

**AN EXPLORATION OF WHISTLE BLOWING IN FIGHTING CORRUPTION IN THE
PUBLIC SECTOR IN SOUTH AFRICA: A CASE OF STELLENBOSCH MUNICIPALITY**

by

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DECLARATION

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ABSTRACT

Corruption in South Africa has become a topical issue, especially in the public sector. Public officials are expected to uphold the public interest, but corrupt officials abuse public office for personal gain. Corruption has many forms and facets and it occurs on both large and petty scales. Despite the scale, corruption has negative consequences, such as the loss of public confidence, the undermining of efficiency in service delivery and the diversion of resources. The reporting of corruption through whistle blowing is important because it alerts the organisation of corrupt activities that have been witnessed. However, even though whistle blowers disclose corrupt activities which are detrimental to the public interest, they often experience retaliation, for example harassment, victimization and threats. Whistle blowers are thus often reluctant to blow the whistle. The South African government has enacted legislation, in particular the Protected Disclosures Act (2000), which protects whistle blowers from retaliation; however, in itself this may not be sufficient to encourage employees to blow the whistle. Organisations therefore need to devise effective whistle blowing mechanisms and create a culture of transparency that encourages employees to blow the whistle

In light of the above, this study focuses on employee perceptions of whistle blowing mechanisms within Stellenbosch Municipality as a case study, with the primary objective of ascertaining the importance of whistle blowing in curbing corruption in the public sector. The study also investigates the extent to which employees are well informed on whistle blowing legislation and other mechanisms. Additionally the study focuses on the challenges and the consequences that whistle blowers face when they expose corruption.

A literature review was also conducted to explore the conceptualisation of whistle blowing, corruption and anti-corruption strategies. From the literature review, it became evident that there is a need for the effective management and application of whistle blowing mechanisms to effectively curb corruption. The research design used was methodological triangulation; this consisted of a quantitative research method, namely a structured questionnaire, as well as a qualitative research method, namely semi-structured interviews. The different methods were used because they allowed for a more comprehensive approach to the study. Ninety-eight respondents, who are employees of Stellenbosch Municipality, participated in the study by completing the questionnaire.

The results of the study indicate that the majority of respondents view the term whistle blowing negatively which might contribute to why individuals are reluctant to blow the whistle. Furthermore, employees agreed unanimously that they lacked confidence in their manager/supervisors to deal with disclosures of corruption.

Based on the findings of this study, Stellenbosch Municipality is commended for its efforts in developing a Fraud and Corruption Policy and establishing a Fraud Hotline. However, there should be enhanced protection of whistle blowers at the Municipality in order to encourage employees to blow the whistle on any corruption that they witness in the organisation. The study contributes to anti-corruption research, and in particular whistle blowing mechanisms within the public sector in South Africa.

OPSOMMING

Korrupsie in Suid-Afrika is 'n aktuele kwessie, veral in die openbare sektor. Van staatsamptenare word verwag om openbare belang te prioritiseer, maar korrupte amptenare misbruik hul staatsamp vir persoonlike gewin. Korrupsie het baie vorme en fasette en kom voor op groot en klein skaal. Ongeag die skaal het korrupsie negatiewe gevolge, soos die verlies van vertroue deur die publiek, die ondermyning van doeltreffendheid in dienslewering en die misbruik van hulpbronne. Die aanmelding van korrupsie deur die fluitjie te blaas is van groot belang omdat dit organisasies inlig oor korrupte aktiwiteite wat opgemerk word. Selfs al word korrupte aktiwiteite, wat nadelig is vir die openbare belang, aangemeld deur fluitjieblasers, ervaar hulle dikwels vergelding deur die beweerde partye, byvoorbeeld teistering, viktimisering en dreigemente. Fluitjieblasers is dus dikwels huiwerig om die fluitjie te blaas. Die Suid-Afrikaanse regering het wetgewing uitgevaardig, veral die Wet op Openbare Bekendmakings (2000), wat fluitjieblasers teen weerwraak beskerm; hierdie wetgewing alleen mag egter nie voldoende wees om werknemers aan te moedig om die fluitjie te blaas nie. Organisasies moet dus effektiewe fluitjieblaas meganismes ontwikkel en 'n kultuur van deursigtigheid skep wat werknemers sou aanmoedig om die fluitjie te blaas.

In die lig van bogenoemde, fokus hierdie studie op werknemer persepsies van fluitjie-blaas binne die Stellenbosch Munisipaliteit as 'n gevallestudie, met die oorhoofse doel om die belangrikheid van fluitjie-blaas as meganisme om korrupsie in die openbare sektor te bekamp, vas te stel. Die studie ondersoek ook tot watter mate werknemers ingelig is oor fluitjieblaas wetgewing en ander meganismes. Daarbenewens fokus die studie op die uitdagings en die gevolge wat fluitjieblasers in die gesig staar wanneer hulle korrupsie ontbloot.

'n Literatuurstudie is ook gedoen ten einde die konseptualisering van fluitjie blaas, korrupsie en anti-korrupsie strategieë te verken. Uit die literatuuoroorsig, het dit duidelik geword dat daar 'n behoefte is aan doeltreffende bestuur en toepassing van fluitjie blaas meganismes om korrupsie teen te werk. Metodologiese triangulasie is as navorsingontwerp gebruik; dit bestaan uit 'n kwantitatiewe navorsingsmetode, naamlik 'n gestruktureerde vraelys, sowel as 'n kwalitatiewe navorsingsmetode, naamlik semi-gestruktureerde onderhoude. Die verskillende metodes is toegepas aangesien dit lei tot 'n meer omvattende benadering tot die studie. Agt en negentig persone, in diens van Stellenbosch Munisipaliteit, het aan die studie deelgeneem deur die vraelys te voltooi.

Die resultate van die studie dui daarop dat die meerderheid van die respondente die term “fluitjie blaas” as negatief beskou, wat kan bydra tot ‘n huiwering deur individue om wel die fluitjie te blaas. Verder dui die resultate eenvormig daarop dat werknemers nie vertrou het in hul bestuurder / toesighouers om die openbaarmaking van korrupsie te hanteer nie.

Gebaseer op die bevindinge van hierdie studie, word die Stellenbosch Munisipaliteit geprys vir sy pogings met die ontwikkeling van 'n bedrog en korrupsie beleid en die vestiging van 'n bedrogblitslyn. Beskerming van fluitjieblasers by die Munisipaliteit moet egter verbeter word om sodoende werknemers aan te moedig om die fluitjie te blaas oor enige korrupsie wat opgemerk word in die organisasie. Die studie dra by tot anti-korrupsie navorsing, en in besonder, fluitjie-blaas meganismes binne die openbare sektor in Suid-Afrika.

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LIST OF ACRONYMS

CPI	:	Corruption Perception Index
DPME	:	Department of Performance Monitoring and Evaluation
DPSA	:	Department of Public Service and Administration
FRC	:	Fraud Response Committee
ISS	:	Institute for Security Studies
NACH	:	National Anti-Corruption Hotline
NPA	:	National Prosecuting Authority
NPC	:	National Planning Commission
NSA	:	National Security Agency (USA).
ODAC	:	Open Democracy Advice Centre
OECD	:	Organisation for Economic Co-operation and Development
OSC	:	Office of Special Council
PAJA	:	Promotion of Administrative Justice Act (2000)
PIDA	:	Public Interest Disclosure Act (1998)
PFMA	:	Public Finance Management Act (1999)
PSACS	:	Public Service Anti-Corruption Strategy
PSC	:	Public Service Commission
RSA	:	Republic of South Africa
SADC	:	Southern African Development Community

SALRC	:	South African Law Reform Commission
SAPS	:	South African Police Service
SUI	:	Special Investigating Unit
TFAC	:	The Fight Against Corruption
UN	:	United Nations
UNCAC	:	United Nations Convention against Corruption
UNPAN	:	United Nations Public Administration Network
UNDOC	:	United Nations Office on Drugs and Crime
UNDP	:	United Nations Development Programme

CHAPTER 1

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction and overview

Internationally, concerns over corruption have been on the rise in the last decade, especially within the public sector (Botha and van Heerden, 2014:337). In this regard, South Africa is no exception. Public officials are tasked with the duty of ensuring that the interests of the public are promoted, but this is not always the case (Mafunisa, 2000:5). Corruption has become a part of daily life, and news headlines highlight the various stories involving corruption that are being reported. Corruption within the public sector has an overwhelming effect on the equitable and fair provision of services. In South Africa, the public sector loses large amounts of money that could have been used to provide these services (see Annexure A). Every organisation is at risk of corruption and whistle blowers are usually individuals who witness wrongdoing and are best placed to report it (Dehn & Callard, 2004:1).

Since corruption is a hidden act, whistle blowers play a crucial role in exposing it and also help check the abuse of office in the public sector. The public is frequently too apprehensive to speak out on any of the corrupt activities that they witness. This is because they fear the possible consequences, such as intimidation or a threat to their lives, if they report corrupt acts (Uys, 2008:905). Whistle blowers can face retaliation by those that are exposed, and there is thus a need for the institutional and legal protection of whistle blowers.

South Africa is a young democracy that is transforming itself from its apartheid past. South African society is riddled with corruption as cases of fraud and bribery are constantly witnessed and never reported, which acts as an obstacle to the transformation of society (Davids, 2012:47). The government is supposed to set the foundation in fighting corruption, with the Bill of Rights stipulating the basic rights for all. The Constitution of South Africa (1996), Section 195, requires public officials to uphold high standards of professional ethics. The Prevention and Combating of Corruption Act (2004) ensures that corruption becomes unlawful. It thus provides the basis of fighting corruption and promotes good governance. In this regard, corruption undermines the rights of the people and the constitutional commitment to human dignity (Davids, 2012:47).

Furthermore, the Batho Pele (“People First”) principles are aligned to the Constitution in that they promote transparency and honesty in the delivery of services. These principles dictate how public officials have to conduct themselves (Davids, 2012:83). The broad vision of Batho Pele is to “continually improve the lives of the people of South Africa by a transformed public service, which is representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of all” (Department of Public Service and Administration (DPSA), 1997). Consequently, the Batho Pele principles promote good governance and empower citizens to hold public officials accountable for their actions which would ultimately reduce the incidences of corruption (Gildenhuys, 2004:54).

One of the major impediments in combating corruption is that, deprived of legal protection, or fearing that disclosing corrupt actions might be risky, individuals are frequently too apprehensive to speak out on corrupt activities (Mbata, 2005:6). One of the widely publicised cases of corruption in South Africa was the case of Jackie Selebi, the former police commissioner. Selebi’s involvement in corruption with Glenn Agliotti, a convicted drug dealer and Selebi’s former friend, went on for several years, with no one prepared to blow the whistle on Selebi (Basson, 2010:244). Diane Muller, Agliotti’s former fiancée, who witnessed the former police commissioner receiving bribes on several occasions from Agliotti, stated, “How do you report something to the police when their head or chief - their boss as such - is the person that you are reporting on? I did not want to get involved or put me or my daughter in any danger at all” (Basson, 2010:244).

The Selebi case is one of many in which individuals felt that they could not report any wrongdoing because they expected that they would be intimidated. The fact that someone who witnessed an unethical activity and was in a position to report it, felt threatened is one of the main hindrances in the effective fight against corruption. Therefore, there is need to devise mechanisms that ensure the hindrances of blowing the whistle are removed.

This study concentrates on how whistle blowing is crucial in fighting corruption within the South African public sector utilising Stellenbosch Municipality as case study. The research study investigates employee perception on corruption and whistle blowing. This chapter forms the foundation for the study as it outlines the research question, problem statement, hypotheses, aims and objectives. It also outlines the research design and methodology that was used to achieve the research objectives. The overall aim of the study is to investigate and

explore the notion of corruption and whistle blowing within the public sector and to propose recommendations that can be implemented to enhance whistle blowing mechanisms.

1.2 Research questions

Research questions are used to inquire and relate to the topic being studied (Cresswell, 2003:108). These questions highlight what one can learn or get from the research. Research questions define the nature and scope of the study by focussing the research on certain issues (Blaikie, 2003:13).

This study will address the following questions:

- (i) To what extent are employees in the South African public sector well-informed of the role of being a whistle blower and the legislation that supports the issue?
- (ii) What are the challenges and the consequences that whistle blowers face when they expose corruption within the South African public sector?
- (iii) What are the factors that influence employees to blow the whistle?
- (iv) What is the nature of the environment required to ensure that whistle blowing is effective?
- (v) What are the perceptions of employees concerning whistle blowing?

1.3 Problem statement

According to Brynard and Hanekom (2006:16), a problem statement is the point of departure of a scientific study. The research identifies problems that lead to the study being undertaken. In any research study, there is need to establish a sign post that guide the course of the study. The problem statement acts as a sign post that shows the core of the study (Cresswell, 2003:105).

In order to create a culture of participating in the disclosure of wrong-doing in the workplace, the South African government promulgated the Protected Disclosures Act (2000). However, even though this Act has been in place, many employees are still reluctant to report wrongdoing. Many employees do not feel safe in the environment in which corruption occurs because they fear retaliation if they disclose wrongdoing. Furthermore, the non-existence of policies and procedures that comply with the Protected Disclosures Act (2000) has also been an obstacle in the promotion of whistle blowing in government departments. In the sectors

where there are policies and structures for anti-corruption in place, these have demonstrated that on its own it is insufficient in addressing corruption.

A further challenge is the absence of a comprehensive and well-implemented anti-corruption local strategy by government and failure to critically evaluate the ever-changing measures to tackle corruption. South Africa's main challenge is to effectively eradicate fraud and lack of accountability, and put in place appropriate anti-corruption strategies with effective whistle blowing policies that protect whistle blowers and create a culture of disclosing corrupt activities.

1.4 Research hypothesis

According to Bless and Higson-Smith (1995:37), cited in Brynard and Hanekom (2006:21), an hypothesis is a preliminary and suggested problem that needs to be proven before it can be credited and integrated into theory. It also forms the backbone of the research process as it acts as an analytical link, a "golden thread" in the development of the study. This study follows a deductive approach, in which the conclusion is established for explaining a certain phenomenon (Mouton, 1996:80). Unlike research questions, an hypothesis is a tentative answer to a stated set of questions (Maxwell, 2005:69).

The hypothesis of the current study is:

"The perception and interpretation of employees' reaction towards the whistle blowing policies and procedures, is a determinant process of how the employees will report any wrong doing. This is paramount in corruption eradication processes."

1.5 Research objectives

The objectives of this study are as follows:

- (i) To investigate the importance of whistle blowing within the public sector;
- (ii) To explore the international as well as national perspective of whistle blowing;
- (iii) To analyse the current whistle blowing legislation in South Africa, including the Protected Disclosure Act (2000);
- (iv) To explore the challenges faced by whistle blowers;

- (v) To identify other strategies that can be used to complement whistle blowing so as to effectively fight corruption; and
- (vi) To provide recommendations that can be used so that it can be implemented to enhance whistle blowing mechanisms.

1.6 Significance of the study

High levels of corruption are of major concern in South Africa (NPC, 2012:446). Corruption has resulted in the undermining of the rule of law and it obstructs the development of the country. Therefore it is imperative to find appropriate mechanisms that will be able to promote accountability and protect whistle blowers. The National Planning Commission (NPC) has set a vision for 2030, in which South Africa will have zero tolerance towards corruption (NPC, 2012:447). In order to achieve this, the protection of whistle blowers is seen as an important strategy for an accountable state.

The current study was conducted to explore the role of whistle blowing in the fight against corruption within the public sector. At present, anti-corruption literature is limited, particularly in the South African context. There is even more limited information available on anti-corruption research within the public sector, especially at a local government level. Another challenge is that, in South Africa, anti-corruption legislation is still new and not many people are familiar with it. It is thus hoped that this study contributes knowledge to the field of anti-corruption research, specifically at a local government level in South Africa, and on how whistle blowing can be used as a mechanism in the fight against corruption.

Muller's comments in 1.1 cited by Basson (2010:244) show that even though the Protected Disclosures Act (2000) was put in place to protect whistle blowers, the latter may still feel vulnerable and are often unprotected from reprisals. The Auditor General (2013:36) published a report on National Audit Outcomes which shows that, irregular and unauthorised and fruitless and wasteful expenditure by government departments and public entities is approximately R25 billion in 2012/13, in comparison to R22.4 billion in 2009/10 (see Annexure A). The misuse of funds in the public sector is alarming as it highlights the general disregard for the public interest and how costly it is. This study was driven by the desperate need for the whistle blowing environment to be enhanced and protected within the public sector.

Furthermore, the study could potentially also contribute in that money could be saved by exposing corruption through whistle blowing in the public sector. It is hoped that this study can be used by key stakeholders, such as Stellenbosch Municipality, at which the research was conducted, and other local government departments and public sector agencies to improve whistle blowing mechanisms and turn the tide against corruption.

1.7 Research design and methodology

According to Webb and Auriacombe (2006:589), a research design is a plan or a road map used by the researcher to answer the research question or test the hypothesis. Therefore, a research design provides a guideline on how the study will be done. This study follows an exploratory research design. Bless *et al.* (2006:47) note that the aim of an exploratory study is to gain a broad understanding of a situation or phenomenon. Furthermore, it is to familiarise the researcher with the topic (Babbie, 2010:92). In this study, the phenomenon of whistle blowing and corruption is going to be explored. A methodological triangulation (i.e. the use of a quantitative research method (questionnaire) and a qualitative research method (interviews)) is used. This method, gives the researcher the advantages of each and each offer unique insight into the research problem.

Qualitative research was undertaken to understand and explain the perceptions and behaviour of the different individuals who participated in the study, as suggested by Schurink (2009:807). A case study focuses on a single instance of a social phenomenon. A case study might have a shortcoming in that some characteristics are only specific to the case study and might not apply to other studies (Babbie, 2010:309). The case study allows an exploratory approach (Webb and Auriacombe, 2006: 600). Stellenbosch Municipality was used as the case study in the present research. As described by Brynard and Hanekom (2006:37), a case study and in-depth interviews are examples of qualitative research which are used in this study.

The literature review analysed secondary information (Mouton, 2001:55). According to Babbie (2010:288), secondary analysis is when a researcher analyses processed data collected by another researcher. The study largely relies on secondary sources in the form of books, journal articles, newspapers articles and Master's theses. The literature review specifically focussed on various expert books and articles relating to the study. The literature review adds to a better understanding of not only the research problem but also by guiding the researcher

in deciding upon the relevant material to be used in the research (Brynard and Hanekom, 2006:31). The researcher was assisted by the senior librarian who helped in drawing up the relevant literature related to the topic and relevant key concepts. In addition, the researcher has drawn relevant data and cross-checked data by using the Stellenbosch University Library system (Ebsco-host, SA epublications).

The secondary data that was used was supplemented by primary data. The primary data consisted of data from questionnaires and unstructured interviews for the explorative research, as suggested by Welman, Kruger and Mitchell (2005:197). Each of these research methods is briefly outlined below and discussed in more detail in the next section.

1.7.1 Research methods

1.7.1.1 Questionnaire

A semi-structured questionnaire was used as one of the instruments for the collection of data (see Annexure C). According to Babbie (2010:256), a questionnaire is a document comprising questions and statements intended to solicit data applicable for the study. This method was adopted because it allows the researcher to determine respondents' perceptions of particular aspects of the research question. The following steps were used in the development and use of the questionnaire in the current study.

Design: A questionnaire was drafted so as to gain as much accurate information as possible. The questionnaire took an "impersonal" approach, with a cover page stating the background, nature and purpose of the research (Theron and Saunders, 2009:179). Since whistle blowing is not a term that is easily understood by everyone, there was a brief definition of this to provide clarity. Confidentiality issues were also addressed, as well as instructions on how to complete the questionnaire. The questionnaire was used to gather more information about employees' perceptions of whistle blowing mechanisms and policies within Stellenbosch Municipality.

Pre-testing: Pre-testing of the questionnaire was performed to ensure that there were no errors in the questionnaire (Babbie, 2010:267). Ten participants from Stellenbosch Municipality were given the questionnaire to complete. The participants also felt that the questionnaire could be easily understood and were relevant. Some participants felt that some of the questions were not fitting to disclose. Based on the feedback from these pilot study

participants, the researcher made certain amendments to improve the validity of the questionnaire.

Administration of the questionnaire: The survey was conducted at Stellenbosch Municipality. As of 2014, Stellenbosch Municipality has approximately 1018 permanent employees. A total of 150 questionnaires were distributed, with 98 responses out of 150 sent received. Therefore, more than half of the respondents (65%) completed the questionnaires. Due to the ethical requirements of the survey and its sensitivity, certain issues were taken into consideration (Babbie, 2010:65). The study was conducted in accordance with Stellenbosch University ethics regarding human subjects; that ensures no harm to the participants. There was no coercion which was used or induced by the interviewees. The respondents had the right to refuse to participate in the study, thus it was voluntary. Respondents had to remain anonymous and the information solicited from the questionnaire was confidential and only used for this study. The researcher, with the help of someone from within the organisation, was able to hand out the questionnaires. The questionnaires could not be sent *via* email, because the questionnaire was meant to be anonymous and not reveal the identity of the respondent. The respondents were well-informed of the use and purpose of the questionnaire, as well as the confidentiality and anonymity clause that was outlined. Furthermore, the researcher had no contact with any of the respondents; before, during and after the administration of the survey. This was all done to decrease the potential for biased communication and thus non-sampling error.

Analysis of data: It took approximately two months to receive feedback from the respondents. Subsequently, an analysis of the completed questionnaires was conducted using the statistical software programme STATISTICA. The use of STATISTICA for inferential statistics made it possible to examine the data with less frequency of mistakes. Since there was also substantial amount of data involved in the data, STATISTICA was useful and it also allowed for the examination of the relationships between different groups of data, as noted by St. John and Johnson (2000:394).

1.7.1.2 Unstructured interviews

For the purpose of this study, unstructured interviews were also employed. Informal interviews and consultations with two professionals in the field of study were also conducted. The individuals includes: Faiz Hoosain (Head of the Fraud Hotline, Stellenbosch

Municipality) and Prof. Pregala Pillay (Head of the Anti-Corruption Centre for Education and Research of Stellenbosch University (ACCERUS)). They were chosen because they were well vexed with the issues surrounding corruption and whistle blowing. Unstructured interviews are used to explore the general area of interest thoroughly (Welman, Kruger and Mitchell 2005:166). Interviews were done face-to-face so as to gain in-depth information from stakeholders, various government officials and scholars who have useful knowledge on corruption and whistle blowing. One of the major weaknesses of unstructured interviews is that you do not have standardisation between interviews as the interviewees are not all asked the same questions. The unstructured interviews allow tailoring the questions to the different participants and the interviewers does not influence the participant's response.

1.8 Limitations of the study

This research is limited to only focussing on whistle blowing as a tool to fight corruption. This is because whistle blowing is a very broad phenomenon; thus the focus had to be narrowed down to enable a more concise study. The study only focussed on whistle blowing within the public sector in South Africa, to narrow down the scope of study to ensure a detailed presentation. The public sector is also a broad term which encompasses the national, regional and local government. This study only focuses on the local government which limits the scope due to the limited time and resources to do a broader scope.

This study also took into account that corruption and whistle blowing are very sensitive topics. This posed a challenge during the research process. Issues such as anonymity and confidentiality were used to ensure that the identity of the respondents was protected. Even though the respondents were informed that the questionnaire was anonymous, some were still reluctant to complete the questionnaire. This limited the amount of data collected through the questionnaire as well as some of the responses in the questionnaires were not included so as to protect the identity of the respondents. Some information that was deemed to be highly sensitive and did not have any reliable source was excluded from the study. Some of the questionnaires were not fully completed, thus providing inadequate data. Furthermore, the study was constrained because the researcher did not have sufficient financial resources and time to conduct the study in a more comprehensive manner. More respondents participating, for example, could have further enriched the credibility of the study. The lack of willingness of some of the participants to participate also made it difficult to engage in a focus group.

1.9 Definitions of key terms

For this study, the defining of key terms is crucial to increase the clarity

Accountability: continuing concern for checks and oversight, for surveillance and institutional constraints on the exercise of power (Schedler, 1999:13).

Corruption: abuse of public roles or resources for private benefit (Johnston, 1998:89).

Ethics: a set of moral principles or values that guide public officials in determining what is wrong and what is right (Edwards, 2007:30).

Good governance: refers to corporate or governmental “administration” that is not corrupt, [is] technically competent, legally correct, efficient in its implementation and oriented towards the interests of its citizens, customers or employees (De Swaan, 2004:54).

Public official: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a “public official” in the domestic law of a State Party (UNCAC, 2004:7-8).

Public Sector: comprise of bodies, the existence of powers of which rely on the authority conferred on them by State, in varying degrees, through some formal processes (Aye, 2008:3). Thus, it is the national, regional, and local governments plus entities controlled by government units (UNPAN, 2006:3).

Transparency: is the availability and clarity of information provided to the general public about government activity. Governments must not only provide information, but also ensure that as many citizens as possible have access to this information with the goal of increasing citizen participation. A lack of transparency creates opportunities for government corruption and reduces public sector efficiency (United Nations (Department of Economic and Social Affairs), 2007:7).

Whistle blower: the disclosure by organisation members (former or current) of illegal, immoral, or illegitimate practices under the control of their employers, to persons or organisations that may be able to effect action (Near and Miceli, 1985:4).

Whistle blowing: purposeful and voluntary disclosure of previously privileged information, which exposes wrongdoing and can result in rectification of the wrongdoing (Jubb, 1999).

1.10 Chapter outline

This study comprises six chapters. A brief overview of each of these chapters is presented below.

Chapter 1: Introduction and background to the study

This chapter introduces the research topic of the study. It outlines important background information and provides the research question, problem statement, research aims and objectives, the significance and motivation of the study and the definition of key terms, an overview of the research design and methodology employed in this study.

Chapter 2: Conceptualising Corruption in the Public Sector as an Impetus for Whistle blowing

Chapter 2 examines corruption within the South African context. It explores the causes and consequences of, as well as some solutions to, the problem of corruption. The forms and dimensions of corruption that manifest within the public sector are also going to be investigated, and the chapter will also focus on how corruption is measured.

Chapter 3: Conceptualising whistle blowing as an anti-corruption tool

This chapter examines the processes involved in whistle blowing. It looks at the importance of whistle blowing, the obstacles encountered during the whistle blowing process and consequently the building blocks required for effective whistle blowing procedures. The chapter also highlights the various factors that influence whistle blowers in reporting any wrong doing that they witness.

Chapter 4: Legislative and Regulatory Framework of whistle blowing

This chapter covers the legislative and regulative framework surrounding whistle blowing. It also examines the international perspective and analyses how the legislative framework in other countries, such as the United States of America and United Kingdom, is implemented in the protection of whistle blowers.

Chapter 5: Research Findings, Presentation and analysis of results: A case study of Stellenbosch Municipality

This chapter presents an analysis of the South African public sector in terms of how whistle blowing mechanisms are implemented, specifically focussing on Stellenbosch Municipality. This chapter also provides the results of the survey that was conducted as well as the unstructured interviews. These results are also discussed.

Chapter 6: Conclusions and Recommendations

This chapter summarises what has been covered in the earlier chapters and offers a closing argument for the study. Recommendations that can be implemented to enhance whistle blowing mechanisms, as well as recommendations for future research, are also proposed.

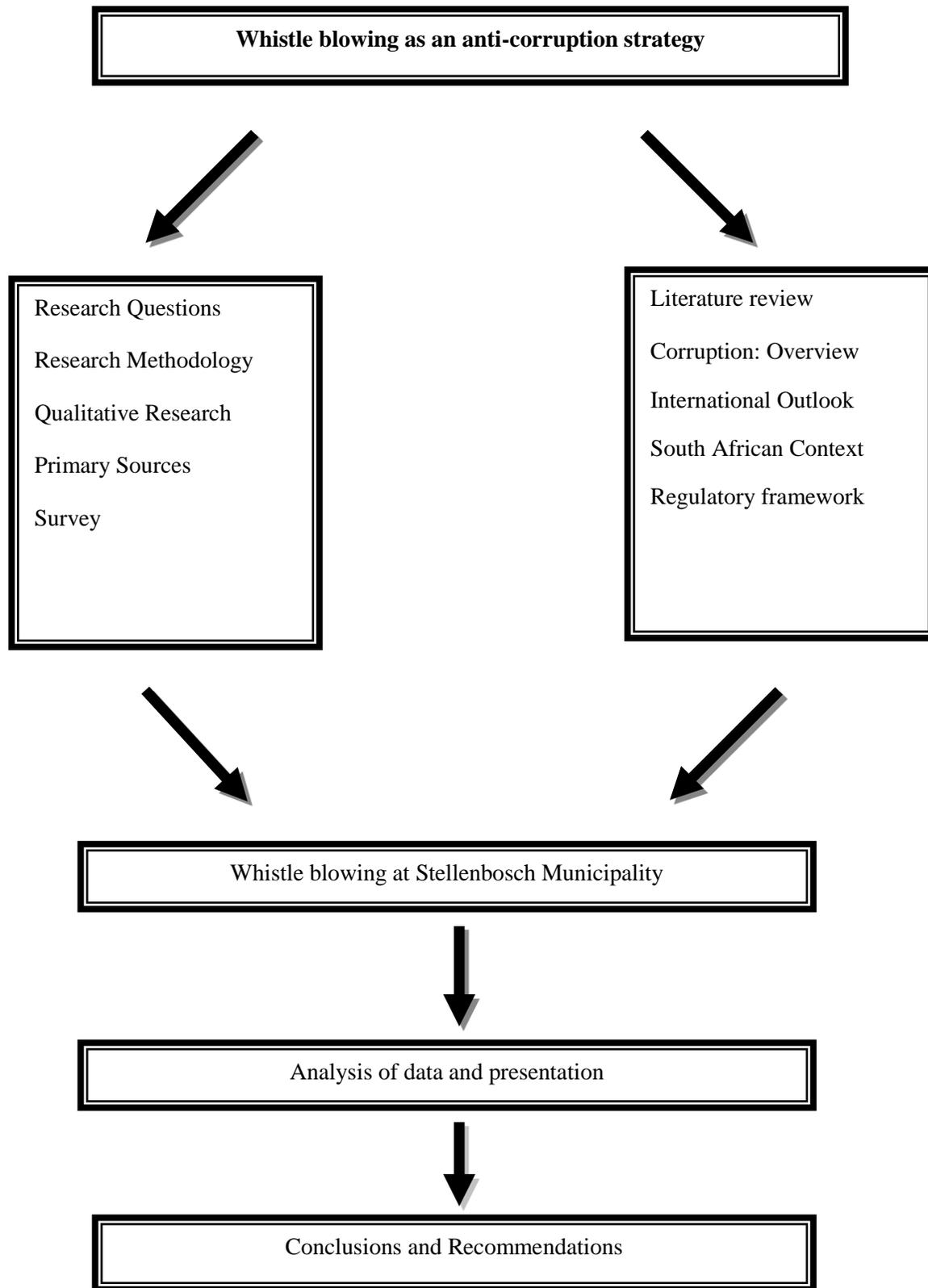


Figure 1.1: Structure of study

CHAPTER 2

CONCEPTUALISING CORRUPTION IN THE PUBLIC SECTOR AS AN IMPETUS FOR WHISTLE BLOWING

2.1 Introduction

Corruption has been a widely researched topic for the past fifty years (Woods, 2010:5). However, corruption is not something new. Historians and anthropologists have discovered that in almost every civilization, public officials were noted for their unique authority in providing services and goods to the public (Caiden, 2001:19). Public officials are expected to use the authority bestowed on them with the utmost respect and professional integrity, and thus promote the public interest. Prior to the modern era, the Code of Hammurabi, Mosaic Laws and Confucian principles had similar principles that required only individuals with the highest integrity to hold public office (Caiden, 2001:19). These people were revered by the rest of society, as they were considered to be the wisest and most righteous, who promoted the general welfare of the public. In their duties, they were to show exemplary leadership, thus ultimately earning the trust of the public through their conduct (Caiden, 2001:20). This was the ideal scenario, which, however, has not been the case in reality. Globally, the public sector has become riddled with corruption (Woods, 2010:6). It is crucial to gain a better understanding of corruption so as to devise better methods to combat it.

The aim of this chapter is to give a better understanding of corruption. Corruption is a broad topic that covers many aspects, so for this study, the focus is on corruption in the public sector. This chapter will analyse the many forms of corruption, its manifestations, causes and, most importantly, the different anti-corruption mechanisms that have been put in place by the South African government. This chapter argues that corruption poses many threats and it is thus critical to analyse corruption in order to ensure that effective anti-corruption mechanisms are employed.

2.2 Defining Corruption

With its many forms, corruption has posed a challenge to civilization throughout history. Therefore, with such a background, some scholars have suggested that corruption is inevitable and thus part of human nature (Habtemichael, 2009:75). Fully understanding

corruption, however, is not a simple task, because corruption is a multifaceted phenomenon that takes many forms and is found in all levels of government and political systems (Gildenhuis, 2004:83). Corruption is also analyzed through social, religious, political, economic or organisational lenses. There are therefore various views on the issue of corruption. It would be a blunder to look at corruption from a narrow perspective, because this will only be showing part of the phenomenon and not the whole picture (Gildenhuis, 2004:83).

There has been an on-going debate about the definition of corruption, and there is no uniform definition for the phenomenon. However, corruption in its basic form is defined as the use of public office for private gain (Pradhan and Campos, 2007:9). It can also be defined as the abuse of public roles or resources for private benefit (Johnston, 1998:89). Within the public sector, according to Nye (1967), as cited by Caiden (2001:20), corruption is the “behaviour which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains, or violates rules against the exercise of certain types of private-regarding influence.”

This study specifically focusses on corruption within the public sector. In this context, Thabo Mbeki, former President of South Africa, rightly describes corruption as “steal[ing] public resources [which] is merely to do the done thing by taking advantage of the position you find yourself in, of access to these resources by virtue of the fact that you happen to be employed in the public service” (Gildenhuis, 2004:83). This implies that corruption leads to the breakdown in the promotion of public good. Within the public sector, corruption thus undermines good governance and prevents the public officials from pursuing the general public good.

2.2.1. Forms of corruption in the public sector

There are various forms of corruption that occur within the public sector. Corruption has many facets and forms in which it can manifest itself (Robinson, 1998:3). The scale can be grand or petty. Grand corruption occurs on a large scale and normally involves top-level individuals or public officials; large sums of money are often exchanged. It also occurs when every aspect of the social system functions in a manner that individuals get away with being corrupt (Grobler and Joubert, 2004:91). This form of corruption is hidden and unknown to the public. Petty corruption is whereby an individual abuses his/her power for personal gain.

This can include delays in service so as to extract a bribe or social service payment being given to someone who is ineligible (Grobler and Joubert, 2004:91; Kroukamp, 2006: 208; and Lobo, 2001:69).

According to Robinson (1998:3), corruption can manifest in three main forms, each of which is described below. The first form of corruption is incidental corruption, in which an individual is involved in some corrupt activities. Incidental corruption occurs when officials receive bribes on a petty scale. This form of corruption has greater negative macro-economic costs on the national economy. It is often difficult to detect and curb (Habtemichael, 2009:78).

The second form of corruption is institutional corruption (Salter, 2010:5). This can occur in a certain sector or department, where it is dominant in all ranks of employees. According to Thompson (2010), cited in Salter (2010:5), institutional corruption is the form of corruption which occurs when the employees are involved in illegitimate actions that undermine the legitimacy of the organisation. From this definition, it is clear that institutional behaviour affects the legitimate procedures that are essential in guarding the organisation from personal interests that undermine the public interest. Institutional corruption emerges when the organisational behaviour in providing services to the public is not in accordance with organisational values which are aligned to the Batho Pele principles which put people first in delivering services (DPSA, 1997). This compromises the way in which the organisation operates the legitimate processes that are followed and the intended purposes of these. Institutional corruption is detrimental because the public loses its trust in the organisation as the latter is viewed as not promoting the public interest (Salter, 2010:5).

Incidental and systematic corruption are intertwined (Robinson, 1998:3). Certain forms of corruption are restricted to occurrences that are more episodic than systematic; for example, a public official issues a building permit without an Environmental Impact Assessment because of corruption. In some scenarios, corruption infiltrates a particular department or certain activities. An example could be in the Health Department, when sick AIDS patients have to pay for medication that is meant to be free (Davids, 2012:49). Within other departments, the occurrence of corruption may be less prevalent, and thus mechanisms to control corruption may be more lenient. It can be concluded that corruption occurs when public officials are able to extract rents due to the flaws and loop holes in the existing structure of control and regulations (Robinson, 1998:3).

The third form of corruption is systematic or entrenched corruption, in which corruption has become a norm and is implemented in everyday transactions, such as paying a bribe for a business licence (Davids, 2012:49). Systematic corruption is a state in which the main institutions and routines of the government are habitually governed and utilised by certain individuals or groups of people. Public officials are involved in corrupt activities that leave the public with no other alternative but to transact with the corrupt officials (Johnston, 1998:89). At this stage, corruption pervades the whole society. Systematic corruption touches organisations and affects individual actions at all stages of a political and socio-economic system. The characteristic of systematic corruption are as follows: (i) it is embedded in the socio-cultural environment; (ii) it is monopolistic; and (iii) the corruption is organized and difficult to avoid. It is imperative for corruption to be continuously checked before it becomes unbridled and a rampant form of systematic corruption (Robinson, 1998:3).

2.2.2 Dimensions of corruption

To understand the phenomenon of corruption, it is imperative to recognize the many dimensions in which it manifests within the public sector and the ripple effect on the rest of the society. These various manifestations of corruption are discussed (Tooley and Mahoi, 2007:367-368; DPSA, 2002:7-8; and Grobler and Joubert, 2004:94-95):

- (i) **Bribery:** This involves the offering of a promise or giving of a benefit that improperly affects the actions or decisions of a public servant. This advantage may be of benefit to the public official, another person or entity. Therefore, a public official can perform a certain task in return for a bribe, which can be in the form of money or a gift. These bribes are paid before or after the public official had rendered the service or favour.
- (ii) **Kickbacks:** These can be viewed as another form of a negotiated bribery in which a certain fee is paid for the services rendered by the public official. The fee is in the form of cash or gifts. For example, a public official with the authority to award contracts can arrange to inflate the contract so that he/ she can receive some payment as a kickback. Some forms of kickbacks also include public officials who approves building plans receiving a certain percentage of government contracts from a building contractor.

- (iii) **Embezzlement:** This occurs when the person entrusted with the control of, and authority over certain resources steals these resources. A public official could, in this case, steal from the organisation for his/ her own use or for reselling.
- (iv) **Fraud:** This involve actions or conduct by a public official, other person or entity that persuades others to provide a benefit that would not normally accrue to the public official, other persons or entity. For example, a public official creates a fictional employee so as to collect wages for that employee.
- (v) **Extortion:** Here, a person or entity is coerced by a public official in exchange for a certain action that benefits the public official. For example, a public health official can threaten to close a restaurant based on made-up wrongdoing unless the restaurant provides free meals for the public official.
- (vi) **Abuse of power:** This is when a public official uses the authority bestowed on him/ her to inappropriately benefit other public official. This authority can also be used to discriminate against other individuals or organisations. For example, a tender process should involve a fair selection process. However, the head of department may express his/ her desire to award the tender to a particular individual, thereby abusing his/ her power.
- (vii) **Favouritism:** This involves a public official giving preference in providing services or resources based on personal affiliations, such as ethnicity, religion and party affiliation. For example, a head of department can award a tender to provide certain services to the department to someone who is from the same tribe as him-/ herself.
- (viii) **Nepotism:** This is closely related to favouritism. It entails a public official making sure that family member or relatives are selected in public service positions or that family members are given tenders. This is considered to be a corrupt activity because it is unethical and unfair practice. For example, a head of government makes an appointment based on being a family member and not based on merit.
- (ix) **Conflict of interest:** This is used to refer to a situation in which a public official are entrusted by the public to act in their interests however the public official's personal interests might hinder in achieving public interest. Therefore, conflict of interest occurs when the personal interests of an individual clash with his/ her official duties. For example, a public official awards tenders to a company in which he/ she owns shares.

The above stated manifestations of corruption do not serve as a complete list. Some of these manifestations are related and interlinked for example nepotism is an even narrower form of favouritism because it covers only family members. The underlying factor is that the manifestation of corruption involves personal gain for public officials. It is important for the organisation to recognise the different dimensions of corruption, so that these can be combatted accordingly.

2.3. Measuring corruption

The measurement of corruption has become increasingly important in recent years because this quantification assists in effectively fighting it. Prior knowledge of the nature and degree of the impact of corruption is necessary in order to quantify it (Balía, 2005:36). Measuring corruption is also essential in establishing the major areas in which corruption is more prominent. Furthermore, measuring corruption highlights the costs and consequences of corruption and thus various groups can get actively involved in fighting corruption. Policy makers can utilize the various measurements of corruption to detect areas within the public sector in which corruption is rife. This helps to identify the risk areas and policies can then be developed that target these areas.

A major challenge, though, besides the fact that corruption is difficult to define, is that it is also difficult to measure and quantify, because it is an obscure activity. It thus needs to be reported in order to be measured. Corruption cannot be measured objectively because it has low visibility and its confines are not clearly specified (Larmor and Grabosky, 2001:179).

In most countries on the African continent, corrupt activities are conducted in an undisclosed manner, resulting in detection and measurement being difficult. It has been suggested that the extent and impact of corruption in an economy can be determined by examining official public records. Unfortunately, most countries in Africa are not known for their good record keeping. In fact, in many countries, it is not unusual for government records to turn up missing or destroyed by fire of unknown origin. In addition, some departments do not keep accurate records of assets entrusted to them. Under such circumstances, it is usually impossible to determine how many public assets have been illegally seized or how much money has been misappropriated from public financial records (Mbaku, 2007:27).

Media reports on corruption can be used to assess the frequency of corruption. This is not always reliable because not all countries have an independent press that is capable of investigating corrupt activities. It is also difficult to obtain information on corrupt activities, given the fact that most of these are carried out in secret and that most newspapers do not have enough resources to devote to investigative work (Mbaku, 2007:29). In many African countries, most people do not consider stealing from the government as a negative behaviour and are not likely to report an incident of corruption in the press. High levels of poverty and material deprivation force many people to be preoccupied with meeting their daily basic needs and they are unlikely to be interested in devoting much time in helping the government or the press document and report incidents of corruption (Mbaku, 2007:29). This poses a challenge in measuring corruption, due to limited data and the low levels of willingness for people to report. There is thus a need for more reliable methods to assess levels of corruption.

Consequently, most countries rely on Transparency International, an international agency that has been actively involved in collecting data that assists in assessing the prominence of corruption. It provides statistics of corruption based on subjective judgment and expert opinion (Larmor and Grabosky, 2001:179). Transparency International compiled the Global Corruption Barometer 2013, which surveyed approximately 1000 people in each of the 107 countries between September 2012 and March 2013. This barometer provides insight into people's personal experiences of encountering corruption and their opinions on corruption within their country (DPME, 2012:95). Below is a table that shows South Africa's ranking position and corruption perception score on the Transparency International's CPI between 1998-2012.

Table 2.1: Transparency International's CPI for South Africa: 1998-2012 (DPME, 2012:95)

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Ranking position	32	34	34	38	36	48	44	46	51	43	54	55	54	64	69
No. of Countries	85	99	90	91	102	133	146	159	163	180	180	180	178	183	176
Corruption Perception Scores	5.2	5.0	5.0	4.8	4.8	4.4	4.6	4.5	4.6	5.1	4.9	4.7	4.5	4.1	4.3

According to the CPI results shown in Table 2.1, the perception score for South Africa increased from 4.1 in year 2011 to 4.3 in year 2012. The rank for South Africa also increased from being 64th to 69th in the country rankings (see Table 2.1). This reflects a perception of increased corruption in South Africa. This low ranking is of concern and necessitates serious attention, according to DPME (2012:95). The International Global Corruption Barometer for 2013 reveals that 47% of South Africans have reported to have paid a bribe to government officials (Transparency International, 2013a: 34). This is 20% higher than the global average (Transparency International, 2013a:3). Kar and Le Blanc (2013:13) also revealed that between 2002 and 2011, the South African public sector experienced losses to the value of US\$100 billion as a result of corruption. Furthermore, it is estimated that in 2011 alone, US\$23 billion was lost due to corruption (Kar and Le Blanc, 2013:13).

2.3.1 Critique of the Transparency International Corruption Index (CPI)

The CPI has been criticized by various scholars due to its inconsistencies (Van der Merwe, 2004:68). Firstly, the CPI is based on perception and not on hard core evidence. The index might also be distorted due to the varying sizes used in surveys. Furthermore, the basis of the selection of the countries that have been included has been criticized because some countries are not included, in particular Middle Eastern countries (van der Merwe, 2004:68). Another weakness is that the CPI only focuses on the receiving end of corruption, namely the bribe payers, but hardly considers the bribers, who are the ones who supply the corrupt officials. An increase in a perception index also does not necessarily mean that corruption has increased; the change in perception could have occurred due to other factors, such as an increase in the media coverage of corrupt activities (DPME, 2012:95).

As mentioned above, perception indices are mostly based on individuals' perceptions and experiences, which can be a distortion of reality (Mbaku, 2007:30). Bias in the perception of corruption frequently emerges as there is limited understanding of other co-workers, which is normally caused by language and cultural barriers (Mbaku, 2007:30). In South Africa, there are 11 official languages and various different cultures. When people from diverse backgrounds work together, there might be misunderstandings. Some individuals might thus misinterpret certain activities as being corrupt when this may not necessarily be the case. For example, gift giving is regarded as a normal practice in African cultures. However, individuals who do not understand this concept might see it as corruption (Pillay, 2013). The media also plays a role in influencing how people view the occurrence of corruption in South

Africa. If there are constantly news reports on corruption in the media, this might portray an increase in corruption, whereas the reality may be different (Mbaku, 2007:30). Measuring perception may consequently be misleading, because perception does not equate to reality.

Despite the shortcomings of the CPI described above, it is to date the most reliable corruption measurement tool. Its indicators reveal the areas that need to be tackled and thus where effective policies need to be implemented. Until other reliable measures are found, researchers are likely to continue to rely on the existing indices to investigate corruption (Mbaku, 2007:32).

2.4 Causes of corruption

The literature shows that there is debate on the causes of corruption (Robinson, 1998:4). There are various analytical approaches that are employed to describe the causes of corruption. It is important to understand these causes in order to address the problem effectively. This section will review the different causes of corruption.

2.4.1 Monopoly, Discretion and Lack of accountability

The causes of corruption cannot be viewed in isolation from other factors, because these are intertwined. Klitgaard (1998:4) suggests the following equation that draws together a number of factors:

$$C = M + D - A$$

Where: *C* is Corruption; *M* is Monopoly; *D* is Discretion; and *A* is Accountability

The public sector acts as a monopoly in various services such as the provision of certain goods and services. These include the use of police, tax, migration/visa services and export permits. In the presence of a monopoly, officials use their discretionary powers and are frequently enticed to extract monopoly rent. Corruption thrives if an organisation or a person has monopoly over a certain good or service. Monopoly creates certain rents that are hefty in highly regulated economies (Klitgaard, 1988:43).

Discretion, meanwhile, is an important element in the discussion of corruption. In the absence of infallible rules and regulations that control all the actions and activities of public officials, the latter are bestowed discretionary powers and some flexibility in their decision-making (Myint, 2000:38). Normally, the public official is trusted to make wise decisions and exercise

good judgement. However, this is often abused as officials use this privilege for making discretionary decisions to engage in corrupt behaviour. Discretion is also prominent when there is a lack of efficiency within the public service (Mbaku, 2007:75). The equation on the previous page also suggests that the absence of accountability leads to corruption. Accountability deals with the appropriate compliance towards rules and regulations. Furthermore, the public officials who are administering the procedures should be held accountable for their actions (Myint, 2000:38). With a lack of accountability, corruption thus becomes rife.

2.4.2 Lack of administrative controls

Corruption is salient in the absence of administrative control. According to Grobler and Joubert (2004:109), corruption occurs when there is no transparency in authorizations made by government officials. The public sector is guided by various rules and authorizations exerted by public officials when providing a service to the public. However, these give some monopoly to the public official, and the latter can therefore determine who receives or does not receive an authorization. Authorizations are frequently ambiguous to the public and public officials often function with discretion and can thus extract bribes (Tanzi, 1998:566-567).

The heads of most government departments often have too much power entrusted to them in that they can abuse that power and may tend to demand bribes in regulations and authorizations (Grobler and Joubert, 2004:93). Furthermore, when a certain individual has control over a department, there may be excessive administrative secrecy and discretion, which can result in corruption. The lack of transparent procedures makes the control of corrupt activities much more difficult (Tanzi, 1998:575). This is because a lack of openness and transparency in decision-making enables public officials not to be held accountable for their decisions or actions, thus promoting fraud (Grobler and Joubert, 2004:93; Tanzi, 1998:575).

2.4.3 Bureaucratic red tape and Inefficiency

In South Africa, there are excessive and rigid administrative routines and procedures that public officials have to follow in order to accomplish their duties (Kyambalesa, 2006:109). This rigidity emerges from the monopolization of power in decision-making procedures,

which does not promote the sharing of new ideas that can improve current practices. Thus, public servants may tend to circumvent responsibility if they are faced by unforeseen problems that are not regulated by law (Kyambalesa, 2006:109). The bureaucratic red tape, which results in unnecessary delays, creates obstacles for clients. Consequently, the public officials may view this as an opportunity to extract bribes from clients who want to avoid the complex rules and rigidity.

2.4.4 Ineffective judiciary and penalty system

According to Kyambalesa (2006:109), weak judicial systems are a breeding ground for corruption. This is because of the lack of a fair and impartial adjudication process. Even though corruption is rampant in South Africa, the prosecution rate is very low (Grobler and Joubert, 2004:93). Frequently there are discrepancies between what the law states as punishment and that which is ultimately handed down (Tanzi, 1998:575). Prosecuting corruption cases can be cumbersome because it can be problematic to substantiate them. There is also the prerequisite to have irrefutable evidence and this causes some problems in the prosecution process (Grobler and Joubert, 2004:93). Witnesses and whistle blowers may also be disinclined to disclose corrupt activities because they have to sacrifice some of their time and effort to ensure that justice is served. However, this process is slow and burdensome and some cases are never prosecuted. Furthermore, often whistle blowers feel intimidated to testify in court and they may also feel that the judicial system is ineffective and incompetent in dealing with corruption (Grobler and Joubert, 2004:93). This may promote and perpetuate corruption.

2.4.5 Greed

Greed is the root cause of corruption (Kyambalesa, 2006:109). Mavuso and Balia (1999: 188), cited in Grobler and Joubert (2004:91), also propose that ultimately corruption revolves around greed. Greed undermines the overall human quality inherent in the human condition (Caiden, 2001:23). It can thus be found among public officials. Greed influences the public official to put his/ her interests ahead of the public interest (Kyambalesa, 2006:109). Greed can be seen as a selfish motive as it only focuses on satisfying the corrupt officer's needs instead of the general good. Some public officials feel that they are entitled to reward themselves due to their perception that they are not being adequately rewarded. Greed is detrimental to the efficient functioning of the public sector.

2.4.6 Low pay

In South Africa, it is suggested that many public officials have poor salaries and working conditions (Heyman and Liepitz, 1999:8). Low wages have also contributed to a decline in public sector effectiveness and efficiency as employees expect to be paid according to their performance (Grobler and Joubert, 2005:404). There are also those public officials who do not receive any incentives in their jobs, which may otherwise have motivated them to effectively execute their duties. Involvement in corruption may provide them with incentives and opportunities, for example for gaining additional income that they would not have had otherwise (Kyambalesa, 2006:109).

2.5 Consequences of corruption

Corruption is a pervasive characteristic of the use of governmental power and a persistent, often chronic handicap of governmental existence globally. It has a cancerous effect on the community if it is left unchecked and unrestrained. However, some scholars argue that there are some social benefits associated with corruption; the functioning of governments, for example, may be improved because officials can skip redundant bureaucratic red tape (Klitgaard, 1988:47). It has also been argued that corruption can be beneficial in the effective operation of a bureaucracy in that it allows the hastening of certain processes, thus promoting government functioning with ease (Habtemichael, 2009:76). However, the detrimental effects of corruption outweigh its perceived benefits (Klitgaard, 1988:36). It is therefore crucial to consider the detrimental consequences of corruption in South Africa so as to further understand this phenomenon.

Some individuals involved in corruption may find it to be fascinating because they are cheating the system by gaining rewards that they did not acquire legitimately, and they may be able to get away with committing such unlawful acts (Caiden, 2001:231). In corrupt activities, the rules are broken and standards are bypassed, which leads to decreased order within the public service. When self-interest replaces the public interest, the public is left to endure the consequences and this is detrimental to a democratic society, such as South Africa (Caiden, 2001:231). According to the Global Financial Report, cited in News24 (2012), for example, South Africa has suffered tremendously from corruption within the public sector, with an illegal outflow of R185 billion between 1994 and 2008.

2.5.1 Discourage investment

According to by Mauro (1995) and Kaufmann (1997) as cited by Camerer (2009), corruption has a negative impact on the economy. This economic impact occurs in different ways. Firstly, when a nation is labelled or viewed as being corrupt, this reduces the number of businesses or individuals who are willing to invest in the country. This is because corruption leads to lack of confidence in markets already affected by other factors and is limiting to both foreign and local investments (Kroukamp, 2012:7). Therefore, investors tend to shy away from such risks, which are part of the uncertainty of doing business in that country.

On a local level, emerging entrepreneurs often face obstacles of requiring the payment of bribes and kickbacks for their start-ups, which contributes to higher costs that they cannot afford. This has a negative effect on job creation and the development of small businesses (Heymans and Lipietz, 1999:19). Corruption thus creates uncertainty and unpredictability within business transactions in which public officials extract rents through abusing the power bestowed upon them. This corruption leads to decreased foreign investment, which lowers the national economic growth rate and has a detrimental effect on the economy (Tooley and Mahoi, 2007:369; Kyambalesa, 2006:112; Azfar *et al.* 2001:50; and Gupta *et al.* 2002:24).

2.5.2 Distortion in government expenditure

Corruption also introduces distortions in the procurement process whereby the price is inflated than the original cost price. Furthermore, corruption increases the operating costs incurred by the government as government officials inflate the cost price so that they can pocket the difference. Corruption is an obscure activity and the various public sector departments do not anticipate for the resources that are lost through corruption (Olken, 2012:17). Therefore, corruption is often associated with efficiency costs, such as waste and the misallocation of resources. To illustrate this, it was found that due to wasteful and fruitless expenditure, South Africa lost R2133 million in the financial year 2012/13 (see Annexure A). The cost of doing business in government is thus inflated. Falsifications on government expenditures also occurs when officials attempt to conceal their corrupt acts by replacing the types of goods procured, which makes corruption even more undetectable. The impact of corruption has resulted in the cost of goods rising by 20% in South Africa (Booyesen, 2012:44). The victims of this are the poor people who are relying on the government to provide them with affordable services, as described below.

2.5.3 Diversion of resources

The diversion of public resources in terms of the amount of time, goods or public officials that are misused through corrupt activities strains the resources meant for the public good. Corruption is very costly to the rest of the public, especially to the poor members of society. This is because the resources and the provision of services that were meant for the poor are diverted to the personal funds of public officials (Tooley and Mahoai, 2007:369). According to The Fight Against Corruption (TFAC), cited in Booysen (2012:42), the R30 billion lost annually due to corruption in the public sector could have been used for “600 000 new low cost housing, 60 hospitals with 280 bed capacity each, 3 000 rural clinics and 915 new schools”. This could have improved the lives of the people of South Africa, in particular the poor.

2.5.4 Increased inequality

Research has shown that there is a relationship between corruption and income inequality. Where corruption is rife, the gap between the rich and the poor widens. The poor are also subjected to paying the extra fees of services to which they are entitled, and are thus trapped in a cycle of corruption (Tooley and Mahoai, 2007:369). For example, an individual who earns approximately R1500/month is asked by a public official to pay a R250 bribe to secure a subsidized house. Due to his financial state, he loses the house. On the other hand, someone with a higher income will be able to secure the house. Therefore, for a poor person, paying a bribe accounts for a large part of his/ her income and the individual may be likely to lose some of the benefits to which he/ she is entitled (Davids, 2012:46). Below is a diagram that illustrates the cycle of corruption among the poor and vulnerable people.



Figure 2.1: The author's depiction of the corruption cycle

2.5.5 Decrease in social spending

Corruption also affects social spending, and various researchers have found that corruption favours public investment such as constructing new roads and facilities compared to operations and maintenance of government infrastructure (Gupta *et al.* 2002:24). Corrupt public officials tend to support projects that involve large sums of money, are complex and are rare projects that are out of the norm. These projects can be large defence or infrastructural projects (Heymans and Lipietz 1999:15). Such projects make it quite easy to defraud large amounts of money without much detection. Thus, the cost of undertaking such projects becomes inflated or overstated. In most instances, corruption results in the construction of sub-standard buildings using inferior materials that compromise the quality of the end product. Corruption hinders the vast opportunities for the creation of better opportunities that can be created by only employing a fraction of the resources. Therefore, instead of promoting the general public good, corruption facilitates the distortion of public spending, which does not add value but only increases costs (Heymans and Lipietz, 1999:17). Funds that were intended for poverty alleviation are thus redirected to corrupt individuals and this has a detrimental effect on the development of human capital and in reducing poverty (Gupta *et al.* 2002:24).

2.5.6 Undermining efficiency

Corruption has a detrimental consequence because public officials are motivated to extract rents, thus utilizing much of their time and energy being unproductive in their responsibilities. They may also divert their tasks so that they can have a monopoly (Klitgaard, 1988:43). The rents are often referred to as “speed money”, which gives the impression that the said public officials will speed up the process. This has led, however, to rents becoming a required fee and then an extortion fee and ultimately resulting in inefficiency in the provision of services. Therefore, corruption can be viewed as being efficient but once it is ingrained, it is no longer efficient (Klitgaard, 1988:42). This leads to ineffectiveness and inefficiency in the delivery of public service. Furthermore, most of the public officials are appointed based on political loyalty and not on merit or skills. For example, Bheki Cele (former National Police Commissioner was fired on charges of corruption and maladministration) recently was appointed as Minister of Agriculture, Forestry and Fisheries, a position he is not qualified for and has no prior experience. An assumption can thus be made that most ministers are in positions that they are not qualified for. In South Africa, there are some ministers and senior public officials who assumed office with no prior experience or qualified for the position or, in some cases, formal training (Mafunisa, 2000:94). Therefore, some of the public officials are ill-equipped and ineffectual to perform their duties. This severely undermines good governance (Mbaku, 2007:65).

2.5.7 Loss of public confidence

Any corrupt activity can result in decreasing public interest and the loss of public confidence. The general public may witness corrupt activities occurring and this reduces the confidence people have in the impartiality, integrity and honesty of public officials. Corrupt public officials thus violate the trust and confidence that the general public has in them to deliver public services (Tooley and Mahoi, 2007:369). Where there is corruption, public officials often demonstrate unsatisfactory performance and are inept, which also corrodes public trust. This undermines the relationship between the public official and the public even further. The public suffers greatly because adequate service delivery does not occur (Caiden, 2001:230), as outlined in the next sub-section.

2.5.8 Poor service delivery

One consequence of corruption that is often overlooked is service delivery protests, which usually occur as a result of frustration with the slow pace of service delivery. The latter is often a result of corruption (Burger, 2009). Corruption is one of the major causes of poor service delivery, particularly for the poor people in informal settlements who have no other means to express their discontent but through protest. According to Sello (2014), the lack of services, nepotism and corruption in municipalities, has been the instigator of corruption in local government. Various communities across South Africa have been increasingly been involved in violent protests due to their growing frustrations (See Annexure B). In South Africa, there has been an increase in the number of protests from 10 in 2004 to 141 in 2013 (see Figure 2.2 below), which may have been due to anger at corruption. This highlights that corruption has afflicted the public sector and has had a detrimental effect on service delivery (Mbeki, 2011).

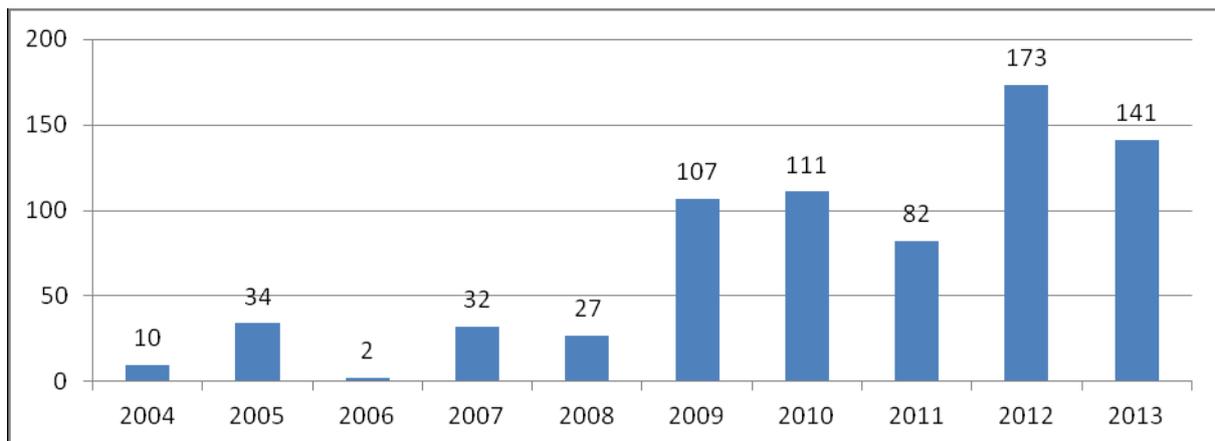


Figure 2.2: Service delivery protests in South Africa between 2004 and 2013
(Municipal IQ, 2013)

2.5.9 The spread of the culture of corruption

Individuals become involved in the act especially concerning petty corruption because it is perceived as a victimless crime whereby the illegal acts are not viewed as damaging to other people. However, where corruption is concerned, there is no such thing as a victimless crime. The public officials and other perpetrators with such an ideology disregard the consequences of corruption (Syed, 1997). The notion of a “victimless crime” could arise because with corruption, unlike other crimes such as murder or robbery in which the victim is

clearly identifiable, the victim is the public sector. The public may not be conscious of the crime and it is mostly grand corruption that it is detected (UNDOC, 2002:183).

The notion of a “victimless crime” allows for an approach or values that promote corrupt acts and thus corruption is viewed as a norm (Syed, 1997). Any corrupt act involves the violation of rules and procedures, so once a public official discovers that he/ she has the leeway to apply these rules arbitrarily with no consequences, he/ she can take advantage of this and intensify the corrupt acts (Kroukamp, 2012:7). According to Syed (1997), corruption is evolutionary because it is progressive in moral depravity and becomes viewed as a norm.

Furthermore, when other public officials observe colleagues or supervisors engaging in corrupt activities, the behaviour can become tolerated. When public officials require or accept bribes and kickbacks, this is communicated as something that is acceptable and even encouraged among other public officials. A culture of corruption and greediness emerges with no respect for ethical standards. Formal rules are discarded and informal rules that involve corruption become daily practices in delivering public services (Kroukamp, 2012:7).

2.6 Public sector anti-corruption initiatives

Since the dawn of democracy in 1994, South Africa has adopted various wide-ranging anti-corruption strategies that reflect its determination in the fight against corruption. The commitment made by the South African government through the various legislation and initiatives is recognised in principle, but the implementation falls short of the expected outcome. There are many overlapping mandates and uneven implementation, which has a negative impact on the enactment of these initiatives and the law (DPSA, 2003:6).

As mentioned in 1.1, the South African government has also adopted the Batho Pele principles, which were established to provide a standard policy and legislative framework to which public sector officials need to adhere in the delivery of services to the general public. The core values of the Batho Pele principle are derived from the South African Constitution (1996), which advocates for equality, fairness, professional ethics and the efficient use of resources. All this ultimately promotes transparency. Therefore, all procedures and processes within the public sector should be in accordance with the Batho Pele principles.

The next section considers what the South African government has done in terms of initiatives that have been put in place as anti-corruption strategies. These include conventions, legislation, anti-corruption agencies and engagement with civil society.

2.6.1 International and Regional Anti-Corruption Conventions

As the world becomes more connected, corruption begins to transcend borders. There is thus a need for international and regional anti-corruption conventions that allow countries to join forces to combat corruption. South Africa is actively involved in international and regional conventions. These conventions provide a framework that countries can use to guide them in how to effectively fight corruption. The conventions also bind the South African government to combat corruption (Corruption Watch: 2013). A list of conventions that South Africa has signed is presented below:

- (i) **United Nations Convention against Corruption (UNCAC):** This is a multilateral convention that was convened by the United Nations (UN). The UNCAC Convention is an international anti-corruption mechanism that is lawfully binding, with comprehensive standards that can be implemented by all nations to develop and reinforce strong anti-corruption mechanisms. It also demands countries to have preventative measures, criminalize all forms of corruption and return any resources that were gained through corruption to the country from which the goods were taken (Davids, 2012:103);
- (ii) **African Union Convention on Prevention and Combating Corruption:** This is an agreement that was adopted in 2003 by African countries to promote the deterrence and outlawing of corruption through international cooperation and the recovering of assets. The convention is comprehensive. It recognises various crimes such as bribery and money laundering (Davids, 2012:110);
- (iii) **The Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention:** This Convention was designed by the OECD specifically for developing countries. It is intended to reduce corruption by imposing sanctions related to bribery and involving countries that are member states. Its aim is to create an economic environment that provides equal opportunities for everyone. Member states are also mandated to legislate against the bribing of foreign public officials, which aids the fight against international corruption (Davids, 2012:111); and the

- (iv) **Southern African Development Community (SADC) Protocol against Corruption:** This is the first sub-regional anti-corruption treaty in Africa. Its aim is to strengthen and develop anti-corruption strategies. It provides preventative and enforcement mechanisms by promoting access to information and the protection of whistle blowers (DPSA, 2003:14).

The above mentioned conventions are the first step for South Africa to keeping a promise to the convention. It is imperative that countries adhere to the principles stipulated in the conventions. However, one often asks how society can ensure that countries adhere to these principles. Transparency International (2013b) suggests that countries should hold each other accountable, as well as civil society to be actively involved in this process. This is also done by tracking the country's progress and the systems and legislation that has been implemented. In South Africa, the conventions help to strengthen the anti-corruption strategies that are already in place and complement the existing legislative framework described in 2.6.2 below.

2.6.2 Legislative Framework

The South African legislative framework has changed since 1994. It has become more comprehensive and encompasses many aspects that might involve corruption. The South African government has made strides in ensuring that legislation has become a foundation for combatting corruption. The current legislative framework includes the following (DPSA, 2008:13-14):

- (i) **The Prevention and Combating of Corrupt Activities Act (Act 12 of 2004):** This Act offers mechanisms for the reinforcement of anti-corruption strategies. It involves the combating, prevention and prosecution of corrupt activities. It also stipulates the proper measures to report as well as investigate any corrupt activities, and institutes a record of all companies and individuals who have been convicted of corruption;
- (ii) **Constitution of the Republic of South Africa (1996):** The Constitution advocates for high professionalism within the public sector. It also encourages accountability and transparency, thereby promoting good governance;
- (iii) **Public Finance Management Act (PFMA) (Act 1 of 1999):** This Act is used as a mechanism to control the management of finances in a transparent and accountable manner in the national and provincial levels of government, as well as in other public

institutions. The Act encourages the efficient and effective use of resources through good financial management, thereby maximising service delivery;

- (iv) **Promotion of Access to Information (Act 2 of 2000):** This provides the foundation for an open, transparent and accountable government. It allows for the access to information held by the State or by any other person that is required for the exercise and protection of any rights;
- (v) **Protected Disclosures Act (Act 26 of 2000):** This makes provision for the procedures in terms of which employees can report any wrong doing or corrupt practices within their organisation; and the
- (vi) **Promotion of Administrative Justice Act (PAJA) (Act 3 of 2000):** This Act requires that administration within government be fair, reasonable and lawful. It allows for the public to demand accountability and written reasons for decisions that might seem to be influenced by corruption.

2.6.3 Government Strategies

In order to combat corruption, the South African government has adopted different strategies. These strategies are comprehensive and cover most aspects of the public sector, as highlighted below:

- (i) **Public Service Anti-Corruption Strategy (PSACS) (2002):** The main goal of the PSACS is to reduce the manifestation of malfeasance within the public sector. It also outlines nine strategies that will help in combating corruption. These strategies include receiving, managing and investigating all corruption charges, the formulation of anti-corruption policies and improving accountability within the public sector (DPSA, 2002:2-6);
- (ii) **Local Government Anti-Corruption Strategy:** This is an anti-corruption strategy specifically designed for municipalities. Its aim is to promote good governance and accountability by prioritizing the general public interest;
- (iii) **National Anti-Corruption Forum:** This is a government initiative that reflects government's commitment to fighting corruption. Its main purpose is to guide, organize and monitor the national Anti-Corruption Programme (Davids, 2012:115); and the

- (iv) **Special Anti-Corruption Unit:** This is a legislative body that was established by the Department of Public Service and Administration (DPSA), and which was created as a support structure for the various departments in the public sector to effectively curb corruption. It is mandated to investigate and indict those responsible for corrupt activities and has authority over officials in all three levels of government, namely local, provincial and national government (PSC, 2001:73).

2.6.4 Anti-corruption agencies

The fight against corruption in South Africa is decentralized to various agencies. This means that there are various agencies that deal with investigating, are able to co-ordinate and work together to fight corruption (PSC, 2001:98). For example, the Public Service Commission (PSC), the Public Protector and the Special Investigating Unit all deal with cases involving maladministration (PSC, 2001:99). The government uses the bodies listed below to support the legislative framework for anti-corruption (DPSA, 2008:16):

- (i) **Special Investigating Unit (SUI):** This is the only State agency solely dedicated to combating fraud. It was created by the President's office in 2001 as an independent constitutional body. Its main role is to investigate any form of corruption in the public sector, upon request by the President. The SUI reports the process and the outcome of the investigation to the President. The SIU is not mandated to arrest and prosecute suspects (DPSA, 2008:16);
- (ii) **Auditor General:** This is an independent and impartial body instituted by the Constitution (1996). It is the only supreme audit institution mandated by law to audit and monitor the government's expenditures. It provides quality audits that promote accountability and transparency within the public sector and thereby encourages good governance (PSC, 2001:11);
- (iii) **Office of the Public Protector (Ombudsman):** The Public Protector is mandated to investigate any alleged corrupt activities found within the public sector or any sphere of government and propose remedial actions on how to address the issue. It aims to promote accountability and improve fairness and efficiency within the public sector (DPSA, 2008:19);
- (iv) **Public Service Commission (PSC):** It was established by the terms of the Section 196 of the Constitution of the Republic of South Africa (1996). It is regulated by the

Public Service Commission Act (1997). It is an independent and impartial body that aims to promote integrity and accountability within the public sector. Thus its role is to investigate, monitor and appraise all activities conducted within the public sector. Furthermore, it is mandated to supervise the National Anti-Corruption Hotline that facilitate reporting corruption (PSC, 2001:26);

- (v) **Directorate for Priority Crime Investigation:** This is also referred to as the Hawks. It is an independent body within the South African Police Service (SAPS). Its functions are derived from Section 205 of the Constitution (1996), as well the Prevention and Combating of Corrupt Activities Act (2004). Its main role is to combat and investigate serious organized crimes, which includes crime involving corruption (Faull and Mtsolongu, 2009:17) and the
- (vi) **National Prosecuting Authority (NPA):** The NPA is a constitutionally independent, centralized prosecuting authority that has the power to enforce criminal proceedings on behalf of the State. It has specialized units, such as the Witness Protection Unit, Asset Forfeiture Unit and Specialised Commercial Crime Unit (PSC, 2001:52).

The abovementioned South African agencies face limitations in that there is limited capacity in enforcing the anti-corruption legislation referred to in 2.5.2. Corruption cases are brought to the courts, however, they are overburdened and also suffer from backlogs, postponements and withdrawals in corruption allegations. Ultimately, it leads to the perpetuation of the prevalence of corruption (DPSA, 2003:7).

2.6.5 Civil society actively involved in anti-corruption activities

Civil society has increasingly become important in the fight against corruption, not only in South Africa but internationally. Civil society helps to keep governments accountable for their actions, monitors trends in corruption and contributes to the drafting of whistle blowing legislation. A list of civil society organisations that support the South African government in curbing corruption is provided below:

- (i) **Transparency International:** This is a global non-governmental organisation actively involved in the fight against corruption. It monitors and publicizes literature on corruption. This includes the annual CPI, the Global Corruption Report and Bribe Payers Index. These tools have been used widely in determining the extent of

corruption in various countries by also making comparisons between the different countries (Transparency International, 2013b:1-2);

- (ii) **Corruption Watch:** This is a platform used by the general public to report corruption cases. It also investigates reports of suspected acts of corruption that might have significant negative impacts on the general welfare of the public. The organisation is actively involved in research that analyzes the incidences of corruption in South Africa. It also organises and hosts campaigns that mobilize people to take a stand against corrupt activities (Corruption Watch:2013);
- (iii) **Institute for Security Studies (ISS):** This is an African organisation, based in Pretoria, South Africa, which aims to enhance human security on the continent. It deals with various issues such as governance, crime and justice. It also aims to reduce corruption by assisting African governments to develop evidence-based guidelines, regulation and policies and to improve the performance of their criminal justice systems (ISS, 2006:14-15); and the
- (iv) **Open Democracy Advice Centre (ODAC):** The main purpose of this organisation is to promote open and transparent democracy, as well as government accountability. It also assists in the effective application of laws, which enables access to and disclosure of information. The aim of ODAC is to provide tangible differences and thereby contribute to social and economic justice. This is done by promoting transparency and accountability, enhancing access to information and supporting whistle blowers (ODAC, 2014:41).

The value of civil society organisations in South Africa in ensuring that public officials operate transparently and are held accountable cannot be overemphasized. In South Africa, as seen above, civil society organisations are mostly engaged in researching corruption and assisting in the drafting of legislation.

2.7 Summary

The aim of this chapter was to conceptualise corruption within the public sector context. The focus was on the causes and consequences of corruption, as well as anti-corruption measures that have been put in place in South Africa. Having some understanding of corruption is important in devising ways to fight the problem. There are several definitions for corruption, but all these essentially are about public officials abusing their power for private gain.

Corruption also manifests in different forms, for example institutional, incidental and systematic (see 2.2.1). When corruption becomes entrenched in an organisation, it becomes difficult to control.

Another important aspect of corruption is its measurement. This chapter has highlighted that it is important to measure corruption in order to establish where corruption is prevalent; focus can thus be turned to these areas. It is evident that there are negative consequences associated with corruption. The major negative consequence is that resources are diverted and the poor suffer the most from corruption, due to the decrease in public spending.

The South African government has been actively involved in anti-corruption initiatives. Recently, the government has increased its anti-corruption initiatives and this has been discussed in this chapter. There are several comprehensive legislative frameworks whose aim is to curb corruption. Furthermore, there are various agencies that are mandated to fight corruption. This is evidence of the South African government's commitment to fighting corruption, however based on the news coverage it is rather disappointing, with such a comprehensive anti-corruption framework, that South Africa performs so poorly in combatting corruption.

This chapter has emphasized that there is a need to address corruption and the first step is for an individual to report it through the whistle blowing process. The following chapter focusses on analysing whistle blowing as a tool that can be employed to eradicate corruption. It clarifies what whistle blowing entails in the public sector context.

CHAPTER 3

CONCEPTUALISING WHISTLE BLOWING AS AN ANTI-CORRUPTION TOOL

3.1 Introduction

The previous chapter highlighted the impacts of corruption and its detrimental effects on society. South Africa, as a developing country, faces both real and perceived problems related to corruption (Heymans and Lipietz, 1999:10). Despite this, there are various pieces of anti-corruption legislation, as well as agencies and civil society organisations that are supposed to be working to combat corruption. The effectiveness of all this is limited, though, if no one reports corruption, worse if not combated. There is a need for individuals who witness corruption or any wrongdoing to disclose this through the whistle blowing process. Therefore it is imperative to understand what whistle blowing is and what it entails, so that it can be used as a tool against corruption.

In recent years, whistle blowing in the public sector has become increasingly scrutinized on a moral, social and legal level. Whistle blowers play a crucial role in not only fighting corruption, but also promoting good governance in the public sector. Whistle blowing legislation thus forms part of the development of anti-corruption strategies aimed at creating a safer environment for whistle blowing (Auriacombe, 2005:85). In South Africa, whistle blowing is a somewhat new notion that gained popularity in the mid-1990s (Mhango, 2006:31; Uys, 2000:259). It has become a controversial and sometimes misconstrued concept. Within the public sector, whistle blowing is an issue that concerns not only the whistle blower, but also wider public interest. It should therefore be thoroughly scrutinized and studied.

The purpose of this chapter is to conceptualize whistle blowing. The focus is on defining whistle blowing and taking into the account its various perspectives. This chapter also discusses the characteristics of whistle blowers, the various types of whistle blowers, the whistle blowing process and the consequences of whistle blowing on both the whistle blower and the organisation.

3.2 Defining whistle blowing

The origins of the term “whistle blowing” have not yet been established (Johnson, 2003:4). Whistle blowing is generally associated with sporting activities in which the referee blows the whistle when there is foul play, rules have been broken in the game or the players need to be alerted to something. When someone hears the whistle during a sports game, it is thus to effectively stop any foul play. Miller, Roberts and Spence (2005:157) present an interesting analogy; these authors note that in the coal mining field, miners used to take a canary with them into a mine to smell trouble and raise the alarm. The canary can be compared to a whistle blower because the latter play the role of alerting the community to danger and, in so doing, may sacrifice themselves in light of danger (Miller *et al.* 2005: 157).

Before one can define whistle blowing, it is important to distinguish it from other terms with which is it commonly associated. Whistle blowing is not the same as sounding complaints or personal grievances, despite the fact that these may be protecting the public interest (Banisar, 2011). Furthermore, the terms “whistle blowers” and “informants” are often used interchangeably, whereas these individuals have different motives and morals (Banisar, 2011). Informants are, in most cases, involved in unethical activities and their disclosure of information is usually through coercion or due to a desire to avoid prosecution. Most informants also receive some remuneration, whereas whistle blowers do not expect anything for their troubles. Therefore, the whistle blower goes beyond personal grievances and complaints because he/ she is convinced that an illegal act is being conducted (Banisar, 2011).

The term “whistle blowing” began to be used in the literature and social sciences in the 1960s by Nader *et al.* (1972). He described a whistle blower as someone who alerts others to unfair, dishonest and unlawful activities (Banisar, 2011). Whistle blowing is often assumed to be a term that is well understood, with a clear meaning that does not require further clarification (Auriacombe, 2005:85). However, this is not so, as there are various definitions and understandings associated with the term. A whistle blower can be defined as a person who informs on a person or organisation regarded as engaging in an unlawful or immoral activity (Oxford English Dictionary, 2013). According to Near and Miceli (1985:3), whistle blowing can also be described as “the process whereby the whistle blowing involves the disclosure by organisation members (former or current) of illegal, immoral, or illegitimate practices under the control of their employers, to persons or organisations that may be able to effect action”.

From this definition, one can deduct that the whistle blowing plays a crucial role in exposing perceived wrongdoing within any organisation.

Jubb (1999:78), states that “whistle blowing” is a deliberate non- obligatory act of disclosure, which gets onto public record and is made by a person who has or had privileged access to data or information of an organisation, about non-trivial illegality or other wrongdoing whether actual, suspected or anticipated which implicates and is under the control of that organisation, to an external entity having potential to rectify the wrongdoing”. This definition views whistle blowing as a form of freedom of speech that any individual has the right to exercise. Even though whistle blowing is not mandatory, it is a process that requires thoughtfulness about serious crime that may be occurring in the organisation. The whistle blower is able to bring the case to the attention of the organisation and can also report it to external bodies. This definition identifies the whistle blower as witnessing an illegal act that has detrimental consequences to the organisation and reporting it to an external body. However, Jubb’s (1999:78) definition above does not include the reporting of an illegal act internally within the organisation.

Nader *et al.* (1972), cited in Banisar (2011) define whistle blowing as “an act if a man or a woman who believing that the public interest overrides the interest of the organisation he [or she] serves blows the whistle that the organisation is involved in corrupt, illegal, fraudulent or harmful activity”. This comprehensive definition is in line with most public considerations of what a whistle blower is, why their actions are significant, and why they are often likely to need security. Within the public sector context, whistle blowing is seen as a means to promote good governance and accountability (Cohen-Lyons and Morley, 2012:16).

As seen from the above definitions, whistle blowing can be viewed from different perspectives and has various interpretations. The above definitions also highlight the following four basic elements of whistle blowing: (i) the whistle blower, who witnesses a corrupt act and reports it; (ii) the nature or the form of the misconduct being disclosed; (iii) the organisation or individuals who are part of the organisation who are involved in an illegal act; and (iv) the individual or organisation that receives the disclosure of the misconduct/unlawful act from the whistle blower (Dasgupta and Kesharwani, 2010:1; Near and Miceli, 1985:4).

The definitions also view whistle blowing as a process. The process of whistle blowing should not be underestimated because it is often associated with risks that may involve thorough contemplation before the individual decides whether he/ she should blow the whistle or not. This process will be discussed in this chapter (see 3.5). Therefore, comprehending the phenomenon of whistle blowing is central to understanding the risks and dilemmas faced by whistle blowers. It is acknowledged that whistle blowing has an inherently hostile nature, especially if the individuals in the organisation are corrupt.

3.2.1 Types of whistle blowing

Whistle blowers have different channels that can be used to disclose corruption. These include the following (De George, 2010:300):

- (i) Internal whistle blowing: This disclosure is done within the organisation to a supervisor or manager;
- (ii) External whistle blowing: This is when an individual discloses information to outside bodies that are mandated to handle disclosure on corruption, such as law enforcement agencies. This type of whistle blowing occurs when a whistle blower does not get productive results or is not satisfied with the outcome of or responses to the internal whistle blowing and searches for other means of addressing the problem outside the organisation;
- (iii) Personal whistle blowing, which is when an individual discloses an act that affects him/ her personally. This is normally against an individual and not the organisation as a whole. For example, an individual can be sexually harassed and consequently disclose this;
- (iv) In contrast to personal whistle blowing, impersonal whistle blowing is when an individual discloses information that is not necessarily harmful to him/ her, but potentially harmful to other people or to the organisation; and
- (v) Government whistle blowing is when government employees disclose information about unethical practices occurring within government. This is different from whistle blowing in the private sector because it does not only involve the employee-employer role, but also involves the employee as a citizen who needs to play an active role in ensuring that the government is protecting the public interest (De George, 2010:300).

3.2.2 Types of whistle blowers

Despite the fact that there are certain features that influence employees to disclose any wrong doing, the literature does not clarify why certain individuals blow the whistle and others do not (Lewis, 2001:4). The clichéd approach in viewing whistle blowers is that whistle blowers are perceived as heroes; dedicated employees keeping a watchful eye on any misconduct that may occur. At the other end of the spectrum, a whistle blower can also be classified as a traitor.

There is a thin line between a hero and a traitor (Latimer and Brown, 2008:768). A hero can disclose corrupt acts, maladministration and the wastage of resources. In comparison, a traitor is perceived as someone who discloses confidential information and practices even though the whistle blower does the same (Latimer and Brown, 2008:768). Thus, it becomes a matter of perception. If the confidential information is violating the rights of the public, such as the recent case of Edward Snowden in 2013, who disclosed information to the media about the National Security Agency (NSA) spying on the American people and various other governments then there is need to blow the whistle (Van Cleave, 2013:7). This was and still is considered a controversial issue, as Edward Snowden is dubbed a hero by some for disclosing such misconduct, whereas others, such as the United States government, view him as a traitor for disclosing information that could be used by the enemy (The Bullpen, 2013). If a whistle blower is perceived as a traitor, he/ she becomes a target not only of retaliations, but also of retribution and persecution. In contrast, if a whistle blower is perceived as a hero, he/ she is seen as a good role model who has high ethics and promotes respectable standards within the public sector.

According to Lewis (2001:4), another category of whistle blowers is the defensive whistle blowers; these are employees who, if faced with disciplinary proceedings, disclose a wrong doing in trying to justify their poor performance. Whistle blowers can also be viewed as disloyal employees who cause trouble in the organisation and who thus deserve to be rebuked (Lewis, 2001:2). Another type of whistle blower, closely related to the defensive whistle blower, is the vengeful whistle blower. This type of whistle blower can be a former employee who divulges some wrong doing on the organisation's part as a way of gaining justice for his/ her alleged abuse by the former employer (Lewis, 2001:4).

Some whistle blowers are individuals who are willing to sacrifice their careers, welfare and sense of security in an attempt to stop the detrimental effects of corruption. From an observer's perspective, it is sobering to know that there are individuals who would go extra lengths to ensure that justice is served. However, this is also troublesome in that whistle blowers are viewed as individuals who are sacrificing their wellbeing for the greater good of society. This reveals that there are certain mechanisms that are lacking or not fully developed, and which thus prevent a retaliation-free whistle blowing process. In a highly ethical and moral organisation, whistle blowing would not be associated with heroes or traitors, but would be a common function for the organisation (Callard and Dehn, 2004:3).

3.2.3 History and perception of whistle blowing in South Africa

During apartheid in South Africa, there was separation and discrimination based on race. In this environment, the minority white population had control of resources while the black majority of the population was exploited and disenfranchised. The apartheid government had many tactics to suppress dissidents, and this included having spies permeating the whole society. In such a society, no one could be trusted because anyone could be a spy and those who were exposed to be spies were greatly despised and condemned. These spies and informers were referred to as *impimpis*, because they were viewed as traitors who aided the enemy and hindered the fight against apartheid. This negative connotation was the most abhorrent label that anyone could have and no individual wanted to be associated with such a label. *Impimpis* were often punished by being set alight with a tyre containing fuel placed around their necks (Louw, 2011).

This clearly shows that there is a negative view on whistle blowing and thus confused with spying, which has continued into the post-apartheid era. Many people today might thus be fearful of being called traitors or not loyal to their organisation. This has resulted in fewer people disclosing corrupt activities that they witness due to the stigma surrounding being regarded as an *impimpi* (Calland and Dehn, 2004:143). Many individuals may also not realise how important such disclosure is, especially in the public sector.

3.2.4 The importance of whistle blowing

Even though whistle blowing is viewed by some in a negative light, it plays an important role in disclosing corruption. Corruption and illegal activities in the public sector are concealed

activities that are often challenging to detect. In most instances, employees are the first to witness corrupt activities and thus are better placed to disclose any unlawful acts that they witness. This is crucial in the fight against corruption and the abuse of resources in government. Blowing the whistle has become a vital act because corrupt activities have detrimental consequences to society, as highlighted in 2.4. Whistle blowing is essential because it promotes accountability and good governance (DPME, 2012:446). Through whistle blowing, the public sector is able to address potential adversities as well as prevent large financial losses. However, in most scenarios, employees feel intimidated in reporting corrupt activities because of a fear of retaliation (Martin, 2010:5).

Another critical challenge concerning whistle blowing is that individuals might observe an illegal act and contemplate disclosing it, but may not know where to report the act or even who to trust so as not to face any reprisals. Therefore, it is important to have established, reliable systems within the organisation that individuals can utilize safely to “blow the whistle” (Martin, 2010:5).

3.3 The nature of wrong doing

The whistle blower determines what he/ she considers being a wrongful doing, which is an impetus for “blowing the whistle”. Some individuals, for example, might feel that stealing office stationery is a minor misdemeanour that does not warrant whistle blowing, while others will see it a problem that needs to be addressed (Miceli and Near, 1996:508). A whistle blower thus has to decide what constitutes wrongdoing in order to take appropriate steps. Some organisations have guidelines that stipulate the grounds for “blowing the whistle”. Different activities that warrant whistle blowing include the following:

- (i) Any illegality or infringement of the law;
- (ii) Fraudulent or corrupt conduct;
- (iii) Substantial misconduct, mismanagement or maladministration;
- (iv) Gross or substantial wastage of resources;
- (v) Endangering public health or safety and the environment;
- (vi) Dishonest or partial performances of duties;
- (vii) A breach of trust; and the
- (viii) Misuse of information (Miller *et al.* 2005:167)

There are different approaches to whistle blowing in different disciplines. The legal perspective stipulates that if a whistle blower discloses any wrongdoing in good faith, which has the central meaning of honesty and belief that the disclosed information is reasonably accurate or credible, it is thus in the public interest and ultimately promotes good governance (Easthorpe, 2010:9). The legislation may vary from country to country, but reporting in good faith still holds the same premise. The second perspective is the material perspective. This normally applies to auditors who look for any wrongdoing that may be materially detrimental to the organisation and pursue any clues that indicate potential fraud and corruption (Miceli and Near, 1996:104). The final perspective is the philosopher's perspective, which views whistle blowing as an ethical act in which the whistle blower evaluates his/ her morals to determine if any malpractice or wrong doing has occurred.

3.4 Factors that influence the whistle blower

An individual may witness some wrongdoing and, as highlighted in 3.3 determines if the act warrants being reported. Once it has been established that some wrong doing has been committed, there are variables that can propel the whistle blowing process. This section aims to analyze the various factors that might influence the whistle blower to report any wrongdoing.

According to various researchers, there is a positive correlation between self-confidence or self-esteem and “blowing the whistle” (Miceli and Near, 1992:103). Individuals with low self-esteem may be apathetic to activities that occur in the organisation and may thus be indifferent about corrupt activities; they are unlikely to blow the whistle compared to individuals with a higher self-esteem (Miceli and Near, 1992:103). Apathetic individuals are normally not interested in what is going on in the organisation and may withdraw from or ignore the wrongdoing that they witness. An individual with a higher self-esteem is more likely to take responsibility when he/ she witnesses a corrupt act. Furthermore, individuals with a high self-esteem usually distinguish themselves from others and perceive themselves to be more effective and likely to expose any wrong doing and take an appropriate course in resolving the issue (Miceli and Near, 1992:103).

There is also evidence that religious beliefs have an influence on the whistle blowing process (Miceli and Near, 1992:115). This is because most religions have core values that promote being truthful and “doing the right thing”. Therefore, a religious conviction can influence

certain individuals to blow the whistle. Religion gives individuals an identity outside their organisation that defines them and dictates how they should conduct themselves in their daily living (Miceli and Near, 1992:115). Consequently, when they are faced with someone who is committing a corrupt act, their religious beliefs may influence their decision to blow the whistle. However, there is no evidence that reveals that there is a direct connection between religious individuals and whistle blowing (Miceli and Near, 1992:115).

There is a positive correlation between the age of an individual and the number of years that he/ she has been in the organisation when whistle blowing is a variable. This suggests that younger in terms of age and period in organisation individuals are less likely to blow the whistle. Younger individuals joining an organisation often have little credibility and influence, and attempt to prove themselves to their superiors. They are more likely to therefore conduct themselves in a manner that will get them approval and recognition (Miceli and Near, 1992:115). These younger employees engage in actions that do not alienate them from their superiors, and this may include whistle blowing. Whistle blowing can be contentious in an organisation and they might lose credibility if their claims prove to be unfounded. When confronted with a decision to blow the whistle or not, younger workers may see this as a hefty cost to their career aspirations thus seldom report any misconduct that they witness (Miceli and Near, 1992:115).

In contrast to younger employees, who are hesitant to blow the whistle, older and more educated employees, and those that have been in the organisation for a long period of time are more likely to blow the whistle (Sims and Keenan, 1998:413). Whistle blowers are typically people who are well educated, hold professional positions, have a higher ranking within the organisation or have also been part of the organisation for several years. They have greater personal investment in the organisation compared to someone who has just joined the organisation (Miceli and Near, 1992:117). This investment is in terms of time, expertise, skills and other intrinsic rewards. These older employees care about what happens to the organisation and thus may be more motivated to blow the whistle to safeguard its interests and protect it from the consequences of corruption (Miceli and Near, 1992:118).

There is evidence that supports the existence of a positive relationship between job satisfaction and whistle blowing. Individuals who are satisfied in their jobs are more likely to be engaged with their jobs, and thus more likely to report any wrong doing. This is in contrast to the common perception of whistle blowers as disgruntled employees. Instead,

studies shows whistle blowers have a positive morale and outlook towards their job (Sims and Keenan, 1998:413). These individuals may observe that their organisation is indifferent to corrupt activities, and resort to whistle blowing as the only solution to address the issue (Dworkin and Near, 1997:7). Whistle blowers can thus be seen as diligent employees who report corrupt activities when they perceive that no other alternative is available.

According to Miceli and Near (1992:103), an individual needs to have a high tolerance of ambiguity in determining if a corrupt act has been committed. The process of identifying a corrupt act can be challenging because these activities are normally hidden and ambiguous, and thus difficult to detect. Whistle blowers need to possess certain cognitive skills in terms of how they process information to be able to decode any wrongdoing. These individuals are also constantly attentive in looking for any activities that may seem to be ambiguous (Miceli and Near, 1992:103).

3.5 Dilemmas faced in whistle blowing

According to Uys and Senekal (2008:38), the decision to blow the whistle does not come lightly to many whistle blowers. It can be argued that disclosing some unethical conduct within the organisation is welcomed in any organisation, but this is not always the case because many whistle blowers have faced retaliation and their loyalty in the organisation being questioned, as a result of blowing the whistle (Uys, 2000: 265).

Whistle blowing imposes a moral dilemma in terms of principles and loyalty. Whistle blowers may be viewed as being disloyal to their organisation, whereas employees are obligated to be loyal to their organisation (Uys and Senekal, 2008:39; Uys, 2008: 905). This loyalty calls for an employee to carry out his/ her duties as prescribed and to comply with ethical guidelines, so that the organisation can rely on employees safeguarding not only the interests of the organisation, but also of the public (Uys and Senekal, 2008:38). Waytz, Dungan and Young (2013:1032) argue that whistle blowers may perceive that disclosing corrupt activities benefits the organisation and that they are thus being loyal to the organisation. However, when an employee witnesses wrongdoing and discloses this, he/ she is often viewed as being disloyal, as discussed in 3.2.2. This is because whistle blowing risks the reputation of the organisation and also implicates other people in the organisation. This view hinders the fight against corruption because it implies that loyalty can only be determined by the organisation or by a certain individual. In this case, loyalty is not

reciprocal, but rather it is misplaced. However, loyalty can be appropriate despite it not being reciprocated (Larmer, 1992:126).

Employees also face a dilemma in staying silent because of the likelihood of major risks. In an organisation in which unethical conduct or corrupt activities are a norm, a whistle blower thus faces the dilemma of either reporting or conforming to the norm. The whistle blower might also have the belief that since there are many people who are aware of the corrupt act, the responsibility of blowing the whistle belongs to someone else. It is regarded as inevitable that the issues will come to light and be addressed (Uys and Senekal, 2008:38). By taking such a stance, employees also assume that they are being loyal to the organisation. Larmer (1992:128) argues that loyalty entails an individual having moral and just conduct to whomever he/ she is loyal and this has to be to be in the public interest. This dilemma is often faced by employees in blowing the whistle.

3.6 The process of whistle blowing

3.6.1 Stages of whistle blowing

The process of whistle blowing comprises the action made by a whistle blower and the organisation's reaction. According to Dasgupta and Kesharwani (2010:3), there are three stages involved in whistle blowing process. The first stage is when an individual observes unethical, illegitimate or unlawful activities within the organisation. The individual then contemplates whether to overlook such activities, to partake in the illegal acts or to object (Miceli and Near, 1985:4). On the other hand, the individual may choose to remain quiet due to the fear of dismissal or that he/ she might be ostracized by the organisation. Before reaching the decision of whistle blowing, the whistle blower also needs to analyse his/ her current personal situation to determine if he/ she can withstand any potentially negative financial and emotional consequences. Once the whistle blower has established that he/ she will blow the whistle, this leads to the second stage.

The second stage is the disclosure. The organisation receives the information from the whistle blower and decides how to respond to the disclosure. Most organisations are guided by legislation on how disclosure can be conducted and others also have internal policies and procedures that must be adhered to. There are certain rules and measures with which the organisation has to comply, and these have been detailed in 2.6. The organisation could

possibly take no action to the disclosure, but this might turn out to be very costly (Near and Miceli, 1985:5).

At this stage, the organisation also chooses how to deal with the disclosure, and so might opt to resolve the problem by either by getting rid of the problem or rather dealing directly with the whistle blower. The legitimacy of the activity may be subjective because the organisation might view the activity as being necessary to achieve the organisation's goals and thus may continue with the illegal or unlawful activities. The organisation might also have additional information on the disclosure that the whistle blower did not possess and this might change the circumstances or how the activity is viewed. The organisation may furthermore take a look at the profile of the whistle blower to determine whether or not he/ she is credible. Once all angles of the disclosure have been taken into consideration, the organisations will then decide on the course of action to take (Near and Miceli, 1985:5).

In the final stage of the whistle blowing process is the response. The organisation may decide to recognize and address the wrong doing and thereby acknowledge the whistle blower for disclosing such valuable information (Near and Miceli, 1985:11). Alternatively, the organisation can simply ignore the whistle blower or assume various means of action in silencing the latter. This is because senior managers/ leaders within the organisation might feel that the disclosure may harm or damage the reputation of the organisation. The whistle blower might face the prospect of retaliation from the organisation if there is a lack of honesty and transparency in the organisation (Uys, 2000:263). The organisation can also exert its power by discrediting the credibility of both the individual whistle blower and the disclosure. Consequently, if the organisation fails to address the disclosure, as stipulated by the organisation's policies or to the whistle blower's expectation, the whistle blower may disclose the wrong doing to an external organisation (Near and Miceli, 1985:5), such as the media, as discussed below.

3.6.2 The role of the media

The media plays a crucial role in the fight against corruption. As the public watch dog, the media keeps members of the public informed about the issues that concern them and notifies the public about public officials involved in corruption. It can be argued that a main role of the media is thus to ensure that public officials maintain ethical behaviour and to question their activities. The media relies on freedom of the press, which is established in Chapter 2 of

the Constitution (1996) and which helps to expose corruption without retaliation. In a democratic nation such as South Africa, this is imperative as public officials can be held accountable for their actions in the eyes of the public (Van der Waldt and Helmbold, 1995:105). The media also acts as a deterrent to corrupt behaviour as well as exposes such corruption to the public. The media has become a powerful mechanism in South Africa because it is the voice of the South African society and thus demands accountability in issues involving corruption and unethical behaviour (Hilliard, 1994:224).

The media is an influential tool to use as a means of whistle blowing. This avenue is normally used after an individual has utilized all the internal and external sources available to him/ her and has failed to get a meaningful resolution. According to Mafunisa and Kuye (2003:435), the media also plays a role in exposing employers or senior employees who victimize whistle blowers who disclose any unethical conduct. The media may thus deter public functionaries from partaking in corrupt activities because the latter may fear being victimised. The whistle blower may also opt to go directly to the media. This could be because he/ she may believe that making a disclosure of wrongdoing to the relevant internal or external bodies might lead to retaliation (Dehn and Callard, 2004:8)

In South Africa, there are various examples of individuals who have approached the media. These include Mike Tshishonga, former Deputy Director at the Department of Justice, who blew the whistle on fraud that occurred in this Department. He used the media because both the internal and external routes ignored his disclosure (Holtzhausen, 2007:195). The media also exposed the Travelgate scandal, in which Harry Charlton, the Chief Financial Officer in Parliament, exposed corruption in travel vouchers involving government officials. Like Mike Tshishonga, he also faced retaliation after he disclosed the case (see 4.4). Therefore, disclosing an issue to the media can be the best option when all other options of exposing corruption have been exhausted or if there are no transparent and effective channels of disclosing the information (Dehn and Callard, 2004:8).

The media can also be seen as a safer option than reporting to immediate supervisor because whistle blowers can disclose wrong doing anonymously or in confidentiality. However, it is debatable whether the media is more fittingly, equally effective and/ or potentially less detrimental than other means of disclosing corruption. Media attention, for example, can cause problems; especially whistle blowers who are not used to public attention can produce hostile and belligerent outcomes that might cause more harm than good to the whistle blower.

Some whistle blowers end up attracting unwarranted media attention, which can place them under public scrutiny for example in the case of Tshishonga which will be further explained in 4.4. In some scenarios, the organisation and employees of the organisation might also get caught in the confrontations, as they are also under scrutiny and can be accused of wrong doing even though their perspective is never aired. Therefore, even though the media can shed light on wrong doing, this might also implicate innocent people as people react to the news. This emphasizes the importance of a whistle blower being prepared before taking his/her case to the media (Latimer and Brown, 2008:781).

3.7 Obstacles to whistle blowing

There are various factors that hinder whistle blowing. Organisational culture, as well as ineffective statutes and practice within the South African workplace discourage employees from taking an active role in raising their concerns and questioning corrupt activities. Firstly, there is a lack of response from the criminal justice system in prosecuting cases involving whistle blowing. The police often investigate allegations and no charges are formally brought forward (Auriacombe, 2005:98).

According to Walsh (2005), whistle blowers are faced with a dilemma in deciding whether they have to persist being loyal to their organisation or disclose corrupt activities that are occurring. Within the public sector, there have also been clashing interests, such as confidentiality and loyalty. Edward Snowden, for example, revealed confidential issues related to the USA's National Security Agency (NSA) (see 3.2.2). However, he felt that people had to know what the US government's surveillance programme that monitors communication was doing (Reidy, 2013:3). According to Edward Snowden, he viewed the government as being involved in unethical conduct. His case is debatable, though, because he is now being viewed by the US government as a disreputable hacker who is facing espionage charges.

A major obstacle to whistle blowing is that it is risky because of the dangers and threats that individuals may face if they decide to blow the whistle. Therefore, before blowing the whistle, employees conduct a cost-benefit analysis concerning the outcome of the whistle blowing. Even though whistle blowing may be the right thing to do morally, individuals may sense that they have more to lose if they blow the whistle. This is because instead of being proud of blowing the whistle and exposing fraud, whistle blowing can also be a source of

financial loss. This is the predicament facing many potential and actual whistle blowers. According to the SAPS Commission's 2020 report cited in Callard (2011:36), wasteful expenditure has increased twelve times since 2007, but there has been a steep decline in the number of whistle blowers who disclose wrongdoing. This shows that individuals are opting to ignore the crimes being committed instead of divulging corrupt activities, possibly due to the risk of repercussions.

According to a study conducted by Zipparo (1999a:88) it was found that individuals may be deterred from blowing the whistle because they have little faith something being done about corruption in the organisation. A lack of faith might stem from past experiences in which individuals witness the organisation retaliating against individuals who blow the whistle. Such experiences erode faith and there is thus low confidence in the ability of the internal system to thoroughly scrutinize and investigate any corrupt disclosures and guarantee that corrective measures are taken. Potential whistle blowers may also be apprehensive about their ability to protect themselves from any form of reprisals. Therefore, many whistle blowers tend to make their disclosure to the media instead of the internal and external organisational networks (Auriacombe, 2004:664).

Culture plays a significant role in how whistle blowers are perceived. Whistle blowers are given certain names and these names highlight a societal perception (Kazan, 2009:3). Traditionally, for example, whistle blowers have had a negative connotation, with children being socialized as they grow up to shun those who "tell on their friends" or frown on those who "kiss and tell". This behaviour continues as the individual becomes older. When an individual then witness any unethical act in the organisation, he/ she may not want to be associated with words such as "rat", "snitch", "tattletale", "mole" or "backstabber". The use and connotations of these words alienates whistle blowers from other employees. In order to conform to the norm, employees thus choose not to blow the whistle (Vaughn, 2012:256).

According to Banisar (2011), individuals may also face social sanctions from within the organisation. Disclosing information can be seen as a betrayal, which hinders employees from disclosing any information. Another challenge is that many employers institute legal action against whistle blowers in order to redress the damage that has occurred as a consequence of their disclosure (Vaughn, 2012:256). Many people fear the possibility of alienation from their co-workers because they are viewed as being disloyal to their

colleagues. Thus, in order to fit within the organisation, employees may simply ignore corrupt activities that they have witnessed (Callard and Dehn, 2004:10).

3.8 Consequences of whistle blowing

Whistle blowing comprises two different parties, in most cases, an employer and employee, frequently at opposite ends of the spectrum. Both parties have different rights and interests (Martin, 2010:5). An employee has the right to freedom of speech as well as fair labour practices, while the organisation has the right to demand loyalty from the employee (Martin, 2010:5; Larmer, 1992:128). Therefore, when an individual blows the whistle on his/ her organisation, this will have consequences on both the whistle blower and the organisation, as discussed below.

3.8.1 Consequences faced by whistle blowers

Whistle blowers may face retaliation after blowing the whistle (Uys, 2000:263). In spite of various legislation and regulations that have been put in place to protect whistle blowers, in reality these do little to protect whistle blowers from retaliation. In most cases, whistle blowers are seen as traitors who betray the organisation. According to Martin (2003:3) and Uys (2000:265), whistle blowers can also be accused of committing treason or disloyalty after disclosing a corrupt act. For example, Bradley Manning in the US was charged with treason for releasing military secrets. Whistle blowers are thus at risk of victimization and losing their jobs, which may be detrimental for their careers.

Individuals who blow the whistle internally believe that the system works within their organisation. However, this is not always the case. There are various techniques used against whistle blowers, such as reprimands, threats, punitive transfers, harassment, ostracism, blacklisting, dismissals, referral to psychiatrists, demotions and the spreading of rumours (Uys, 2008:905). These techniques might seem to be minor, but they do have a negative impact on one's career and there may be adverse health consequences for the whistle blower (in terms of physical health, psychological state). In the worst case scenario, some whistle blowers are murdered for disclosing corrupt activities (Rabkin, 2010:4). The most common reprisal is ostracism, which involves the employer ostracizing the whistle blower. Ostracism has a negative impact on the worker's self-esteem because he/ she feels less valued. It can be psychologically harmful and often leads to emotional breakdowns (Martin, 2007).

According to Callard and Dehn (2004:150), there is a number of South Africans such as Harry Charlton, Mike Tshishonga who have blown the whistle in the past and, after drawn-out and expensive legal proceedings, still lost their jobs. According to Alford, cited in Kazan (2009:3), approximately half of all whistle blowers lose their job, and of these a further half will lose their homes and sense of security. Some might also lose their families when they get killed or if they feel their lives are threatened, might flee. Whistle blowers with specialized careers who are reliant on climbing the hierarchy, such as those in the police force or military, may be forced to end their careers and, in many instances, have to embark on a new career path (Callard and Dehn, 2004:150). This is an alarming situation because corruption thus continues to persist as individuals would not want to lose the careers that they have worked hard to build by blowing the whistle.

Whistle blowers can be viewed as part of a warning system that alerts the organisations about existing problems within the organisation (Uys, 2008:905). These problems can be curbed before they become too enormous for an intervention. However, other organisations suppress whistle blowers because the latter may be perceived to be damaging the reputation of the organisation. Reprisals directed at whistle blowers send a message to other employees that those who blow the whistle will suffer dire consequences (Martin, 2007).

3.8.2 Consequences faced by the organisation

The consequences of whistle blowing on the organisation are often ignored. However, these should not be underestimated, because there may be significant negative effects on the organisation. Most importantly, whistle blowing alerts the organisation to illegal and unlawful activities occurring within the organisation (Botha and van Heerden, 2014:338). However, if the whistle blowing is not managed properly, it can have negative financial implications. Whistle blowing can result in financial losses to the organisation. A whistle blower can take the organisation to the Labour Court and the Commission for Conciliation, Mediation and Arbitration, for example, and the organisation might end up incurring exorbitant legal fees. Many organisations might thus rather cover up the issue or resolve it internally (Holtzhausen, 2012:97). Covering up the corrupt activity can lead to a further degradation of the morals of the organisation.

Some organisations have profit-driven goals, which results in employees relying on unethical practices in order to achieve these goals. In hierarchical organisations, many employees

might be so concerned with climbing the ladder that they ignore the organisation's code of conduct. In other cases, organisations may rely on unethical means to achieve the organisation's goals more effectively and profitably losses (Holtzhausen, 2012:97). However, when a whistle blower discloses the illegal activities, the sustainability of the organisation is threatened, which may lead to the organisation losing its reputation and public support, and thus suffering financial losses.

Whistle blowing challenges trust within the organisation. When whistle blowers blow the whistle using external channels, it can lead to the breakdown of trust between employees and the employer. This creates tension and the erosion of a virtuous working relationship between the whistle blower and the employer (Naidoo, 2007:5). Furthermore, whistle blowing undermines the chain of command or "breaks the ranks" (Naidoo, 2007:5). According to Miceli and Near (1992:9), cited in Holtzhausen (2012:97), whistle blowers at times ignore the authority structure in relaying problems that might be detrimental to legitimate control in the organisation.

Therefore, for an organisation to avoid the negative consequences associated with the whistle blowing process, there is need for certain mechanisms to be developed. The following section will explore the apparatus that need to be in place for organisations to have an effective whistle blowing system that will effectively aid in the eradication of corruption.

3.9 Building blocks for effective whistle blowing

Effective whistle blowing is contingent on the presence of building blocks that are co-dependant on each other. Whistle blowers play a critical role in an organisation by revealing any wrong doing, malpractice or the abuse of power within the organisation (Vandekerckhove and Tsahuridu 2010:366). The act of whistle blowing, though, is marked by controversy because whistle blowers can be viewed as individuals with the right intentions who are willing to sacrifice their careers to stand up against corruption. At the other extreme, they are also viewed as vengeful employees and thus becomes controversial who are malicious and are blowing the whistle for selfish purposes. For whatever reason a whistle blower discloses information, he/ she is likely to face retaliation. Therefore, it is important for an organisation to effectively manage the whistle blowing process so that it does not disrupt the workplace or have detrimental effects for the whistle blower (Barnett, 1992).

Research reveals that there are certain conditions that need to be present for whistle blowing to be effective (Barnett, 1992). According to a report made by Transparency International (2010:5), organisations should have a clearly defined whistle blowing policy in place. Managers also play a critical role because they often receive the disclosures. It is imperative that top management supports the whistle blowing procedures, so that these are effective. Managers have to ensure that employees can trust them to disclose corrupt activities and have faith that the managers will respond to their disclosures (Zipparo, 1999a:84, 1999b:276). Figure 3.1 below illustrates the appropriate steps in the whistle blowing process (Miller *et al.* 2005:167). Each step is subsequently discussed in more detail.

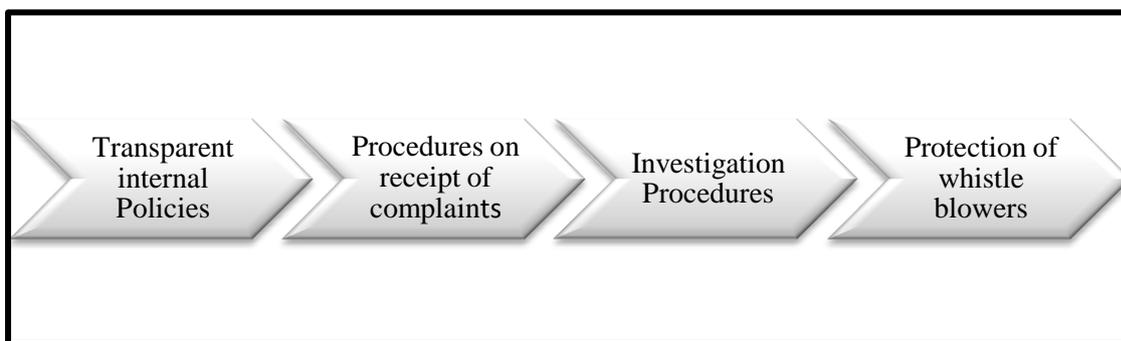


Figure 3.1: Building Blocks for Effective Whistle Blowing (adapted from Miller *et al.* 2005:167).

3.9.1 Transparent internal policies

Transparent and effective policies and procedures in the organisation are vital to enable an open whistle blowing system. An organisation needs to have a clear statement of ethics and anti-corruption code, to which employees should abide (Eaton and Akers, 2007:70). Furthermore, there should be well-defined types of issues that can be reported. This does not have to include a definitive list, but could be a set of guidelines that can be followed (John, 2007:27). There should also be a clear distinction between whistle blowing reports and personal grievances. The organisational policies should furthermore offer guidance and information on the processes of disclosing information externally and internally (Miller *et al.* 2005:167).

Public sector employees are subject to prescribed written ethical codes. These are rarely enforced, but provide an important guideline to employees who might want to blow the whistle (Nader *et al.* 1972:227). The South African Public Service Code of Conduct (2000),

for example, prescribes that employees put the public interest first when performing their daily tasks. It is necessary to cultivate an ethical environment that allows whistle blowing to be functional within the public sector context. For this to occur, individuals must be permitted to develop a form of loyalty not only to the government, but to the public interest. Globally, history has shown that most whistle blowing was perpetuated by responsible professionals who exposed corruption and material exploitation (Nader *et al.* 1972:7).

A statement of ethics clarifies what is ethically right, and provides employees the responsibility to disclose any corrupt activity (Miller *et al.* 2005:167). Ethics are shaped not only by the law, but also by the working environment within the organisation. It should not be assumed that all employees are aware of the organisation's ethical values, so the organisation should play an active role in educating employees about these (Barnett, 1992). Management needs to foster an ethical environment in the organisation so that decisions are evaluated and made on the basis of right and wrong. Codes of Ethics must be inscribed and custom-made to specific organisations' values (Barnett, 1992; Mafunisa, 2000:77). With the internal procedures in place, employees would then be more confident in blowing the whistle and the organisation is better prepared to receive complaints.

3.9.2 Procedures on receipt of complaint

For the effective managing of the whistle blowing process, an organisation needs to have specific individuals, independent of the hierarchy of command, to receive complaints from whistle blowers (Miller *et al.* 2005:167). The organisation also needs to have a comprehensive set of procedures that can be used on receipt of complaints. Whistle blowers should be given the opportunity to disclose any corrupt activities confidentially and anonymously (Eaton and Akers, 2007:70). Confidentiality is crucial because it encourages individuals to raise concerns in a manner that they feel is safe and also allows the organisation to investigate the matter more efficiently without the employee exposed to potential retaliation (Transparency International, 2010:6). On receipt of the disclosure, the organisation has to launch an investigation into the case.

3.9.3 Investigation procedures

Any disclosure should not be focused on the individual who made the disclosure, but rather on what is being disclosed (Miller *et al.* 2005:168). The investigation process should be fair

and free from bias, and all facets of the disclosure should be fully analyzed and thoroughly investigated. There should also be written reports that detail how the disclosure by the whistle blower was investigated and resolved (Transparency International, 2010:6) During the investigation, the whistle blower is vulnerable, as he/ she might face retaliation. Therefore, it is important for the organisation to ensure there is protection for the whistle blower.

3.9.4 Protection of whistle blowers

Whistle blowers should be protected from reprisal within the organisation (Transparency International, 2010:4). Protection should also be provided to individuals who are in the process of disclosing the wrong doing, and it should be extended to individuals close to the whistle blower, such as spouses and family members. The presence of formal procedures is imperative because these encourage more employees to blow the whistle. There should also be an incentive scheme or some recognition that rewards any disclosures that save the organisation from potential harm (Eaton and Akers, 2007:70).

3.9.5 Conclusion

In conclusion, it is important for the top management of an organisation to commit themselves to promoting ethical conduct through various channels, such as organisational memorandums, newsletters and the media. The behaviour of top, middle and lower management should also be exemplary so that they portray good ethical conduct and set a good example to their staff. Furthermore, the organisation should acknowledge and reward employees who identify any wrong doing within the organisation. In order for whistle blowing mechanisms to succeed, the internal policies related to whistle blowing should be communicated effectively and supported by everyone, thus creating a culture of honesty and openness in the organisation (Eaton and Akers, 2007:71).

CHAPTER 4

LEGISLATIVE AND REGULATORY FRAMEWORK OF WHISTLE BLOWING

4.1 Introduction

As mentioned in 2.2, corruption is rife in South Africa and it is of major concern. Legislative and regulatory frameworks are crucial in protecting whistle blowers who disclose information that promotes the public interest. Comprehensive legislation can also help counter the stigma associated with whistle blowing and thereby encourage others to disclose any wrongdoing. Most governments thus recognize that whistle blowing legislation is used to create a safe environment for whistle blowers (Zipparo, 1999a:83). The legislation is used as a means to protect whistle blowers from any deleterious consequences and thereby promote good governance and public accountability. In democratic countries, whistle blowing legislation is an imperative tool in reducing public waste and the misappropriation public funds, as well as promoting human rights (Latimer and Brown, 2008:769).

Legislative and regulatory frameworks are the foundation for accountability and transparency in democratic societies. When a transparent and accountable system is in place, individuals are more likely to have faith in the system and thus divulge knowledge of corrupt acts. A precondition for whistle blowing is an independent legal system and judiciary, and the rule of law (Latimer and Brown, 2008:768). Various countries are developing whistle blowing legislation because they have come to realise the fundamental role played by whistle blowers and that the latter's protection cannot be overstated. As of 2011, there are approximately 30 countries that have adopted whistle blowing legislation in various forms in the event of disclosure (Banisar, 2011).

The above mentioned legislative and regulatory framework reflects that legislation is imperative in curbing corruption and protecting whistle blowers from retaliation. This chapter provides an overview of international whistle blowing legislation as well as an analysis of national legislation, in particular the Protected Disclosures Act (2000). This chapter also argues that even though there is legislation to protect whistle blowers, it does not provide adequate protection.

4.2 International Overview

In the last two decades, there has been growing global awareness on whistle blowing legislation and many countries have enacted legislation (Tсахуриду and Vandekerckhove, 2008:109; Zipparo, 1999a:83). These laws vary from country to country, but they do have a common basis for protecting whistle blowers from retaliation. As shown in Figure 4.1 on page 63, there are few countries namely South Africa, UK and New Zealand with comprehensive laws on whistle blowing that covers both the private and public sectors, (Banisar, 2011). Often, whistle blowing-related laws are enacted as independent laws instead of being part of a larger framework of law (Banisar, 2011). There are resemblances in the laws that show that whistle blowing protection legislation is gaining in prominence on a global platform.

Civil society plays a crucial role in advocating for whistle blowing protection. In some countries that have legislation that protects whistle blowers, there are various organisations that assist the government in drafting such laws. In South Africa, the ODAC (see 2.6.4), for example, is actively involved in advising the South African government in the drafting of whistle blowing legislation. The same can be said about other countries such as the UK, which has an organisation called the Public Concern at Work, and the USA, with its Government Accountability Project. Transparency International plays a dynamic role on an international platform by also ensuring that the United Nations adopts whistle blowing laws in its conventions (Banisar, 2011).

Globally, there has been mounting support for whistle blowing strategies because these are the cornerstone of good governance. International treaties and conventions on whistle blowing issues have been put in place, and international organisations have assumed whistle blower protection within their framework (Vaughn, 2012:239). Recently, several treaties and agreements have been drawn up, such as the United Nations Convention against Corruption (UNCAC) (see 2.6.1). The UNCAC has comprehensive principles, methods and guidelines that all countries can use in order to support their legal and governing structures in combatting corruption. Article 32 of UNCAC emphasizes the protection of witnesses and victims (UNCAC, 2004:25). Countries such as India, however, do not have the mechanisms to protect witnesses. There are no guidelines permitting witnesses to provide evidence in a way that guarantees their protection. Under Article 33 of UNCAC, the convention encourages participant countries to integrate national legal system methods to give sufficient protection

against unfair conduct for any person who blows the whistle in good faith and on reasonable grounds to expert authorities (UNCAC, 2004:26).

4.2.1 Elements of Comprehensive Laws

As mentioned in 4.2, there are few countries that have comprehensive whistle blowing laws (Banisar, 2011). These comprehensive laws have universal components with crucial provisions. According to Transparency International, Kenya, the Philippines, Italy, Venezuela, South Africa, New Zealand, France, Japan, Australia, the UK, Canada and USA have passed comprehensive legislation to shield employees within the public and private sectors (Latimer and Brown, 2008:769) (see Figure 4.1). Instead of adopting stand-alone laws for whistle blowing, most countries have fashioned it into other laws, for example an Anti-corruption Law, Public Servants Law, Labour Laws, Criminal Codes and Freedom of Information Acts. Under these sources of law, protection is provided to specific people, with specific clauses that allow the reporting of only specific misconducts. However, these laws do not adequately address the whistle blowing process (Latimer and Brown, 2008:769), which was detailed in 3.6.1. Hence it is important to have a comprehensive law that focuses solely on the whistle blower to ensure that all aspects of the whistle blowing process are covered.

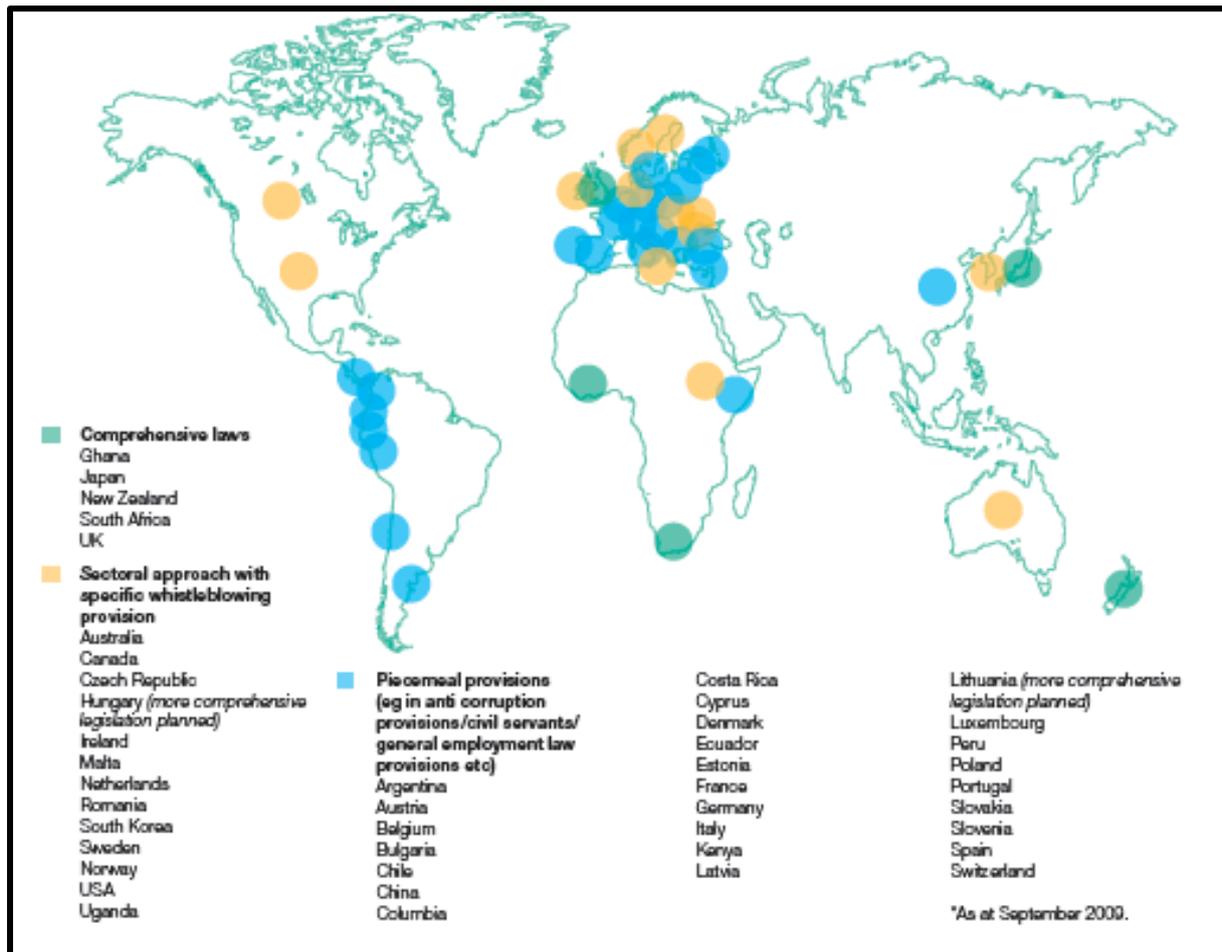


Figure 4.1: Illustration of whistle blowing legislation (Public Concern at Work, 2010:8)

Comprehensive laws are exclusive in that they are not a section in another law, and can thus be amended and promoted effectively. The laws also sanction the oversight bodies that ensure that the law is effectively implemented. Comprehensive laws are applicable to both the private and public sectors. These laws also include various definitions that clarify the different terms used in the legislation. Furthermore, the procedures that need to be taken when blowing the whistle are also stated explicitly. Most importantly, whistle blower legislation offers protection against retaliation, and thereby also allows for appeals to review retribution (Banisar, 2011).

4.2.2 The USA's Legislative Framework

The USA was the first country that enacted whistle blower laws prior to 1990 (Vaughn, 2012:239). The first legislation that has been recorded regarding issues surrounding whistle blowing is the False Claims Act, which was passed during the American civil war in 1863

and which was later revised in 1986. This legislation was enacted to combat fraud in the use of military supplies. Whistle blowers played a central role in disclosing whether an organisation was trading in malfunctioning munitions. When a whistle blower divulged such corrupt activities, he/ she was also eligible for any monetary compensation that the government made due to the disclosure. Not only was the Americans able to save money, but this also promoted good moral practices and the whistle blower was protected from any retaliation by the perpetrator (Vaughn, 2012:239).

The USA's Whistle blower Protection Act (1989) applies at the federal level. The Act allows for the protection of public federal employees, and thus thwarts reprisals and promotes the eradication of unlawful activity within the public sector. According to the American Congress, any disclosures made by the whistle blowers serve the public interest by helping in the eradication of waste and countering the abuse of government funds (Latimer and Brown, 2008:779). Furthermore, the Constitution of the USA assures freedom of speech, which acts as a source of protection to employees who disclose any wrong doing that is in the public interest.

The USA has the most enacted laws concerning whistle blowing. The US government operates on a federal system and the laws are enacted on both a State and national level (Vaughn, 2012:239). The US government has agencies that specifically work with the protection of whistle blowers. For example, the Office of the Special Counsel (OSC) is a body that works on a federal level. It functions as an organ that investigates and prosecutes, and also governs the Whistle Blower Protection Act. Whistle blowers who disclose any corrupt activities in federal government are protected by the OSC. Therefore the organisation takes in grievances from whistle blowers who disclosed corrupt activities in their organisation and investigate and prosecutes these grievances (Latimer and Brown, 2008:779). It functions similar to other anti-corruption bodies and ombudsmen (Vaughn, 2012:168).

4.2.3 The UK's Legislative Framework

The Public Interest Disclosure Act (PIDA) of 1998 was introduced to protect whistle blowers in the UK. Prior to this Act, whistle blowers in the UK were not protected from retaliations. Interest in whistle blowing protection rapidly increased after financial, health and safety scandals and other serious tragedies that occurred in the UK in the 1990s (South African Law Reform Commission (SALRC), 2004:10). It came to light that many employees were aware

of the hazards that they encountered in the workplace, but that they did not blow the whistle because they feared retaliation. The main aim of PIDA is to protect employees from any retaliation or victimisation from the organisation if they blow the whistle. The PIDA could thus be described as a mechanism that promotes good governance as well as accountability (SALRC, 2004:10).

The UK has other bodies that are mandated in assisting in the protection of whistle blowers. The Office of Civil Service Commissioners, for example, acts as a self-governing body, independent of government and civil service that promote the core Civil Service values of integrity, honesty and impartiality (Latimer and Brown, 2008:779). It is normally the last resort for whistle blowers in the public sector when other channels have failed. However, the PIDA only gives protection to employees with a qualifying disclosure. In other words, a whistle blower is only protected if the disclosure falls within the following classification:

- (i) A criminal offence;
- (ii) Failure to comply with any legal obligation;
- (iii) Miscarriage of justice;
- (iv) Danger to the health and safety of any individual;
- (v) Damage to the environment; and
- (vi) The deliberate concealment of information tending to show any of the matters listed above.

PIDA protects employees from any retaliation if the employees disclose unlawful acts in good faith and in the public interest. Therefore the Act promotes the foundation of a transparent and accountable culture within the workplace.

4.3 A South African Perspective on whistle blowing

According to the common law, an employee is expected to show loyalty, trust and confidentiality to his/ her employer. However, if there has been a serious violation of ethics and actions such as corruption and fraud have been committed, public interest surpasses loyalty to the organisation or employee. Many whistle blowers experience reprisal for disclosing corrupt activities that they have witnessed in their organisation (Vandekerckhove and Tsahuridu, 2010:365). The whistle blower thus requires protection for disclosing wrong doing. South Africa has an extensive legislative framework covering various aspects of

whistle blowing, and this is viewed as an important mechanism in fighting corruption (Uys, 2000: 259; DPME, 2012:446) The South African Constitution (1996) provides the basis for the protection of whistle blowers. Its purpose is to lay the foundations for a democratic State in which government is centred on the will of the people and every person is equally guaranteed protection by the law (Callard and Dehn, 2004: 149). The Constitution (1996) is discussed in more detail in the next sub-section.

4.3.1 The Constitution

The South African Constitution is the most absolute law in South Africa and there is none that supersedes it. The Constitution (1996) provides the foundation for the legislative and regulatory framework against corruption. According to Martin (2010:15), whistle blowing is central to constitutional principles designed to provide a foundation for a democratic society. A democratic society relies on values such as transparency, accountability and good governance. Corruption undermines these values and whistle blowing plays a critical role in upholding the values stated in the Constitution (1996).

Chapter 10 of the Constitution states the basic values and principles governing public administration, which includes the following (RSA, 1996):

- A high standard of professional ethics must be promoted and maintained;
- Efficient, economic and effective use of resources must be promoted;
- Public administration must be development-oriented;
- Services must be provided impartially, fairly, equitably and without bias;
- People's needs must be responded to, and the public must be encouraged to participate in policy-making;
- Public administration must be accountable;
- Transparency must be fostered by providing the public with timely, accessible and accurate information; and
- Good human resource management and career-development practices must be cultivated to maximise human potential (RSA, 1996).

Chapter 2, Section 16 of the Constitution (1996) also guarantees freedom of expression, which includes in the press or other media, the freedom to receive and communicate

information, ideas, freedom for artistic creativity, academic freedom and freedom in scientific research. Section 32 further stipulates the information held by the State or by anyone and that it is necessary for the exercise or the protection of any rights. Therefore, whistle blowing is intrinsic to basic human rights as the public has the freedom of information to know if corruption is occurring in an organisation. The Constitution (1996) also establishes the Public Service Commission (PSC) to oversee that the abovementioned principles are upheld. Under the Chapter 2 of the Public Service Regulations i.e Public Service Code of Conduct (RSA, 2001), public officials performing their sanctioned responsibilities and should disclose any information concerning corruption or anything harmful to the public interest to the appropriate authorities.

4.3.2 The Protected Disclosures Act (2000)

The Protected Disclosures Act (2000) is also referred to as “the Whistle Blower’s Act”. It provides the procedures on how employees can disclose any malpractice within their organisation. The Protected Disclosures Act (2000) was put in place so as to protect employees from retaliations that can occur when they divulge information about alleged wrongdoing. It was also enacted as a means to help establish a secure environment in which employees can disclose information in a responsible way, thereby promoting good governance and transparency. The legislature is part of the anti-corruption strategy that can be used by whistle blowers (see 2.5.2). The Protected Disclosures Act (2000) is part of the framework of whistle blowing legislation which stems from the South African Constitution (1996), the Companies Act 71 of 2008 and the Labour Relations Act 66 of 1995 (Botha and Heerden, 2014:339). According to the preamble of the Protected Disclosures Act (2000), the purpose of the Act is to help provide a culture that will enable the disclosure of unlawful conduct that individuals witness in their organisation (Callard and Dehn, 2004:149).

The aim of the Protected Disclosures Act (2000) is to promote fundamental human rights. Whistle blowing, being the disclosure of wrong doing, is a form of self-expression that qualifies as a human right. The right of expression in relation to whistle blowing is important because it allows whistle blowers to disclose information that might be in the public interest rights (e.g. to basic service provision) by highlighting corruption. The next section is going to focus on the background of whistle blowing protection

4.3.2.1 Background of Protected Disclosures Act (2000)

The history of the development of whistle blowing protection in South Africa has been a complex and drawn out process which was initiated by the Open Democracy initiative (SALRC, 2004:1). The Protected Disclosures Act (2000) was greatly influenced by the UK's Public Interest Disclosure Act, and there are similarities between the two laws. The South African Act was a result of Part 5 of the Open Democracy Bill, which had a section on the protection of whistle blowers (Martin, 2010:39). Having a small section in the Bill that focuses on the protection of whistle blowers was viewed as insufficient by the Portfolio Committee on Justice and Constitutional Development. Therefore, the Parliament decided to establish legislation that would deal solely with the protection of employees who decide to disclose information on corrupt activities (SALRC, 2004:1). The Protected Disclosure Bill was endorsed by Parliament as the Protected Disclosures Act (2000). This law filled a gap between the statutory law and the common law that had failed to adequately protect whistle blowers (SALRC, 2004:1).

The Act was also a result of the many appalling incidents involving corruption that had occurred and could have been prevented if employees had blown the whistle. Prior to the Protected Disclosures Act (2000), the South African statutory law made no provisions for protection from reprisals to employees who disclosed any corrupt activities within their organisation (Martin, 2010:39). It was assumed that employees would do the right thing by reporting corrupt activities and that these employees would be protected. This was not the case, however, there was thus the need to enact legislation to protect employees from retaliation. The enactment of the Protected Disclosures Act (2000) ensures that whistle blowers are protected when they disclose any wrongdoing.

The Protected Disclosures Act (2000) also stipulates the processes through which employees in both the public and private sector may blow the whistle on any illegal activities or corrupt activities that they observe within their organisation. The Act gives employees the responsibility to blow the whistle, and in turn provides protection to employees by making sure that the whistle blower is not victimized. The foremost purpose of the Protected Disclosures Act (2000) is to provide mechanisms that offer protection to whistle blowers. The aim is to guarantee a safe environment for whistle blowers in which they will not have to face any victimization. According to the Protected Disclosures Act (2000), the Act was created to promote principles that are in line with good governance, and that employees can have a

sense of ownership and responsibility. This empowers employees to participate actively and disclose any corrupt activities in a responsible manner

4.3.2.2 Operational stages of the Protected Disclosures Act (2000)

(i) Disclosing of the information

The Protected Disclosures Act (2000) states that disclosure of information regarding the conduct of an employee or an employer, made by an employee who has reason to believe that the information in question tends to show one or more of the following:

- a) That a criminal offence has been, is being, or is likely to be committed;
- b) That a person has failed, is failing or likely to fail to comply with any legal obligation to which that person is subject;
- c) That a miscarriage of justice has occurred, is occurring or is likely to occur;
- d) That the health or safety of an individual has been, is being or is likely to be endangered;
- e) That the environment has been, is being or is likely to be damaged;
- f) Unfair discrimination as shown in the Promotion of Equality and Prevention of Unfair Discrimination Act (Act 4 of 2000)
- g) (a) to (f) has been, is being or is likely to be deliberately concealed; and
- h) The Act states that an employee's disclosure to his/ her employer must be made in good faith; in other words, the employee has to conduct him-/ herself in a responsible and honest manner without any motives of financial and personal gain.

(ii) Protection of the disclosure

The Protected Disclosures Act (2000) recognises that whistle blowers may experience negative consequences. Therefore, in order to combat corruption, the Protected Disclosures Act (2000) gives whistle blowers protection from any occupational detriment so that they are able to report any misconduct without fear. The Protected Disclosures Act (2000) protects employees from the following detriments:

- Dismissal, suspension, demotion, harassment or intimidation;
- Being subjected to any disciplinary action;
- Transferral against his/ her will;

- Being refused transfer or promotion;
- Being subjected to a term or condition of employment or retirement that is altered or kept altered to his/ her disadvantage;
- Being refused a reference, or being provided with an adverse reference;
- Being denied appointment to any employment, profession or office;
- Threats of any actions referred to above; and
- Being in any other manner adversely affected in respect to his/ her employment, profession or office, including employment opportunities and work security (RSA, 2000).

Protecting employees from the retaliation listed above empowers them to blow the whistle. Whistle blowers can also use this Act to dispel any criticism that they might encounter in the organisation (Jackson *et al.* 2009:8). It is thus important for the whistle blower to have comprehensive knowledge of the Protected Disclosures Act (2000), because this enlightens them about their rights as a whistle blower.

4.3.2.3 The channels for disclosure

As highlighted in Chapter 3.2.1, there are different channels that can be used for whistle blowing. The Protected Disclosures Act (2000) stipulates that a whistle blower has to first blow the whistle internally and subsequently externally.

- **Internal whistle blowing:** The first stage occurs when an employee discloses information on wrongdoing that he/ she has witnessed to the employer, which is known as internal disclosure. Protected disclosures include disclosures made to an employer, which can be through an internal process, a legal advisor, an individual who is given authority under the law or a Minister (Latimer and Brown, 2008:776). Within the public sector, whistle blowing is initially an internal issue in which the employee reports any form of corruption to the employer (Latimer and Brown, 2008:776). There is also the assumption that the employer will take the case further and properly investigate it. Internal whistle blowing is effective in transparent and accountable organisations because these allow fair procedures to take place when investigating a disclosure made by a whistle blower (De George, 2010:300). Such

organisations ensure that the disclosure is protected and all guidelines are fulfilled accordingly; and

- **External whistle blowing:** When the internal body fails to properly address the claims made by the whistle blower, the whistle blower can then make a disclosure to external entities. There are also other factors that prompt a whistle blower to disclose any unethical conduct to an external authority. This can include fear of reprisal or the perception that there are no appropriate structures within the organisation that can deal with the case effectively (De George, 2010: 300). By disclosing the issue to an external body, the whistle blower may thus feel that his/ her complaints might be addressed more effectively or safely. According to the Protected Disclosures Act (2000), disclosures can be made to the following bodies: the Public Protector, the Auditor General, the South African Police Service, the Speaker of Parliament, the Ombudsman and the Labour Inspectorate. These bodies can also be linked to the anti-Corruption agencies discussed in 2.6.4.

When applying the Protected Disclosures Act (2000), it is imperative for a whistle blower to make an internal disclosure before resorting to external whistle blowing. When the organisation fails to investigate the issue to the satisfaction of the whistle blower, the whistle blower can then resort to external entities (Latimer and Brown, 2008:776).

4.3.2.4 Remedies for whistle blowers

The Protected Disclosures Act (2000) offers remedies to whistle blowers who have been subjected to occupational detriment for disclosing information of wrong doing that they have witnessed, and these are stated in Section 4 of the Act (which were discussed above). The Act gives an employee the opportunity of taking legal action by taking his/ her employer to court, for example the Labour Court or the tribunal that has the authority to provide protection and appropriate assistance. An individual can also follow other processes or procedures prescribed by the law. The Act takes into account the relationship between the employer and the employee. Hence, when an employee is unfairly dismissed which is an occupational detriment and an unfair labour practice thus the Labour Relations Act (1995) provisions can be applied when dealing with whistle blowing protection. According to section 186 (2) (d) of the Labour Relations Act (1995), any form of occupational detriment can be classified as unfair labour practice.

The Protected Disclosures Act (2000) allows an employee to request a transfer from the position he/ she held at the time of disclosure, to the same or another department if he/ she believes that he/ she will suffer some occupational detriment. The terms and conditions of employment of an employee that is transferred may not, without his/ her consent, be less favourable than the terms and conditions applicable to him/ her immediately before his/ her transfer (Camerer, 2001:5). The remedies provided by the Act encourage individuals to blow the whistle without the fear of retaliation and also assist the employer to manage the whistle blowing effectively.

4.4 A case study of whistle blowing in South Africa

Mike Tshishonga vs Minister of Justice and Constitutional Development and another is a South African case study to which the Protected Disclosures Act can be applied. It was a case of unfair labour practice and unfair dismissal, which can be considered as occupational detriments (Botha and Van Heerden, 2014:349).

Mike Tshishonga was the Managing Director of the Master's Office business unit in the Department of Justice in 2003. He had worked for the Department of Justice for almost 30 years. However, when he decided to blow the whistle on the Ministry in connection with corruption occurring in the liquidation sector, he faced retaliation (Davids, 2012:193). Tshishonga was suspended after he disclosed to the media that the former Justice Minister, Penuell Maduna, engaged in inappropriate conduct by insisting on assigning his friend profitable deals within the department. Tshishonga's firing can be considered as an occupational detriment (Botha and Van Heerden, 2014:349). The Protected Disclosures Act (2000) was thus important in this case.

Tshishonga initially noticed that there was a connection between Enver Motala, a liquidator, and the Minister, Penuell Maduna. Tshishonga became more suspicious because the Minister had said that he was a friend of Motala's and Motala was always present at various meetings with the Board of Directors. In one of these meetings, Motala indicated that he had a mandate from the Minister's Office. Later, the Minister invited the Master's Office for a meeting at which Motala was also present. Tshishonga felt that corruption was taking place; in particular, that there was cronyism because a liquidator was favoured based on his connection with the Minister.

Tshishonga decided to blow the whistle internally by raising his suspicions, but to no avail. When the internal system failed him, he resorted to blowing the whistle to external bodies outside his Ministry. Firstly, he approached the Director General's office to investigate his claims, but there was no reaction. Tshishonga's next resort was to approach the Public Protector's office and, once again, his case was ignored (Holtzhausen, 2007:195). He then approached the Auditor General, where again nothing was done to address his case. As his last recourse, Tshishonga took his matter directly to the Minister in the Presidency, where he was promised a meeting with the Director General of Justice. However, that meeting never occurred (Holtzhausen, 2007:195).

Due to the above options not working, Tshishonga then held a press conference (Lewis and Uys, 2007:84). Subsequent to this, he was suspended and subjected to an inquiry process in which Mr Motola was the lead liquidator which was clearly conflict of interest whereby the perpetrator is involved in the inquiry. Motola and other members of the Ministry of Justice interrogated Tshishonga and he was prohibited from voicing anything related to the matter. Tshishonga took his case to the Labour Court, where he was given back his position; however, the Department of Justice did not act in accordance with this ruling. The Director-General refused to reinstate him, stating an irreversible collapse in trust, which resulted in Tshishonga being unemployed (Lewis and Uys, 2007:84). After a year fighting for his case, he involuntarily negotiated a settlement in which the Labour Court awarded him one year's salary as well as his legal costs. However, no charges were formally made against Mr Motola. Tshishonga revealed that he risked everything by blowing the whistle and that his legal costs amounted to R500 000 (Naidoo, 2007:5).

This case study can be classified as a successful case, according to the Protected Disclosures Act (2000). Tshishonga first utilized the internal system, then external bodies and ultimately the media. The remedial process does not account for the emotional stress and the loss of his job and the negative effects of this on his career. This example highlights what whistle blowers have to go through when they blow the whistle and what they risk in the process (Lewis and Uys, 2007:84). It considers the effectiveness of this legislation and how it can be improved.

4.5 A critique of South African whistle blowing legislation

While whistle blowing legislation is topical, it still has loopholes and needs to be developed fully. This will be explored in this section. Legislation is central in protecting employees from reprisals by the organisation. Normally when a whistle blower discloses information that could potentially harm the organisation, the whistle blower is left alone with a huge battle to fight. In this sense, whistle blowing legislation isolates the employee in fighting the powerful organisation. The employee incurs legal costs even after he/ she loses his/ her job. On the other hand, the organisation has the resources, both financially and in terms of legal expertise, to pursue the case, which can lead to the case being drawn out (Martin, 2003:5). The whistle blower, who incurs higher legal costs, may therefore decide to drop the case. The Protected Disclosures Act (2000) in this case is not able to protect him/ her.

Section 2(3) of the Protected Disclosures Act (2000) limits protection to only current employees of the organisation. Its scope is narrow in that it excludes the general public, independent contractors and temporary workers. However, the ambiguous definition of an employee found in the Act can include such people (SALRC, 2004:9). Even though the Act provides protection, it does not offer any incentive to blow the whistle. The Protected Disclosure Act (2000), in a way, shows that employees should be prepared for retaliation and thus they can use the law as a source of protection from retaliation. The Act can also be manipulated to suit the employer and this can discourage employees from disclosing information (Lewis and Uys, 2007: 85).

Whistle blower legislation protects employees from the clearly stated occupational detriments mentioned in the Protected Disclosures Act (2000) (see 4.3.2.2). However, it excludes subtle techniques that undermine whistle blowers without there being direct evidence of reprisals. The most common subtle reprisals include the spreading of rumours and shunning the employee. Others include whistle blowers being denied leave or made to work overtime (Kazan, 2009:3). These are difficult to document because they are subjective in nature (Martin, 2003:4). They can also be concealed and thus no one will be able to attest to the whistle blower's experience. Since the legislation does not cover subtle reprisals, the whistle blower is left with the task of fighting this alone.

The Protected Disclosures Act (2000) also does not offer protection for whistle blowers who face criminal action or civil liabilities upon making their disclosure. Furthermore, the

Protected Disclosures Act (2000) is ambiguous and does not provide clarity on disclosures made in confidence (SALRC, 2004:9). Therefore, when a whistle blower makes a disclosure confidentially, his/ her identity might not be protected. The Act also does not make it mandatory for an employer to ensure that the investigation of the disclosure was conducted in a fair and professional manner (SALRC, 2004:9).

The whistle blowing process begins when an employee discovers some wrong doing and decides to disclose this. The Act requires the whistle blower to make the disclosure in good faith. This means that in spite of work situations that involves conflict and work politics, still the whistle blower has to prove that an illegal act was committed (Davids , 2012: 128). When an employee blows the whistle, he/ she does not usually possess sufficient information or evidence to support his/ her claims, and may not anticipate reprisals. The Act only becomes effective when an employee is facing reprisals. It does not cover the whistle blower from the beginning of the whistle blowing process when he/ she decides to disclose the information (Martin, 2003:4). This problem might hinder an individual in blowing the whistle.

The Protected Disclosures Act (2000) focuses on the employee facing reprisals rather than the main issue being disclosed by the whistle blower. The Protected Disclosures Act does not necessarily scrutinize the whistle blower's claim. Much time is spent in analyzing whether or not reprisals were inflicted on the whistle blower, and this process can continue for years. In that time, the whistle blower might have lost his/ her job and suffered other dire consequences. The whistle blower may find consolation in receiving compensation or a settlement, which does not address the disclosure in any way (Martin, 2003:4).

Even though the Protected Disclosures Act (2000) suggests remedies when an employee has been subjected to occupational detriment, there are still shortcomings associated with this law. An employee can request to be re-instated. This has to be done in a practical manner. In most instances, when an employee takes the case to the court system, the relationship would have become sour to the extent that the employee might want to sever all ties with his/ her current employer (De Maria, 2006:652). The employer might feel betrayed by the employee and thus there may be no trust left for building a relationship. The employer may be left with the only alternative being to provide monetary compensation to the employee (Vickers, 1995:25).

While employees can receive some compensation, this may not be enough because it does not cover non-monetary damages, such as emotional breakdowns, a loss of credibility, family or health problems, or danger to the employee's life (Lewis and Uys, 2007:84). According to Naidoo (2007:5), in South Africa, high unemployment might prevent employees from blowing the whistle. It may be difficult to get another form of employment because a potential employer might discriminate against an employee who was fired due to blowing the whistle. The Protected Disclosures Act (2000) does not cover for the refusal of employment to the individual who blew the whistle on his previous employer (Vickers, 1995:26).

Within the public sector, the Protected Disclosures Act (2000) also poses some problems for those individuals with specialised skills and who can only be employed by government. These include the police, local authorities and the military. Most individuals in this line of work are dependent on being promoted in their field of work (Vickers, 1995:26). There are constraints in getting a similar job because only the public sector provides these services and thus, for example, when a police officer blows the whistle and this is broadcasted within the sector, he/ she may have to change his/ her field of work because as a result of not being able to find employment anywhere else. Therefore, the protection afforded by the Act does not cover the whistle blower in the event that he/ she cannot find a job if he/ she is dismissed (Vickers, 1995:26).

4.6 A comparative analysis

The Protected Disclosures Act (2000) can be considered to be a replica of the UK PIDA, due to similarities between these laws (see 4.3). The UK and USA are developed nations with different realities from South Africa. Certain aspects about the South African environment should have been taken into consideration and the drafters of the Protected Disclosures Act (2000) should have taken a holistic approach in drafting the law. In South Africa, there is systematic corruption that is rife (De Maria, 2005:223). According to the Transparency International CPI of 2012 (see 2.3), South Africa is ranked 69 out of 152 countries, while the UK and USA are ranked 17 and 19, respectively. The UK and USA also each have a Freedom of Information Act, which is positioned to help protect whistle blowers. However, in South Africa, the Protection of State Information Bill, so-called Secrecy Bill was passed in April 2013. The Bill does not cover public interest protection. The South African media plays a critical role in exposing corruption and maladministration within the public sector. The Bill has the potential of being utilized to withhold evidence from the court, but can also be used

against whistle blowers (Theophilopoulos, 2012:638). This undermines transparency, which is required for a government to be accountable to the public. Information, especially in cases where corruption is rife, is crucial for oversight institutions because these use information to hold officials accountable (The Economist, 2011:62)

According to De Maria (2005:223), whistle blowing legislation assumes the existence of a transparent and accountable justice system that is neutral and promotes whistle blowing. In the UK and USA, that might be the case. In South Africa, though, there is weak enforcement of laws, as there is lack of capacity amongst the agencies which hinders whistle blowing legislation from being effective. Due to weak law enforcement in South Africa, the perpetrator of the crime is seldom prosecuted. Instead, the perpetrator is fired or receives impunity (De Sardan, 1999:30). Impunity is mostly seen with high ranking politicians. For example, Bheki Cele, the former national Police Commissioner of South Africa, was fired by President Jacob Zuma because he was involved in inappropriate conduct. He was involved in deals that were improper, unlawful and amounted to maladministration. Even though there was a thorough investigation and evidence was found against him, he was never indicted (Conway-Smith, 2012).

The Protected Disclosures Act (2000) has flaws, which have been discussed in 4.5 but it has also some important benefits for employees. Even though the legislation is relatively new in South Africa, it provides some protection to employees, as outlined in 4.2.2. Additionally, many employers have also put in place various internal policies that outline whistle blowing procedures (Vickers, 1995:26). The protection of employees from retaliation is crucial because it promotes whistle blowing, which also promotes transparency and good governance. For individuals who blow the whistle in good faith it is not guaranteed that the Protected Disclosures Act (2000) is able to protect them from any retaliation.

4.7 Summary

Most organisations have policies and procedures that deal with whistle blowing, and these have to be in accordance with the law. This chapter focuses on the legislative and regulative framework of whistle blowing on an international and national level. Whistle blowing has become acknowledged internationally and various countries are taking major steps in implementing legislation to protect whistle blowers. Whistle blowing has become an important tool in fighting corruption.

This chapter also looks at how other countries, such as the US and UK, have adopted different policies for whistle blowing and a comparative analysis with South Africa was presented. It was also noted that the South African legislation closely resembles the UK Public Interest Disclosure Act (1998).

The South African Constitution (1996) forms the basis of the legislative and regulatory framework for whistle blowing. In South Africa, whistle blowing is relatively new and the legislation is still to be fully developed. This chapter has argued that the current whistle blowing legislation does not offer enough protection to employees. This becomes an obstacle in fighting corruption, because employees may feel intimidated in blowing the whistle. From the review of the Protected Disclosures Act (2000) and the case study of *Tshishonga vs Minister of Justice and Constitutional Development and another* provided in this chapter, it can be concluded that the law is often not adequate in protecting employees and that there is a need for the current legislation in South Africa to be amended.

The following chapter focusses on Stellenbosch Municipality as a case study. It analyses the whistle blowing processes at the municipality and investigates employees' perceptions of whistle blowing within the organisation.

CHAPTER 5

RESEARCH FINDINGS, PRESENTATION AND ANALYSIS OF RESULTS: A CASE STUDY OF STELLENBOSCH MUNICIPALITY

5.1 Introduction

The aim of this chapter is to present and analyse the data that was collected in this research. By using Stellenbosch Municipality as a case study, the chapter aims to link theory with empirical data in highlighting the role played by whistle blowing in combatting corruption in the public sector. This chapter also presents the perceptions of employees of their experiences with whistle blowing and corruption, and in this manner, provides an illustration of opinions on whistle blowing in the public sector context. The study set out with the aim of assessing employee perceptions on whistle blowing, which will help to identify the means to improve whistle blowing mechanisms and policies in local government. This has the potential to make whistle blowing more effective in the promotion of good governance and accountability

For the purposes of the study, an exploratory type of survey questionnaire was used (see Annexure C). This was adapted from Dorasmy's (2013) survey that was used to investigate good governance and whistle blowing at Higher Education institutions in South Africa; as well as a survey conducted by U.S. Merit Systems Protection Board (2011) on Federal employees. In the current study, ninety eight questionnaires were completed and a semi-structured interview was conducted with Faiz Hoosain, the Head of the Fraud and Anti-corruption Unit at Stellenbosch Municipality's Fraud Corruption Unit. This provided information on how reported cases of corruption are addressed in the municipality.

5.2 Whistle blowing at Stellenbosch Municipality

According to Rauch and Johannes (2012:8), approximately 35% of corruption reported to the Corruption Watch was witnessed at a local government level. Within the public sector, local government is the part of government that is closest to the people, and thus people are able to identify and report corruption. This is unlike other institutions, such as courts or prisons, which are national government institutions in which corruption is less visible (Rauch and Johannes, 2012:15). Not only does local government cater to the public, but a large sum of

government spending is allocated to it, which affects the quality of service delivery (Rauch and Johannes, 2012:8).

The South African government is committed to fighting corruption and promoting good governance and high standards of integrity (PSC, 2006:6). As mentioned in 2.6.3, there are various government initiatives in place for combating corruption. One of these is the Local Government Anti-Corruption Strategy, which is specifically for municipalities (see 2.6.3). Furthermore, the legislative framework against corruption helps in guiding the municipality on how to deal with corruption cases. This legislative framework includes the Protected Disclosures Act (2000), the Prevention and Combating of Corrupt Activities Act (2004), the Promotion of Administrative Justice Act (2000) and the Promotion of Access to Information Act (2000) (PSC, 2006:2).

Stellenbosch Municipality management is aware that there are various negative consequences associated with corruption. Section 2.4 highlights the consequences of corruption, one of which is the loss of public confidence in a particular institution. Therefore, in order to promote good governance and accountability, which would enhance public confidence, Stellenbosch Municipality drafted the Fraud and Corruption Policy (2011), which is a comprehensive framework to be used in the management of fraud risks. The Fraud and Corruption Policy was endorsed by Senior Managers, various stakeholders and the Municipal Mayor (Hoosain, 2014). This has contributed to its success. The framework's objective is to recognize the fraud risks that can undermine the institution's service delivery and, in so doing, the municipality is able to gain understanding of better ways of planning and assessing mechanisms to prevent, detect and respond appropriately to fraud (Stellenbosch Municipality, 2011:14).

In order to achieve this, Stellenbosch Municipality introduced the Fraud Hotline, a channel used to report corrupt activities by employees, contractors and other parties in the municipality. The hotline allows for the collection and investigation of corruption and fraud cases, and is thus used as a form of controlling corruption. Stellenbosch Municipality is one of the few municipalities in South Africa that has a functional Fraud Hotline (Hoosain, 2014). The Fraud Hotline provides employees, service providers, citizens and anyone who has witnessed corruption in the municipality the opportunity to report corruption. The reporting is guaranteed to be anonymous and confidential which is essential for an effective whistle blowing system as illustrated in 3.9.2. The Fraud Hotline also assures the consistent

application of the Fraud and Corruption Policy (see below) and the protection of whistle blowers. This ensures that whistle blowers do not suffer any retribution or reprisals.

The Fraud and Corruption Policy, which drives the functioning of the Fraud Hotline at Stellenbosch Municipality, was approved by the Stellenbosch City Council on 25 August 2011 (Hoosain, 2014). Prior to this, there was no operational independent hotline, and thus most employees had to make use of the National Anti-Corruption Hotline for the Public Service (NACH). The goal of the NACH is to create a central database for the reporting and investigation of alleged corruption in the public service (PSC, 2009:36). The NACH has had some success in that it has allowed for R86 million to be recovered and 69 officials have been found guilty of corruption between 2004 and 2008 (PSC, 2009:36). However, there is limited investigative capacity on the national level when departments are unwilling to give feedback on cases. This limited capacity has also resulted in a back log of investigating cases, with the result that corrupt officials continue engaging in corrupt activities (PSC, 2009:56). The abovementioned inadequacies of the NACH motivated Stellenbosch Municipality to establish the Fraud Hotline to effectively manage corruption at a local level

A Fraud Response Committee (FRC) was also established to manage the whistle blowing mechanisms in the municipality. The FRC receives reports from the Fraud Hotline, reviews these and determines if an investigation is necessary. Reports that warrant further investigation are taken to the Internal Audit Department, which is responsible for providing an independent opinion on the risk management, control and governance processes to determine whether these are effective in the management of corruption within the municipality.

The top management at the municipality plays a crucial role as champions in the establishment and implementation of the Fraud and Corruption Strategy by promoting fraud awareness and reviewing reports on fraud and corruption, and taking fitting remedial action (Stellenbosch Municipality, 2011:14). The top management is also responsible for ensuring awareness of the policy and is actively involved in the prevention, detection and investigation of fraud causes. Section 3.9 also illustrates the importance of top management in supporting the whistle blowing mechanisms. When the top management shows its commitment to fighting corruption, it can be argued that the institution as a whole will be encouraged to follow suit.

Since the inception of the Fraud Hotline in 2011, there have been 75 corruption reports that have been lodged. Table 5.1 highlights these reports and the outcomes. The single criminal case referred to in Table 5.1 occurred in 2013 and involved the former Chief Fire Officer, Mr Lizaan Morta, from the Stellenbosch Fire Department. He stole R14 000 from an order and was sentenced to four years. He stated that he had gambling problems (IOL News, 2014). It may be argued that he was thus motivated by greed, which, as discussed in 2.4.5, is a cause of corruption. This case was reported by a whistle blower who had witnessed the corrupt activity and reported it accordingly.

Table 5.1: Whistle blowing cases at Stellenbosch Municipality (Hoossain, 2014)

Total number of reports	75
Number of remedial measures that were successful	30
Number of successful criminal cases	1
Number of cases under current investigation	24
Number of cases that are not fraud-related/ there was no merit to investigate further	20

The investigation of whistle blowing cases can be expensive. Therefore, the municipality undertakes a cost-benefit analysis to assess if the reported case warrants investigation. Focus is normally given to blatant cases that cannot be ignored. In cases where the cost involved is less than the cost of the investigation process, there may not be an investigation. Some employees might thus continue engaging in petty corruption which may become systematic (see 2.2.1) (Hoossain, 2014).

5.2.1 Process of whistle blowing at Stellenbosch Municipality

The Stellenbosch Fraud Hotline uses an accounting organisation, Deloitte, to receive and manage the corrupt cases that are reported. This is because the Fraud Hotline provides a neutral environment that makes the whistle blower feel more comfortable in disclosing any corrupt activities that he/ she has witnessed (Smith, 2005:9). Every year, during induction new employees are trained (only in English) on how to use the hotline. Most whistle blowers would rather use an anonymous system that ensures that their identity is confidential (Hoosain, 2014), and Stellenbosch Municipality's Fraud Hotline provides such a safe environment for reporting.

The whistle blowing process used at the municipality is outlined in Figure 5.1. The preliminary process involves the caller or whistle blower using the Fraud Hotline and reporting the corrupt activity through various channels, such as telephone calls, short message service (sms), the hotline's website and email. The various alternatives provided by the Fraud Hotline ensures that the employee has more options for reporting and can use an avenue with which he/ she is most comfortable. Employees have access to the Fraud Hotline 24 hours a day, every day of the year. This offers some flexibility to employees in terms of when they can report the corrupt activity.

It should be noted that the Stellenbosch Municipality Fraud Hotline is not a complaint hotline for grievances, but rather for reporting corruption that is witnessed. Before calling the Fraud Hotline, the whistle blower should ensure that he/ she has completed a checklist with the following requirements (Deloitte, 2010:7):

- (i) The name(s) of the people involved;
- (ii) The date and time of the incident(s);
- (iii) The name of the division that the whistle blower is calling in connection with;
- (iv) The physical address at which the incident occurred;
- (v) A description of the incident that the whistle blower observed;
- (vi) Proof of the allegation, such as documents, invoices, bank statements and purchase orders; and
- (vii) Name(s) of other people who witnessed the incident.

The above steps are in alignment with the Protected Disclosures Act (2000) (see 4.3.2). This Act highlights that the disclosure that is made by the whistle blower has to be done in good faith. The whistle blower has to acquire as much detailed information as possible, as well as proof for the case being reported. As shown in the checklist above, the Fraud Hotline requires the caller to provide detailed information regarding the case that he/ she is reporting.

When the employee discloses a corrupt activity, this is received by the Deloitte Tip Offs agent who probes for more information from the whistle blower regarding the case he/ she is reporting. The agent then gives the caller a reference number that the latter can later use to obtain feedback on their reported case (see 3.6.1) on the process of whistle blowing. A report analysis is done before the case is examined and the report is converted into an unidentified

and sanitized version that ensures the whistle blower's anonymity before it is sent to Stellenbosch Municipality. The municipality receives the report and launches an investigation into the matter. After the investigation is complete, Stellenbosch Municipality relays the outcome of the investigation to Deloitte.

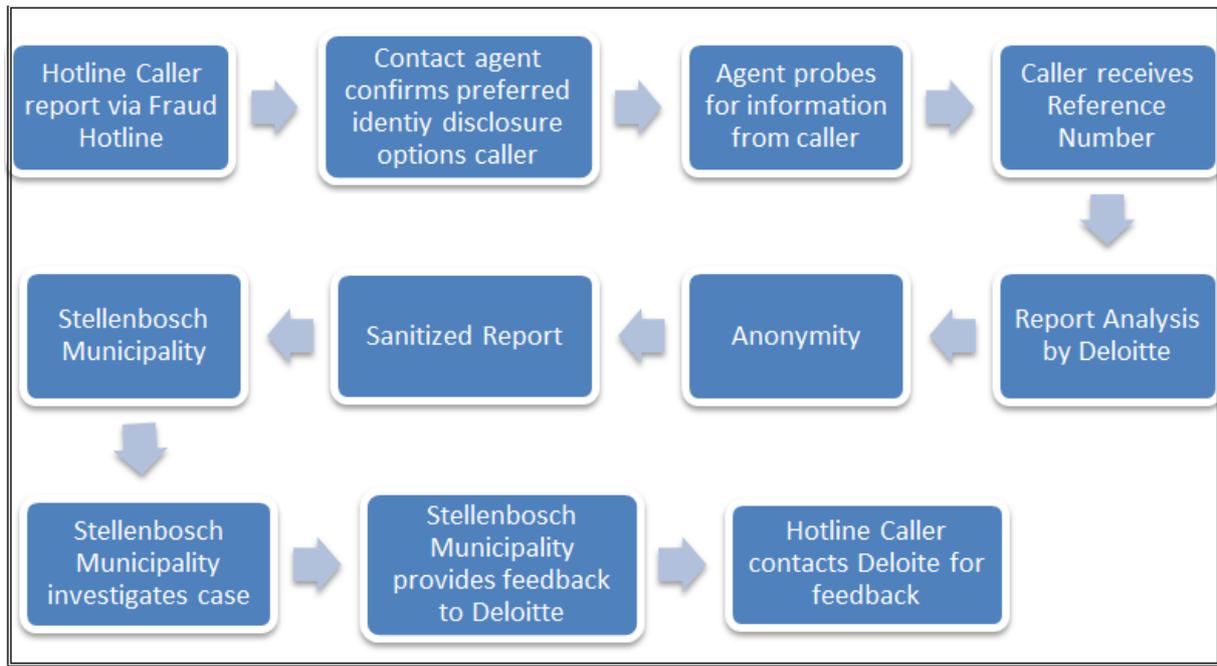


Figure 5.1: The process of whistle blowing at Stellenbosch Municipality (Deloitte, 2010: 5)

The above process shows that Stellenbosch Municipality follows the building blocks of effective reporting (see 3.9) that are essential for the effective management of the whistle blowing process. The Stellenbosch Municipality Fraud Hotline is effective because it encourages employees to report corruption. It is managed by Deloitte, an independent, credible and professional body that has guaranteed the confidentiality and anonymity of the process. The Fraud Hotline is thus likely to instil confidence in employees and they may feel more empowered to disclose corrupt activities, thereby help encourage whistle blowing in the organisation.

5.3 Presentation and analysis of results

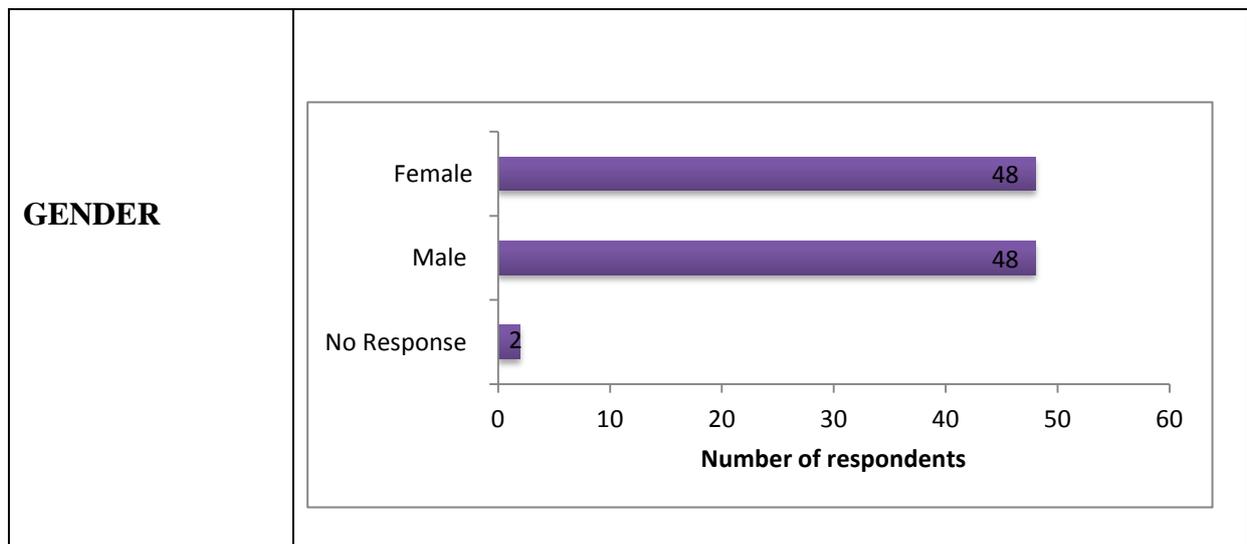
The previous section outlined the whistle blowing process used at Stellenbosch Municipality. This section focuses on presenting and analyzing the data that was collected from a sample of the employees of the municipality. As mentioned in 1.4, a structured, anonymous and

confidential questionnaire was administered. A total of 98 employees out of a total of 1018 (permanent) employees, representing approximately 10% of the workforce at Stellenbosch Municipality, completed the questionnaire. The aims and the objectives of the study were communicated to the respondents. Additionally, the study was in accordance with the Stellenbosch University`s Policy on Research Ethics. The demographic profile of respondents is presented in the next sub-section.

5.3.1 The Demographic profile of respondents

Table 5.2 below shows the gender, educational level, position and age of the employees who completed the questionnaire. Each of these parameters is subsequently discussed in more detail. It should be noted that it was beyond the scope of this study to investigate whether there was a correlation between these demographic variables and the likelihood of whistle blowing. The ethnicity or race of respondents was also not investigated.

Table 5.2: Demographics of respondents



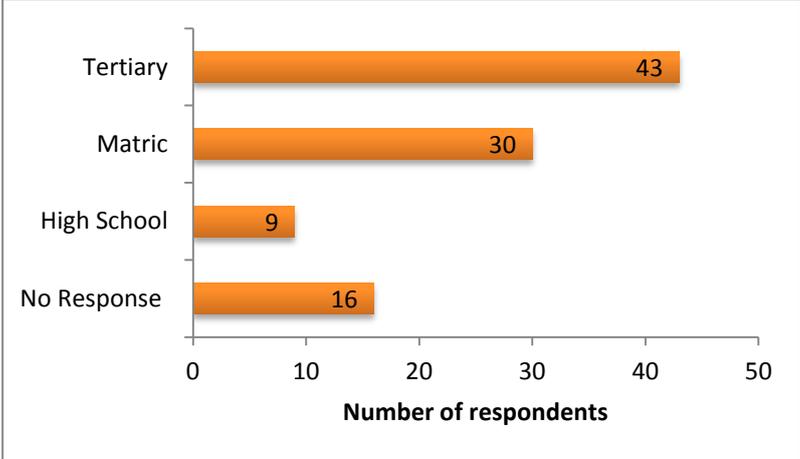
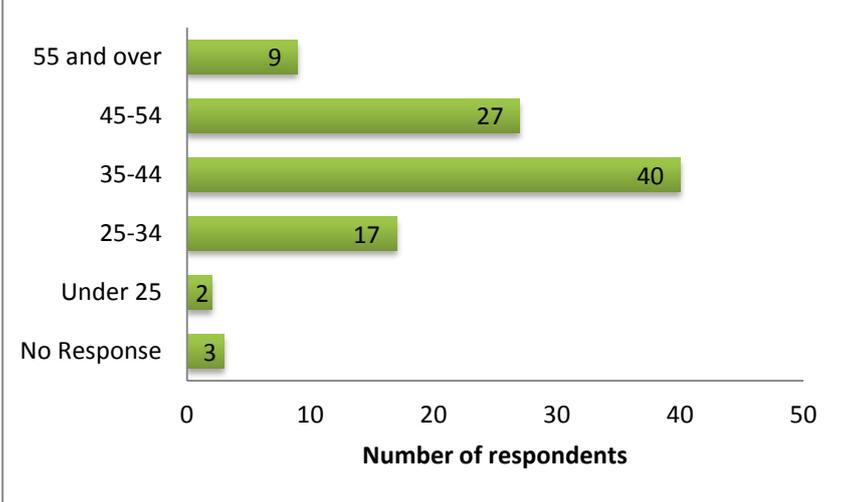
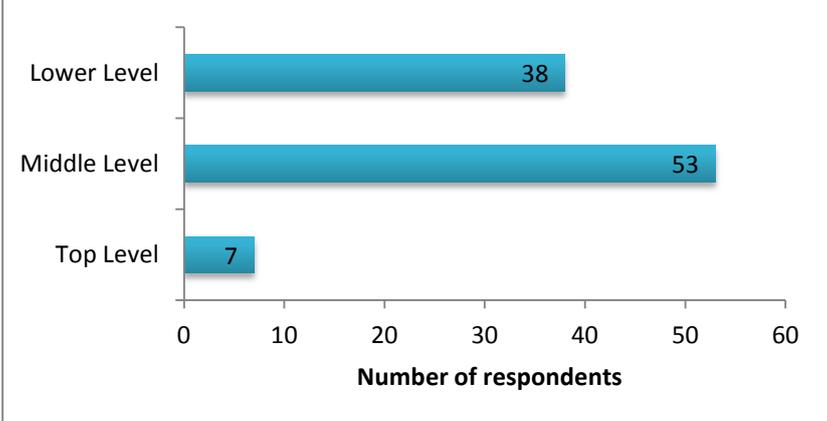
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<p>AGE</p>	 <table border="1"> <thead> <tr> <th>Age Group</th> <th>Number of respondents</th> </tr> </thead> <tbody> <tr> <td>55 and over</td> <td>9</td> </tr> <tr> <td>45-54</td> <td>27</td> </tr> <tr> <td>35-44</td> <td>40</td> </tr> <tr> <td>25-34</td> <td>17</td> </tr> <tr> <td>Under 25</td> <td>2</td> </tr> <tr> <td>No Response</td> <td>3</td> </tr> </tbody> </table>	Age Group	Number of respondents	55 and over	9	45-54	27	35-44	40	25-34	17	Under 25	2	No Response	3
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Table 5.1 shows that an equal proportion of males and females responded to the questionnaire. Ipsos Markino conducted a survey that highlighted that men are highly likely to blow the whistle (Whistle Blowers (Pty) LTD, 2012). This was supported by Miceli and Near (1998) as cited by Vadera et al (2009:556). At Stellenbosch Municipality, of the 48 men respondents, 65% blew the whistle on corruption.

The largest number of the respondents had a tertiary education (43 respondents, representing 44% of the sample), followed by 30 respondents (31%) whose highest level of education was matric, while 16 employees (15%) did not state their level of education. It appears that education plays an integral part in the reporting of corruption. This is because most of the respondents who reported corruption had tertiary education. Additionally, forty respondents (41% of the sample) were between the ages of 35 and 44 years, and the following age group is 45 to 54 are 27. More than half (53) of the respondents are at a middle level position in the organisation and 38 (39% of the sample) are at lower levels. A small number (7 respondents, representing 7% of the sample) was at the level of top management.

According to Miceli and Near (1992:115), the age of an individual may indicate whether someone is more likely to blow the whistle, with younger individuals being less likely to do so (see 3.4). In this study, 60% of the respondents who blew the whistle were between the ages of 35 and 44, while 30% were between the ages of 45 and 54 years. However, the literature shows that there is no conclusive relationship between age and whistle blowing, as some studies have indicated a positive correlation and others a negative co-relation between these variables (Vadera *et al.* 2009:557).

In this study, four out of the seven top management officials blew the whistle and they were over 35 years old. According to Miceli and Near (1998) as cited by Vadera et al (2009:557), respondents who are in lower positions can be easily replaced and thus they face the threat of losing their jobs. Those individuals who are in a position of power are thus more likely to blow the whistle compared to individuals with less power.

The results in this section suggest that the demographic profile of individuals may play some part in how likely the individual is to blow the whistle. The next section is going to review the perceptions of the term “whistle blowing” among employees at Stellenbosch Municipality.

5.3.2 Perceptions of the term “whistle blowing”

Respondents were asked about their perceptions on the term “whistle blowing”, if they viewed it negatively, positively or neutral. The results in Figure 5.2 illustrate how the respondents viewed the term “whistle blowing”.

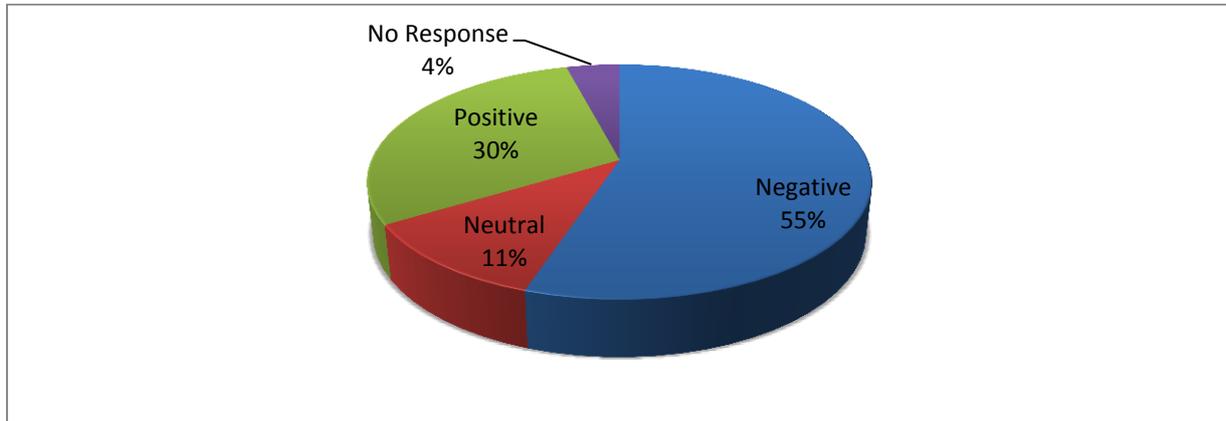


Figure 5.2: Perceptions of the term “whistle blowing” among a sample of employees

In 3.6., the obstacles that hinder whistle blowing were highlighted, and one of these was culture. In most ethnic cultures in South Africa, whistle blowing has a negative connotation (see 3.6.). It is interesting to note that about 55 % perceived the term “whistle blowing” in a negative manner (see Figure 5.2). This shows that whistle blowing is not an easy process. The negative perception might also hinder individuals in blowing the whistle. It also shows that the action requires courage on the part of the whistle blowers and it is not taken lightly.

The respondents were also asked an open-ended question the actions they associated the term whistle blowing with. Seventy (71%) respondents mentioned corruption and corrupt activities. Eight respondents also mentioned fraud while four mentioned stealing. Maladministration and collusion were additional terms that respondents used. Twelve respondents also highlighted that whistle blowing can be used as a means of reporting corrupt activities. The results in this sub-section portray a negative perception of corruption. The next section considers how confident employees are in their manager/ supervisor to address corruption appropriately.

5.3.3 Confidence in the manager/ supervisor to address corruption appropriately

One of the reasons that whistle blowers may not disclose corrupt activities is a lack of confidence in their manager/ supervisor address the disclosure appropriately. In the present study, 66% of respondents lacked such confidence in their supervisor. This perception might be based on past experience or what employees may have observed in the organisation. It is therefore important that managers and supervisors work towards instilling greater confidence in employees.

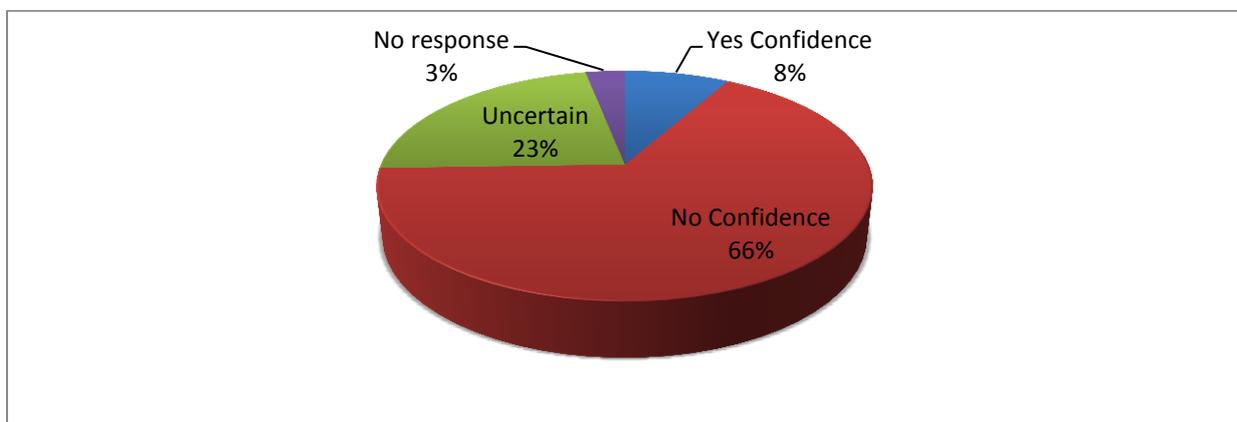


Figure 5.3: Confidence of employees in the manager/ supervisor addressing corruption cases

The results in Figure 5.3 suggest that whistle blowers may be afraid to divulge corrupt activities to their manager/ supervisor because of the latter's possible response to their claim. When a whistle blower reports to his/ her manager/ supervisor, they are not always guaranteed anonymity. Some employees might also not be getting along with their manager/ supervisor, and therefore there might be bias in how their case is handled. The overall results in this section suggest that there is discontent experienced by the employees in how managers/ supervisors at the municipality address the incidences of corruption that are reported.

5.3.4 Perception of reasons for the non-reporting of corrupt activities

Figure 5.4 below presents responses to the various reasons that might hinder employees in reporting corruption. Forty-six of respondents (47% of the sample) stated that they feared

losing their jobs, while 39 respondents (40% of the sample) would not blow the whistle if there was no whistle blowing policy. A small number (5, or 5%) of respondents stated that the lack of incentives hindered them from reporting corrupt activities. Together, these results provide important insight into some of the issues that may discourage individuals from blowing the whistle.

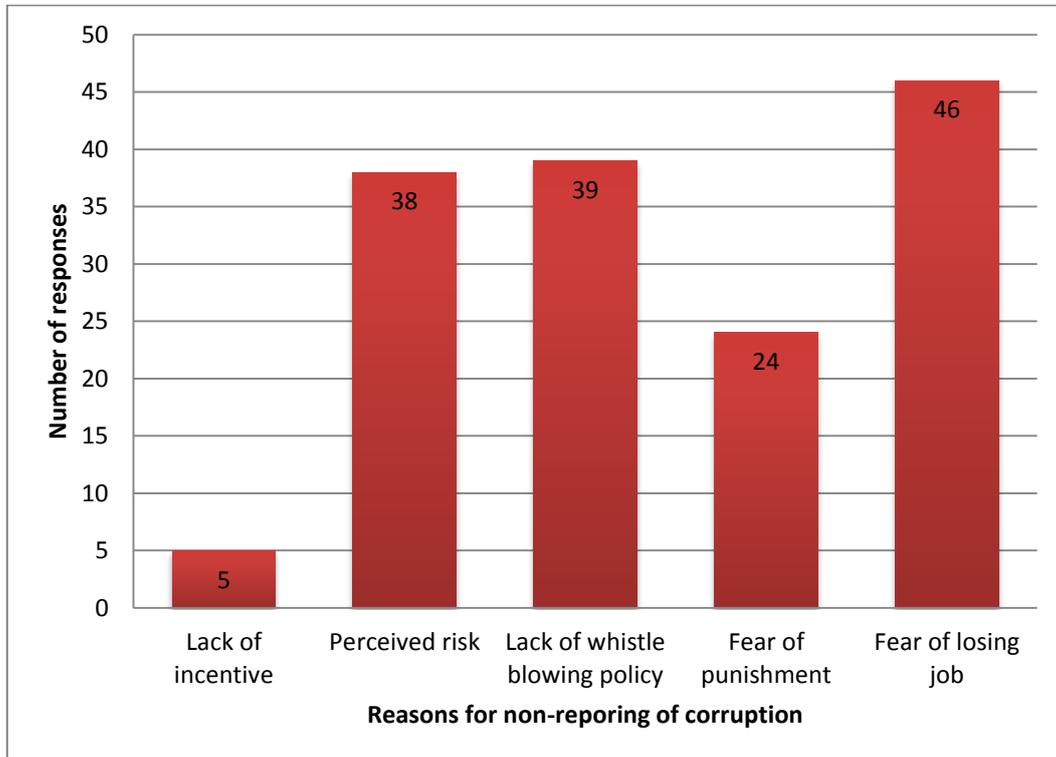


Figure 5.4: Reasons for the non-reporting of corrupt activities occurring at Stellenbosch Municipality

5.3.5 Issues relating to corruption in the organisation

This section of the questionnaire is only relevant to the 20 employees who stated that they had witnessed corruption and reported it. The questions that were asked in the questionnaire required the respondents to state what they had experienced. This was not based on media reports that they had read or something that they had heard from someone else, but it was rather their individual experience. It is important to take note of the corruption issues that are prevalent at Stellenbosch Municipality so as to see how whistle blowing can be a tool to reduce the incidences of corruption.

According to Transparency International Corruption Perception Index (2011) fewer than two out of ten South Africans blow the whistle. The results of the current study support this statement, as only 20% of the respondents have blown the whistle. Figure 5.5 below reveals that only 20% of the respondents stated that they witnessed corruption and 80% did not witness any corruption (Figure 5.5). Of the 20 employees who blew the whistle on corruption, more than half (12) had tertiary qualifications. This suggests that employee’s level of education may influence the likelihood of whistle blowing. This is because, the more educated individual has a better understanding of the whistle blowing policy which is often written in in a manner that is not easily comprehensible. However, the effect of the level of education on blowing the whistle is still ambiguous and more research needs to be done to support the notion.

Respondents were asked on issues relating to corruption in the organisation as a means to assess corruption in the organisation. However, the measurement of corruption is flawed as it only reflects the general overview of corruption in the municipality and does not provide conclusive results.

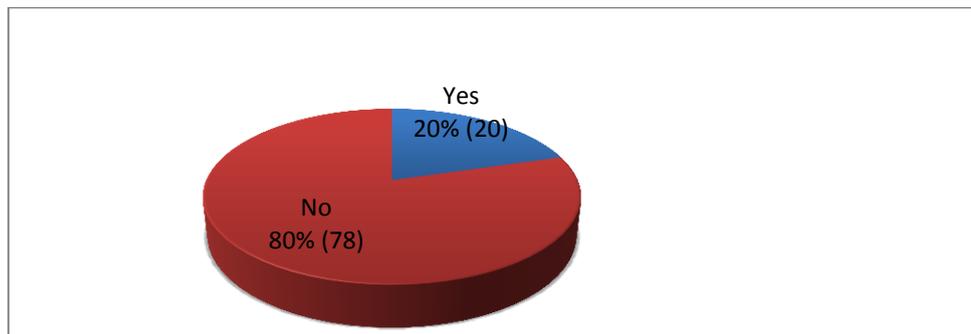


Figure 5.5: Number of respondents who witnessed corruption at Stellenbosch Municipality

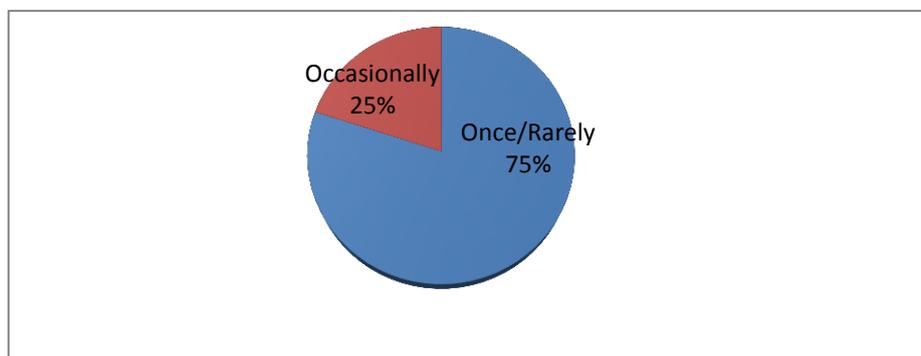


Figure 5.6: Frequency of corrupt activities witnessed

Of the 20 employees who stated that they had witnessed corruption, none stated that they viewed corruption frequently (see Figure 5.6). This implies that corruption is not systematic or widespread at Stellenbosch Municipality, as described in 2.2.1. The corruption that occurs in the municipality is thus more likely to be incidental in nature. Seventy-five per cent of respondents (15) stated that they had witnessed corruption rarely (see Figure 5.6). Of the respondents who reported corruption, more than half (60%) used the Fraud Hotline as their means of reporting. This shows that the Fraud Hotline plays a critical role in the whistle blowing process.

There are different forms of corruption (see 2.1.) that could have been witnessed and it is important to outline these various forms so that policy makers are able to better understand the problem and can develop appropriate solutions. It is clear that most corruption that was witnessed was related to the selection of a consultant, contractor or salesperson (see Figure 5.7). The issue of corruption with procurement is seen in Figure 5.7 in the procurement of services in the municipality. There may be a relationship between the forms of the corruption that were witnessed and the area at which the corruption occurred. Figure 5.7 shows that corruption was most prevalent in cases involving contractors and sellers.

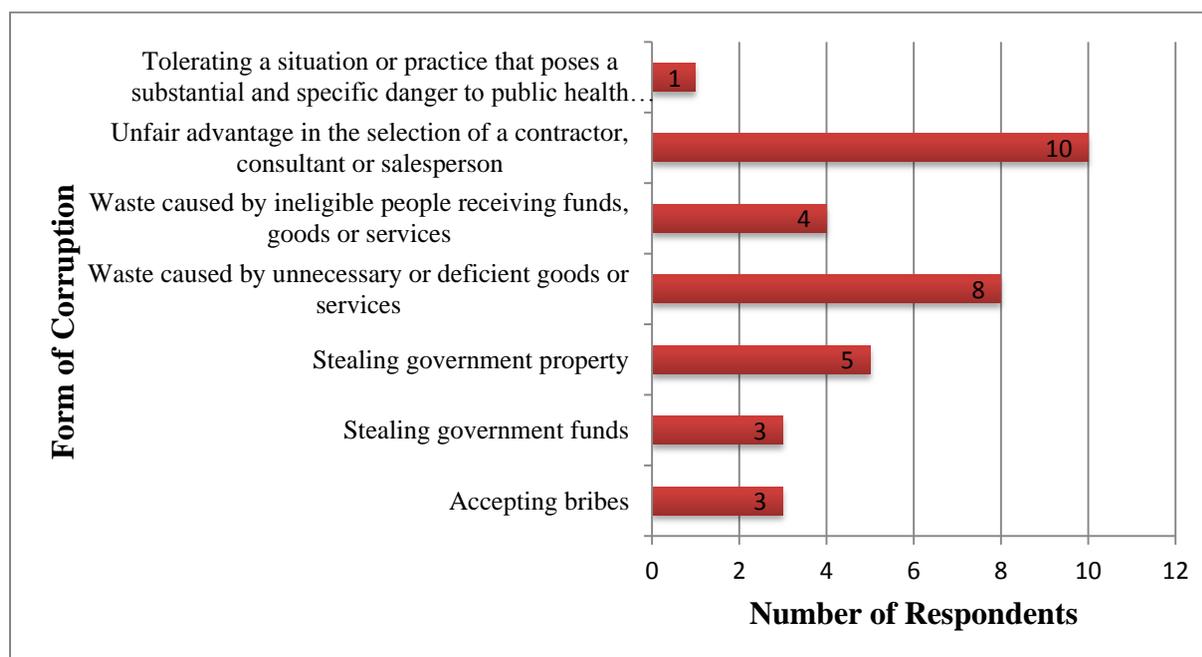


Figure 5.7: Forms of corruption that were witnessed at Stellenbosch Municipality

Figure 5.8 shows the locations at which corruption was witnessed. Of these, 10 stated that they occurred in contracting and outside the department or area of work. The formulation of this

section of the questionnaire was a bit ambiguous and thus not specific to any section in the municipality where corruption incidences occurred. It was thus not possible to determine the specific areas of the municipality that need attention in addressing corruption. Even though a pilot study was conducted to weed out potential problems, this question was overlooked. However, the results reinforce that there is a major problem relating to contractors.

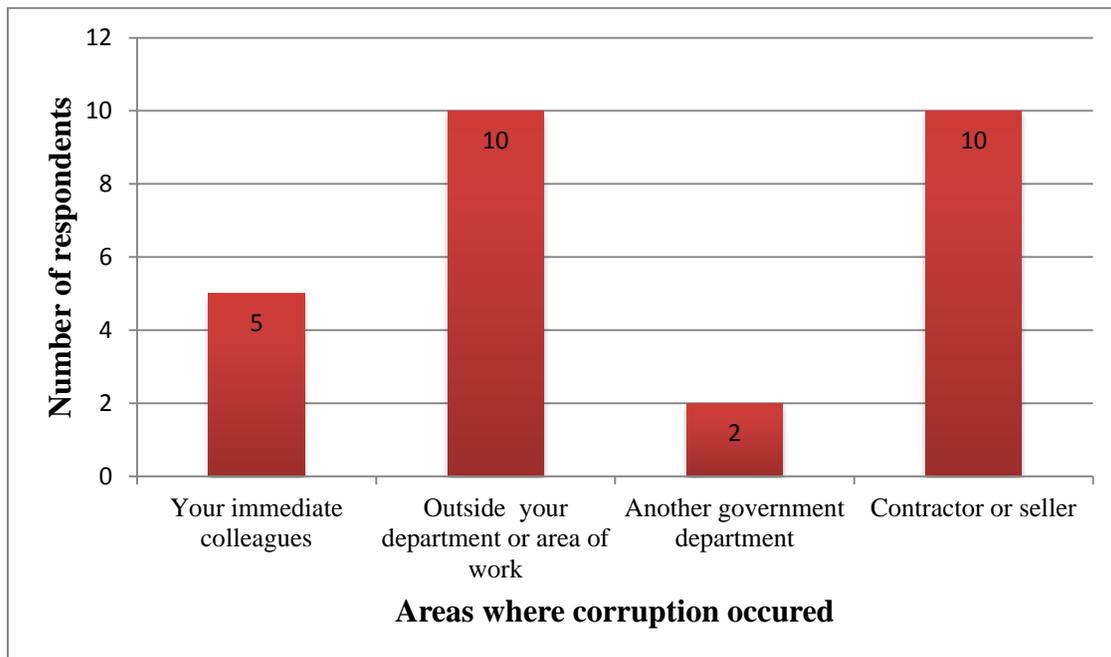


Figure 5.8: Locations at which corrupt activities occurred at Stellenbosch Municipality

Figure 5.9 on the next page highlights where employees reported corruption. More than 50% of the 20 respondents that witnessed corruption (13 employees) reported the corrupt activity using the Fraud Hotline. This shows that the Fraud Hotline is more trusted than other reporting mechanisms by employees when reporting corrupt activities. Respondents in top-level positions, who witnessed corruption in the organisation and reported it, did so using the Fraud Hotline, the Public Protector and the Fraud Response Committee. Furthermore, 100% of the respondents in the questionnaire who witnessed corruption did not have confidence in their manager/supervisor to address their disclosures on corrupt activities. One can thus argue that a lack of confidence in supervisors influences most employees to use the Fraud Hotline to report corruption.

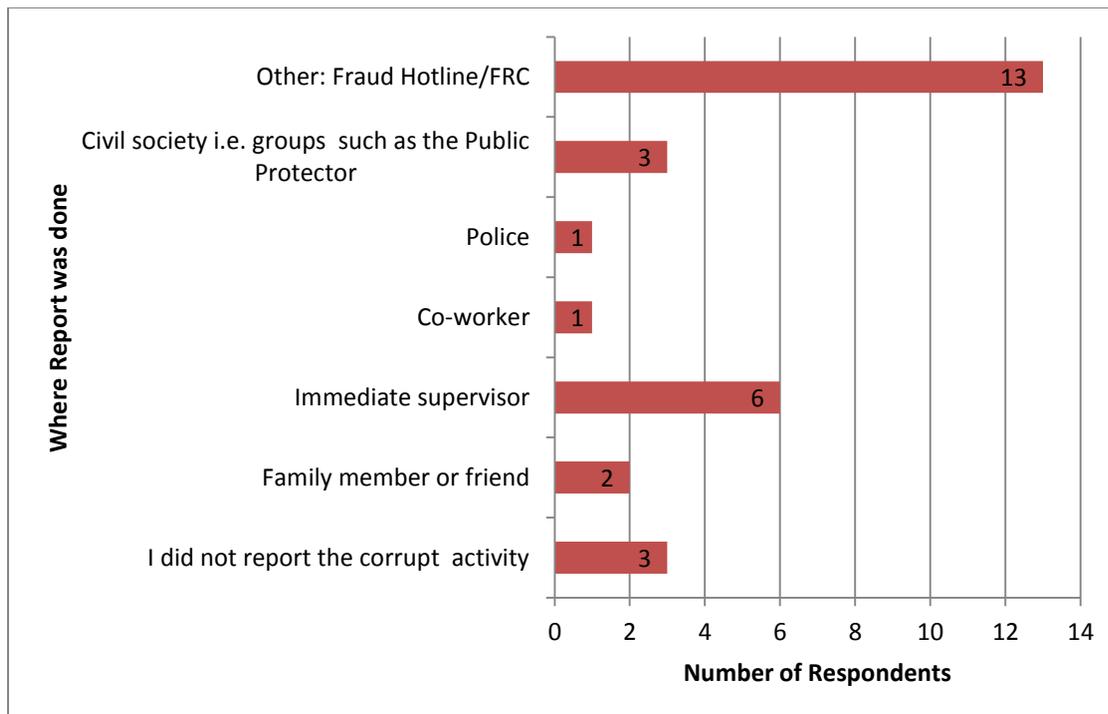


Figure 5.9: Corrupt activities which were reported at Stellenbosch Municipality

It is imperative that the organisation understands the avenues that employees can potentially use and/or when reporting corruption. This helps in discerning the prevention strategy for the municipality such as fraud awareness programmes, a fraud response plan and fraud risk assessment (Stellenbosch Municipality, 2011:15). This study shows that most employees used the Fraud Hotline and also made use of their immediate supervisor, despite possible fears of retaliation and losing their jobs. This relates to the culture of honesty and openness the organisation (see 3.9.4), which promotes employees blowing the whistle on any misconduct that they witness. In an organisation in which there are high ethical standards, and the organisation has shown that it has dealt with the case effectively, the employees will be confident to blow the whistle. According to Sims and Kennan (1998:412), a supportive climate in an organisation, characterised by the immediate supervisor listening and empathising with the whistle blowers, encourages the blowing of the whistle in the organisation. This can be applied to Stellenbosch Municipality.

The researcher also asked the respondents for additional feedback, and the following comments were made in the questionnaires:

- (i) “Reporting on corruption is a futile act. I have yet to learn of anybody anywhere that was investigated, found guilty and sentenced - anywhere. Even our President is corrupt. Corruption has become the norm; is totally acceptable in government. Reporting on this is a waste of time.”
- (ii) “Whistle blowing policy to be drafted.”
- (iii) “Need to implement relevant policies to fight corruption.”
- (iv) “Important that necessary policies be put in place to prevent corruption activities; need to put anti-corruption measures in place.”
- (v) “Whistle blowing policy in process of being submitted to council.”
- (vi) “Create greater awareness in respect of anti-corruption measures in place.”
- (vii) “Employee awareness on anti-corruption is done on an annual basis.”

A recurrent theme in the responses from the questionnaire was a sense amongst participants that there was a need to have whistle blowing policies in place and to create more awareness of anti-corruption measures (see 3.9.1). One can detect that the employees feel that more needs to be done in terms of anti-corruption mechanisms in government, especially in local government. The next section focuses on the factors that may influence individuals to blow the whistle.

5.3.6 Reasons that encourage the reporting of corrupt activities

The respondents were asked in the questionnaire if they agree with certain statements. The bar graph in Figure 5.9 illustrates the responses to the statements listed below. Respondents were asked how important each of the following statements would be in encouraging them to report a corrupt activity:

- (i) The corrupt activity might threaten people’s lives and suppress social justice.
- (ii) The corrupt activity was something you considered serious in terms of costs to the municipality.
- (iii) Some action would be done to address the activity I reported.
- (iv) The wrongdoers involved in the activities would be rebuked.
- (v) I would be protected from any sort of retaliation.
- (vi) I would be positively recognised by management for reporting corruption.

- (vii) My identity would be kept confidential when I disclose any corruption.
- (viii) The corrupt act was something you considered to be a serious ethical violation, although the monetary costs associated with it were small.

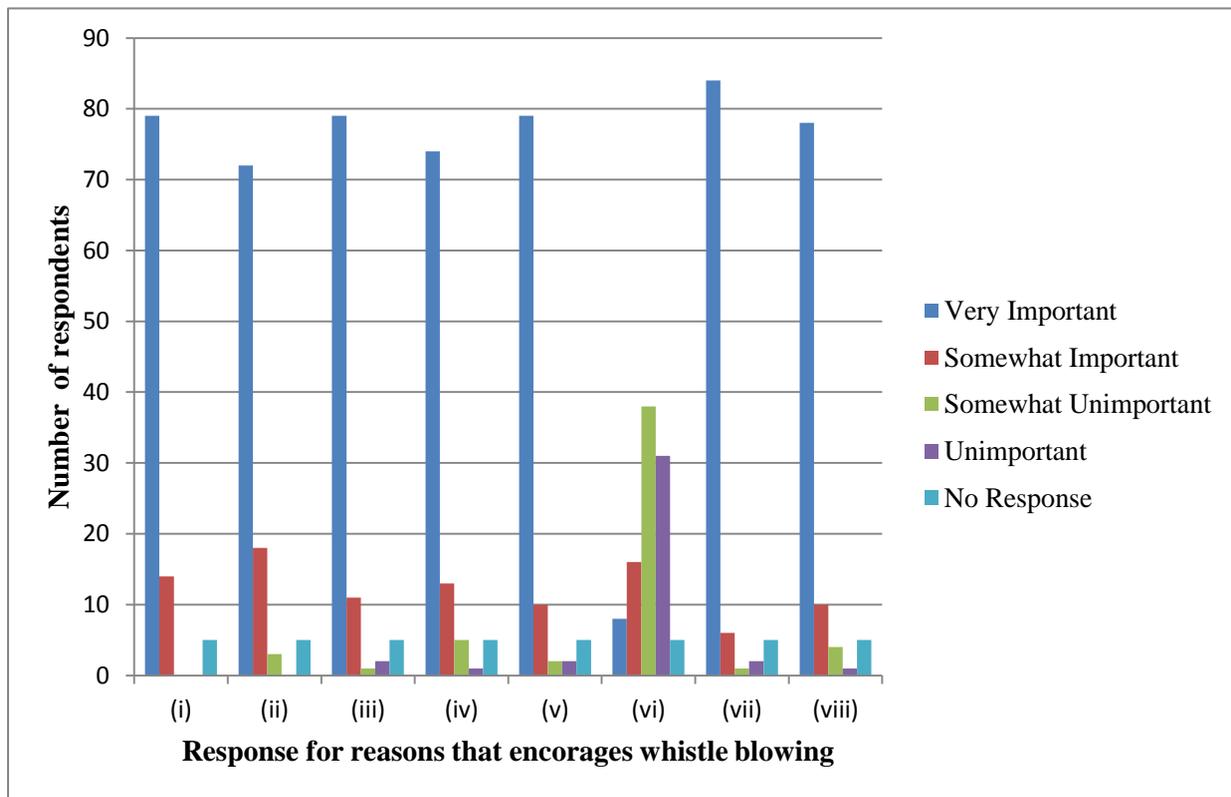


Figure 5.10: Responses to push factors in reporting corruption

In 3.6, various obstacles that hinder whistle blowing, as well as the dilemmas that whistle blowers might face when reporting corruption, were discussed. It is therefore important to also investigate what would encourage respondents to report corruption through the whistle blowing process. When the corrupt activities were considered as potentially threatening people’s lives and as something serious in terms of government costs, 79% of respondents (see (ii) in Figure 5.10) felt the need that they had to report it and 78% of respondents (see (viii) in Figure 5.10) would report it if the corrupt activity was an ethical violation, even though the cost was not significant.

It is not surprising that 74% of respondents (see statement (iii) in Figure 5.10) expected some action to be taken against wrongdoers and 79% of respondents (see (iv) in Figure 5.10) also felt the wrongdoers had to be rebuked. A majority of participants (81%, or 79 people) (see (v) in Figure 5.10) expected some form of protection from retaliation after whistle blowing. When the

respondents were asked how important it is for their identity to be kept confidential, 86% (or 84 people) (see (vii) in Figure 5.10) indicated that confidentiality of identity was important. Being positively recognised by management was not a major motivator, as the highest percentage of respondents, 39% (or 38 respondents) (see (vi) in Figure 5.10), felt that it was somewhat unimportant. In summary, the results as illustrated in Figure 5.10 show that there is a broad agreement that employees would report on any corrupt activity that would threaten people's lives and was unethical (see (i) in Figure 5.10); however, there is a need to be protected from retaliation and for the employee's identity to be kept confidential.

5.3.7 Likelihood of whistle blowing

Figure 5.11 below provides the breakdown of how likely employees would be to “blow the whistle” on corruption when the wrongdoer is any of the following:

- (i) A higher level manager;
- (ii) A direct supervisor;
- (iii) A co-worker within the department;
- (iv) Another municipal employee outside the department; or
- (v) An elected political appointee.

Figure 5.11 shows that generally over 70% of the respondents are very likely to blow the whistle on their employees (see Figure 5.11). This is encouraging, because it shows that there is a strong building blocks for effective whistle blowing (see 3.9). This can also be linked to the presence of the Fraud Hotline at the municipality. The Fraud Hotline provides anonymity and confidentiality, and thus employees may feel more comfortable in reporting corruption. The results (see Figure 5.11) strongly suggest that employees will report any corrupt activities that they witness, regardless of the position held by the person involved in the corruption. In the next section of the survey, respondents were asked about their perceptions of the policies and procedures on whistle blowing at Stellenbosch Municipality.

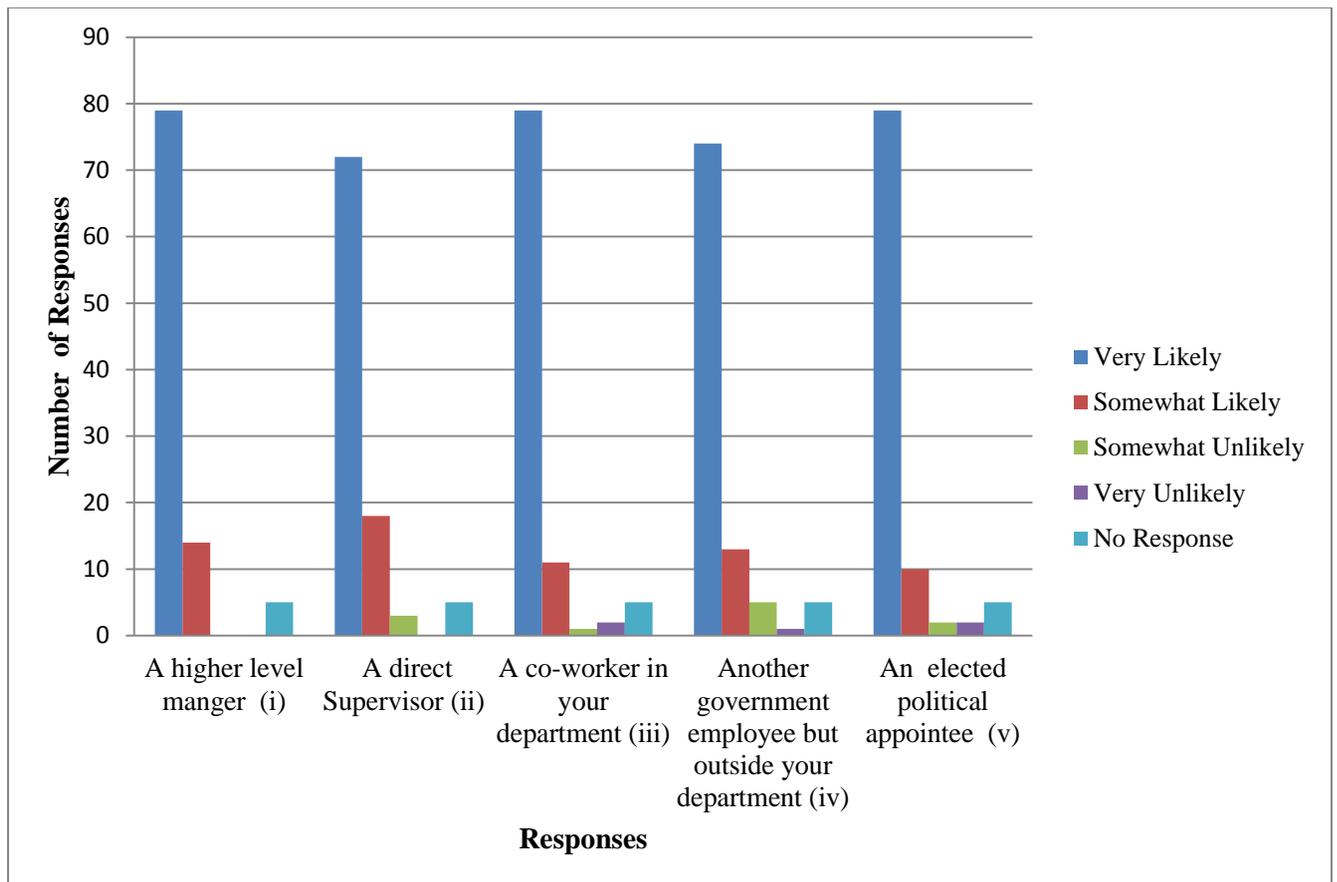


Figure 5.11: Bar graphs showing how likely employees are willing to blow the whistle

5.3.8 Perception of the Policies and Procedures on whistle blowing

Figure 5.11 below shows an overview of the responses to the following statements. Respondents were asked the extent to which they agreed with each of these statements:

- (i) I am well familiarised with the Protected Disclosures Act (2000) and the stipulations in the Act.
- (ii) The organisation is in adherence with the guidelines that are stipulated in the Protected Disclosures Act (2000).
- (iii) The organisation has a formal mechanism that encourages employees to report any wrong doing and also communicates the procedures in reporting it.
- (iv) The whistle blowing system conceals the identity of the person lodging a complaint.
- (v) I feel confident to report corrupt activity occurring in my organisation.

- (vi) Within my organisation, there are high incidences of retaliation from other colleagues if someone reports any corrupt activities.
- (vii) I would report corrupt activities if I was guaranteed some form of protection, either provided by the law or regulations.
- (viii) I would report any corrupt activities if there was a monetary reward or promotion as an incentive.
- (ix) I would report any corrupt activities because I feel morally obliged to do so.

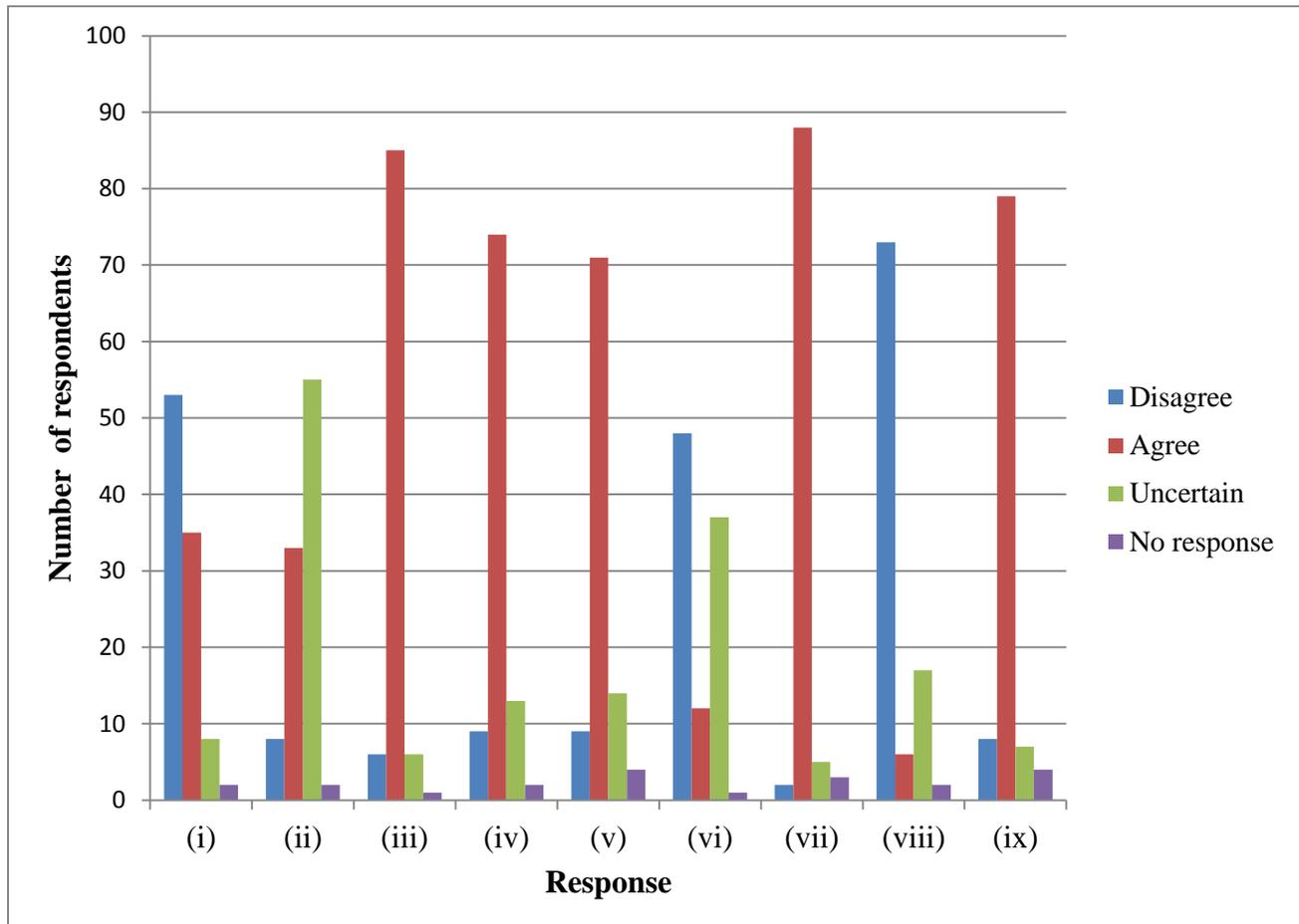


Figure 5.12: Responses to Section C, Question 3 of Questionnaire

As shown in Figure 5.12, over half (54%) of the participants (see (i) in Figure 5.12) have admitted to not being familiar with the Protected Disclosures Act (2000). There are several possible explanations for this result. One could be that most individuals have never been informed of the law and its implications. Furthermore, employees might know the existence of the legislation, but may have difficulty in interpreting it and apply it to their context. The above mentioned result may also be linked to the second statement, in which respondents were asked if

the organisation is in adherence with the guidelines stipulated in the Protected Disclosures Act (2000). Approximately a third (32%) of the respondents responded in the affirmative, while more than half were uncertain (56%, or 55 respondents) (see (ii) in Figure 5.12). If the majority of the respondents are not familiar with the Protected Disclosures Act (2000), then this might result in many being uncertain about whether or not the organisation adheres to the guidelines stipulated in the legislation.

It is important that employees are familiar with the Protected Disclosures Act (2000), because this provides guidelines on the reporting and disclosure of information, as well as what organisations should adhere to. By being familiar with this Act, employees are able to monitor whether the organisation is compliant with the guidelines stipulated in the Act. More than two thirds (70%) of the respondents who witnessed and reported corruption stated that they were well familiarised with the Protected Disclosures Act and agreed that the organisation was in adherence with the Act (see (i) and (ii) in Figure 5.12). However, this result should be interpreted with caution because there might be other reasons that could have contributed to the respondents being uncertain about the organisation's adherence to the Protected Disclosures Act (2000).

The respondents also agreed (87% or 85 respondents) that Stellenbosch Municipality has a formal mechanism that encourages the employees to report corruption (see (iii) in Figure 5.12). As mentioned in 5.2, Stellenbosch Municipality has a formalized anti-corruption strategy that is stated in its Fraud and Corruption Policy. There is also a Fraud Response Committee that is dedicated to the management and investigation of all the reported cases.

Over 70% of the respondents (71 respondents) also felt confident to report on corrupt activities (see (v) in Figure 5.12). Based on the response of this question, Stellenbosch Municipality has a clearly defined whistle blowing policy i.e. the Fraud and Corruption Policy, which is in line with the one stated in 3.9. Stellenbosch Municipality has transparent internal policies to which employees have to be compliant. Furthermore, the top management supports the anti-corruption initiatives in the organisation. Another important finding was that a small percentage (12% or 11 of the respondents) felt that there were higher incidents of retaliation from colleagues if an employee blew the whistle on corruption (see (vi) in Figure 5.12). This is indicative of the culture of the organisation, which does not condone corruption or retaliation against whistle blowers (see 3.6.1).

As mentioned in 3.9.4, the protection of whistle blowers from reprisals is important as it encourages individuals to blow the whistle. Section 3.7.1 highlighted the consequences faced by whistle blowers, and the Mike Tshishonga case was discussed in 4.4. the disclosure of perceived corruption had a negative impact on his career. Similarly to it, it is expected that employees will want protection against retaliation to avoid being like Tshishonga. The results of the current study show that 89% of respondents (88 respondents) felt that protection from retaliation was an important factor that would encourage them to report corruption (see (vii) in Figure 5.12).

Monetary reward was not an incentive for 74% of respondents (73 respondents) (see (viii) in Figure 5.12). This is in agreement with the discussion in 5.3.4 that the lack of monetary incentives has the least impact in hindering the reporting of corruption. This study confirms that money is not a motivator for blowing the whistle. It was found that 80% of respondents (79 respondents) are morally driven to report corruption (see (ix) in Figure 5.12). It is surprising that most employee especially public officials are morally driven and thus do not require any monetary remunerations for their disclosures. Public sector employees are expected to uphold the public interest, and to thus be driven by their morals to blow the whistle.

5.4 Summary of research findings

As mentioned in 1.5, the research question driving the current study was to investigate the extent to which employees in the South African public sector are knowledgeable about whistle blowing mechanisms. The findings discussed in this chapter show the perceptions of employees at Stellenbosch Municipality and the mechanisms in place for reporting corruption. The key findings of this study, which allow us to address the research question, are as follows:

- (i) Whistle blowing as a term is perceived negatively by employees at Stellenbosch Municipality. This negative perception of whistle blowing might stem from the fact that whistle blowers often face retaliation. As shown in the study, most respondents fear losing their jobs and fear of punishment when they blow the whistle perceived risks, and when the organisation lacks whistle blowing policy. These results allow the study to achieve the fourth research objective, namely to explore the challenges that whistle blowers face when they disclose corrupt activities (see 1.5). The negativity associated with whistle blowing can be put into perspective by considering the larger South African

context of apartheid, in which whistle blowers were not viewed in positive light (see 3.2.3).

- (ii) Employees unanimously agreed that they lacked confidence in their supervisor/ manager addressing reported corrupt activities appropriately.
- (iii) The case study also revealed that good management strategies and transparent policies instil confidence in employees. When drafting whistle blowing policies for Stellenbosch Municipality and other municipalities in South Africa, it is imperative to take into account employees' perceptions and to ensure that employees are aware of and understand the whistle blowing policies and legislation. This result answers the fourth research question on the nature of the environment which is required to ensure that whistle blowing is effective.
- (iv) When it comes to reporting corrupt activities, it is important to note that most employees were reliant on the Fraud Hotline. This is because the Fraud Hotline is anonymous and confidential, and whistle blowers are thus less likely to face retaliation;
- (v) The study explored the perceptions of employees concerning whistle blowing. It was found that employees would be likely to report corrupt activities in the following circumstances:
 - a) If the activity might threaten the lives of people and suppress social justice;
 - b) If the activity was considered to be very costly to the municipality;
 - c) If employees could be protected from retaliation;
 - d) If the identity of the whistle blower is kept confidential when and after reporting the corrupt activity; and
 - e) If the corrupt activity is an ethics violation but with small monetary costs to the government.

The results of this study also suggest that there may be a relationship between employees' knowledge of whistle blowing legislation, awareness of whistle blowing policies, confidence in managers/ supervisors to address the corruption and the likelihood of employees blowing the whistle. Therefore, if the employee has sufficient knowledge of the whistle blowing legislation, awareness of the policies and confidence in the manager/ supervisor, he/ she may be more disposed to blowing the whistle.

The above findings show that there is need for effective management and application of whistle blowing mechanisms to effectively curb corruption. In summary, the following needs to be in place in order for the whistle blowing process in an organisation to be effective (also see 3.9 which support some of the below points):

- (i) All employees need to be trained on the relevant whistle blowing legislation in South Africa. Employees also need to be trained on the whistle blowing processes, policies and procedures in the organisation, as well as the ethics policy in place;
- (ii) There should be a separate independent unit within the municipality that deals with whistle blowing;
- (iii) Support and commitment from top management is critical in that it encourages employees to blow the whistle in the knowledge that top management is committed to taking appropriate action regarding the disclosure;
- (iv) Employees should be protected from any form of retaliation;
- (v) There need to be awareness activities in the organisation that inform employees about where and how to report corruption; and
- (vi) The anonymity and confidentiality of the whistle blower needs to be guaranteed.

5.5 Generalisation of the study

Certain generalisations can be made as a result of the data collected in this study and the literature review. The generalisations also relate to the external validity of the study. It implies that the research underwent empirical testing and is applied to the study population (Welman Kruger and Mitchell, 2005:125). The results of the current study support the hypothesis which is the point of departure. Therefore, this study may potentially be applied to other organisations within the public sector which includes municipalities. Furthermore, it will be interesting if these results were compared to other municipalities. However, it is also important to note that other factors could have affected the result findings such as the culture, the location and the context of the study. According to the Municipal Productivity Index which measures the productivity of municipalities in South Africa, Stellenbosch Municipality is ranked as one of the top local municipals in South Africa. Furthermore, Stellenbosch is one of the top performing municipalities in the country (Department of Cooperative Governance and Traditional Affairs,

2009:86). Therefore, other municipalities/ departments within the public sector might find it difficult to replicate the Stellenbosch anti-corruption model but should consider it.

The results of the present study suggest that in order for the whistle blowing process to be successful, the organisation has to play an active role. According to the National Anti-Corruption Forum (NACF) (2006), an organisation that positively encourages whistle blowing stands a far better chance of demonstrating that it is properly managed. Stellenbosch Municipality seems to have demonstrated this.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

This study set out with the aim of assessing the importance of whistle blowing in fighting corruption in the public sector in South Africa. The South African government, through international and regional conventions such as UNCAC (see 2.6.1), has created comprehensive legislation and different mechanisms to fight corruption. Whistle blowing plays a key role in fighting corruption, as the case study employees are able to report (see Chapter 5). If whistle blowers are not protected, it might hinder the reporting of corrupt activities that were witnessed. The Protected Disclosures Act (2000) is a significant legal step towards creating a more conducive environment for reporting on corruption. This Act does, though, have several weaknesses that need to be addressed to create a culture that promotes the disclosing of corruption in the public sector. Even though the Act has been operational for more than a decade now, the public sector still faces the challenge of employees being reluctant to blow the whistle.

As mentioned in 2.5, corruption is an impetus to whistle blowing and gaining an understanding of the phenomenon aids in developing strategies to tackle corruption in the public sector. The literature review also showed that corruption is a cancer that, if unchecked, can become systematic. In relation to the impediments of reporting corruption, the study supports the evidence which was provided in the literature review (see Chapter 2) that the employees fear retaliation. The study continually argued that whistle blowing is important in curbing corruption and also showed how whistle blowing can be better managed and to identify where focus need to be placed. Even though more restrictions are imposed on retaliations, this might not be enough to regulate it (Holtzhausen and Diale, 2005:17). Therefore, there is need for various initiatives to be taken to ensure that retaliations are rooted out.

Stellenbosch Municipality was used as a case study to illustrate employee perceptions of the procedures and policies related to whistle blowing and employee confidence in the organisation addressing corruption charges. The study also confirms the importance of protecting whistle

blowers from any form of retaliation (see 5.3.6) Employees are aware of the repercussions that they might experience and thus the need for their identity to be hidden. The Fraud Hotline at Stellenbosch Municipality has become the main instrument in the reporting of corruption, as witnessed in the research findings (5.4). It allows for the reporting of corruption anonymously at any time. The case study supports the view that there is the need for the effective management of whistle blowing. The case reveals the need for further investigation that will need to address issues that were not addressed in this chapter. The next sections commends Stellenbosch Municipality on what it has achieved so far in fighting corruption, and provide recommendations to enhance the whistle blowing mechanisms at the municipality.

6.2 Commendations

Stellenbosch Municipality should be commended for its efforts in establishing a conducive environment that encourages effective whistle blowing mechanisms. The following efforts, in particular, should be commended:

- (i) Stellenbosch Municipality has champions in senior officials, whose commitment has ensured the smooth adoption of whistle blowing mechanisms;
- (ii) The municipality has implemented a Fraud and Corruption Policy Framework and a Fraud Hotline that allows employees to blow the whistle anonymously;
- (iii) The adoption of the Fraud and Corruption Policy was well communicated through the use of posters and awareness programmes. The Fraud and Corruption Policy Framework has also been endorsed by Senior Managers and the Municipal Mayor;
- (iv) The establishment of the FRC that is dedicated to receiving, monitoring and reviewing all reports of corruption that are presented to it; and
- (v) There has been training on how to blow the whistle during the induction of new employees.

6.3 Recommendations on how whistle blowing can be managed effectively

This study has shown that whistle blowing in South Africa needs to be managed effectively to encourage employees to blow the whistle (see 5.4(iii)). As mentioned in 6.2, Stellenbosch Municipality is commended for the various whistle blowing mechanisms in place. However, this study has highlighted that there are still certain challenges being experienced by the

municipality. Recommendations that could potentially address these challenges and enhance the management of whistle blowing are proposed below.

6.3.1 Enhanced protection of whistle blowers

The protection of whistle blowers is an indispensable element that cannot be overemphasised. The Protected Disclosures Act (2000) and the Stellenbosch Municipality anti-corruption framework offers some protection to employees (see 5.2). The protection of whistle blowers should be comprehensive to ensure that it encourages employees to blow the whistle. The municipality should also view the increase in protection as a means of creating a culture that does not condone retaliation, harassment and other “occupational detriments”. Examples of how to increase this protection include the speedy investigation of reported cases. This can be taken a bit further by putting in place a policy that clearly forbids any form of retaliation. The underlining message of the policy should be to promote whistle blowing in the absence of reprisals. Those employees who intimidate whistle blowers should be disciplined accordingly. In so doing, there is an increase in transparency and openness in the organisation and all employees are held accountable for their actions.

It is also imperative for Stellenbosch Municipality to implement more fitting and extensive mechanisms that provide protection outside of the ambit of the Protected Disclosures Act (2000) such as for persons other than employees and should include contractors. The municipality should therefore have a more hands-on approach and focus on the effective implementation of existing whistle blowing mechanisms.

6.3.2 Improve feedback procedure

Stellenbosch Municipality does not specify the time it takes to provide feedback to the whistle blowers. It is important that feedback is provided in a timeous manner to the whistle blower. The specified timeframe for responding to whistle blowers should be established depending on the nature of the corruption, and the municipality has to adhere to this timeframe. Stellenbosch Municipality should also have a follow-up mechanism that can assist in monitoring the wellbeing of whistle blowers from the moment the case is reported. This may reduce incidents of retaliation against employees.

6.3.3 Improving the awareness campaigns

Stellenbosch Municipality needs to improve its awareness campaigns by also including other languages besides English. Most employees at the municipality are not native English speakers. The language barrier might contribute to employees not fully comprehending the Fraud and Corruption policy. It is thus important that the posters and other promotional material used to create awareness of the Fraud and Corruption Policy, as well as other whistle blowing mechanisms e.g. the Fraud Hotline, also be in the other languages such as Afrikaans and Xhosa used by employees and the public in Stellenbosch.

Another problem is that during inductions, employees are only informed of the Fraud Hotline. The municipality needs to inform employees of other internal avenues that can be utilised to report corruption. Additionally, it is recommended that Stellenbosch Municipality also improve the awareness and the understanding of the Protected Disclosures Act (2000), as most employees, especially in low-level positions might lack the comprehension of the Act. Finally, employees should be informed that whistle blowing is not a negative act; this may remove some of the stigma that is often associated with whistle blowing. Educating employees about the advantages of whistle blowing, to individuals, the organisation and the public can also assist in this regard.

6.3.4 Train managers/supervisors

This study found that most of the employees sampled are not confident in their managers/supervisor dealing with their disclosure of unlawful acts (see 5.3.4). Managers/supervisors should therefore be trained in how to respond to disclosures by whistle blowers. This training will also assist managers/supervisor in identifying and classifying corrupt activities, and empower them in assisting whistle blowers who might also be experiencing retaliation. The training should furthermore include the legislative mandates related to corruption, and the Fraud and Corruption Policy and how this can be practically applied to Stellenbosch Municipality. The training of managers/supervisors should be a continuous process to ensure that they are well-versed with their responsibilities. The managers/supervisors should also be able to continuously train employees by informing them of their rights when they blow the whistle, thereby instilling confidence in the process and outcomes of blowing the whistle. Such training should also be

incorporated in office meetings, so that employees are continuously reminded of the whistle blowing avenues which they can utilise.

6.3.5 Monitoring and evaluation of the whistle blowing system

According to the UNDP (2002:6), monitoring and evaluation is the measurement and assessment of performance in order to more effectively manage outcomes and outputs. Monitoring and evaluation can be used by Stellenbosch Municipality to assess the effectiveness of whistle blowing mechanisms through overseeing the activities and its deliverables. Monitoring and evaluation can also be used to enhance the performance of the whistle blowing system. A monitoring and evaluation system can be developed and used by managers to track the progress and impact of whistle blowing mechanisms. In order to establish such a system, Stellenbosch Municipality requires commitment, time, effort and resources, as described by Kusek and Rist (2004:1). This will provide value in terms of promoting understanding of the whistle blowing mechanism (Kusek and Rist, 2004:131)

6.3.6 Include suspicious cases when reporting

Employees are often positioned to recognize when there is some misconduct occurring in their area of work. Still, conveying their concerns might be difficult as they may be reporting on colleagues and may thus prefer to overlook their suspicions. The current Fraud and Corruption policy for Stellenbosch Municipality should also have provisions for employees who have suspicions of wrongdoing. Sometimes employees might have witnessed corruption or have strong suspicions about it, but they cannot validate this or do not have any proof. Stellenbosch Municipality should be able to accommodate such disclosures, as this might help in ending the unlawful acts before they become systematic.

6.3.7 Legislative amendment

The need for institutional and legal protection for employees cannot be overemphasised. It has been argued in this study that the current legislation is not adequate in offering protection to whistle blowers. There are many loopholes (see 4.5), which need to be addressed. Local government and stakeholders should also lobby for changes that make the current legislation more comprehensive. For example, whistle blowers need to be protected from the moment they

decide to lodge a report until the case is finalised and afterwards. More legislative action is also required to prosecute the individuals involved in corruption.

6.4 Suggestions for future research

This research has suggested several possible areas for further investigation. The focus of this research has mostly been on the employees who report corruption. One needs to realize the various role players that are involved in whistle blowing. A further study could assess the persons accused of corruption, their motivations and experiences of the whistle blowing process and subsequent investigation. Future research can thus examine the links between the whistle blower and the person being reported more closely.

The present study found that Stellenbosch Municipality is reliant on the Fraud Hotline. More research is required to determine the efficacy of the Fraud Hotline, to gain understanding of how it can be implemented more effectively.

As witnessed from the *Tshishonga vs Minister of Justice and Constitutional Development and another* case, the whistle blower tried using external agencies, but these did not address his concerns. Further research is important to determine how external agencies deal with whistle blowing, and their role and effectiveness in the whistle blowing process.

6.5 Possible capacity building outputs to flow from this study

The researcher considers the following:

- (i) Journal article(s) based on the study, one for the South Africa the other international academia market
- (ii) Workshop the results at the case study municipality
- (iii) Contribute a chapter in a book covering a theme related to the topic
- (iv) Presenting an international and South African conference paper

REFERENCES

- Auditor General South Africa. 2013. *Consolidated general report on the national and provincial audit outcomes: PFMA 2012/13*. South Africa: Office of Auditor General.
- Auriacombe, C. J. 2005. What happens when one blows the whistle? Recent South African Cases. *Politeia: Journal for Political Science and Public Administration*, 24(1):85–99.
- Auriacombe, C. J. 2004. Key issues in the whistle blowing process. *Journal of Public Administration*, 39(4):655-699.
- Ayee, J. R. A. 2008. *Reforming the African Public Sector: Retrospect and Prospects*. Dakar: Codersia.
- Azfar, O., Lee, Y. & Swamy, A. 2001. The Causes and Consequences of Corruption. *American Academy of Political and Social Science*, 573(January): 42-56.
- Babbie, E. 2010. *The Practice of Social Research*. 12th ed. Belmont: Wadsworth, Cengage Learning.
- Balia, D. M. 2005. *Fighting Corruption in the South African Public Sector with Special Reference to Costs and Impacts*. Unpublished Doctoral Dissertation. Pretoria: University of South Africa
- Banisar, D. 2011. Whistleblowing: International Standards and Developments. In Sandoval, I. *Corruption and Transparency: debating the Frontiers between State, Market and Society World Bank-Institute for Social Research*. (Ed). Washington, DC: UNAM. [Online]. Available: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1753180 (Accessed 20 September 2013).
- Barnett, T. 1992. Why Your Company Should Have A Whistleblowing Policy. *Sam Advanced Management Journal*, Autumn:37-42. [Online]. Available: http://ethics.csc.ncsu.edu/old/12_00/basics/whistle/rst/wstlblo_policy.html. (Accessed 20 September 2013).

- Basson, A. 2010. *Finish and Klaar: Selebi's Fall from Interpol to the Underworld*. Cape Town: NB Publishers.
- Blaikie, N. 2003. *Analysing Quantitative Data*. London: Sage Publications.
- Bless, C. & Higson-Smith. 1995. *Fundamental of Social Research Methods: An African Perceptive*. Cape Town:Juta.
- Bless, C., Higson-Smith, C. Kagee, A. 2006. *Fundamentals of Social Research Methods: An African Perspective*. 4th ed. Cape Town: Juta.
- Booyesen, T. 2012. Fighting corruption to achieve the Millennium Development Goals (MDGS). CGF Research Institute (Pty) Ltd. [Online]. Available: <http://www.mdg-review.org/PDFs/CGFApr12.pdf> (Accessed 11 November 2013).
- Botha, M. M. & Van Heerden, C. M. 2014. The Protected Disclosures Act 26 of 2000, the Companies Act 71 of 2008 and the Competition Act 89 of 1998 with regard to blowing protection: is there a link?, *Tydskrif vir die Suid-Afrikaanse Reg*, 2014(2):337-358.
- Brynard, P. A. & Hanekom, S. X. 2006. *Introduction to research in management-related fields*. 2nd ed. Pretoria: Van Schaik Publishers.
- Burger, J. 2009. *The Reasons behind Service Delivery Protests in South Africa*. Institute of Security Studies. [Online]. Available: <http://www.polity.org.za/article/the-reasons-behind-service-delivery-protests-in-south-africa-2009-08-05>. (Accessed 12 November 2013).
- Caiden, G.E. 2001. Corruption and Governance. In Caiden, G.E., Dwivedi, O.P. and Jabbra, J. (eds). *Where Corruption Lives*. Bloomfield: Kumarian Press.
- Callard, R. 2011. Blow the whistle at your peril. *Mail and Guardian*, 20 October: 36.
- Callard, R. & Dehn, G. 2004. *Whistleblowing around the world: law, culture and practice*. (ed). London: Public Concern at Work (PCaW).

- Camerer, L. 1996. Ethics and the professions: blowing the whistle on crime. *African Security Review*, 5(6):48–54. [Online]. Available: <http://www.iss.co.za/pubs/ASR/5/No6/Camerer.html>. (Accessed 5 February 2014).
- Camerer, L. 2001. *Protecting whistle blowers in South Africa: the Protected Disclosures Act, No. 26 of 2000*. Tshwane: Institute for Security Studies.
- Camerer, M. I. 2009. *Corruption and Reform in Democratic South Africa*. Unpublished Doctoral Dissertation. Johannesburg: University of Witwatersrand.
- City Press. 2013. *SA's corruption perception score 'a cause for concern'*. [Online]. Available: <http://za.news.yahoo.com/government-corruption-cost-taxpayers-r1-billion-115224653.html> (Accessed 20 June 2014).
- Cohen-Lyons, J. & Morley, H. 2012. *Whistle blowing in the Public Sector: A Balance of Rights and Interests*. Public Sector Digest. [Online]. Available: http://www.hicksmorley.com/images/Hicks_Morley.pdf (Accessed 30 August 2013).
- Conway-Smith, E. 2012. *South Africa: Police Chief Bheki Cele fired by President Jacob Zuma*. Global Post. [Online]. Available: <http://www.globalpost.com/dispatch/news/regions/africa/south-africa/120612/police-chief-bheki-cele-fired-jacob-zuma-south-africa> (Accessed 27 August 2013).
- Corruption Watch. 2013. *Corruption and the law in South Africa*. [Online]. Available: <http://www.corruptionwatch.org.za/content/corruption-and-law-south-africa-part-one> (Accessed 6 March 2014).
- Cresswell, J. W. 2003. *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*. 2nd ed. London: Sage Publications.
- Dasgupta, S. & Kesharwani, A. 2010. Whistle blowing: A survey of Literature. *The IUP Journal of Corporate Governance*, 4(4):1-14.
- Davids, S. E. 2012. *Anti-Corruption Manual for South Africa*. Kuils River: Vuvuzela Project Management CC.

- Dehn, G & Calland, R. 2004, Whistleblowing the State of the Art: The Role of the Individual, Organisations, the State, the Media, the Law and Civil Society. Public Concern at Work and Open Democracy Advice Centre. [Online]. Available: http://www.baselgovernance.org/fileadmin/docs/pdfs/Brownbag/WHISTLEBLOWING_intro.pdf. (Accessed 30 September 2013).
- De George, R. T. 2010. *Business Ethics*. 7th ed. New York: Mac Milan.
- De Maria, W. 2005. Whistle-blower Protection: Is Africa ready? *Public Administration and Development*, 25(3):217–226.
- De Maria, W. 2006. Common law – common mistakes? Protecting whistleblowers in Australia, New Zealand, South Africa and the United Kingdom. *International Journal of Public Sector Management*, 19(7):643-658.
- De Sardan O. 1999. A moral economy of corruption in Africa? *Journal of Modern African Studies*, 37:25–52.
- De Swaan, A. 2004. Policy without politics: Social, cultural and linguistics affairs in the European Union. In Munshi, S. & Abraham, B.P. (eds). *Good governance, democratic societies and globalisation*. Calcutta: Sage Publications.
- Deloitte 2010. Stellenbosch Municipality Fraud and Ethics Hotline. Unpublished Power Point Presentation. Stellenbosch Municipality: Stellenbosch.
- Department of Cooperative Governance and Traditional Affairs. 2009. *State of Local Government in South Africa*. Pretoria: Government Printer.
- Department of Performance Monitoring and Evaluation (DPME). 2012. *Development Indicators*. [Online]. Available: <http://www.thepresidency.gov.za/MediaLib/Downloads/Home/Publications/DPMEIndicators2013/DPME%20Indicators%202013.pdf> (Accessed 23 June 2014).
- Department of Public Service and Administration (DPSA). 1997. White Paper on Transforming Public Service Delivery. Pretoria: Government Printer.

- Department of Public Service and Administration (DPSA). 2002. *Public Service Anti-Corruption Strategy*. [Online]. Available: http://www.westerncape.gov.za/text/2004/4/psa_anti_corruption_strategy_2002.pdf (Accessed 13 August 2013).
- Department of Public Service and Administration (DPSA). 2003. *Country Corruption Assessment Report: South Africa*. [Online]. Available: <http://www.westerncape.gov.za/text/2004/4/sacorruptionassessmentreport2003.pdf> (Accessed 20 July 2013).
- Department of Public Service and Administration (DPSA). 2008. *Towards a Fifteen Year Review: Assessing the Effectiveness of the National Anti-corruption Framework*. [Online]. Available: http://www.thepresidency.gov.za/docs/reports/15year_review/governance/anti_corruption.pdf (Accessed 13 August 2013).
- Dorasmy, N. 2013. Good governance and Whistle blowing: A Case of Higher Education Institution (HEI) in South Africa. *J Soc Sci*, 34(2):105-114.
- Dworkin, T.M. & Near, J.P. 1997. A Better Statutory Approach to Whistle-Blowing. *Business Ethics Quarterly*, 7(1):1-16.
- Easthorpe, J. 2010. The do`s and don`ts of whistle-blowing. *Witness*. 2 March: 9.
- Eaton, T.V. & Akers, M. 2007. Whistleblowing and Good Governance. *The CPA Journal*, 7(6):66-71.
- Edwards, T. 2007. Ethical fitness for accountable public officials: an imperative for good governance. *Journal of Public Administration*. 42(5):28-34.
- Faull, A. & Mtsolongo T. 2009. From stings to wings: Integrity management and the Directorate for Priority Crime Investigations. *SA Crime Quarterly*, 29 (September):17-24.
- Gildenhuis, J. 2004. *Ethics and Professionalism: A Battle Against Public Corruption*. Stellenbosch: Sun Press.

- Grobler, E. & Joubert, S. J. 2004. Corruption in the public sector: The Elusive Crime. *Acta Criminologica*, 17(1): 90-102.
- Gupta, S., Davoodi, H. & Alonso-Terme, R. 2002. Does Corruption Affect income inequality? *Economics of Governance*, 3:23–45.
- Habtemichael, F. S. 2009. Anti-Corruption Strategies in South African Public Sector- Perspectives on the Contributions of Complexity Thinking and ICTs. Unpublished Doctoral Dissertation. Stellenbosch: Stellenbosch University.
- Heymans, C. & Lipietz, B. 1999. *Corruption and Development. Some Perspectives*. Cape Town: Institute for Security Studies.
- Hillard, V. G. 1994. Corruption in the public sector- causes and remedies. In Bayat, M.S. and Meyer, I. H. *Public Administration: Concepts, Theory and Practice*. Halfway House: Southern Book Publishers.
- Holtzhausen, N. 2012. Variables influencing the outcomes of whistle blowing processes in South Africa. *Administratio Publica*, 20(4): 84-103.
- Holtzhausen, N. 2007. Whistle blowing and whistle blower protection in the South African public sector. Unpublished Doctoral Thesis. Pretoria: University of South Africa.
- Holtzhausen, N. & Diale A. J. 2005. Public or Protected Disclosure? The Fallacy of Whistle blower Protection Law. *Journal of Public Administration*, October: 10-19.
- Hoosain, F. *Personal Interview*. 8 August 2014, Stellenbosch.
- Institute for Security Studies (ISS). 2006. *Institute for Security Studies Annual Review: Working for a Sustainable and Peaceful Africa*. [Online]. Available: <http://www.issafrica.org/uploads/ANUAL%20REPORT.PDF> (Accessed 13 February 2014)
- IOL News. 2014. Fire Officer cites gambling addiction. <http://www.iol.co.za/news/crime-courts/fire-officer-cites-gambling-addiction-1.1669127#.Uzp1qNyQeYo>. (Accessed 20 June 2014).

- Jackson, P., Muzondidya, J., Naidoo, V., Ndeltiyana, M. & Sithole, M.P. 2009. *South African governance in review: anti-corruption, local government, traditional leadership*. Cape Town: HSRC Press.
- John, N. 2007. Whistle-blowing systems need tuning. *Business Day*, 29 May: 27.
- Johnson, R.A.2003. *Whistle blowing: When it works and why*. Boulder: Lynne Rienner Publishers.
- Johnston, M. 1998. Fighting Corruption: Social Foundations for Institutional Reform. In Robinson, M. (ed). *Corruption and development*. London: Frank Cass Publishers.
- Jubb, P. B. 1999. Whistleblowing: A restrictive definition and interpretation. *Journal of Business Ethics*, 21(1):77-94.
- Kar, D. and Le Blanc B. 2013. *Illicit Financial Flows from Developing Countries: 2002-2011*. [Online]. Available: http://gfintegrity.org/wpcontent/uploads/2014/05/Illicit_Financial_Flows_from_Developing_Countries_2002-2011-HighRes.pdf (Accessed 29 August 2014).
- Kazan, F. 2009. Doing the right thing takes immense courage: Whistle-blowers face being fired and losing their jobs /and their families. *The Star*, 2 February: 3
- Klitgaard, R. 1998. *International Cooperation Against Corruption*. International Monetary Fund (IMF). [Online]. Available: <https://www.imf.org/external/pubs/ft/fandd/1998/03/pdf/klitgaar.pdf> (Accessed 13 February 2014).
- Klitgaard, R. 1988. *Controlling Corruption*. Oxford: University of California Press.
- Kroukamp, H. 2012. Effective leadership: the solution to end corruption in the South African public? Unpublished Paper delivered at the 13th International Winelands Conference. 2-4 April, Stellenbosch.
- Kroupkamp, H. 2006. Corruption in South Africa with Particular Reference to Public Sector Institutions: The evil of all evils. *Journal of Public Administration*, 41(2):206- 217.

- Kusek, J. Z. and Rist, R. C. 2004. *Ten Steps to a Results-based Monitoring and Evaluation System*. Washington, DC: World Bank.
- Kyambalesa, H. 2006. Corruption Causes, Effects, and Deterrents. *Africa Institute of South Africa*, 36(2):102-122.
- Larmer, R. A. 1992. Whistleblowing and Employee Loyalty. *Journal of Business Ethics*. 11(2):125-128.
- Larmor P. & Grabosky, P. 2001. Corruption in Australia: Its Prevention and Control. In Gerald, E. Caiden, G.E., Dwivedi, O.P. & Jabbra, J. (eds). *Where Corruption Lives*. Bloomfield: Kumarian Press.
- Latimer, P. & Brown, A. J. 2008. Whistle-blower Law: International Best Practice. *UNSW Law Journal*, 31(3): 766-794.
- Lewis , D. and Uys, T. 2007. Protecting whistleblowers at work. *Managerial Law*, 49(3): 76-92.
- Lewis, D. B. 2001. *Whistle blowing at work*. London: Athlone.
- Lobo. F. L. 2001. The Innocence of Corruption. *Journal of Human Value*, 7(1):65- 73.
- Louw T. J. G. 2011. *The ethics if Whistleblowing: An evaluation of a South African Case*. In Arszutowicz, M and Gasparski W.W. *Whistle blowing In Defense of proper Action Praxiology: The International Annual of Practical Philosophy and Methodology*. New Jersey: Transaction Publishers.
- Mafunisa, M. J. 2000. *Public Service Ethics*. Kenwyn: Juta.
- Mafunisa, M. J. & Kuye, J. O. 2003. Responsibility, Accountability and Ethics: the Case for Public Service Leadership. *Journal of Public Administration*. 38(4): 421-437.
- Martin, B. 2003. Illusions of Whistle-blower Protection. *UTS Law Review* (5): 119-130.
- Martin, B. 2007. Whistleblowers: risks and skills. In Rappert , B. and McLeish, C. 2007. *A Web of Prevention: Biological Weapons, Life Sciences and the Governance of Research*.

- [Online]. Available: <http://www.bmartin.cc/pubs/07Rappert.html> (Accessed 20 August 2013).
- Martin, P. 2010. *The Status of Whistleblowing in South Africa: Taking stock*. Open Democracy Advice Centre. [Online]. Available: http://www.opendemocracy.org.za/wpcontent/uploads/2010/10/ODAC_Whistleblowing_Report_web.pdf. (Accessed 12 August 2013).
- Maxwell, J. A. 2005. *Qualitative Research Design: An Interactive Approach*. 2nd ed. London: Sage Publications.
- Mbaku, J. M. 2007. *Corruption in Africa: Causes, Consequences and Clean-ups*. London: Lexiton Books.
- Mbatha, J. S. 2005. The ethical dilemmas of whistle-blowing and corruption in the South African Public Sector. Unpublished Doctoral Dissertation. Empangeni: University of Zululand.
- Mbeki, M. 2011. *Corruption and Dependence: South Africa`s road to ruin or salvation*. Open Democracy. [Online]. Available: <http://www.opendemocracy.net/moeletsi-mbeki/corruption-and-dependence-south-africa%E2%80%99s-road-to-ruin-or-salvation> (Accessed on: 12 November 2013).
- Mhango, B. P. 2006. Investigating employee perceptions of the Effectiveness of whistle blowing mechanisms in the workplace: A case study of the Development Bank of Southern Africa. Unpublished Master`s thesis. Johannesburg: Milpark Business School.
- Miceli, M. P. & Near, J. P. 1992. *Blowing the whistle: The Organizational and Legal Implications for Companies and Employees*. New York: Lexington Books
- Miceli, M. P. & Near, J. P. 1994. Relationship among Value Congruence, Perceived Victimization, and Retaliation Against Whistle-blowers. *Journal of Management*, 20(4):773-794.
- Miceli, P & Near, J.P. 1996. Whistle-blowing: Myth and Reality. *Journal of Management*, 22(3):507-526.

- Miller, S. Roberts, P & Spence. E. 2005. *Corruption and Anti-Corruption: An Applied Philosophical Approach*. New Jersey: Pearson Prentice Hall.
- Mouton, J. 1996. *Understanding Social Research*. Pretoria: Van Schaick Publishers.
- Mouton, J. 2001. *How to succeed in your master's and doctoral studies: A South African guide and resource book*. Pretoria: Van Schaik Publishers.
- Municipal IQ. 2013. Press Release: Municipal IQ's updated Municipal Productivity and Hotspots Monitor results. [Online]. Available: <http://africacheck.org/wpcontent/uploads/2014/03/201312021614519448.pdf>. (Accessed 23 July 2014).
- Myint, U. 2000. Corruption: Causes, Consequences and Cures. *Asia-Pacific development Journal*, 7(2): 33- 58.
- Nader, R., Petkas, P. & Blackwell, K. (ed). 1972. *Whistleblowing: What happens to men and women who dare to "blow the whistle "on America`s most powerful enterprise and institutions?`*. New York: Grossman Publishers.
- Naidoo, A. 2007. Risks in being honest: Whistle blower ostracised at work. *Daily News*, 28 September: 5.
- National Anti-Corruption Forum (NACF). 2006. *Whistle Blowing in South African Context*. [Online]. Available: http://www.nacf.org.za/guide_to_the_whistle_blowing_act/section_one.html. (Accessed 6 September 2013).
- National Planning Commission (NPC). 2012. *National Development Plan 2030: Our Future Make It Work*. Pretoria: Government Printer.
- Near, J.P. & Miceli, M.P.1985. Organizational dissidence: The case of whistle-blowing. *Journal of Business Ethics*, 4:1-16.
- Near, J. P. & Miceli, M. P. 1996. Whistle-blowing: Myth and reality. *Journal of Management*, 22(3):507-526.

- Near, J.P. & Miceli, M.P. 1995. Effective-Whistle Blowing. *Academy of Management Review*. 20(3):679-708.
- News24. 2012. Corruption SA Counting the Cost. [Online]. Available: <http://www.news24.com/MyNews24/Corruption-SA-Counting-The-Cost-20120508>. (Accessed 18 August 2013).
- Open Democracy Advice Centre (ODAC). 2014. *Empowering our whistle blowers*. Cape Town: Mega Digital. [Online]. Available: <http://www.opendemocracy.org.za/images/docs/WhistleblowingBook.pdf>. (Accessed 6 September 2013).
- Olken, B. A. 2012. *Corruption in Developing Countries*. Harvard University: Rohini Pande.
- Oxford English Dictionary. 2013. Oxford: University Press.
- Pillay, K. 2013. Decoding the culture of corruption. [Online]. Available: <http://www.corruptionwatch.org.za/content/decoding-culture-corruption> (Accessed from: (Accessed 18 August 2013).
- Pradhan, S. & Campos, E. J. (ed). 2007. *The Many Faces of Corruption: Tracking Vulnerabilities at Sector Level*. Washington, DC: World Bank.
- Public Concern at Work. 2010. *Where`s whistle blowing now? 10 years of legal protection for whistle blowers*. [Online]. Available: http://www.pcaw.org.uk/files/PIDA_10year_Final_PDF.pdf. (Accessed 18 February 2014).
- Public Service Commission (PSC). 2001. A review of South Africa`s national anti-corruption agencies. [Online]. Available: <http://www.psc.gov.za/documents/reports/corruption/01.pdf> (Accessed 20 November 2013).

Public Service Commission (PSC). 2006. National Anti-Corruption Hotline Toolkit. [Online]. Available: <http://www.psc.gov.za/documents/docs/guidelines/P-3102%20lowres%20PSC%20ver8.pdf> (Accessed 20 November 2013).

Public Service Commission (PSC). 2009. *Measuring of the Effectiveness of the National Anti-corruption Hotline: Second Biennial Report*. Pretoria: Shereno Printers.

Rabkin, F. 2010. State 'failing whistle-blowers'. *Business Day*, 18 November: 4.

Rauch, J. & Johannes, L. 2012. *Citizens reporting corruption in South Africa: reports received by Corruption Watch since its launch*. South Africa: Corruption Watch. [Online]. Available: [http://www.corruptionwatch.org.za/sites/default/files/citizens%20reporting%20corruption%20in%20south%20africa%20\(2\).pdf](http://www.corruptionwatch.org.za/sites/default/files/citizens%20reporting%20corruption%20in%20south%20africa%20(2).pdf) (Accessed on 20 June 2014)

Reidy, P. 2013. After Edward Snowden`s revelations about the NSA what is the EU doing to ensure our online privacy. *The Independent*, 25 September: 3. [Online]. Available: <http://www.independent.co.uk/voices/comment/after-edward-snowdens-revelations-about-the-nsa-what-is-the-eu-doing-to-ensure-our-online-privacy-8839424.html> (Accessed 13 August 2014).

Republic of South Africa (RSA). 1995. *Labour Relations Act (Act 66 of 1995)*. Pretoria: Government Printer.

Republic of South Africa (RSA). 1996. *Constitution of the Republic of South Africa (1996)*. Pretoria: Government Printer.

Republic of South Africa (RSA). 1997. *Public Service Commission Act (Act 46 of 1997)*. Pretoria: Government Printer.

Republic of South Africa (RSA). 1998. *The White Paper on Local Government*. Pretoria: Government Printer.

Republic of South Africa (RSA). 1999. *The Public Finance management Act (Act 1 of 1999)*. Pretoria: Government Printer.

- Republic of South Africa (RSA). 2000. *The Promotion of Administrative Justice Act (Act 3 of 2000)*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2000. *The Promotion of Access to Information Act (Act 2 of 2000)*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2000. *Promotion of Equality and Prevention of Unfair Discrimination Act (Act 4 of 2000)*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2000. *The Protected Disclosures Act, 2000 (Act 26 of 2000)*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2001. *Public Service Regulation*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2003. *Municipal Finance Management Act (Act 56 of 2003)*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2004. *The Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2008. *Companies Act (Act 71 of 2008)*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 2010. *The Protection of State Information Bill*. Pretoria: Government Printer.
- Robinson, M. (ed). 1998. *Corruption and development*. London: Frank Cass Publishers.
- Salter, M. 2010. *Lawful but Corrupt: Gaming and the Problem of Institutional Corruption in the Public Sector*. Working Paper 11-060. [Online]. Available: <http://www.hbs.edu/faculty/Publication%20Files/11-060.pdf> . (Accessed 23 September 2013).
- Schedler, A. 1999. Conceptualising Accountability. In Schedler, A., Diamond, L.J. and Plattne M.F. (ed). *The Self-restraining State: Power and Accountability in New Democracies*. London: Lynne Rienner Publishers.

- Schurink, E. 2009. Qualitative Research Design as tool for trustworthy research. *Journal of Public Administration*, 44(4.2): 803-823.
- Sello, L. 2014. *Municipalities vs communities- why South Africans are angry*. [Online]. Available: <http://www.enca.com/elections-2014/municipalities-vs-communities-why-safricans-are-angry> (Accessed 23 September 2013).
- Sims, R. L. and Keenan, J. P. 1998. *Predictors of External Whistleblowing: Organizational and Intrapersonal Variables*. *Journal of Business Ethics*. 17(4):411-421.
- Smith, R.G. 2005. *Public Sector Fraud and Corruption*. [Online]. Available: http://www.aic.gov.au/media_library/conferences/other/smith_russell/2005-07-iir.pdf (Accessed 18 August 2013).
- South African Law Reform Commission (SALRC). 2004. *Protected Disclosures*. Discussion Paper:107. Pretoria: South African Law Reform Commission.
- St. John, W. & Johnson, P. 2000. The Pros and Cons of Data Analysis Software of Qualitative Research. *Journal of Nursing Scholarship*, 32(4):393-397.
- Stellenbosch Municipality. 2011. *Fraud and Corruption Policy*. Stellenbosch: Stellenbosch Municipality.
- Syed, T. 1997. *Not Victimless: Understanding the harmful effects of police corruption*. [Online]. Available: <http://www.csvr.org.za/wits/papers/papsyed.htm> (Accessed 11 November 2013).
- Schwella, E. 2013. Bad public leadership in South Africa: the Jackie Selebi case. *South African Journal of Military Studies*, 41(1): 65-90.
- Tanzi, V. 1998. Corruption Around the World: Causes, Consequences, Scope, and Cures. *IMF Staff Papers*, 45(4):594-559.
- The Bullpen. 2013. *Edward Snowden: The Traitor and Hero?*. [Online]. Available: http://hackettlatinacademy.weebly.com/uploads/2/2/5/1/22510182/week_snowden.pdf (Accessed 18 June 2014).

- The Economist. 2011. International: Don't blow the whistle; South Africa and secrecy. [Online]. Available: <http://search.proquest.com.ez.sun.ac.za/docview/906636499>. (Accessed 13 June 2014).
- Theophilopoulos, C. 2012. State privilege, protection of information and legal proceedings: notes. *South African Law Journal*, 129(4): 637-651.
- Theron, F. & Saunders, J. J. 2009. Scientific writing skills and social research methodology: an introduction of basic techniques. In Davids, I., Theron, F. and Maphunye, K. J. *Participatory development in South Africa: A development management perspective*. (eds). Pretoria: Van Schaik.
- Tooley, R. & Mahoi, K. 2007. The impact of corruption on service delivery in South Africa. *Journal of Public Administration*, 42(3): 366-373.
- Transparency International. 2010. *Whistleblowing: an effective tool in the fight against corruption*. [Online]. Available: www.transparency.org. (Accessed 18 June 2014)
- Transparency International. 2011. *The 2011 Corruption Perceptions Index Measures the perceived levels of public sector corruption 183 countries and territories around the world* [Online]. Available: <http://www.transparency.org/cpi2011> (Accessed 11 November 2013).
- Transparency International. 2013a. *International Global Corruption Barometer for 2013*. [Online]. Available: http://issuu.com/transparencyinternational/docs/2013_globalcorruptionbarometer_en (Accessed 18 June 2014).
- Transparency International. 2013b. *7 Steps to fighting corruption*. [Online]. Available: <http://www.transparency.org/whoweare>. (Accessed 18 June 2014).
- Tsahuridu, E. E. & Vandekerckhove, W. 2008. Organisational Whistleblowing Policies: Making Employees Responsible or Liable?. *Journal of Business Ethics*, 82(1):107–118.

- United Nations (Department of Economic and Social Affairs). 2007. *Public Governance Indicators: A Literature Review*. London: United Nations. [Online]. Available: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan027075.pdf> (Accessed 11 November 2013).
- United Nations Convention Against Corruption (UNCAC). 2004. *United Nations Convention Against Corruption*. New York: United Nations. [Online]. Available: http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf (Accessed 11 November 2013).
- United Nations Development Programme (UNDP). 2002. Handbook on Monitoring and Evaluating Results. [Online]. Available <http://web.undp.org/evaluation/documents/handbook/me-handbook.pdf> (Accessed 20 February 2014).
- United Nations Office on Drugs and Crime (UNDOC). 2002. *Anti-corruption toolkit: Enforcement*. [Online]. Available: <http://www.unodc.org/pdf/crime/toolkit/f5.pdf> (Accessed 11 November 2013).
- United Nations Public Administration Network (UNPAN). 2006. *Government/Public Sector/Private Sector/ Private Sector Delineation*. Frankfurt: United Nations.
- U.S. Merit Systems Protection Board. 2011. *Blowing the Whistle: Barriers to Federal Employees Making Disclosures*. [Online]. Available: <http://www.mspb.gov/netsearch/viewdocs.aspx?docnumber=662503&version=664475> (Accessed 20 February 2014).
- Uys, T & Senekal, A. 2008. Morality of Principle versus Morality of Loyalty: The Case of Whistleblowing. *African Journal of Business Ethics*, 3(1):38-44.
- Uys, T. 2008. Rational Loyalty and Whistle blowing: the South African Context. *Current Sociology*, 56(6):904-921.
- Uys, T. 2000. The Politicisation of whistle blowers: A case Study. *Business Ethics: A European Review*, 9(4):259-267.

- Vadera, A.K., Aguilera, R.V. & Caz. B.B. 2009. Making Sense of Whistle-Blowing's Antecedents: Learning from Research on Identity and Ethics Programs. *Business Ethics Quarterly*, 19(4): 553-586.
- Van Cleave, M. 2013. *Myth, Paradox & Obligations: Edward Snowden, Bradley Manning and the Next Leak*. Centre for Security Policy. Occasional Paper Series. [Online]. Available: <http://www.centerforsecuritypolicy.org/wp-content/uploads/2013/10/Van-Cleave-Occasional-Paper-1011.pdf> (Accessed 17 February 2014).
- Van der Merwe, A.D. 2004. *Public Sector Corruption: The Perceptions of KwaZulu-Natal Public sector Managers and Anti-Corruption Agents*. Unpublished Master's Thesis. Durban: University of KwaZulu Natal.
- Van der Waldt, G. & Helmbold, R. 1995. *The Constitution and a New Public Administration*. Cape Town: Juta.
- Van Vuuren, H. 2006. *Apartheid grand corruption*. Report prepared for the second National Anti-Corruption Summit. Cape Town: Institute for Security Studies.
- Vandekerckhove, W. & Tsahuridu, E. 2010. Risky rescues and the duty to blow the whistle. *Journal of Business Ethics*, 97(3):365–380.
- Vaughn, R.G. 2012. *The Successes and failures of Whistle blower Law*. London: Edward Elgar Publishing.
- Vickers, L. 1995. *Protecting whistle blowers at Work*. London: Institute of Employment Rights.
- Walsh, M. 2005. *In-focus: Whistleblowing: Betrayal or Public Duty?*. Edmund Rice: Business Ethics Initiative. [Online]. Available: <http://www.erc.org.au/goodbusiness/page.php?pg=0506infocus122>. (Accessed 30 August 2013).
- Waytz, A., Dungan, J. & Young, L. 2013. The whistle-blower's dilemma and the fairness–loyalty trade-off. *Journal of Experimental Social Psychology*, 49:1027–1033.

- Webb, W. & Auriacombe, C.J. 2006. Research Design in Public Administration: Critical Considerations. *South African Journal of Public Administration*. 41(3): 589-601.
- Welman, J.C., Kruger, S.J. & Mitchell, B. 2005. *Research Methodology*. 3rd ed. Cape Town: Oxford University Press.
- Whistle Blowers (Pty) LTD. 2012. *Only 18 Per cent of South Africans have Blown the Whistle*. [Online]. Available: <http://www.whistleblowing.co.za/only-18-percent-of-south-africans-have-blown-the-whistle/> (Accessed on: 11 November 2013).
- Woods, G. 2010. *Public Sector corruption: Behavioural origins and Counter-Behavioural Responses*. Inauguration speech. Stellenbosch: Jannasch Hall, Conservatoire.
- Zipparo, L. 1999a. Encouraging Public Sector Employees to Report Workplace Corruption. *Australian Journal of Public Administration*, 58(2):83-99.
- Zipparo, L. 1999b. Factors which Deter Public Officials from reporting Corruption. *Crime, Law and Social Change*, 30(3):273-287.

ANNEXURES

Annexure A

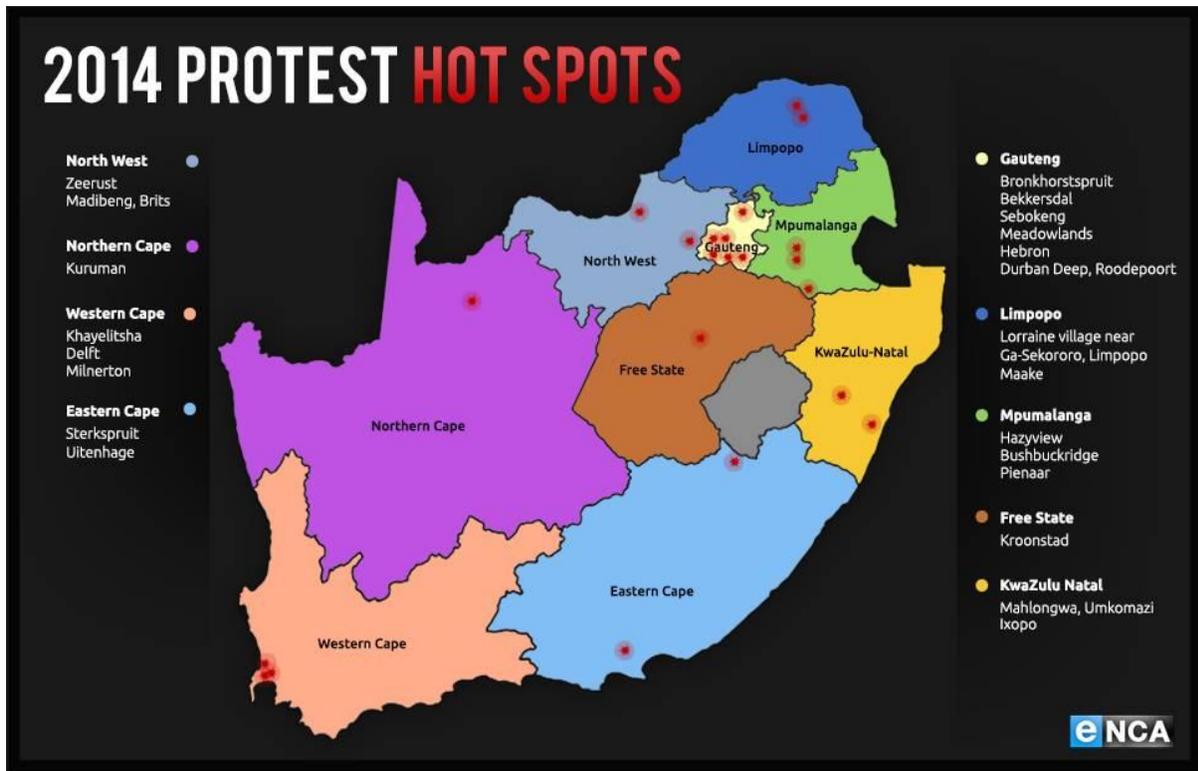
An illustration of government unauthorised, irregular and wasteful spending



Source: Auditor General South Africa (2013:36)

Annexure B

2014 Major protests in South Africa



Source: Sello (2014).

Annexure C

Whistle blowing questionnaire administered at Stellenbosch Municipality

Whistle Blowing Survey

This survey is carried out to investigate the role of whistle blowing in fighting corruption within the public sector. The aim of this study to explore the perceptions that employees have regarding whistle blowing policies and also their awareness of the whistle blowing legislature. This survey is part of a Master's research project on the School of Public Leadership at Stellenbosch University. You are assured that the data collected is for academic purposes only and will be treated with the strictest confidentiality. This data will be stored securely and will adhere to the research ethics requirements. Neither your name nor the name or any of your particulars will be mentioned in any document related to this study.

Corruption within the government has become a major problem because it is detrimental in achieving good governance and providing effective service delivery. Most employees are in a better position to detect corruption when they performing their duties compared to someone from outside. Therefore, it is important to recognise the role that they play in the whistle blowing process. For purposes of this study, whistle blowing is *"the disclosure by a person, usually an employee in a government agency, to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing"*

Please answer the questions by marking a cross (X) in the appropriate box (ss) and, where applicable write answer in the blank space provided.

Section A: Demographics

Gender:

Male		Female	
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Educational Level:

Primary School		High School		Matric		Tertiary	
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Age group:

Under 25		25-34		35-44		45-54		55 and over	
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What is your Position in the organisation?

Top Level		Middle Level		Lower Level	
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Section B: Employee perception

1. **How do you perceive the term whistle blower/ whistle blowing?**

Negatively		Neutral		Positively	
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2. **What actions do you associate with the term whistle-blowing?**

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3. **Are you confident that supervisors/managers in your organization know how to handle reporting on corruption?**

Yes		No		Uncertain	
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4. **In your opinion, what could be the reasons for the non-reporting corrupt activity in your organisation (Tick that applies)**

Lack of incentive		Perceived risk		Lack of whistle blowing policy	
Fear of punishment		Fear of losing your job		Other (Specify)	

5. Did you personally observe or attain direct proof of one or more corrupt activities involving your department? (Note: do not answer 'yes' if you only read about the activity in the newspaper or heard about it as a rumour).

Yes		No	
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If you answered NO to Question 5 please proceed to Section C. If you answered yes to Question 5 above please answer the remaining questions below.

6. Please select the corrupt activities you have personally observed.

Corrupt Activities	X
Accepting bribes	
Stealing Government funds	
Stealing Government property	
Waste caused by unnecessary or deficient goods or services	
Waste caused by unnecessary or deficient goods or services	
Waste caused by ineligible people receiving funds, goods, or services	
Unfair advantage in the selection of a contractor, consultant, or salesperson	
Tolerating a situation or practice which poses a substantial and specific danger to public health or safe	

7. Where did this corrupt activity occur? (Please mark ALL that apply.)

Your immediate colleagues		Outside your department or area of work	
Another government department		Contractor or seller	
Other (Specify):			

8. What value do you THINK was involved in the transactions?

Under R100		R100 to R1000		R1000 to R5000	
R5000 -R10 000		More than R10 000		Other value (specify)	

9. How frequently have you witnessed the corrupt activity occur?

Once or rarely		Occasionally		Frequently	
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10. Did you report this corrupt activity to any of the following? (Please mark which applies)

I did not report the corrupt activity	
Family member or friend	
Immediate supervisor	
Union representative	
News media	
Co-worker	
The Police	
Civil Society i.e. groups such as the Public Protector	
Other(please specify):	

Section C: Reporting of corrupt activities

1. How important, would each of the following would encourage you to report any corrupt activity?

	Very Important	Somewhat Important	Somewhat Unimportant	Unimportant
The corrupt activity might threaten people's lives and suppress social justice				
The corrupt activity was something you considered serious in terms of costs to the Government				
Some action would be done to address the activity I reported				
The wrongdoers involved in the activities would be rebuked				
I would be protected from any sort of retaliation				
I would be positively recognized by management for reporting corruption				
My identity would be kept confidential when I disclose any corruption				
The corrupt act was something you considered to be a serious ethical violation, although the monetary costs associated with it were small				

2. How likely would you “blow the whistle” on corruption when the wrongdoer is:

	Very Likely	Somewhat Likely	Somewhat Unlikely	Very Unlikely
A higher level manager				
Direct Supervisor				
A co-worker in your department				
Another government employee but outside your department				
An elected political appointee				

3. To what extent do you agree with the statements below:

	Disagree	Agree	Uncertain
I am well familiarised with the Protected Disclosure’s Act, No 26 of 2000 and the stipulations in the act			
The organisation is in adherence with the guidelines that are stipulated in the Protected Disclosures Act			
The organisation has a formal mechanism that encourages to report any wrong doing and also communicates the procedures in reporting any doing			
The whistle blowing system conceals the identity (or identity is kept anonymous) of the person lodging a complaint			
I feel confident to report any corrupt activity occurring in my organisation			
Within my organisation, there are high incidences of retaliation from other colleagues if someone reports any corrupt activities			
I would be report any corrupt activities if I was guaranteed some form of protection either provided by the law or regulations			
I would report any corrupt activities if there was a monetary reward or promotion as an incentive			
I would report any corrupt activities because I feel morally obliged to do so			

Any further comments that you want to add:

YOUR PARTICIPATION IS GREATLY APPRECIATED!