study is assumed to be representative of the whole population; hence the results from there were inferred onto the whole population.

### 3.3. Study area

As highlighted in the specific objectives of the research, the findings of this study should help to evaluate the role and effectiveness of the Public Protector in fighting corruption in South

Africa. The study was carried in the Tshwane Municipality in Gauteng province. The findings were based on the evaluation of activities, strategies and success of the Public Protector fighting corruption in South Africa.

### **3.4. Target population**

The target population is the entire aggregation of respondents that meet the designated set of criteria (Burns & Grove, 1997:236). The target population in this study constituted officials who work in the institutions that fight corruption in South Africa that is the personnel in the office of the Public Protector, in Gauteng province of which the focus of the study is on the work of the Public Protector in Tshwane Municipality. The population involved in the Public Protector totals at most 420 of which 350 are investigators and the remainder constitutes the executive management and corporate service staff. These investigators are based in different regional offices across the country. Since it is practically impossible to study the population, the researcher focused on the work of the Public Protector only in Tshwane Municipality. Thus the researcher will focus on a target population of 130 employees based in Tshwane Municipality.

### **3.5. Sampling**

In most cases the population is too big to participate in the research and as such a sample is drawn. Results from the sample are then inferred to the entire population. Sampling is defined by Fox and Bayat (2007:105) as the process by which elements are drawn from the population. Wiersma and Jurs (1997:250) define a sample as a subset of a population. Populations are studied through the use of samples from the population because it is not always feasible to gather information on all members of the population. Of these 130 employees in the target population, for the purposes of this study, the researcher sampled research subjects who are employed by the Public Protector as investigators, of which 30 were senior investigators with 10 years' experience and the remainder were junior investigators with 5 years' experience. These investigators were targeted because they have hands-on fighting corruption at all levels.

### 3.5.1. Sampling method

For the purpose of this study, the researcher chose a non-probability and its subtype purposive sampling method was applied to choose respondents according to certain characteristics. Purposive or judgemental sampling method was applied in this. The researcher used his own judgement as to which respondents were chosen and picked and it was only those who best met the purpose of the researcher can use his or her research skill and prior knowledge of the respondents.

### 3.5.2. Sample Size

A sample should be representative of the total population so as to reduce inference biases. This then means that the sample size chosen for the research should be big enough to capture enough data, but also small enough to be manageable (Fox & Bayat, 2007:108). In the present study, the sample was chosen from one province (Gauteng) where the Public protector is also involved in the fight against corruption in South Africa. Thus, the researcher administered 45 questionnaires and five interviews. The 45 questionnaires were distributed to 30 junior investigators and 15 senior investigators because of their long serving in the department and also in order to capture heterogeneity of experiences in both senior and junior investigators. The interviews were only at senior investigators because the researcher felt that there are in better position to extensively discuss and engage the issues. The interviews offered the researcher to probe for more information which could not be obtained from questionnaires.

### 3.6. Data collection

Data collection is a systemic way of gathering information, which is relevant to the research purpose or questions (Burns & Grove 1997:383). The quality of any conclusions drawn from any research carried out is dependent upon the quality of data collected. To minimise the margin of error based on the quality of data used in the research, it is important that the data collection method should agree to the three main principles of validity, reliability and convenience. The techniques used in this research are the questionnaire and interview.

### 3.6.1. Instruments for data collection

- **Interviews**

The researcher designed an interview schedule as one of the data collection instrument for the study. An interview is a data collection encounter in which one person (an interviewer) asks questions of another (respondent). Three telephonic interviews were conducted with two advocates and one attorney, who are both currently working as senior investigators for the Public Protector in the Tshwane Municipality. The interview questions were aimed at eliciting relevant information concerning the role and effectiveness of the Public Protector in its fight against corruption. Questions relating to causes and effects of corruption, cases investigated and challenges faced by the Public Protector were also asked during the interview. Care was taken to make sure that the interviews, although informal to provide room for unbiased personal opinion and still providing the required information.

The interviews enabled the researcher to get answers immediately. This instrument also helped in providing first hand undisclosed information as the researcher would constantly seek for elaborations on certain issues from the respondent. However maximum care and attention on all questions was taken to avoid losing track of the topic under discussion. Bias was avoided by not asking leading questions, suggesting and influencing action.

- **Questionnaires**

A questionnaire is a series of questions asked to individuals to obtain statistically useful information about a given topic (Cohen, Manion & Morrison, 2000:255). Questionnaires are frequently used in quantitative research and they are a valuable method of collecting a wide range of information from respondents. When properly constructed and responsibly administered, questionnaires become a vital instrument by which conclusions can be made about specific groups or people or entire populations. In this study the researcher used questionnaires to obtain information which could not be obtained through interviews. (Cohen, Manion & Morrison, 2000:255). These questionnaires were sent to 10 senior investigators and 30 junior investigators currently working for the Public Protector. While some were returned by email, some were collected in person, after three working days. This was a way to increase the response rate.

The questionnaire comprised of four sections:

- Section A, comprised the demographic data, which sought to obtain respondent's details such as age, sex and years of experience; and
- Section B, the roles and the effectiveness of the public protector.

### **(i) Validation of the questionnaire**

The questionnaire designed for the study was subjected to a validation process for content validity. Mcburney (1994:123) defined content validity as notion that a test should sample the range of behavior represented by the theoretical concept being tested. Mcburney (1994:124) noted that content validity refers to the accuracy with which an instrument measures the factors under study. Therefore content validity was concerned with how accurately the questions asked tended to elicit the information sought. The research instrument was tested for content validity by giving the questionnaire and interview questions two experienced investigating officers at the Office of the Public Protector.

### **(ii) Reliability**

Reliability relates to the precision and accuracy of the instrument. If used on a similar group of respondents in a similar context, the instrument should yield similar results (Cohen, et. al. 2000:117). Accurate and careful phrasing of each question to avoid ambiguity and leading respondents to a particular answer ensured reliability of the instrument. The respondents were informed of the purpose of the questionnaire and the interview and of the need to respond truthfully without bias.

### **3.7. Pilot study**

A pilot study is a trial run of the major study (Monnette, Sullivan & De Jong, 1998:9). Its purpose is to check the time taken to complete the questionnaire, whether it is too easy, or too long or short, or too difficult and to check the clarity of the questionnaire items and to eliminate ambiguities or difficulties in wording (Cohen, et. al. 2000:600). A pilot study was conducted to test the questions for reliability and validity. Two officials in the Office of the Public Protector with similar characteristics to the research sample who were not part of the main study were issued with the questionnaire to fill in and also a brief interview session was carried out. Following the study, some ambiguous questions were rephrased to give greater

clarity and some questions were discarded as they proved irrelevant. As such the results of the study assisted the researcher in finding out whether the questionnaires and interviews could assist in getting the information sought which help to come up with acceptable and authentic conclusions.

### 3.8. Data Analysis

Data analysis is a practice in which raw data is organized to highlight useful information. According to Israel and Hay (2006:10) data analysis procedure constitutes an analysis which consists of taking the data apart to determine individual responses and then putting it together to summarize it. Marshall and Rossman (1999:150) define data analysis as a process of bringing order, structure and interpretation to the mass of collected data. In any research data analysis is undertaken to determine the credibility of the research findings.

#### 3.8.1. Qualitative analysis

Qualitative data analysis allowed the researcher to develop theory from raw data collected from the different responses on the interviews and questionnaires. The researcher used content analysis in order to reduce the data and form conclusions.

- **Thematic analysis**

Thematic analysis is historically a conventional practice in qualitative research which involves searching through data to identify any recurrent patterns. According to Daly, Killerhear and Glicksman (1997) cited in Fereday and Muir Cochrane (2006:3), thematic analysis is a search for themes that emerge as being important to the description of the phenomenon under study. This data analysis process involves the identification of themes through careful reading and rereading of the data (Fereday and Cochrane, 2006, Rice and Ezzy, 1999:258). A theme is a cluster of linked categories conveying similar meanings and usually emerges through the inductive analytic process which characterises the qualitative paradigm. In the other words of the researcher, it is a form of pattern of recognition within the data where emerging themes become categories for analysis.

### 3.8.2. Quantitative analysis

Raw data gathered in Social Science and relative to attitudes, emotions, personalities and descriptions of people's environment involves the use of Likert-type scales (McIver & Carmines, 1981:22-23). The likert type scales' invention is attributed to Rensis Likert (1931) who designed the technique for assessment of opinions. When the Likert scales were used the researcher started by scoring all the data from the questionnaires. For example, responses where respondents were required to choose from the options given it were coded as follows:

- (i) Strongly agree = 1
- (ii) Agree = 2
- (iii) Not sure = 3
- (iv) Disagree = 4, and
- (v) Strongly disagree = 5

The coded data was uploaded onto the statistical package for social sciences (SPSS) system where the data was analyzed to check for trends, correlation ships between variables over the relevant period. The quantitative approach is deductive and aims at drawing up descriptive and inferential numeric analysis from the responses. The findings are discussed and presented. In addition to analyzing responses from the questionnaires, the researcher also reviewed some of the cases successfully investigated by the Public Protector in the Gauteng province in order to show how effective it has been in fighting corruption in South Africa.

### 3.9. Ethical considerations

Research ethics are the moral principles norms or standards of behaviour that guide moral choices about the behaviour and relationship with others in the research process (Fox & Bayat, 2007:109). It is crucial that all researchers are aware of research ethics. Ethics then relate to two groups of people those conducting the research [researcher] who should be aware of their obligations and responsibilities and the researched [participants] upon who have basic rights that should be protected. The study, therefore, had to be conducted with fairness and justice by eliminating all potential risks. As such the matter of ethics is an important one for any research. Other than the principles and guidelines on research ethics published by American Educational Research Association (AERA, 1992:49) and the British

Educational Research Association (BERA, 2004:10) the researcher will considered some of them below.

### **3.9.1. Voluntary participation**

This is a principle that requires that people should not be forced to participate in the research; there should be voluntary nature of participation and the right to withdraw partially or completely from the process (Bailey, 1987:85). Participants were invited with a clear understanding that there is no obligation to do so and that there will be no negative consequences for them if they do not assist in the research. However, the researcher made it clear how important the participant is and how much it means when he or she participates in the study.

### **3.9.2. Informed consent**

Informed consent is a norm in which subjects base their voluntary participation in research projects on full understanding of the possible risks involved. (Babbie, 2013:34). The participants in the research were well informed fully of the procedures and risks involved in the research and that their consent to participate was given freely. In this research the researcher provided information sheets to the invited participants who informed them that it is an official university activity and also what the research is all about.

### **3.9.3. Participant harm**

Protection from harm as a safety measure to participants is of utmost importance and any potential or possible harm must be kept at a minimum (Creswell, 2005:153). In other words, the researcher exercised caution that participants were not put in situations where they may be at risk of both physical and psychological harm resulting from them participating such as embarrassment, stress, discomfort, pain and any harm to participants.

The risks that the participants may face have to be no greater than the ones usually encountered in daily life. In fact, the invasion of privacy must be respected and valued at all cost. (Creswell, 2005:153) The researcher acknowledged and protected the participants' rights to withhold sensitive information and/or to keep all the gathered information in strict confidence.

### 3.9.4. Confidentiality and anonymity

Confidentiality is a basic ethical principle. A research project guarantees confidentiality when the researcher can identify a given person's response but promises not to do so publicly (Babbie, 2013:36) Anonymity is achieved in research project when neither the researcher nor the readers of the findings can identify a given response with a given response. (Babbie, 2013:36) Easterby-Smith (2002:85) recognises that great care therefore needs to be exercised in maintaining each participant's right to anonymity. To guarantee this, the researcher had to roster all data by number rather than by name and provided participants with self-addressed envelopes to return questionnaires anonymously. Certainly, every participant has the right to know that collected data will be treated with confidentiality.

### 3.10. Conclusion

This chapter described the research methodology that is the research design, sample, data collection methods used and the ethical considerations. Specifically, the chapter described how the participants were selected and how data for the study was collected in a manner that is ethical. Chapter 4 will present the data analysis and the interpretation of findings. The researcher will use different analytical and descriptive tools to present the results of the study.

Table 4.1 Age of respondents

Age Group	Number of Respondents	Percentage
18 to 29 Years	06	13,6%
30 – 39 Years	13	28,9%
40 – 49 Years	11	24,4%
50 – 59 Years	07	15,6%
61 years and older	08	17,5%
TOTAL	45	100%

Majority of the respondents at 13 (28,9%) who took part in this study were aged between 30 and 39 years, 11 (24,4%) of the respondents were aged between 40 and 49, and 08 (17,8%)

## CHAPTER FOUR: DATA ANALYSIS AND INTERPRETATION

### 4. Introduction

The key focus of this chapter is to provide a detailed account of data analysis and interpretation of data obtained from employees of the Public Protector, who are mostly legal professionals with vast experience in the corruption detection, investigation and prevention arena. This chapter will present the data generated through questionnaires and interviews.

#### 4.1. Analysis of data collected through questionnaire

In this section of the study, two themes are will be discussed, namely, section A which is biographical details and section B which is the roles and the effectiveness of the Public Protector.

##### 4.1.1. Biographical Information

For this study, the researcher presents the biographical information of the respondents. The researcher presents the information in a tabular form and followed by a interpretation and analysis of the findings.

**Table 4.1 Age of respondents**

	Response	Frequencies	Percentage
1	20 to 29 Years	08	17,8%
2	30 – 39 Years	13	28,9%
3	40 – 49 Years	11	24,4%
4	50 – 59 Years	07	15,6%
5	61 years and older	06	13,3%
	TOTAL	45	100%

Majority of the respondents at 13 (28,9%) who took part in this study were aged between 30 and 39 years. 11 (24,4%) of the respondents were aged between 340 and 49, and 08 (17,8%)

were between 20 and 29. Few respondent at 07 (15,6%) were between 50 and 59 years and the least at 06 (13,3%) were older than 61 years of age. From the data above, it can therefore be concluded that in this study, there has been a relatively better representation of the population in terms of age distribution.

**Table 4.2 Gender**

	Response	Frequencies	Percentage
1	Male	20	44,4%
2	Female	25	55,6%
	TOTAL	45	100%

Table 4.1 presents the biographical information of the respondents in terms of gender. All of the 45 respondents who took part in this study managed to return the questionnaire and of the 45 respondents, 20 (44,4%) were males, whereas 25 (55,6%) were females. The statistics revealed that majority of the respondent who took part in this study were females than males.

**Table 4.3 Years of Professional Experience**

	Response	Frequencies	Percentage
1	0 to 04 Years	03	6,7%
2	05 to 09 Years	09	20,0%
3	10 to 14 Years	17	37,8%
4	15 to 19 Years	09	20,0%
5	20 Years and Above	07	15,6%
	TOTAL	45	100%

For this study, majority of the respondents who took part in the study at 17 (37,8%) were having 10 to 14 years of professional experience. Nine of the respondents at 20,0% were between 05 to 09 years, whereas 03 (6,7%) were between 0 to 05 years of professional

experience. Nine (20,70%) respondents were between 15 to 19 years, whereas 07 at 15,6% were above 20 years of professional experience. It can be concluded that the many respondents in the study were having many years of professional experience.

**Table 4.4 Academic Qualifications**

	Response	Frequencies	Percentage
1	Certificate	07	15,6%
2	Diploma/Degree	15	33,3%
3	Honours	10	22,2%
4	Postgraduate Qualification	13	28,9%
	TOTAL	45	100%

Table 4.4 indicate that majority of the respondents at 15 (33,3%) who took part in this study were having a diploma or a degree qualification. 13 (28,9%) of the respondents were having a postgraduate qualification, and 10 (22,2%) were having an honours degree. Few respondent at 07 (15,6%) were just having a certificate qualification. From the data above, it can therefore be concluded that, all the respondents are having the academic qualifications, with a majority of the respondents having a diploma or a degree qualifications.

#### **4.1.2. Roles and the effectiveness of the Public Protector**

In this sub-section, data is analysed using graphical statistics which is further divided into four themes which arose from the survey questionnaire respondents. The four themes are the challenges being faced by the Public Protector in fighting corruption; the effectiveness of the Public Protector's anti-corruption framework in fighting corruption and the role of the Public Protector in fighting corruption in South Africa.

#### **4.1.3. The challenges being faced by the Public Protector in fighting corruption**

This sub-section presents data regarding the challenges being faced by the Public Protector in fighting corruption. The data is presented in the form of tables followed by brief interpretation.

**Table 4.5 Public Protector investigate the abuse of public power**

	Response	Frequencies	Percentage
1	Strongly agree	18	40,0%
2	Agree	09	20,0%
3	Not Sure	06	13,3%
4	Disagree	03	6,6%
5	Strongly disagree	09	20,0%
	TOTAL	45	100%

Nine (20,0%) of the respondents agreed with the idea that the Public Protector investigate the abuse of public power, 18 (40,0%) respondents strongly agreed. On the other hand, 03 (6,6%) disagreed and on 09 (20,0%) strongly disagreed with that the Public Protector investigate the abuse of public power. Six 06 (13,3%) respondents were not sure whether the Public Protector investigate the abuse of public power or not. From the above data, it can be concluded that majority of the respondent agreed that the Public Protector investigate the abuse of public power.

**Table 4.6 Review the legality of decisions taken by public institutions**

	Response	Frequencies	Percentage
1	Strongly agree	06	13,3%
2	Agree	13	28,9%
3	Not Sure	12	26,7%
4	Disagree	08	17,8%
5	Strongly disagree	06	13,3%
	TOTAL	45	100%

Twelve (26,7%) respondents were not sure whether Public Protector review the legality of decisions taken by public institutions to establish if the due process was followed or not. While 06 (13,3%) of the respondents strongly agreed, thirteen respondents (28,9%) just agreed that the Public Protector review the legality of decisions taken by public institutions to establish if the due process was followed. On the other hand, few respondents at 8 (17,8%) disagreed that the Public Protector review the legality of decisions taken by public institutions to establish if the due process was followed whereas 06 (13,3%) strongly disagreed. The figures indicate that Public Protector review the legality of decisions taken by public institutions to establish if the due process was followed.

**Table 4.7 The Public Protector is one of the institutions fighting corruption**

	Response	Frequencies	Percentage
1	Strongly agree	17	37,7%
2	Agree	16	35,5%
3	Not Sure	0	0,0%
4	Disagree	10	22,2%
5	Strongly disagree	02	4,4%
	TOTAL	45	100%

Most respondents at 17 (37,7%) strongly agreed that the Public Protector is one of the institutions fighting corruption in South Africa, on the other hand, 02 (4,4%) respondents strongly disagreed with the idea the Public Protector is one of the institutions fighting corruption in South Africa. Sixteen (35,5%) respondents agreed that the Public Protector is one of the institutions fighting corruption in South Africa, whereas only 10 (22,2%) disagreed. There were no respondent who were not sure with the idea. Such a statistics indicate that the Public Protector is the most important institution to fight corruption in South Africa.

**Table 4.8 The office of the Public Protector ensures accountability**

	Response	Frequencies	Percentage
1	Strongly agree	18	40,0%
2	Agree	12	26,7%
3	Not Sure	03	6,7%
4	Disagree	07	15,6%
5	Strongly disagree	05	11,1%
	TOTAL	45	100%

Three (6,7%) respondents were not sure whether the office of the Public Protector ensures accountability by public institutions and public officials. Eighteen (40,0%) strongly agreed with the idea, whereas 12 (26,7%) merely agreed with the idea that the office of the Public Protector ensures accountability by public institutions and public officials. On the other hand, 07 (15,7%) merely disagreed, while 05 (11,1%) strongly disagreed the office of the Public Protector ensures accountability by public institutions and public officials. The largest number of the respondents revealed that the office of the Public Protector ensures accountability by public institutions and public officials.

**Table 4.9 The Public Protector has forced the government to suspend corrupt officials**

	Response	Frequencies	Percentage
1	Strongly agree	14	31,1%
2	Agree	11	24,4%
3	Not Sure	02	4,4%
4	Disagree	06	13,3%
5	Strongly disagree	12	26,7%
	TOTAL	45	100%

More respondents at 14 (31,21%) strongly agreed with the idea that the Public Protector has forced the government to suspend all corrupt officials in public offices, and 12 (26,7%) strongly agreed. On the other hand, 06 (13,3%) disagreed that the Public Protector has forced the government to suspend all corrupt officials in public offices, whereas 11 (24,4%) agreed and 02 (4,4%) were not sure. Majority of the respondents revealed that the Public Protector has forced the government to suspend all corrupt officials in public offices.

#### 4.1.4. The effectiveness of the Public Protector's anti-corruption framework in fighting corruption

This portion presents the effectiveness of the Public Protector's anti-corruption framework in fighting corruption. The information in this section are presented in graphical and tabular forms and followed by a discussion of the findings.

**Table 4.10 Public Protector has been effective in fighting corruption**

	Response	Frequencies	Percentage
1	Strongly agree	18	40,0%
2	Agree	11	24,4%
3	Not Sure	05	11,1%
4	Disagree	04	8,9%
5	Strongly disagree	07	15,6%
	TOTAL	45	100%

The majority of respondents at 18 (40,0%) strongly agreed that the Public Protector has been effective in fighting corruption in South Africa, 11 (24,4%) agreed. On the other hand, 04 (8,9%) disagreed and just 04 (8,9%) disagreed with the idea that the Public Protector has been effective in fighting corruption in South Africa. Only 05 (11,1%) revealed that they were not sure whether the Public Protector has been effective in fighting corruption in South Africa or not. Just above, the statistics were in favour that the Public Protector has been effective in fighting corruption in South Africa. Twenty-nine at (64,4%) respondents for

example, responded that the Public Protector has been effective in fighting corruption in South Africa.

**Table 4.11 The Public Protector managed to reduce corruption**

	Response	Frequencies	Percentage
1	Strongly agree	05	11,1%
2	Agree	14	31,1%
3	Not Sure	11	24,4%
4	Disagree	09	20,0%
5	Strongly disagree	06	13,3%
	TOTAL	45	100%

Table 4.11 indicate that 14 (31,1%) of the respondents agreed, while 05 (11,1%) strongly agreed with the idea that the Public Protector has managed to reduce corruption in South Africa. Only 09 (20,0%) disagreed and a mere 06 (13,3%) strongly disagreed respectively that the Public Protector has managed to reduce corruption in South Africa, and 11 (24,4%) were not sure in that regard. From the above statistics, a conclusion can be drawn that the public protector has managed to reduce corruption in South Africa.

**Table 4.12 The Public Protector managed to send a signal to discourage corruption**

	Response	Frequencies	Percentage
1	Strongly agree	06	13,3%
2	Agree	04	8,9%
3	Not Sure	17	37,8%
4	Disagree	13	28,9%
5	Strongly disagree	05	11,1%
	TOTAL	45	100%

Majority of the respondents at seventeen 17 (37,8%) of the respondents were not sure whether the Public Protector has managed to send a strong signal to discourage public officials to engage in corrupt activities, on the other hand, 13 (28,9%) disagreed that the Public Protector has managed to send a strong signal to discourage public officials to engage in corrupt activities. 05 (11,1%) strongly disagreed that the Public Protector has managed to send a strong signal to discourage public officials to engage in corrupt activities. On the other hand, 06 (13,3%) strongly agreed that the Public Protector has managed to send a strong signal to discourage public officials to engage in corrupt activities. Only 04 (8,9%) agreed. The data revealed that the Public Protector did not manage to send a strong signal to discourage public officials to engage in corrupt activities.

**Table 4.13 Public Protector has investigated high profile of corrupt cases**

	Response	Frequencies	Percentage
1	Strongly agree	26	57,8%
2	Agree	12	26,7%
3	Not Sure	0	0,0%
4	Disagree	05	11,1%
5	Strongly disagree	02	4,4%
	TOTAL	45	100%

Table 4.13 indicate that 38 (84,4%) of the respondents agreed that the Public Protector has successfully investigated high profile of corrupt cases, and only 07 (15,6%) disagreed to the statement. There was no respondent who alluded that there were not sure. From the above figure, majority of the respondents revealed that the Public Protector has successfully investigated high profile of corrupt cases.

**Table 4.14 The Public Protector has improved good governance**

	Response	Frequencies	Percentage
1	Strongly agree	19	42,2%
2	Agree	14	31,1%
3	Not Sure	0	0,0%
4	Disagree	10	22,2%
5	Strongly disagree	02	4,4%
	TOTAL	45	100%

Only a total of 33 (73,3%) of the respondents agreed that the Public Protector has notably improved good governance in South Africa, 12 (26,7%) disagreed and there was no respondent who was not sure. Majority of the respondents in the study revealed that the Public Protector has notably improve good governance in South Africa, but there are few respondents in the study who disagreed with the matter, meaning that the Public Protector still need to improve good governance.

#### 4.1.5. The role of the Public Protector in fighting corruption in South Africa

This section provide a description of the role of the Public Protector in fighting corruption in South Africa, and the information in this section are presented in graphical and tabular forms and followed by discussions.

**Table 4.15 There is availability of resources which enables the Public Protector to fight corruption**

	Response	Frequencies	Percentage
1	Strongly agree	32	71,1%
2	Agree	05	11,1%
3	Not Sure	0	0,0%
4	Disagree	08	17,8%
5	Strongly disagree	0	0,0%
	TOTAL	45	100%

The majority of respondents at 32 (71,1%) strongly agreed with the idea that there is availability of resources which enables the Public Protector to fight corruption, whereas 05 (11,1%) agreed with the statement. On the other hand, 08 (17,8%) disagreed. There was no respondent who strongly disagreed with the idea and there was also no respondent who was not sure. Such statistics revealed that the Public Protector has been effective in fighting corruption in South Africa.

**Table 4.16 There are many investigators to assist the Public Protector in case load**

	Response	Frequencies	Percentage
1	Strongly agree	21	46,6%
2	Agree	07	15,6%
3	Not Sure	0	0,0%
4	Disagree	10	22,2%
5	Strongly disagree	07	15,6%
	TOTAL	45	100%

Regarding the availability of investigators to assist the Public Protector in the case work load, a total of 21 (46,6%) of the respondents strongly agreed with the statement that there are many investigators in the office of the Public Protector to assist in the case load, while a total of 07 (15,6%) agreed with the statement. On the other hand, ten respondents constituting (22,2%) disagreed with the statement, meaning that to them, the investigators are not enough in the office of the Public Protector to assist in the case load, while 07 (15,6%) strongly disagreed. The data revealed that there are enough investigators in the office of the Public Protector to assist in the case load.

**Table 4.17 The government department support the Public Protector**

	Response	Frequencies	Percentage
1	Strongly agree	04	8,9%
2	Agree	14	31,1%
3	Not Sure	05	11,1%
4	Disagree	19	42,2%
5	Strongly disagree	03	6,7%
	TOTAL	45	100%

The majority of the respondents at 22 (48,9%) agreed with the idea that the government departments support the Public Protector with the investigative information, only 18 (40,0%) disagreed with the statement. Only five 05 (11,1%) indicated that they were not sure whether that the government departments support the Public Protector with the investigative information or not. The majority of the respondents in the study alluded that that the government departments did not support the Public Protector with the investigative information.

**Table 4.18 The Public Protector has the enforcement power**

	Response	Frequencies	Percentage
1	Strongly agree	20	44,4%
2	Agree	13	28,9%
3	Not Sure	0	0,0%
4	Disagree	08	17,8%
5	Strongly disagree	04	8,9%
	TOTAL	45	100%

The majority of the respondents at 20 (44,4%) strongly agreed with the statement that the Public Protector has the enforcement power when dealing with corruption cases, while 13 (28,9%) agreed. Eight (17,8%) disagreed with the statement. On the other hand, 04 (8,9%) strongly agreed that the Public Protector has the enforcement power when dealing with corruption cases. The Public Protector should have the enforcement power when dealing with corruption cases.

**Table 4.19 Political interference strengthen the Public Protector**

	Response	Frequencies	Percentage
1	Strongly agree	05	11,1%
2	Agree	03	6,7%
3	Not Sure	0	0,0%
4	Disagree	16	35,6%
5	Strongly disagree	21	46,7%
	TOTAL	45	100%

With regard to the political interference in the duties of Public Protector for effectively reducing corruption, 37 (82,2%) respondents showed that political interference hinders the Public Protector to effectively investigate corruption cases, 08 (17,8%) disagreed with the idea. The above statistics revealed that political interference did not strengthen the Public Protector to effectively investigate corruption cases.

**Table 4.19 There is co-operation between organs of state and public authorities**

	Response	Frequencies	Percentage
1	Strongly agree	18	40,0%
2	Agree	03	6,7%
3	Not Sure	02	4,4%
4	Disagree	02	4,4%
5	Strongly disagree	20	44,4%
	TOTAL	45	100%

While 18 (40,0%) of the respondents strongly agreed, three respondents at (6,7%) just agreed that community there are co-operation by organs of state and public authorities when investigating and implementing the Public Protector's reports. On the other hand, 02 (4,4%) disagreed and on 20 (44,4%) strongly disagreed with the idea there are co-operation by organs of state and public authorities when investigating and implementing the Public Protector's reports. 02 (4,4%) respondents were not sure whether there are co-operation by organs of state and public authorities when investigating and implementing the Public Protector's reports or not. The statistics show that there is no close co-operation between the organs of state and public authorities when investigating and implementing the Public Protector's reports.

#### 4.2. Analysis of data collected through interview

For the purposes of this study, the researcher managed to conduct three interviews with senior investigators in order to corroborate some of the issues raised through the questionnaires. The findings are discussed qualitatively under the following identified themes:

- Public Protector as an institution of fighting corruption;
- role of the Public Protector in fighting corruption;
- effectiveness of the Public Protector in fighting corruption; and
- challenges being faced by the Public Protector in fighting corruption.

#### 4.2.1. Public Protector as an institution of fighting corruption in South Africa

The objective of the questions under this theme was to establish what employees understand as the role of the Public Protector in fighting corruption in South Africa. The respondents indicated that they strongly agreed that the Public protector is one of the institutions established to fight corruption in South Africa because it has been constitutionally mandated to 'investigate any conduct in state affairs that is suspected or alleged to be improper, report on that conduct and take appropriate remedial action'.

When asked how the Public Protector, would achieve their constitutional mandate, the respondents indicated that the Public Protector is a 'high level independent constitutional official appointed by the President on the recommendation of Parliament in terms of the Constitution' to undertake the following roles:

- Investigate alleged misconduct in government at any level that is National, Provincial, local government and state owned enterprises;
- Investigate conduct relating to maladministration, including prejudice suffered by the complainant, abuse of power by the state or its official;
- Investigate corruption and violations of the Executive Ethics Code;
- The Public Protector has the power to make recommendations to findings relating to conduct investigated;
- Recommend appropriate remedial action; and
- Issue investigation reports.

These responses corroborated what the views from the questionnaires which identified the importance of the Public Protector as an institution of fighting corruption in South Africa, and the various roles it engages in to fight corruption in the country. Most importantly, one of the respondents said that the Public Protector should conduct its duties 'without fear or favour'. This indicates that people expect the Public Protector to be independent, impartial and not manipulated by circumstances.

#### 4.2.2. Has the Public Protector been able to achieve its role in fighting corruption?

There was a high level of consensus that the Public Protector has managed to achieve its role in the fight against corruption. When asked to expand further on their views, the respondents cited examples of cases that have been successfully investigated by the Public Protector. In addition, they said that the Public Protector has managed to ‘signal’ to other public institutions or officials contemplating corruption on how they can be exposed.

However, they also indicated that the role of the Public Protector could have been buttressed if there was an effective Parliament which should hold public officials, institutions and the executive accountable to their actions. Thus, they highlighted that the Parliament in South Africa does not have the effective oversight role to complement the Public Protector in the fight against corruption.

#### 4.2.3. Effectiveness of the Public Protector in fighting corruption in South Africa

In their response to this question, all the investigators agreed that to ‘some extent’ that the Public Protector has been effective in fighting corruption. Although they acknowledged that the Public Protector has been effective in investigating high profile cases, they indicated that there are challenges, which, if addressed, will greatly improve the effectiveness of the Public Protector as one of the institutions fighting corruption in the country.

When asked why they were of the view that the Public Protector has been effective in fighting corruption in South Africa, the respondents indicated the following reasons:

- The current Public Protector is vibrant and with a clear vision;
- The Public Protector had the courage to investigate even the most powerful persons in the country such as the Presidency;
- Successful investigation of the SAPS leases which led to the dismissal of the responsible minister;
- The Public Protector has been visible in terms of investigations and recommendations;
- Successful investigation of high profile cases such as the OnPoint Engineering in Limpopo;
- Improved credibility and capability of the institution;

- The Public Protector has managed to send the correct signal of its capabilities, hence it discourages some of the would-be perpetrators;
- Improved systems, processes and clear accountability; and
- Investigations thoroughly carried out and recommendations implemented.

#### 4.2.4. Challenges being faced by the Public Protector in fighting corruption in South Africa

In addition to the achievements discussed above, the respondents also raised the following issues as some of the factors impeding on the effectiveness of the Public Protector in its fight against corruption in South Africa:

- High vacancy level, implying that the current investigators are ‘overworked’;
- Lack of financial resources to employ enough investigators with specialist skills;
- Inadequate attention to critical sectors such as health. Appropriate interventions in such sector will ensure maximum benefits to the general populace;
- In some instances, the Public Protector has been ‘playing to the gallery’, giving priority to issues from political parties, at the expense of the ordinary citizen. Political parties have recourse through the parliament structures and the courts, yet the ordinary citizen does not have those options, hence should be given priority by the Public Protector;
- By focusing on issues of a political nature adversely affects its effectiveness because some of the recommendations will never be implemented, yet recommendations against ordinary citizens are easier to implement, and that will lead to more effectiveness of its operations;
- Lack of enforcement and prosecution powers;
- Lack of financial resources;
- Manipulation of investigators for political gains;
- Political interference; and
- Internal power squabbles.

Overall, the researcher observed that there was agreement from both the questionnaire responses and interviews that, although the Public Protector has been effective in fighting

corruption in South Africa, its impact could have been even more if certain challenges such as financial resources were addressed.

In the following section, we review some of the corruption cases successfully investigated by the Public Protector in the Gauteng Province.

### 4.3. Conclusion

There was a general consensus from respondents in both the interviews and questionnaires that the Public Protector has been effective in its role of fighting corruption in South Africa. However, they highlighted that if certain operational challenges bedevilling the institution were addressed, the effectiveness of the Public Protector in fighting corruption would be greatly improved. Conclusions from this study and policy recommendations derived therefrom will be discussed in the next chapter.

#### 5.1.1 The role of the Public Protector in fighting corruption in South Africa

Based on the findings from the study, the researcher concludes that the role of the Public Protector in fighting corruption is embedded in its constitutional mandate under the following areas:

- Investigating maladministration and resolving disputes involving alleged improper or prejudicial conduct by organs of state through mediation, conciliation, negotiation or any appropriate means as provided for under the Public Protector Act 23 of 1994;
- Investigating alleged violations of the Executive Members' Ethics Act 12 of 1994 and the Executive Ethics Code;
- Investigating alleged violations of the Prevention and Combating of Corrupt Activities Act 12 of 2004;
- Resolving disputes under the Promotion of Access to Information Act 2 of 2000;
- Receiving disclosures from whistle-blowers under the Protected Disclosures Act 26 of 2000; and
- Reviewing decisions of the National Home Builders Registration Council. The matters dealt with by the Public Protector on a day-to-day basis range from services failures to abuse of power and state resources.

## CHAPTER FIVE: CONCLUSIONS AND POLICY RECOMMENDATIONS

### 5. Introduction

The primary goal of this study was to find out if the role and effectiveness of the Public Protector in fighting corruption in South Africa. The study was undertaken by means of a literature study, as well as empirical research. The conclusions and recommendations were made basing literature study and empirical research regarding the role and effectiveness of the Public Protector in fighting corruption.

#### 5.1. Major findings

From the theoretical and empirical findings of this study, the researcher draws the following two findings about the role and effectiveness of the Public Protector in fighting corruption in South Africa.

##### 5.1.1 The role of the Public Protector in fighting corruption in South Africa

Based on the findings from the study, the researcher concludes that the role of the Public Protector in fighting corruption is embedded in its constitutional mandate under the following areas:

- Investigating maladministration and resolving disputes involving alleged improper or prejudicial conduct by organs of state through mediation, conciliation, negotiation or any appropriate means as provided for under the Public Protector Act 23 of 1994;
- Investigating alleged violations of the Executive Members' Ethics Act 82 of 1998 and the Executive Ethics Code;
- Investigating alleged violations of the Prevention and Combating of Corrupt Activities Act 12 of 2004;
- Resolving disputes under the Promotion of Access to Information Act 2 of 2000;
- Receiving disclosures from whistle-blowers under the Protected Disclosures Act 26 of 2000; and
- Reviewing decisions of the National Home Builders Registration Council. The matters dealt with by the Public Protector on a day-to-day basis range from service failures to abuse of power and state resources.

### 5.1.2 The effectiveness of the public protector in fighting corruption in South Africa

The researcher concluded based on the findings from the study that although the public protector has been effective in fighting corruption, there are challenges which hampered it from achieving its maximum potential in this regard. Therefore, the researcher is of the view that, based on evidence, the Public Protector has successfully investigated some high profile cases, thus sending the correct 'signal' about its capability and credibility in fighting corruption in South Africa.

## 5.2. Conclusion

In light of the evidence obtained from the study, the researcher concludes that the Public Protector is well positioned to fight corruption in South Africa. The study also provided evidence showing that the Public Protector has been effective in fighting corruption, although its effectiveness in this regard can be improved by providing sufficient resources and prioritisation of investigations.

A review of existing literature was done to gather the available literature on the objective of the study was done. The literature review covered the constitutional mandate of the Public Protector and its role in fighting corruption. The chapter also reviewed the different theories of corruption, causes, effects and remedies of corruption, and also review some of the cases that have been investigated by the Public Protector in South Africa.

The research process was both qualitative and quantitative. The research adopted a mixed methodology whereby qualitative and quantitative research instruments were used. A survey questionnaire and interview schedule was used. A sample of 45 participants was selected from a population of 130; they were purposefully selected as they possessed information that was relevant to the study. All the targeted respondents were reached. The data was analysed and interpreted and findings of the study were presented.

Findings from the study showed that the Public Protector is a critical institution, well positioned to fight corruption in South Africa. The study also provided evidence showing that the Public Protector has been effective in fighting corruption, although its effectiveness in this regard can be improved by providing sufficient resources and prioritisation of investigations.

### 5.3. Recommendations

In light of the challenges highlighted in the findings of the study, the researcher recommends the following:

- The Parliament should provide sufficient financial resources to enable the Public Protector to employ enough and sufficiently skilled investigators;
- The Public Protector should prioritise interventions in critical sector such as health in order to enhance its effectiveness in alleviating the impacts of corruption on the ordinary citizens;
- Awareness campaigns to educate the public about all forms of corruption and how to report it. Such a grass roots approach would go a long way in the fight against corruption as it helps the society to eliminate all forms of corruption in their communities; and
- Amendment of the legislation to ensure that the Public Protector has sufficient enforcement powers, and not only be recommending interventions for implementation by other institutions.

### 5.4. Recommendation for future studies

From the study, the researcher noticed that one of the biggest challenges to the Public Protector in fighting corruption is the lack of enforcement powers. In this regard, the researcher would want other studies to carry out survey of evidence using country studies to establish if giving enforcement powers to the public protector will improve its effectiveness in fighting corruption.

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**APPENDICES**

**ANNEXURE A**

**QUESTIONNAIRE**

**THE ROLES AND THE EFFECTIVENESS OF THE PUBLIC PROTECTOR IN FIGHTING CORRUPTION IN SOUTH AFRICA**

The purpose of this study is to analyse the roles and the effectiveness of the public protector in fighting corruption in South Africa. This is an opportunity for you to reflect on your perceptions about roles and the effectiveness of the Public Protector. All information obtained will be treated as strictly confidential and will only be used for research purposes.

For each of the following statements place an **X** in the box that applies to you.

**SECTION A: BIOGRAPHICAL INFORMATION**

1. Age

20 to 29 Years	
30 – 39 years	
40 – 49 years	
50 – 59 years	
60 years and older	

2. Gender

Male	
Female	

3. Years of Professional experience

0 to 04 Years	
5 – 9 years	
10 – 14 years	
15 – 19 years	
20 years and above	

4. Professional and Academic Qualifications

Certificate	
Diploma/Degree	
Honours	
Postgraduate Qualification	

**SECTION B: ROLES AND THE EFFECTIVENESS OF THE PUBLIC PROTECTOR**

Item no	The role of the Public Protector in fighting corruption in South Africa	Place an X in the box that applies to you				
		Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree
5	Public Protector investigates the abuse of public power.					
6	Reviewing the legality of decisions taken by public institutions to establish if the due process was followed.					
7	The Public Protector is one of the institutions fighting corruption in South Africa.					
8	The office of Public Protector ensures accountability by public institutions and public officials.					
9	Public Protector has been effective in fighting corruption in South Africa.					

Item no	The effectiveness of the Public Protector's anti-corruption framework in fighting corruption	Place an X in the box that applies to you				
		Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree
10	Has the Public Protector managed to reduce corruption in South Africa?					
11	The Public Protector has notably improved good governance in South Africa.					
12	Public Protector has successfully investigated high profile corruption cases.					
13	The Public Protector has managed to send a strong signal to discourage public officials to engage in corrupt activities.					
14	The Public Protector has forced the government to suspend all corrupt officials in public offices					

Item no	The challenges being faced by the Public Protector in fighting corruption	Place an X in the box that applies to you				
		Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree
15	Lack of financial resources is one of the main challenges faced by the Public Protector in fighting corruption.					
16	There has been shortage of investigators to cope up with the additional case loads.					
17	Lack of cooperation and delays by government departments to supply investigative information affects how the effectiveness of the Public Protector in investigating corruption cases.					
18	Lack of enforcement powers by the public protector affects its effectiveness in fighting corruption.					
19	Ignorance and disregard by organs of state and public authorities for the constitutional role and position of the Public Protector.					

20	Political interference prevents the Public Protector from effectively investigating corruption cases.					
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QUESTIONS GUIDE

**THANK YOU FOR YOUR PARTICIPATION AND YOUR VALUABLE IDEAS.**

FIGHTING CORRUPTION IN SOUTH AFRICA

The purpose of this study is to explore the roles and the effectiveness of the public protector in fighting corruption in South Africa. This is an opportunity for you to reflect on your perceptions about roles and the effectiveness of the Public Protector. All information obtained will be treated as strictly confidential and will only be used for research purposes.

1. Describe your role as an officer in the Office of the Public Protector. Provide practical examples on how you deal with others and with the society.
2. Which areas do you think people are highly subjected to corruptive activities in this Municipality? Provide practical examples.
3. In your opinion, what are the most common forms of corruption done in South Africa? Give practical examples.
4. Based on what you read, do you think the Public Protector has been effective in the way it has been handling corruption cases? Give reasons for your answer.
5. What do you think the Office of the Public Protector is facing as challenges which might be affecting its effectiveness in fighting corruption in South Africa? Provide practical examples.
6. From the mandate of the Office of the Public Protector, is there anything that can be done to ensure its effectiveness in fighting corruption in South Africa. Explain with practical examples.

**THANK YOU ONCE MORE FOR YOUR PARTICIPATION AND YOUR VALUABLE IDEAS.**

## **INTERVIEW GUIDE**

### **THE ROLES AND THE EFFECTIVENESS OF THE PUBLIC PROTECTOR IN FIGHTING CORRUPTION IN SOUTH AFRICA**

The purpose of this study is to analyse the roles and the effectiveness of the public protector in fighting corruption in South Africa. This is an opportunity for you to reflect on your perceptions about roles and the effectiveness of the Public Protector. All information obtained will be treated as strictly confidential and will only be used for research purposes.

1. Describe your roles as an officer in the Office of the Public Protector. Provide practical examples and/or illustrations where and when necessary
2. Which areas do you think people are highly subjected to corruptive activities in this Municipality? Provide practical examples.
3. In your opinion, what are the most common forms of corruption done in South Africa? Give practical examples.
4. Based on what you said, do you think the Public Protector has been effective in the way it has been handling corruption cases? Give reasons for your answer.
5. What do you think the Office of the Public Protector is facing as challenges which might be affecting its effectiveness in fighting corruption in South Africa? Provide practical examples.
6. From the mandate of the Office of the Public Protector, is there anything that can be done to ensure its effectiveness in fighting corruption in South Africa. Explain with relevant examples.

*THANK YOU ONCE MORE FOR YOUR PARTICIPATION AND YOUR VALUABLE IDEAS.*