

# ETHICS FRAMEWORK

Version 1.00



**Department of Public Works**



**public works**

Department:  
Public Works  
**REPUBLIC OF SOUTH AFRICA**



## public works

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**REPUBLIC OF SOUTH AFRICA**

**NATIONAL DEPARTMENT OF PUBLIC WORKS**

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# **ETHICS FRAMEWORK**

**DEPARTMENT OF PUBLIC WORKS**

**Governance Risk and Compliance Branch**

**2017**

## DOCUMENT HISTORY AND VERSION CONTROL

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## GLOSSARY OF TERMS

TERMINOLOGY	DEFINITION
<b>Ethics</b>	A set of principles used by Department to establish and guide appropriate conduct.
<b>Ethics Framework</b>	A structured set of guidelines and codes that detail the Department's processes for maintaining ethics.
<b>Ethical decision-making</b>	A disciplined reflection on how to make decisions regarding ethical issues.
<b>Ethics Management</b>	A series of activities that when combined are intended to achieve a sound ethical environment.
<b>Ethics Champion</b>	A person assigned with the responsibilities for managing ethics, and the related obligations for ethics management within the Department.
<b>Conflict of interest</b>	A conflict between the public duties and the private interest of an employee in which said employee may be improperly influenced or result in negative impact on public duties and interest in decision-making.
<b>Organ of state</b>	Any department or administration in the national, provincial or local spheres of government or any institution exercising powers or functions in terms of the constitution.
<b>Gift</b>	A token bestowed voluntarily without expectation of tangible compensation and for which no direct or indirect contractual obligations are imposed.
<b>Compliance</b>	Adhering laws, binding and non-binding regulations, Departmental policies and procedures, local and international best practice principles of ethics and corporate governance.
<b>Gratification</b>	Includes but not limited to favours, donations, gifts, grants and sponsorships that directly or indirectly benefit an employee.
<b>Remunerative work outside the Public Service</b>	Any business carried out or services rendered for gain or personal benefit by an employee outside his or her employment for which remuneration, a fee or reward is received.
<b>Financial interest</b>	Pecuniary interests in the form of payment for services, equity shares, debt instruments, tangible and intellectual property.
<b>Related party</b>	A person or entity related to an employee of the Department such as a spouse, partner, close family member or business associate.
<b>Compliance Obligation</b>	A law (legislated or common law), regulation, government directive, standard, contract or internal policy/procedure that has been adopted by the Department.
<b>Beneficial ownership</b>	The right to enjoy the benefits of ownership of an asset regardless of in whose names the legal title to such an asset resides.
<b>Internal Controls</b>	Internal controls are any actions (such as reviews, checks and balances, methods and procedures) taken by personnel, management, oversight committees and other parties to manage risk and increase the likelihood

<b>TERMINOLOGY</b>	<b>DEFINITION</b>
	that the established objectives and goals of the Department will be achieved.
<b>Ethics Risks</b>	Risks faced by the Department due to negative consequences of unethical behaviour.
<b>Supporting Documentation</b>	An official document that serves as evidence that a compliance activity or intervention was performed.
<b>Designated employee</b>	Any member of the SMS, person in terms of Section 36(3) of the PFMA or any other employee or category of employee determined by the MPW.



ACRONYM	FULL DESCRIPTION
MPW	Minister of Public Works
MPSA	Minister for the Public Service and Administration
PPC	Parliament Portfolio Committee
DG	Director General
DDG: GRC	Deputy Director General – Governance Risk and Compliance Branch
CS	Corporate Services Branch
D	Director
DD	Deputy Director
PRR	Policy, Research and Regulations Branch
PS	Professional Services Branch
RM	Regional Manager
DPSA	Department of Public Service and Administration
DPW	Department of Public Works
PMTE	Property Management Trading Entity
EXCO	Executive Management Committee
GRC	Governance Risk and Compliance
AGSA	Auditor General South Africa
NT	National Treasury
SCM	Supply Chain Management
PFMA	Public Financial Management Act, 1999
PSIMF	Public Services Integrity Management Framework, 2013
PAMA	Public Administration Management Act, 2014
PSAA	Public Service Amendment Act, 2007
PSA	Public Service Act, 1994
PSR	Public Service Regulations
SMS	Senior Management Service
PCCAA	Prevention and Combating of Corrupt Activities Act, 2004
PSC	Public Service Commission
PEPs	Politically Exposed Persons
SAPSA	South African Police Service Act, 1995
DA	Defence Act, 2002

## 1. ETHICS CONTEXT

### 1.1. Background

The objective of the Department of Public Works (which includes DPW and PMTE hereafter collectively referred to as 'the Department') in establishing an ethics framework (hereafter referred to as 'the Framework') is to address its strategic objectives in a credible and sustainable fashion.

The Department has a responsibility to create an environment in which its strategic objectives are achieved with integrity. To channel right behaviour, ethics is propagated by: setting at root level the Department's shared beliefs and expectations to encourage ethical reflection and decision-making; developing and implementing supporting structures in the way of policies, procedures and systems and finally, demonstrating ethical values through actions and communications.

In exercising their discretionary powers, an employee may encounter several internal and external factors fraught with risk and uncertainty which may influence their interpretation of the Department's ethical values. This framework intends to assist in systematically addressing ethical situations where ethical conduct is unclear or difficult to discern and strengthens measures established to address conflicts of interest arising from say, financial interests, acceptance of gifts, and remunerative work outside the public sector.

The Constitution of the Republic of South Africa provides the fundamental legislative framework for creating good governance in the Public Service. Chapter 10 of said Constitution contains key principles that set the basis for discharging public duty in a professional and ethical manner as follows:

- A high standard of professional ethics must be promoted and maintained;
- Services must be provided impartially, fairly, equitably and without a bias;
- Public administration must be accountable; and
- Transparency must be fostered by providing the public with timely, accessible and accurate information.

Section 195 (1) of the Constitution requires that the Department is governed in terms of democratic values and principles including a high standard of professional ethics which must be promoted and maintained. The Code of Conduct is supported by the Public Service Integrity Management Framework, Financial Disclosure Framework and Public Service Anti-corruption Strategy approved by Cabinet.

The eight principles in Batho Pele further emphasize a focus on customer care through effective service delivery as a key goal in transforming public service. The Department should take the views of its stakeholders into account in decision-making, treat them with respect and consideration, adhere to the promised service standards and respond swiftly when these promised standards fall short.

Managing ethics goes beyond preventing fraud, corruption and misconduct. It aims to promote an ethical culture that permeates all decisions made by the Department, and interactions with and among employees. Ethics is Department-wide and should not be viewed as concerning only units dealing with ethics management but indeed, affecting all operations, employees and relevant stakeholders.

The Framework provides a sense of assurance to the Accounting Officer according to the PMFA that the operations of the Department, including those of all its Branches, are in line with ethical standards.

## 1.2. Purpose of the Ethics Framework

The purpose of the Framework is to drive ethics as a key driver of the Turnaround Strategy and serve as a medium that provides guidance in:

- Articulating the Department's expectations of professional conduct which in turn assists in upholding accountability for any behaviour with negative impact;
- Developing a common approach in enhancing the quality of ethical decisions made by encouraging all employees to align their decisions with the Department's values and mandate;
- Setting the premise for developing a code of ethics;
- Assisting all employees to identify and resolve ethical dilemmas;
- Increasing the awareness of ethical requirements through education and training on ethics, fraud and corruption, as well as the resources available to address ethical dilemmas;
- Ensuring that the Department as a whole responds in a timely and appropriate manner to potential or actual unethical conduct (including allegations thereof);
- Instilling a compliant and responsible ethical culture benchmarked against the values of the Department and
- Indicating the Department as a good corporate citizen and improving its reputation in the sight of relevant stakeholders and the public.

## 1.3. Scope of Application

This Framework shall apply to all officials employed in the public service throughout the Department to whom the PSA applies as follows:

- Core Administration – DPW Head Office
- PMTE
- Branches
- Regions
- Related Public Entities
- Internal Assurance Functions
- Governance Oversight Processes

## 1.4. Legislative Mandate

The Department has set its sights on carrying out its vision with integrity and taken this premise from legislative and regulatory guidance as such:

Section 38(1) (a) (i) of the PFMA outlines the responsibility of the Director General as the Accounting Officer – to ensure that the Department has and maintains effective, efficient and transparent systems of financial and risk management and internal control.

National Treasury regulations promulgated in terms of the PFMA:

**3.2.11(b):** The internal audit function must assist the accounting officer in maintaining efficient and effective controls which encompass the reliability and integrity of financial and operational information.

**16A8.1:** All officials and role players in a supply chain management system must comply with the highest ethical standards in order to promote –

- (a) Mutual trust and respect; and
- (b) An environment where business can be conducted with integrity and in a fair and reasonable manner.

**16A8.3 (d):** A supply chain management official or role player must ensure they do not compromise the credibility or integrity of the supply chain management system through acceptance of gifts or hospitality or any other act

## 1.5. Ethics Philosophy

The ethics philosophy embedded in the Department is informed by standards and recommendations detailed in the following:

- Public Service Act 103 of 1994
- Public Administration Act, 2014
- Public Service Integrity Management Framework
- Public Service Regulations, 2016 (Code of Conduct)
- Directive on remunerative work outside the public service
- Directive on conducting business with an organ of state
- Financial disclosure Framework for SMS and contained the PSR, 2016
- King Code III & IV,
- Compliance Institute SA, ISO 19600
- International compliance best practices
- Departmental-specific guidelines on professional conduct

The ethical standards depicted in the Framework are adopted from the following approaches:

**Rights Approach:** The ethical standards incorporate human rights and in particular, respect for employees.

**Fairness or Justice Approach:** The ethical standards ensure that all employees are treated equitably especially with regards to disciplinary actions in the event of unethical behaviour and payments of salaries (above minimum wage and in consideration of merit)

**Common Good Approach:** The ethical standards encourage transformation by creating an environment in which opportunities are opened up for marginalised groups and better communities are built.

**Virtues Approach:** The ethical standards are driven by the values of the Department which instils employee behaviour based on virtues such as honesty, integrity, courage, fairness and tolerance.

## 1.6. Stated Values of the Department

The core values of the Department are espoused in the Constitution and Batho Pele principles, and in turn underpin the ethical culture of the Department as follows:

**Innovation:** by tirelessly seeking opportunities for service delivery improvement by thinking freely and not bound by old, non-functional, or limiting structures, rules, or practices.

**Integrity:** by consistently honouring our commitments, upholding ethical, honest behaviour and transparent communication.

**Motivation:** by ensuring our best efforts and actions toward the realisation of organisational goals.

**Professionalism:** by treating our clients with respect and reliably delivering against expectations as required in the principles of courtesy and service standards in Batho Pele.

**Accountability:** by discharging our duties in a responsible manner in compliance with the relevant laws.

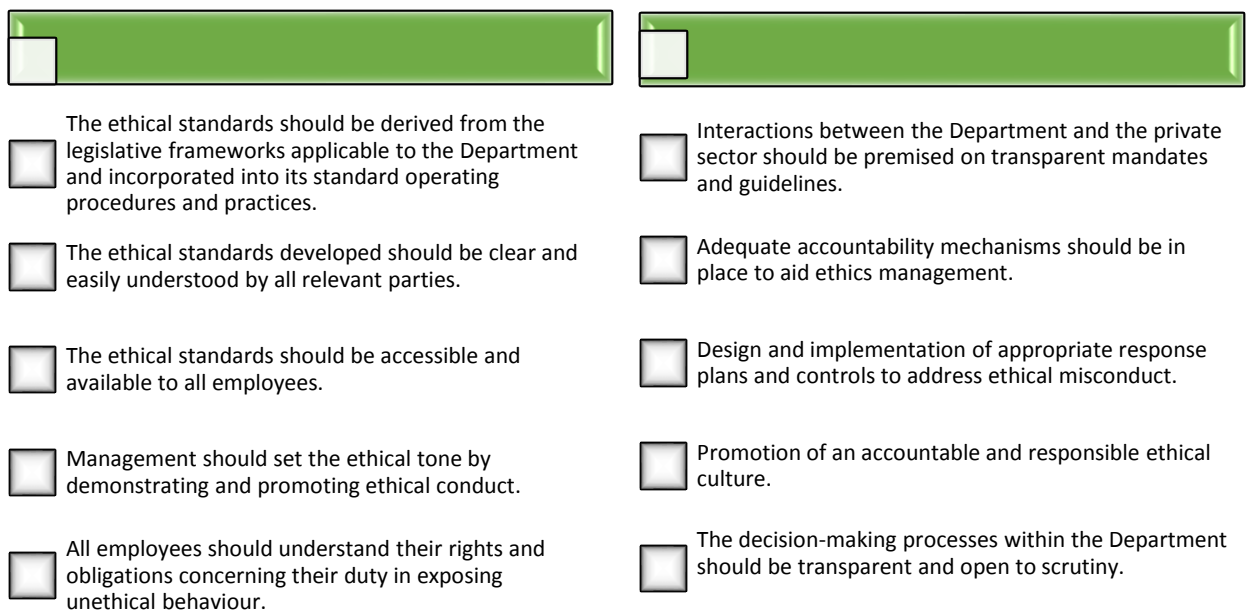
**Results-orientated:** by knowing what results are important and focusing resources to achieve them as required in the principle of value for money in Batho Pele.

**Teamwork:** by respecting diversity while sharing a common purpose and working together in cooperation with each other.

## 1.7. Principles of Ethics Management

The following principles would ensure successful embedment of ethics within the Department;

**Figure 1: Principles of Ethics Management**



## 2. ETHICS GOVERNANCE

The Department is required to create and promote an ethical organisational culture and to provide guidelines to support the conduct of each employee. The leadership of the Department should indicate ethical commitment by setting up formal ethics structures with delegated authority from the Accounting Officer. These structures include the Governance and Ethics Committee, Ethics officers and Ethics Unit.

### 2.1. Ethical Leadership

Strong ethical leadership paves the way for voluntary submission to a moral code of integrity which goes beyond strict legal prescripts. According to Principle 1.2 of the King IV Report on corporate governance, the ethical tone of the Department should be set at the top and the executive management should develop strategic objectives rooted within the ethical values upheld by the Department. The ethical leadership of the Department should act ethically and create an environment which makes it easy to act ethically by:

- Exemplary personal conduct;
- Allocation of resources to ethics management;
- Supporting ethical initiatives and those who take a principled stand;
- Encouraging employees to discuss ethical matters openly;
- Acknowledging ethical behaviour
- Timely, consistent and fair dealing regarding unethical conduct

The GRC Branch which serves as a catalyst to improve governance processes, has been identified as the key driver of ethics and the fight against fraud and corruption. The Accounting Officer, who takes final accountability for the ethical tone, has added support to the campaign against fraud and corruption by instituting a Change Management Strategy (CMS) which will improve the Department's culture and promote transparency, honesty and integrity.

### 2.2. Ethics Officers

The PSIMF requires that the Department designate an ethics officer at executive level responsible for ethics performance with delegated authority to drive ethics and anti-corruption initiatives. Adding to that, the minimum anti-corruption capacity requirements advocate for the appointment of ethics officers within the GRC Branch of the Department. The DDG: GRC is the designated executive ethics champion responsible for the Department's ethical performance, with delegated authority from the Accounting Officer.

The Governance and Ethics Committee provides strategic direction and oversight of ethics management within the Department. As a sub-committee to the EXCO, it informs EXCO of the ethical performance of the Department and formally reports to the Accounting Officer through its chair, the DDG: GRC. The DDG: Corporate Services may act as an alternative chairperson. This committee should consist of all DDGs (DPW and PMTE at Head Office), Regional Managers and any other person invited to the Committee with the approval of the Chairperson including Internal Audit. Staff in the GRC Branch should perform the secretariat functions. Meetings, roles and responsibilities should all be conducted in line with the TOR Charter.

The Ethics Unit which acts as the Ethics Office of the Department should constitute ethics officers at a non-executive level in the form of two Deputy Directors: Ethics (DPW) who perform the day-to-day duties relating to ethics management and report on ethical issues to the Director: Ethics (DPW), who in turn reports to the DDG: GRC. The general duties of the Deputy Directors should include:

- Raising awareness and promoting ethical behaviour within respective Branches;
- Advising employees on ethical issues and dilemmas;
- Ensuring the integrity of the Department's practices, policies and procedures;
- Identifying and reporting unethical behaviour and corrupt activities through appropriate channels;
- Manage conflicts of interest resulting from financial interest disclosures, external remunerative work and receipt of gifts;
- Maintaining the gift and hospitality registers;
- Organising ethical training and educative programmes and
- Maintaining a register of employees under investigation for unethical conduct and disciplinary action taken.
- Liaising with DPSA regarding financial interest disclosures.

The Deputy Director: Ethics (DPW) should be supported administratively by ethics officers or risk champions in the absence thereof, who liaise with management and employees within the Regions to ensure that ethics is embedded and monitored in the day to day activities, and ethical issues are duly reported to the Director: Ethics (DPW).

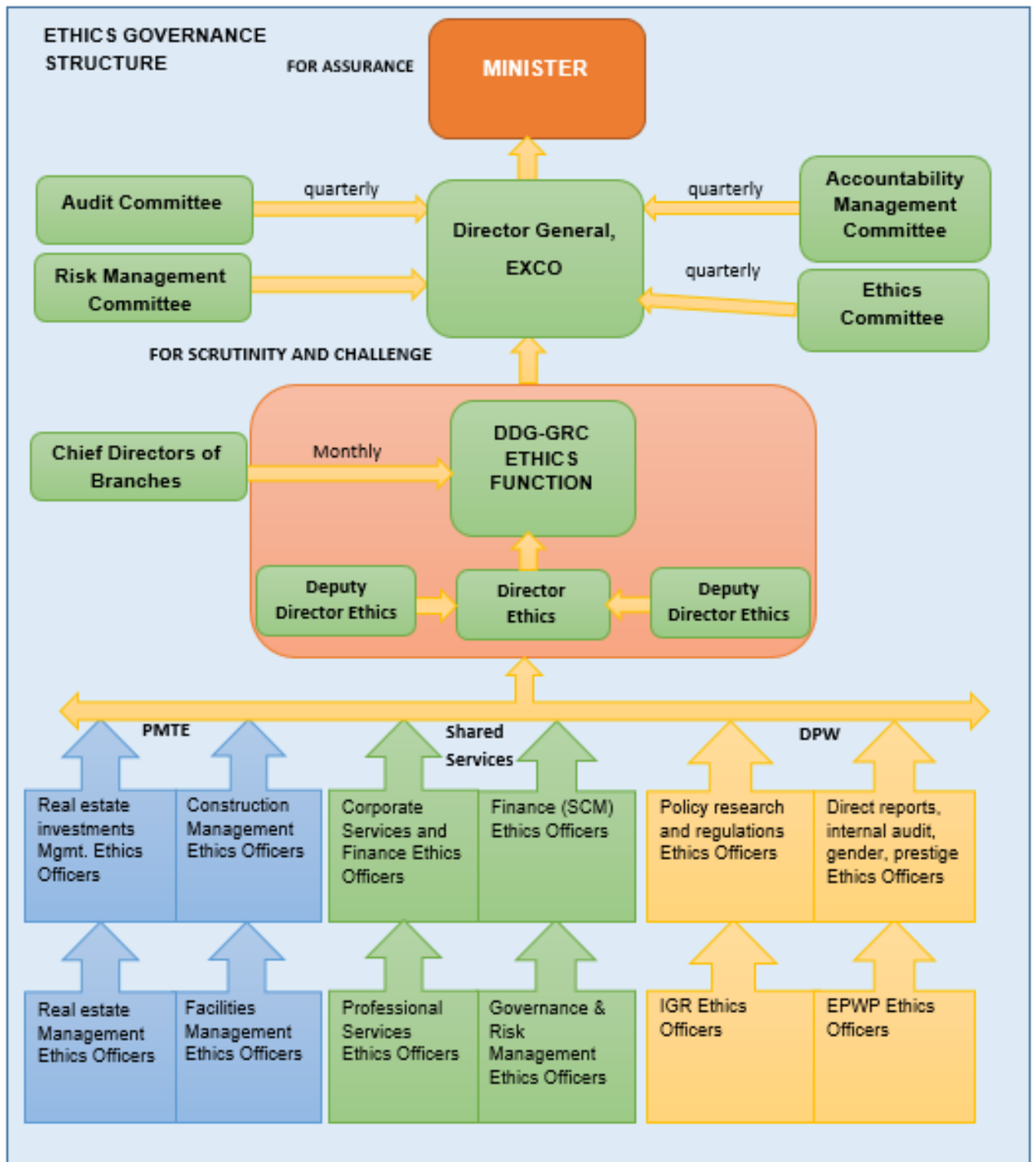
### 2.3. Ethics Delivery Governance Architecture

The Ethics Function is delivered through a decentralised functional governance structure which comprises various ethics officers within the operations of the Department. The ethics delivery governance architecture is structured as follows:

- The ethics officers within the Branches should report operationally to the Deputy Directors: Ethics (DPW) in respect to their line of duty and functionally, to the Director - Ethics at a GRC Shared Services Level.
- The Deputy Directors: Ethics (DPW) should report to the Director: Ethics at a GRC Shared Services Level.
- The Director: Ethics (DPW) should report to the DDG-GRC at the GRC Shared Services Level.

The following illustration depicts the governance structure involved in ethic management. It represents the process flow of how the ethics officers stationed within the various Branches report to the GRC Branch, which then coordinates reports to the Committees, EXCO and the Accounting Officer for overall oversight of ethics.

Figure 2: Ethics Governance Structure





<b>DESIGNATION</b>	<b>FUNCTION</b>	<b>REPORTING LINE(S)</b>
DIRECTOR GENERAL	<ul style="list-style-type: none"> <li>▪ To provide advice to management on the adequacy and economic effectiveness of systems of internal control, risk management and governance process through independent review.</li> <li>▪ To provide executive leadership and guidance in the developing and implementing norms and standards to guide the functioning of GRC within the Department.</li> </ul>	MINISTER, MINMEC, MINTOP
AUDIT COMMITTEE	<ul style="list-style-type: none"> <li>▪ To review internal and external audit findings and monitor management's implementation of the recommendations made by these functions.</li> <li>▪ To review management's process of communicating and monitoring compliance with the Department's Fraud Prevention Plan and Code of Conduct.</li> <li>▪ To oversee that reported incidents of fraud, corruption and negligence are given appropriate and timely attention, and followed through to conclusion.</li> </ul>	DG
EXCO	<ul style="list-style-type: none"> <li>▪ To act as a custodian and focal point for corporate governance.</li> <li>▪ To recommend the ethical strategy for approval by the DG.</li> </ul>	DG
GOVERNANCE AND ETHICS COMMITTEE	<ul style="list-style-type: none"> <li>▪ To assist in formulating the Department's ethics strategy and plan.</li> <li>▪ To formulate, implement and monitor the ethics and integrity framework, and develop and revise the Code of Conduct.</li> <li>▪ To ensure the ethics risks are assessed and the Department understands its ethics risk profile</li> <li>▪ To ensure integration and collaboration of ethics-related functions (as shown in 2.2) and settling boundary disputes among these functions.</li> <li>▪ To be custodians of the Department's values and ensure these are applied consistently.</li> <li>▪ To monitor and report on the implementation of the ethics management strategy, ethical culture and effectiveness of disciplinary processes.</li> </ul>	EXCO (DDG: GRC) AUDIT COMMITTEE
RISK MANAGEMENT COMMITTEE	<ul style="list-style-type: none"> <li>▪ Review and approve Fraud Prevention Policy Strategy.</li> </ul>	EXCO (DDG: GRC)
DEPUTY DIRECTOR GENERAL: GRC	<ul style="list-style-type: none"> <li>▪ To establish and manage governance, risk and compliance structures within the Department.</li> <li>▪ To act as the executive ethics champion and chair the Ethics Committee meetings.</li> <li>▪ To drive ethics management initiatives, ensure coordination of these initiatives and advocate for interest of the ethics function.</li> <li>▪ Establish procedures to manage and investigate ethical misconduct.</li> <li>▪ Elevate significant ethical issues to the DG.</li> <li>▪ Facilitate discussion on ethical matters at EXCO level.</li> </ul>	DG

DIRECTOR: ETHICS (DPW)	<ul style="list-style-type: none"> <li>▪ To ensure reports on ethical issues are submitted to DPSA</li> <li>▪ To ensure broader training on ethics is conducted annually.</li> <li>▪ To coordinate all ethical issues within the Department.</li> <li>▪ To ensure adequate maintenance of the ethics risk register.</li> <li>▪ To ensure gift and financial interest registries are kept and updated.</li> <li>▪ To ensure verification of the financial interest disclosures.</li> <li>▪ To ensure that registers for code of conduct declarations are kept and updated.</li> </ul>	DDG: GRC
DEPUTY DIRECTORS: ETHICS (DPW)	<ul style="list-style-type: none"> <li>▪ To conduct ethics management activities as defined under section 2.2.</li> </ul>	D: Ethics
FRAUD INVESTIGATIVE UNIT	<ul style="list-style-type: none"> <li>▪ To combat all forms of fraud and corruption.</li> <li>▪ To investigate allegations of fraud and corruption.</li> <li>▪ To develop, implement and maintain governance structures.</li> <li>▪ To develop comprehensive advocacy and awareness programmes.</li> <li>▪ To represent the Department in disciplinary processes.</li> </ul>	DDG: GRC
RISK MANAGEMENT UNIT	<ul style="list-style-type: none"> <li>▪ To assist the Department in identifying and assessing ethics risks</li> <li>▪ To assist in developing the ethics risk register</li> </ul>	DDG: GRC
INTERNAL AUDIT	<ul style="list-style-type: none"> <li>▪ To review and advise on the effectiveness and efficiency of internal controls relating to ethics and compliance with applicable laws and regulations.</li> <li>▪ To perform independent investigations of financial interest disclosures according to planned audits approved by the audit committee.</li> </ul>	DG  AUDIT COMMITTEE
CORPORATE SERVICES	<ul style="list-style-type: none"> <li>▪ To provide human resource administration and recruitment services.</li> <li>▪ To manage labour relations processes within the Department.</li> <li>▪ To manage employee health and wellness programmes.</li> </ul>	DG
PROFESSIONAL SERVICES	<ul style="list-style-type: none"> <li>▪ To develop and implement national norms and standards for the provision of professional services.</li> </ul>	DG
EMPLOYEES	<ul style="list-style-type: none"> <li>▪ To uphold and comply with the ethical standards within areas of responsibility.</li> </ul>	DDGs, CDs and RMs

### 3. ETHICS MANAGEMENT

Ethics management sets the platform for systems that promote acceptable behaviour and the right attitude in employees' performance of their official duties within the Department. The Department's interventions to instil and maintain an ethical culture include; setting a clear ethical tone through strong leadership (under 2.1), establishing ethics structures and assigning responsibilities (under 2.2 and 2.3), implementing the ethics management process, conducting independent assessments of the ethics management systems and establishing an ethical culture. The ethics management process includes the following aspects:

#### 3.1. Ethics Risk Assessment

The PSR regulations require the DG as the Accounting Officer to analyze ethics and corruption risks as part of the Department's system of risk management; and develop and implement an ethics management strategy that prevents and deters unethical conduct and acts of corruption. The ethics risks should be analyzed at both strategic and operational level using the risk management structures available to determine the ethics risk profile.

The Risk Management Unit should assist in; identifying and assessing ethics risks, monitoring the implementation of mitigating actions or controls and developing an ethics risk register. In defining the ethics risk profile, analysis of the following should be performed:

**Proactive analysis:** Stakeholders – both internal and external – should be engaged regularly to ascertain ethical issues pertaining to the inner workings or outer public experiences respectively. The findings from stakeholder engagements should be captured in the ethics profile and used as a benchmark against which future ethical performance is measured.

**Historic analysis:** Desktop analysis of ethical issues that have been uncovered and reported through AGSA, Internal Audit, Hotline, Media, disciplinary hearings and other form of reporting or communication channels available to the Department.

The following risks should be assessed:

- Lack of integrity and honesty of employees;
- Abuse of Department resources;
- Maladministration;
- Increase in unethical and negative behaviour of employees;
- Reputational damage to the Department due to misconduct of employees and
- Lack of public trust due to unresponsiveness.

The Department should also assess and foster the opportunities that ethics management adds to its operations including better working environment and staff retention in light of bringing PMTE into operation, improved service delivery and public trust.

This section should be read with the risk management framework which details the risk methodology of the Department.

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### 3.2. Ethics Strategy

The ethics risk profile should inform the Department's ethics strategy and be incorporated in measuring ethics performance. In formulating its ethical strategy, the Department should give consideration to its current culture, what contributes to that culture, what positive attributes should be harnessed, what attitudes and practices pose ethics risks and which units are most susceptible to ethics risk. The ethics strategy should be aligned to the strategic plan and strategic objectives of the Department and broadly address:

- Targeted ethics culture
- Areas prone to ethics risk
- Adherence to the Code of conduct
- Standards of service delivery as required by Batho Pele
- Education and training on ethical values, principles, expectations and accountability.
- Incorporation of commitment by service providers to follow ethical principles
- Whistle-blower arrangements and protection
- Investigation and sanctioning processes
- Confidentiality of ethical matters and disciplinary actions

The ethical strategy should contain proactive elements used to build a strong ethical culture and reactive elements used to detect, investigate and resolve misconduct. The Ethics Unit should compile the ethical strategy which is reviewed and recommended to the Accounting Officer for approval by the Governance and Ethics Committee.

The Ethics Unit should liaise with the Strategic Planning Unit in crafting the annual ethics management plan which should include measurable targets, assigned roles and responsibilities, timeframes in which to achieve the set targets and resources required. Targets in the plan may be achieved through conducting ethics risk assessments, reviewing policies and Code of Conduct, facilitating ethics training, setting up workshops and awareness. Specific ethics indicators should be developed to monitor and measure the effectiveness of the ethics management system during the year.

### 3.3. Code and Policies

The Code of Conduct acts as a constitution that guides the ethical behaviour of the employees within the Department. The Department uses a combination of values and rules to provide employees with specific behavioural requirements which also allow for the use of discretion in their decision-making. Therefore the Department complements the rules-based PSR with its own values to develop a Code of Conduct according to its ethics risk profile. Refer to Annexure A – Code of Conduct.

Department should ensure that every employee has been asked to state in a declaration that they understand the Department's expectations regarding ethics and compliance with the Code of Conduct and that they are not aware of any violations thereto. The Labour Relations Unit circulates the Code quarterly to all employees and should ensure that declarations and acknowledgement thereof are obtained.

The Department should supplement its Code of Conduct with the principles contained in Batho Pele and formal policies on the following:

- Gift acceptance

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- Sexual harassment
- Whistle-blowing
- Fraud investigations

The Code of Conduct and Policies should be reviewed regularly to ensure they address existing and evolving ethical issues appropriately.

### 3.4. Institutionalisation of Ethical Standards

The ethical standards and principles contained in the Code of Conduct and Policies may be instilled into the operations of the Department as follows:

**Communication:** Employees should be consistently reminded of the ethical standards. The Deputy Directors: Ethics should liaise with the Communications Unit under Corporate Services Branch to send out the Code and other ethical material quarterly. Raising awareness with external stakeholders can be achieved by incorporating ethical standards into service level agreements with service providers and posting newsletters, blogs or articles on the Department's website on upcoming events relating to ethics.

**Ethics training:** The training on ethics should be offered both at induction and through on-going sessions in the form of discussion forums that target specific issues faced by a group. Emphasis should be on problem areas such as conflicts of interest, whistle-blowing, quality service standards expected when dealing with customers.

**Advice channels:** Confidential advice on ethical issues should be made available to employees through a helpline or anonymous web-submissions attended to the Deputy Directors: Ethics and escalated to the Director: Ethics.

**Managing conflicts of interest:** Deputy Directors: Ethics should liaise with SCM to prevent conflicts of interest in procurement processes by actively managing gift acceptances, declarations/disclosures of financial interest and requests for approval to perform remunerative work outside the Department.

**Protection of whistle-blowers:** Employees should be given the assurance that they will not be victimised through occupational detriment and that cases will be investigated with independence and alacrity if they blow the whistle on unethical conduct. Complaints systems should also be anonymous, efficient and responsive. Deputy Directors: Ethics should ensure that investigative procedures are not abused and complaints relating to ethics are attended.

**Recruitment practices:** Sound recruitment processes should be established to ensure that courteous individuals of high integrity and competence are hired by the Department. The Deputy Directors: Ethics should liaise with the Human Resources Unit to assess the suitability of appointees to the Department through verification of qualifications, employment history, criminal records, credit status and residency status.

**System reviews:** The Deputy Directors: Ethics should assist Risk Management and Internal Audit in identifying systems and controls susceptible to manipulation and override, such as procurement and tender processes, contract management, nominations and promotions.

**Information management:** Information relating all ethical matters should be maintained on a confidential database and used to perform trend analysis that may to prevent future unethical conduct. Information may include declarations of interest, acceptance of gifts,

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grievance procedures, recruitment and vetting of employees, records of misconduct and disciplinary action taken.

### 3.5. Monitoring and Reporting

The implementation of the ethics management plan should be monitored to ensure effective and timely interventions for ethics risks. Ethics reports should be prepared quarterly and a comprehensive report issued annually according to the ethics structures identified. These reports should include reference to:

- Evidence of ethical leadership and commitment;
- Reports on ethical structures;
- Ethics risk assessments and outcomes;
- Approval and implementation of ethics strategy and ethics management plan;
- Adoption of the PSR and development of supplementary policies;
- Reports of misconduct and disciplinary action taken and
- Ethical culture and maturity.

## 4. ETHICAL DILEMMAS

### 4.1. Education and Training on Ethics

Ethics training communicates to employees the importance of the Department's ethical values and the perils of unethical behaviour. In addition to the anti-corruption and fraud awareness workshops held by the Fraud and Awareness Investigative Unit and the presentation of the code of conduct at the induction of new employees by the Labour relations Unit, the Department should conduct ethics training annually on ethical values and principles to uphold, ethical expectations of the Department and accountability of employees.

Training equips employees to identify and address ethical dilemmas in their line of duty. The ethical tone set at the top and in the middle hierarchy of the Department should actively drive and reinforce the training initiatives, including championing communications on ethics to their teams.

Because of its evolving nature, ethics is not a matter of ticking a box and the appropriate conduct may not always be easy to simulate. The training programs should therefore be diverse and ethics unit should:

- Structure ethics educational programs to extend over a period of time based on the premise that ethics is embedded over time;
- Create informal ethics forums in which employees are invited to comment on case studies or ethical problems that may be sensitively-crafted or controversial depending on the training objective;
- Include training on conflict resolution and emotional intelligence to equip employees with the necessary interpersonal skills required to intervene and address unethical situations or conduct;
- Diversify ethics training with opportunities to address ethical dilemmas experienced outside the Department and
- Make available information on professional and business ethics.

The annual training goals of the Department should be outlined at the onset of each year, reviewed and re-evaluated on an ongoing basis. Information drawn from risk and culture assessments should also be incorporated into the education and training initiatives. It is imperative that the Department communicate its expectations of personnel in terms of the ethics education and training and whether it will be compulsory or voluntary. A variety of tools can be employed including online education for broad audiences and face-to face interactive sessions and workshops.

The ethics training needs should be identified through a Training Needs Assessment Tool which recommends required training based on the incidents of unethical conduct reported. Training effectiveness should be tracked against ethics maturity levels and used to build content that will streamline further training initiatives.

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## 4.2. Sources of Ethical Dilemmas

The ethical dilemmas within the Department may result from the following:

- **Discretion:** In performing their duties, employees often have the discretion to make decisions. These decisions may be influenced by personal preference or political affiliations and even when the legislative and regulatory procedures have been adhered to, the decision may still be viewed unethical or corrupt.
- **Fraud and corruption:** Employees may accept favours from the public or be in the know of other officials who substitute their public loyalties for private interest – the dilemma results from deciding whether to end the corrupt practice or blow the whistle respectively.
- **Nepotism:** Employees may advocate for the appointment or preferential treatment of their relations and friends as opposed to merited applicants with the necessary competencies. This undermines the quality of service delivered and compromises the control environment of the Department.
- **Lack of confidentiality:** Employees are often privy to official information on sensitive issues such as land rezoning, construction projects, retrenchment or changes in governance structures. Divulging these details against the procedural prescripts or before the public announcement may grant certain persons undue advantages and lead to the contravention of the Protection of Personal Information Act.
- **Pressure from Management:** Less senior employees, especially whistle-blowers may become reluctant to report management's override of controls and unethical conduct in order to please senior management or appear to be team-workers.
- **Unclear policies:** The absence of formal ethical policy documents or presence of vague policies with inadequate ethical guidance and inconsistent application often results in poor ethical behaviour.
- **Unethical culture:** A lack of emphasis on integrity through poor human resource management and recruitment may result in employees condoning even through inaction, a lack of ethics among colleagues and management.

## 4.3. Identifying Ethical Dilemmas

The following considerations may assist employees in discerning whether an ethical dilemma exists:

- Strong intuitive sense that the transaction or decision does not feel right;
- Encountering barriers upon attempting to perform duties according to the prescripts of the Department;
- Encountering situations where ethical values conflict – such as honesty verses confidentiality;
- Policy ambiguity resulting in uncertainty over which action to take or difficulty in application
- Power struggles or conflicts amongst team members due to differing professional roles or beliefs.

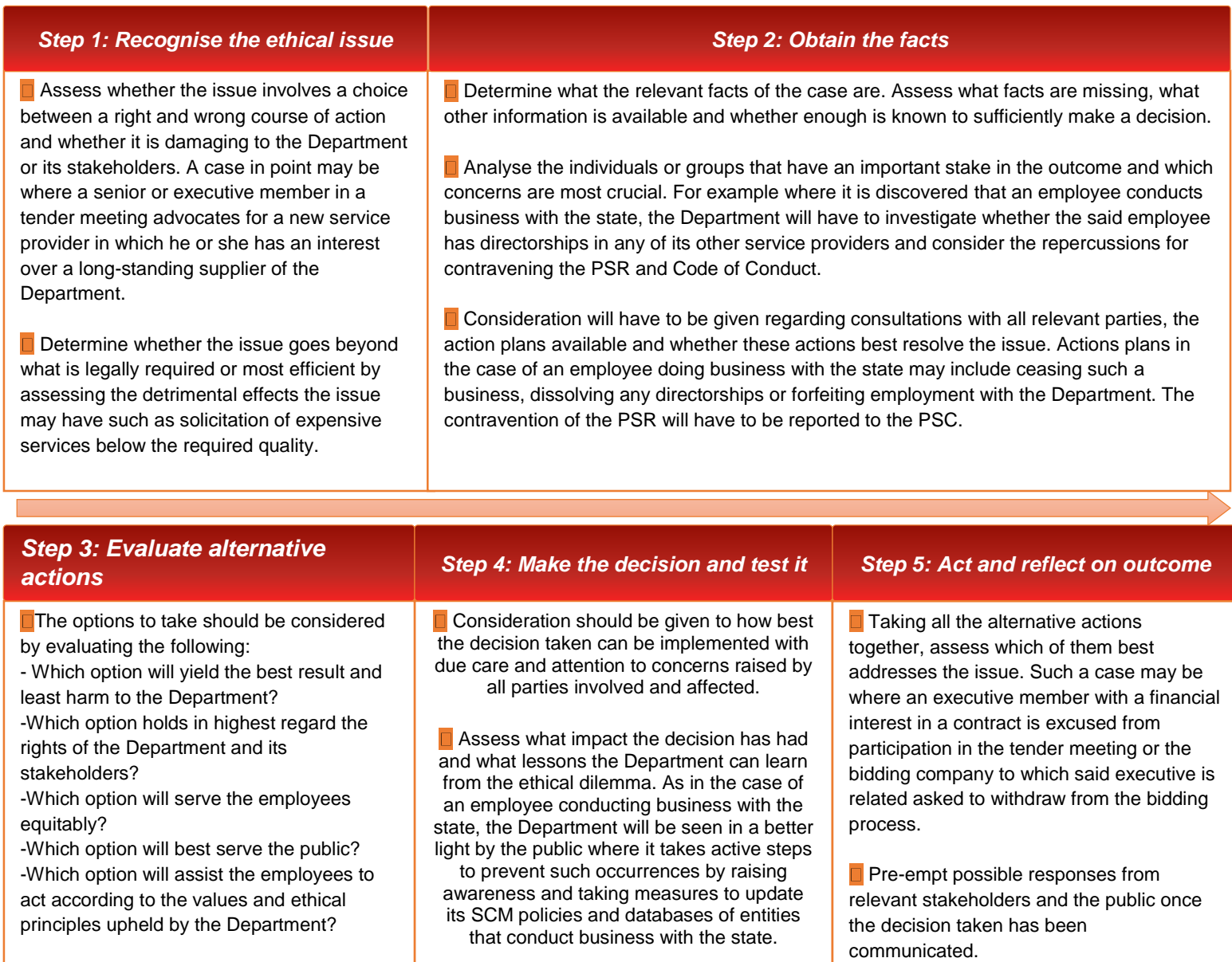


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#### 4.4. Ethical Decision-making

Ethical dilemmas often come into existence when a conflict exists between the official duties to the Department and the ethical principles. In such a case, direct engagement with the affected parties becomes crucial through legitimised, transparent and fair ethical decision-making processes which involve the following steps:

**Figure 3: Ethical Decision-making**



#### 4.5. Challenges faced in making Ethical decisions

The following challenges are faced by the Department in establishing ethics management systems and controls which would improve ethical decision-making:

- Blurry reporting lines due to delays in the review of internal governance structures of the Department. The bringing of PMTE into full operation has resulted in several shifts in functions performed which may cause confusion;
- The tight fiscal environment has resulted in capacity constraints and in turn vacancies within the ethics function – the process to appoint an ethics champion at executive level and ethics officer is still underway;
- Limited awareness of ethics as the incorporation of the ethics strategy into the strategic plan has been slow and further compounded by the absence of ethics training to equip employees with the necessary skills to deal with ethical issues;
- Monitoring deficiencies due to delays in configuration and availability of information regarding disciplinary cases against unethical behaviour, completion and review of ethics checklists and employee declarations on code of conduct;
- Maintaining the confidentiality of disciplinary action taken against officials as databases on ethical issues are not centralised within a specific ethics unit;
- Review of the quality of shareholder compacts for DPW Entities (in particular CIDB and CBE) as required by the PFMA and facilitation of signing thereof by the MPW;
- Incorporation of ethics risk assessments into the risk assessment process of the Department has presented limitations in preventing ethics risks and
- Inadequate maintenance of records on ethical issues has presented challenges in validating the accuracy and completeness of financial disclosures and submission of annual reports to DPSA.

## 5. DISCLOSURE OF FINANCIAL INTERESTS

### 5.1. Financial Interests

In observing the highest standards of integrity, the Department has a duty to ensure that designated officials disclose in full, any potential financial conflicts of interest concerning activities conducted outside the Department's operations that exceed the designated thresholds as indicated in the PSR and are likely to affect decisions taken within the Department.

Financial interests to be disclosed may include the following:

- Shares and other financial interests in any private or public company;
- Directorships and partnerships;
- Interests in land and property, including intellectual property;
- Loans and sponsorships;
- Income from financial interests such as dividends, interest, royalties and rent and
- Waiving of debt

### 5.2. Regulating Behaviour

The requirement to disclose financial interests extends beyond members of the SMS as indicated in the Financial Disclosure Framework to all employees of the Department. Disclosure promotes the level of openness and transparency required in Batho Pele to build trust in public service and more directly, between the Department and the public it serves.

Section 41(1) (b) (vi) allows the Minister to make regulations relating to the disclosure of financial interest by all employees or particular categories of employees and the monitoring of such interests.

Disclosure is viewed as the primary tool used in addressing conflicts of interest. In the event that an employee or related party thereto stands to gain an advantage or direct benefit from a transaction, contract or business in which the Department is involved, the following shall apply:

- Members of the SMS and special advisers shall disclose financial interests:
  - In respect of the period 1 April of the previous year to 31 March of the current year as required in a timely manner and
  - In the form prescribed by the MPSA.
- All other designated employees (including specified employees) shall disclose financial interests:
  - In respect of the period prescribed by the MPSA by notice in the Gazette for the category of employee to which the employee belongs;
  - No later than the annual date prescribed in that notice and
  - In the form prescribed by the MPSA.

Employees shall disclose the full particulars of the benefit to the ethics officers within the GRC Branch, who in turn must submit these disclosures to the Accounting Officer as delegated by the Executive Authority each financial year.

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Employees should regularly disclose financial interests as and when they are obtained through the electronic disclosure system. These electronic submissions should be detailed on disclosure forms which indicate all categories of financial interests for which registration is required and maintained in a registry by the ethics officers. Supporting documentation to evidence the financial interest and beneficial owners should also be attached.

The disclosure forms should reach the PSC in the time lines stipulated by the Department, including submissions made by newly appointed designated officials. The information should be regarded confidentially by all parties with access to it. The Accounting Officer may waive a conflict of interest and such waiver must be attached to the disclosure form on submission to the PSC.

### 5.3. Disclosure by Executive Management

- A member of executive management may disclose a personal financial interest in advance by delivering to the Accounting Officer, a notice in writing setting out the nature and extent of the interest;
- Where the matter regarding the personal financial interest in which said member of management or related party thereto is to be discussed at an EXCO or MINTOP meeting, the following should be observed by the member:
  - Disclose the financial interest and its general nature before the matter is considered at the meeting;
  - Disclose to the meeting all information known on the matter;
  - Disclose any observations and pertinent insights on the matter as requested by members at the meeting;
  - Leave the meeting immediately after making the disclosures;
  - Do not take part in the consideration of the matter;
  - Be considered present for the purpose of constituting the appropriate quorum for the meeting but absent in determining whether sufficient support exists for the resolution and
  - Must not furnish any document on the matter on behalf of the Department unless expressly instructed by the Accounting Officer.

### 5.4. Verification of Disclosures

Disclosure systems assist in managing conflicts of interest which in turn optimises service delivering and increasing public confidence in the Department. To this end, the completeness and accuracy of disclosure records should be verified to ensure proactive monitoring through:

- Appointment of an independent integrity champion in support of the GRC (or ethics officer) and with due authority, to inspect each declaration of interest form and initiate investigation where information appears incomplete, irregular or false;
- Scrutiny of financial disclosure records by SCM and surmising links with vendors and service providers, and previously submitted information;
- Liaising with other public registers such as SARS, CIPC and Banks in order to compare information on disclosure forms with records held in those databases and

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- Conducting internal reviews on disclosure forms – the Internal Audit function may include an independent review of these forms as part of the scope covered in the planned audits approved by the Audit Committee. The Compliance Unit and the Anti-Fraud and Corruption Unit may also perform detection reviews which assist in detecting unethical incidents more timely.

### 5.5. Unveiling Beneficial Ownership

To ensure complete disclosure, efforts must be made to ensure that financial interests held by employees are uncovered by:

- Requiring vendors and service providers to make upfront disclosure of all beneficial ownership information before the award of tenders;
- Investigating individuals behind shell companies connected to employees, vendors or service providers and
- Publishing financial disclosure information of PEPs related to the Department with regard to assets and properties held in other legal entities.

## **6. ACCEPTANCE OF GIFTS, HOSPITALITY AND BENEFITS**

The acceptance of gifts, hospitality and benefits introduce an element of partiality and threaten the objectivity of employees in conducting their official duties. A general misconception exists in the common belief that a gift may be accepted as long as it is declared. The primary challenge for ethics officers is to ensure full adherence to the requirements of the Code in relation to acceptance of gifts by training employees to take responsibility for avoiding situations in which they may be conflicted. Employees may excuse themselves from making decisions during high risk meetings such as recruitment of staff or procurement of goods and services.

The PRECCA defines gratification to include:

- Money
- Donations
- Gifts
- Loans
- Avoidance of a loss
- Status
- Employment
- Payment or waiver of a loan

The PSR and PSIMF prohibit employees or entity of the Department from directly or indirectly soliciting or accepting gifts, hospitality or private benefits of any value from any person, natural or juristic, contracted or transacting with the Department. Employees may not solicit or accept any said benefits for performance or non-performance of their official duties.

Further, any person be it natural or juristic, in rendering services to the Department, is also prohibited from offering gifts, hospitality or private benefits to employees, related parties of the Department or other Departments.

The Department should set up a separate gift policy which assists in communicating expected conduct when gifts are offered by clients, approvals required before acceptance and how gift registries should be maintained.

## 7. OTHER REMUNERATIVE WORK OUTSIDE THE DEPARTMENT

Employees are prohibited from taking up remunerative work outside their official duties to the Department, except where written permission has been obtained from the Executive Authority (MPW) or designated official.

In considering an application by an employee to take up other remunerative work outside the Department, the Executive Authority or Accounting Officer as delegated should assess whether such work is likely to interfere with or impede the efficient and effective performance of the employee's functions by assessing the following:

- The nature and extent of work to be undertaken;
- The time required for the outside work to be performed and
- The employee's performance record.

The application by an employee for remunerative work outside the Department will be considered over a period of 60 days (extended from the previously allocated period of 30 days), to allow the Executive Authority or Accounting Officer as delegated enough time to assess the implications of such an application.

### 7.1. Application to Perform Other Remunerative Work outside the Department

Before written permission is granted to the employee, a four-part process involving completion of the application form, processing the application form, making a decision and providing feedback should be undertaken as follows:

#### **Application:**

The employee must start by completing sections A to D of the application form prescribed by the MPSA and submit the form to the Deputy Directors: Ethics who will then submit the form to the Director: Ethics.

The other remunerative work to which the application relates should not exceed a period of 12 calendar months. The 60 day period within which written permission is granted shall commence on the date the applicant submits his or her duly completed application form to the Deputy Directors: Ethics.

#### **Processing:**

The Director: Ethics submits the completed form within 3 days of receipt to the applicant's immediate supervisor who is required to complete section E of the application form.

In making recommendation to support or refute the application, the supervisor of the applicant should consider if the other remunerative work could reasonably be expected to interfere with or impede the efficient and effective performance of the employee's functions or constitute a contravention of the Code of Conduct. After duly completing section E, the supervisor should return the application form to the Director: Ethics within 5 days ensuing receipt there from.

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Upon receiving the application form from the supervisor with sections A to E duly completed, the Director: Ethics must analyse all the information to identify any possible or perceived potential conflicts of interest that may arise as a result of the employee undertaking other remunerative work.

The Director: Ethics, in determining his/her recommendation to support or refute the application, may request all relevant information from the Human Resources Unit and Labour Relations Unit relating to the performance of the applicant in order to determine whether such other work will interfere with or impede the efficient and effective performance of the employee's functions.

The Director: Ethics will then complete section F of the application form within 7 days of receipt from the supervisor. The completed application form with the recommendations of the Director: Ethics will then be submitted to the DDG: GRC and in turn the Accounting Officer and Executive Authority (MPW).

The confidentiality of the applications is paramount and must be maintained. The Director: Ethics should also ensure that the 60 day period is adhered to.

### **Decision-making:**

The Executive Authority or Accounting Officer as designated must examine all the information contained in the application form, including the recommendation by the Director: Ethics, and make a final decision to grant permission or decline the request of the applicant.

The decision of the Executive Authority or Accounting Officer as designated should be recorded in section G. Where permission has not been granted, the reasons for his or her decision should also be recorded in section G. The Executive Authority or DG as designated must indicate approval by signing the application form and certificate of approval.

The Executive Authority or Accounting Officer as designated must ensure that the decision is made within 30 days from receipt from the DG or DDG: GRC respectively and that the 60 day period is adhered to.

The employee should take care to only use the approval granted to perform the exact type of other remunerative work for which approval was sought over the approved period which may not exceed 12 months. Should the employee wish to continue performing other remunerative work after the approved period, a new application form should be submitted 30 days before the expiry of the current approval.

### **Feedback:**

The Director: Ethics shall return the signed copy of the certificate of approval to the applicant and inform the applicant's supervisor of the outcome when permission has been granted by the Executive Authority or Accounting Officer as designated.

The ethics officer must ensure that all the steps of the application process are captured on the payroll system, PERSAL and any other tool identified by the Department – including applications and approvals obtained.

Employees granted approval to perform other remunerative work must attached the certificate of approval when disclosing financial interests as required by PSR and a copy of the application form must be filed in the applicants personnel file for record keeping.



## 7.2. Monitoring Non-Compliance

The Directors: Ethics should ensure that employees who have permission to perform other remunerative work are periodically monitored to guard against:

- The other remunerative work interfering or impeding effective or efficient performance of the employee's functions within the Department;
- Contravention of the Code of Conduct;
- Unauthorised extension of the approved period and
- Performance of other remunerative work that has not been approved.

The Department must deal with all cases on non-compliance in terms of sections 16 A, 16 B and 31 of the PSA and where applicable, the amount to be repaid should be indicated.

Where the Executive Authority or Accounting Officer as designated makes a decision regarding the application based on an error of fact, law or fraud such as a case where the applicant omits or misrepresents facts, such a case should be reported to the Governance and Ethics Committee and the decision should be corrected in terms of section 5 (7) of the PSA.

## 7.3. Transfers and Reassignments

The Director: Ethics should be informed by the Deputy Directors: Ethics of applicants who are transferred or reassigned within the Department within 5 days of that applicant accepting the transfer or reassignment. The ethics officer should assess whether a conflict of interest may arise from the change and must submit his or her assessment to the Executive Authority or Accounting Officer as designated within 5 days of being informed by the employee. The Executive Authority or Accounting Officer has 15 days to review his or her decision.

Employees transferred to another department must submit a new application form to the relevant Executive Authority or designated person in that department within 30 days of accepting the transfer.

During the recruitment process, candidates must be informed that they should cease all other remunerative work before appointment to the Department and only after their appointment may they request written permission to perform such work.

## **8. CONDUCTING BUSINESS WITH AN ORGAN OF STATE**

Regulation 13 (c) of the PSR prohibits an employee from conducting business with an organ of state or act as a director to a private or public company conducting business with an organ of state. The term business includes any trade, occupation, profession, calling, industry, undertaking or activity carried out for gain or profit by an employee of the Department, including all property, rights and liabilities derived from or used in said business.

### **8.1. What Constitutes Conducting Business with an Organ of State**

An employee will be regarded as conducting business with an organ of state when he or she in said capacity as an employee or director of a private or public company –

- Concludes or intends concluding an oral or written agreement with the organ of state;
- Such an agreement is not associated to the employee's employment with the Department;
- Provides goods and services through said agreement to the organ of state for a benefit, financial or otherwise.

### **8.2. What does not Constitute Conducting Business with an Organ of State**

For the purposes of Regulation 13 (c) of the PSR, the following activities are excluded from the definition of conducting business with an organ of the state:

- Participation in marking, training or teaching at public educational institutions;
- Appointment of an audit committee as contemplated in section 77 of the PFMA;
- Appointment as a member of the Reserve Police Service in terms of section 48(2) of the SAPSA, 1995;
- Appointment as a member of the Reserve Force in terms of section 53 of the DA, 2002;
- Activities undertaken as part of continued professional development;
- Official activities undertaken part-time temporarily or permanently in a number of departments as part of the employee's employment;
- Acting as voting staff in support of the Independent Electoral Commission;
- Appointment as a member of a school governing body, museum board, university board or any other state controlled institution with a public function (DPW entities) and
- Use of employees' property or facilities by the Government for public function.

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### 8.3. Policy on conducting business with an organ of the state

The Accounting Office as the head of the Department is tasked to ensure that Regulation 13 (c) of the PSR is given effect by:

- Developing, maintaining and communicating the policy on conducting business with an organ of the state;
- Keeping a register of:
  - Entities that conduct business with the Department and
  - Persons engaged in SCM on behalf of the Department.
- Report annually to the Executive Authority (MPW) on the following:
  - Development and amendment of the policy, including a copy thereof and
  - Confirmation that the registers are kept and maintained.

The said policy prohibits employees from conducting business directly or indirectly with an organ of the state and being a director of a company or member of a close corporation conducting business with the state and:

- Contains measures to ensure the SCM policy prohibits the conducting of business with an employee in the Department either in his or her personal capacity or through a company or close corporation;
- Determines procedures for informing all employees of the names of persons and entities that conduct business with the Department and State;
- Includes as an obligation to all employees the immediate disclosure of any financial interest in an entity that intends conducting business with the Department and
- Determines procedures and rules the Department should use to prevent conflicts of interest in respect of its employees with financial interests in an entity conducting business with the Department and State.

### 8.4. Duty to Report Contraventions

Both the PSR and PAMA prohibit any employee in the Department from conducting business with the State or being a director of a private or public company conducting business with the State and therefore a duty arises to report contravention thereof as follows:

The Accounting Officer as the head of the Department must report the alleged contravention of Regulation 13 (c) of the PSR by any employee within 30 days of becoming aware of the allegation to;

- The PSC and
- The DPSA

The Accounting Officer must ensure that an investigation into the alleged contravention for the purposes of disciplinary enquiry is initiated.

Effective 1 October 2018, the Executive Authority must submit a composite report to the MPSA in the form issued by the MPSA summarising all relevant information for the period 1 October to 3 July of the previous year on or before 1 October every year.

Through the GRC Branch, the Accounting Officer carries out his or her obligation to ensure compliance with the PSR and Directives issued.

## 9. MONITORING AND REPORTING OF ETHICS

### 9.1. Monitoring

The ethics unit should continuously monitor the ethics management programme to ensure that the activities planned are implemented and data used in ethics reports is tracked. The ethical performance of the Department may be monitored using indicators developed in the following areas:

- **Ethical judgement and decision-making:** Indicators may include number of queries received on the helpline, nature of criticisms of ethical decisions taken, number of incidents in which the ethical decision-making process was not adequately followed.
- **Perceived unethical behaviour:** Indicators may include number of conflicts of interest picked up, number of employees with declared interests, contraventions of the Code of Conduct.
- **Workplace politics:** Indicators may include cases of resistance to ethical decision-making or insubordination, number of employees trained, significant issues raised in evaluations relating to bottlenecks in the governance structures of DPW and PMTE.
- **Psychological and emotional support:** Indicators may include programmes established to counsel and assist employees with HIV or trauma.
- **Moral compass of employees:** Indicators may include main ethics risk areas, consistency in ethics risk methodology, number of repeat incidents of unethical behaviour by employees.
- **Reputational impact:** Indicators may include number and nature of negative press/media reports.

The monitoring systems should also be based on data required for drafting reports to the governance structures and providing early warning signs of undesirable trends and ethics risks. The data gathered should include:

*Communication interventions:* Data collected on the basis of how employees have been sensitised about ethics through forums, newsletters, presentations, agenda items at EXCO and attendance statistics.

*Training interventions:* Data on number of training sessions, units in attendance and impact of training.

*Advice:* Data on types of advice requested, topics frequented, units that tend to request advice and how often this is done.

*Management of conflicts of interest:* Data relating to number of employees doing remunerative work outside the Department, whether permission was granted in terms of the Code, employees with financial interests, whether these interests have been disclosed, significant gifts received and reported, and units susceptible to these conflicts.

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*Whistle-blowing:* Data on reports received, comparisons of trends, main issues reported, resolution timelines, cases unattended or overdue, cases of victimisation and units involved.

*Recruitment and selection:* Data for compiling vetting report which includes verification of qualifications, previous employment records, criminal and credit records, defaulters and courses of action taken.

*System reviews:* Data on ethics management systems available, reviews conducted and results from these reviews.

The monitoring tools may include rated survey questionnaires, open forum responses, one-on-ones and exit interviews, team-building session and simulations.

## 9.2. Reporting

The ethics unit should prepare an annual comprehensive ethics report and quarterly overview reports used by governance structures to assess ethics at a strategic level. These reports should indicate the extent to which each objective set out in the annual ethics management plan has been achieved during the year by highlighting at the very least the following:

- Strategic considerations and extent of ethical leadership applied;
- Effectiveness of ethical structures – ethics officers and governance and ethics committee;
- Methodology, timing and findings from ethics risk assessments;
- Progress on implementation of the ethics management plan;
- Level of adherence to the Code of Conduct and other relevant policies adopted;
- Statistics on declarations of financial interest and gifts received;
- Types of misconduct, critical incidents, amounts involved and resolution thereof;
- Assessment of ethical culture through culture surveys and comparisons with benchmarks in other government departments and entities.

According to the PSIMF, the Department should have ethics reporting mechanisms in place to facilitate the annual reports on ethical matters as required by the DPSA. In keeping with this, the ethics unit should liaise with various units such as Risk Management, Fraud Awareness and Investigations, Human Resources, Labour Relations, Communications and Intergovernmental Relations to consolidate the required information into simple and understandable reports which are signed off by the Governance and Ethics Committee. The following reporting lines apply:

Reporting Party	Oversight Party	Frequency of Meetings	Connected Branch/Unit
<b>Minister or DG as delegated</b>	<ul style="list-style-type: none"> <li>▪ DPSA</li> </ul>	<b>Annually</b>	<ul style="list-style-type: none"> <li>▪ GRC</li> <li>▪ CS</li> <li>▪ IGR</li> <li>▪ POLICY</li> </ul>
<b>Audit Committee</b>	<ul style="list-style-type: none"> <li>▪ DG</li> </ul>	<b>Quarterly</b>	<ul style="list-style-type: none"> <li>▪ GRC</li> <li>▪ CS</li> </ul>
<b>Governance and Ethics Committee</b>	<ul style="list-style-type: none"> <li>▪ DG</li> <li>▪ Audit Committee</li> <li>▪ Parliament Portfolio Committee</li> </ul>	<b>Quarterly</b>	<ul style="list-style-type: none"> <li>▪ GRC</li> <li>▪ CS</li> </ul>
<b>DDG: GRC</b>	<ul style="list-style-type: none"> <li>▪ Governance and Ethics Committee</li> </ul>	<b>Quarterly</b>	<ul style="list-style-type: none"> <li>▪ GRC</li> <li>▪ CS</li> </ul>
<b>D: Ethics (DPW)</b>	<ul style="list-style-type: none"> <li>▪ DDG: GRC</li> </ul>	<b>Monthly</b>	<ul style="list-style-type: none"> <li>▪ GRC</li> <li>▪ CS</li> </ul>
<b>DD: Ethics (DPW)</b>	<ul style="list-style-type: none"> <li>▪ D: Ethics (DPW)</li> </ul>	<b>Monthly</b>	<ul style="list-style-type: none"> <li>▪ GRC</li> <li>▪ CS</li> </ul>
<b>Ethics officers (Branches)</b>	<ul style="list-style-type: none"> <li>▪ DD: Ethics (DPW)</li> </ul>	<b>Monthly</b>	<ul style="list-style-type: none"> <li>▪ GRC</li> <li>▪ CS</li> </ul>

### 9.3. Independent Assessment of Ethics Management

The Department should make use of the combined assurance structures in place to assess the effective functioning of the ethics management system periodically.

#### Internal Audit

The Internal Audit function makes use of the ethics strategy as a guideline in conducting the annual assessment of the ethics management plan, ethics management process and the ethical performance of the Department. It provides an independent review of the reports received from the ethics unit by verifying the accuracy, completion and reliability of the information contained therein. The independent report from Internal Audit is submitted to the Governance and Ethics Committee for review. The Governance and Ethics Committee then compiles an annual external report based on the independent report from Internal Audit and quarterly ethics reports prepared by the ethics unit, for submission to AGSA.

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## External Audit

The integrity of the ethics reports is subject to external verification by AGSA to provide external independent assurance that the information contained in the annual report is presented fairly.

The annual report includes a governance report relating to aspects on the Department's values and code of ethics, and includes details on human resource management. AGSA may rely on the work of Internal Audit in its verifications and may perform integrity assessments and follow-ups on transactions and vendors for which the risk of fraud and corruption is assessed as high, employees who receive permission to take on remunerative work outside the Department and financial interests disclosed.

The Department should also compile an integrated sustainability report that covers its financial, economic, social and environmental sustainability. The AGSA shall provide an assurance report on the independent verification of ethics systems, ethical performance and integrated report.

## 10. MANAGING UNETHICAL BEHAVIOUR

Attitudes and behavioural patterns that constitute violation of the Department's ethical principles should not be tolerated and those that support ethics should be encouraged. There should be consistency in the approach to disciplinary action against unethical conduct and reward systems for upholding integrity at all levels within the Department.

### 10.1. Disciplinary Action

All incidences relating to unethical conduct should be reported to the ethics unit through the reporting mechanisms established within the Department. This unit serves as a focal point for ethics reports from employees and the anti-corruption hotline managed by the Fraud Awareness and Investigative unit.

The ethics unit should log all reports on a data management system configured on a technological tool identified by the Department. After assessment of the reports, the ethics unit should forward and liaise with the Fraud Awareness and Investigative unit on cases requiring forensic investigation. The findings obtained from the investigations should be updated on the data management system.

Courses of disciplinary action against misconduct are followed through and applied consistently, despite accommodation of the unique circumstances of an individual employee. Partiality to high-performers or high-ranking officials who breach ethical principles is seen to undermine the integrity of the Department. Disciplinary action may entail the following recourse:

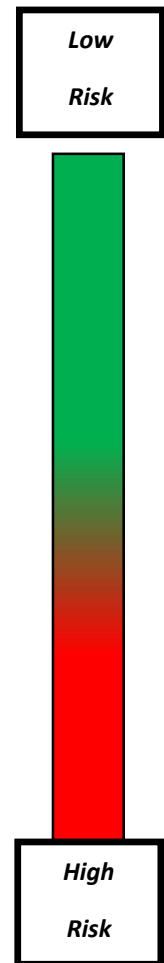
- Formal written warnings;

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- Suspension or termination of employment of employee;
- Liability for fines as appropriately fits the undue benefit obtained;
- Imprisonment of convicted employees for a period prescribed in legal prescripts and
- Dismissal the official in the event of continued significant breaches.

Unethical conduct should be dealt with as follows:

INCIDENTS	COURSE OF ACTION
<b><i>Report of incident that did not happen</i></b>	Where after examination of the formal report, the ethics unit indicates that there has been no breach or violation of ethical principles, the following should be done: <ul style="list-style-type: none"> <li>- Establish reasons for initial report to clarify and confirm that unethical conduct did not occur</li> <li>- Establish whether adequate reasons existed or circumstances changed after the unethical conduct took place</li> </ul>
<b><i>Report of incident that did happen and was corrected</i></b>	Where after examination of the formal report, the ethics unit determines that the unethical conduct can be easily rectified, further training should be considered to: <ul style="list-style-type: none"> <li>- Reinforce ethical principles</li> <li>- Clarify areas of uncertainty within the ethical principles</li> </ul>
<b><i>Report of incident that is happening</i></b>	Where after examination of the formal report, the ethics unit determines that unethical conduct is occurring, reasonable evidence should be obtained to indicate whether the unethical conduct is due to: <ul style="list-style-type: none"> <li>- Lack of key controls or weak controls, in which case the appropriate controls should be designed and implemented</li> <li>- Override of controls, in which case the matter should be referred to the Forensic and Investigation Services Unit.</li> </ul>



## 10.2. Incentive Initiatives

The essence of incentivising is not to reward personnel for their moral beliefs but for the ethical leadership and professional development they incorporate into their responsibilities. The moment employees realise that the Department recognizes and rewards them for right behaviour, they will endeavour to act ethically.

With the introduction of incentives, comes the risk that the system may be manipulated to obtain quick rewards using short routes. Therefore, the better the incentives, the stronger the



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monitoring controls ought to be. The outcomes being rewarded should be made abundantly clear and mapped adequately to key performance indicators relating to ethics. Specific rating thresholds for achieving the incentives should also be clearly defined and widely communicated.

The incentives should strike a balance between financial or non-financial rewards to avoid the tick-box mentality around ethics and integrity. An incentive metrics should be created that is easily understood, achievable by all employees and aligned with the strategic objectives and ethical principles of the Department. The metrics may include:

- Promotions based on high scores on ethical and compliance ratings
- Compliance and ethical certifications
- Nominations to exemplify employees with integrity
- Annual ethical and compliance awards including visible emblems, gifts or leave days

### 10.3. Ethical Culture

The Department should invest considerable effort in cultivating an ethical culture by creating an environment in which it's easy to do the right thing and ensuring the effective functioning of the ethics management systems and structures in place. As ethics is an evolving concept, time must be allowed for employees to learn how to maintain high levels of integrity and professionalism and their progress must be tracked consistently. In propagating an ethical culture, the Department should:

- Set a good example from the top – for employees to see senior and executive management demonstrate ethical behaviour;
- Communicate ethics as a priority of the Department;
- Incorporate ethics in daily decision-making;
- Adhere to the service commitments to clients and the public;
- Support employees adhering to ethical standards;
- Hold accountable employees from all levels accountable for ethical violations and
- Provide formal ethics training.

The Department's values should be combined with Batho Pele principles, which highlight a need to focus on how people are treated within and without the Department. Strategic objectives should not be limited to the services provided, but also the manner in which these services are provided. The following principles should be embedded into the culture of the Department:

- *Consultation* – the Department should consult its stakeholders, including employees, and incorporate their interests into decision-making processes.
- *Service standards* – the Department should communicate the quality of service employees should provide to user departments, prestige clients and the Public.
- *Access* – the Department should ensure equity in service delivery and have a zero tolerance for employees showing preference for or prejudice against specific clients.
- *Courtesy* – the Department should hire courteous and respectful individuals, who have a strong work ethic, are competent and efficient enough to address clients and resolve their concerns.

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- *Information* – the Department should establish measures to provide comprehensive and accurate information to its clients and the Public, subject to information controls.
- *Openness and transparency* – the Department should disclose relevant information in its annual report and ensure employees disclose gifts and financial interests.
- *Redress* – the Department should offer full and sensitive explanations in the event that standards are not met or complaints have been lodged by clients.
- *Value for money* – the Department should optimize its resources, including the performance of its employees, to ensure that it obtains maximum value. The productivity of employees should be assessed against contributions made at meetings, use of leave, adherence to working hours and COC.

## 11. USE OF TECHNOLOGY

### 11.1. Implementing the Ethics Framework Using Technology

The business process automation which uses technology to simplify operations should be incorporated into ethics management systems. The Department should centralise ethical issues scattered in the different business units (Fraud, Labour relations and Human Resources) within the ethics function, under the ethics officer using clear, real time, web-based systems.

The Department should identify a tool to drive the implementation of ethics management and develop ethics metrics for reporting mechanisms, e-disclosure and performance measurement.

### 11.2. Benefits of using Technology

The following benefits may ensue:

- Effective allocation of ethics responsibilities;
- Determining ethics risk profile and maturity;
- Electronic forms to submit declarations of financial interests;
- Databases to log and maintain registries of gifts, financial interests and incidents of unethical conduct and
- Generation of real time ethics reports.

### 11.3. Ethics and Compliance Controls Database

Adherence to the compliance obligations of the Department may assist in ethics management as it encourages employees to conduct themselves in the prescribed and expected manner. Compliance activities and controls should therefore aid in instilling an ethical culture. The ethical policies and procedures should be designed with reference to the ethical principles and Compliance Universe which includes key legislative prescripts and regulatory requirements. This section should be read with the Compliance Framework.

## 12. ETHICAL MATURITY MODEL

The ethical maturity of the Department currently stands at Level 2 – Repeatable, according to the Governance Maturity Model.<sup>1</sup> This model assesses the Department in the following areas:

- Code of Ethics
- Ethical Culture
- Training and Awareness
- Structure and Accountability
- Process Automation and Integration

The following levels depict the extent of ethical maturity within the Department:

Level 1: **Immature** – No policies, procedures, programmes, structures, guidelines or communication in place in DPW and PMTE.

Level 2: **Repeatable** – Policies, procedures, programmes, structures, guidelines or communication have been developed but not comprehensive or current to address all governance and ethical issues in DPW and PMTE.

Level 3: **Defined** – Policies, procedures, programmes, structures and guidelines have been developed, communicated and input obtained from the entire personnel in DPW and PMTE. Responsibility, accountability, monitoring and compliance is clearly defined and adhered to.

Level 4: **Mature** – Policies, procedures, programmes, structures and guidelines are consistently reviewed annually to ensure they remain current and appropriate. Reporting mechanisms, compliance controls and risk assessment programmes are in full operation and implemented in the day to day functional or business processes within DPW and PMTE.

The ethical maturity can be gauged based on how advanced the following steps are performed by employees:

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<sup>1</sup> Internal Audit Report- Governance Audit: Ethics and Policies Audit Report November 2016

Step	Considerations
<b>Ethical sensitivity</b>	<ul style="list-style-type: none"> <li>▪ Awareness of ethical values and code of conduct/ethics.</li> <li>▪ Sense of what is right and wrong</li> <li>▪ Appreciation of vision and mandate.</li> <li>▪ Insight on how authority is used.</li> <li>▪ Capacity for intuitive and honest reflection on ethical matters.</li> </ul>
<b>Ethical decision-making</b>	<ul style="list-style-type: none"> <li>▪ Frank and holistic view of ethical matters.</li> <li>▪ Adequate resources to attend to ethical matters.</li> <li>▪ Awareness of strengths and limitations of the process.</li> <li>▪ Restraint of negative external pressures influencing ethical decision.</li> </ul>
<b>Implementation of ethical decisions</b>	<ul style="list-style-type: none"> <li>▪ Attending to gaps and obstacles in implementing ethical decisions.</li> <li>▪ Dealing with fear of repercussions.</li> <li>▪ Avoiding unnecessary delays.</li> <li>▪ Proactively resolving unforeseen blockages and competing commitments.</li> <li>▪ Following up ethical decisions and consequences of unethical behaviour to the end to ensure accountability.</li> </ul>
<b>Justification of ethical decisions</b>	<ul style="list-style-type: none"> <li>▪ Strengths of rationales in support of ethical decisions</li> <li>▪ Incorporating criticisms of ethical decisions.</li> </ul>
<b>Ethical sustainability</b>	<ul style="list-style-type: none"> <li>▪ Continuous education and training on ethics.</li> </ul>

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	<ul style="list-style-type: none"><li>▪ Device open ethics forums.</li><li>▪ Review new information or experiences relating to ethical decisions made and disciplinary actions taken.</li><li>▪ Incorporate hindsight and lessons learnt into ethic management systems.</li><li>▪ Use of sound technology in ethics management</li><li>▪ Continuous ethical culture.</li></ul>
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### 13. ANNEXURE A: CODE OF CONDUCT

The Department's Code of Conduct is based on the Code of Conduct issued in terms of section 41(1) (v) of the PSA contained in the PSR, 2016 which applies to all Departments and Entities in public service. This Code of Conduct is incorporated based on the ethics risk profile of the Department and forms the basis of the conduct all employees should uphold with regard to the Department, their official duties thereto, the public and fellow employees.

#### The Public Service Regulations, 2016 PART 1: Chapter 2 Code of Conduct (Regulations 11 to 15)

The PSR Chapter 2, Part 1 which deals with the Code of Conduct and other applicable legislation are adapted to address a number of issues in the Department as highlighted:

- Gifts
- Conflicts of Interest
- Other Remunerative Work
- Doing business with an organ of state
- Reporting obligation
- Substance abuse and misrepresentation

#### 13.1. Adherence to the Constitution and Other Laws

##### Regulation 11 of the PSR

An employee shall –

- a) Be faithful to the Republic and honor and abide by the Constitution and all other laws in the execution of his or her official duties within the Department;
- b) Put the public interest first in the execution of his or her official duties within the Department;
- c) Loyal execute the lawful policies of the Government in place during the performance of his or her official duties within the Department;

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- d) Abide by and strive to be familiar with all legislation, lawful instructions and regulations applicable to his or her conduct, the Department and the official duties thereto; and
- e) Co-operate with other public institutions established under the Constitution and legislation in promoting the interest of the public.

### 13.2. Gifts

- a) **Regulation 13 (a)** – An employee shall not receive, solicit or accept any gratification, as defined in section 1 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), from any employee or any person in return for performing or not performing his or her official duties.
- b) **Regulation 13 (h)** – An employee shall not receive or accept any gift from any person in the course and scope of his or her employment, (other than from a family member), to the cumulative value of R350 per year, unless prior approval is obtained from the relevant executive authority. An employee can still receive to the cumulative value of R350 per year if more than R350 permission must be obtained from the delegated officer.

### 13.3. Conflicts of Interest

- a) **Regulation 12 (b)** – An employee shall serve the public in an unbiased and impartial manner in order to create confidence the public service offered by the Department.
- b) **Regulation 12 (f)** – An employee shall not abuse his or her position in the Department to promote or prejudice the interest of any client, service provider, political party or interest group.
- c) **Regulation 13(b)** – An employee shall not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties.
- d) **Regulation 13(d)** – An employee shall excuse herself or himself from any official action or decision-making process which may result in improper personal gain, and this shall immediately be properly declared by the employee;
- e) **Regulation 13 (f)** – An employee shall refrain from favouring relatives and friends in work-related activities and not abuse his or her authority or influence another employee, nor be influenced to abuse his or her authority;
- f) **Regulation 13 (g)** – An employee shall not use or disclose official information relating to the Department for personal gain or the gain of others.
- g) **Regulation 13 (j)** – An employee shall deal fairly professionally and equitably with all other employees or members of the public, irrespective of race, gender, ethnic or

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social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language.

#### 13.4. Other Remunerative Work

##### Section 30 of the PSA

- a) No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the Department except with the written permission of the Executive Authority.
- b) The Executive Authority shall take into account whether or not the outside work could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions in the Department or constitute a contravention of the code of conduct as contemplated in section 41 (1) (b) (v).
- c) The executive authority shall decide whether or not to grant permission, contemplated in subsection (a) above, within 30 days after the receipt of the request from the employee in question.
- d) If the executive authority fails to make a decision within the 30 day period, it would be deemed that such permission was given.

##### Section 31 of the PSA

- a) If any remuneration, allowance or other reward other than remuneration contemplated in Section 38 (1) or (3) of the PSA is received by an employee in connection with the performance of his or her duties otherwise than in accordance with the PSA or directive of the Minister, the employee shall pay into revenue –
  - An amount equal to such remuneration, allowance or reward or
  - The value thereof, if it does not consist of money, as determined by the DG (Accounting Officer) at the time of receipt.
- b) If the employee fails to pay into revenue said amount, the Accounting Officer shall recover it from him or her through legal proceedings and pay it into revenue.
- c) The concerned employee may appeal against the determination of the Accounting Officer to the Executive Authority.
- d) The Accounting Officer may approve that the concerned employee retains all or part of said remuneration allowance or reward.

**Regulation 13 (i)** – An employee shall if he or she has obtained permission in terms of section 30 of the PSA to perform outside remunerative work, not –

- Perform such work during official work hours and
- Use official equipment or Department resources for such work.

**Regulation 19 (e)** – An employee shall disclose remunerative work outside his or her employment in the Department.

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**Regulation 24** – An application by an employee to perform remunerative work outside the Department shall be in accordance with the process determined by the MPW and in the form issued by said Minister.

**Transitional Arrangement** – All approvals and deemed approvals granted to employees in terms of Section 30 of the PSA prior to the coming into effect of the determination contemplated in Regulation 24 shall terminate with effect from 6 months after the commencement thereof.

### 13.5. Doing Business with an Organ of State

**Regulation 13 (c)** – An employee shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act.

**Transitional Arrangement** – An employee, other than in his or her official capacity as a director of a company listed in Schedule 2 or 3 of the PFMA, who conducts business with an organ of the state at the time of coming into effect of these Regulations, shall –

- a) Within one month, disclose that the employee is conducting business with an organ of state or is a director of a company that conducts business with an organ of state;
- b) Within 6 months:
  - Cease conducting business with the organ of state or resign as an employee;
  - Resign as a director of the company that conducts business with the organ of state or resign as an employee.
- c) If the employee does not resign from the employ of the Department within the 6 months period, the employee must submit proof that they have ceased conducting business or resigned as director of a company that conducts business with the organ of state within a month of doing so.

### 13.6. Reporting Obligation

**Regulation 13 (e)** – An employee shall immediately report to the relevant channels and authorities within the Department, fraud, corruption, nepotism, maladministration and any other act which constitutes a contravention of any law (including, but not limited to, a criminal offence) or which is prejudicial to the interest of the public, which comes to his or her attention during the course of his or her employment in the Department.



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**Regulation 14 (l)** – An employee shall honour confidentiality of official matters documents and discussions

**Regulation 14 (q)** – An employee shall immediately report any non-compliance of the PSA to the Accounting Officer.

### 13.7. Substance Abuse and Misrepresentation

**Regulation 14 (o)** – An employee shall not consume alcoholic beverages or any other-medical substance with an intoxicating effect while on duty, nor report for duty under such influence.

**Regulation 14 (p)** – An employee shall not misrepresent himself or herself or use the name or position of any other employee or person to unduly or improperly influence any decision making process or obtain any undue benefit.

## The Public Service Regulations, 2016 PART 2: Financial Disclosures (Regulations 16 to 21)

### 13.8. Register for Designated Employees' Interests

**Regulation 17 (2)** – The Accounting Officer shall keep a register of designated employees' interest who are members of SMS or any other designated employees.

**Regulation 18 (1)** – All SMS members, except for the Accounting Officer shall, not later than 30 April of each year, disclose to the Accounting Officer, in a form prescribed for this purpose by the Minister (MPSA), particulars of all his or her interests in respect of the period 1 April of the previous year to 31 March of the year in question.

**Regulation 18 (2)** – The Accounting Officer shall, not later than 30 April of each year, disclose to the relevant executive authority, in the form prescribed for this purpose by the Minister (MPSA), particulars of all his or her interests in respect of the period 1 April of the previous year to 31 March of the year in question.

**Regulation 18 (3)** – Any other designated employee not contemplated in subregulations 1 and 2 shall submit to the Accounting Officer on a date and form prescribed by the MPSA, particulars of his or her interests for the period as may be prescribed.

**Regulation 18 (4)** – Any designated employee who assumes duties within the Department after 1 April must within 30 days after assumption of duties, make such disclosure in respect of the period from 1 April.

**Regulation 18 (5)** – The Executive Authority or as delegated to the Accounting Officer shall ensure that disclosure of interests by designated employees is submitted electronically to the PSC.

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**Regulation 18 (6)** – The Executive Authority shall submit to the PSC a copy of the disclosure form contemplated in:

- Sub-regulation 2 no later than 31 May of the year in question or
- Sub-regulation 4 in so far as relates to the Accounting Officer, no later than 30 days after it has been submitted.

**Regulation 18 (7)** – The Accounting Officer shall submit to the PSC a copy of the disclosure form submitted by an SMS member in terms of –

- Sub-regulation 1 no later than 31 May of the year in question or
- Sub-regulation 4 in so far as relates to the SMS member excluding the Accounting Officer, no later than 30 days after it has been submitted.

### 13.9. Disclosure of Designated Employees' Interests

**Regulation 19** – The following details of interests shall be disclosed:

- a) Shares, loan accounts and other forms of equity in private or public companies and other corporate entities:
  - Name of entity, number, nature and nominal value of shares and
  - Other forms of equity, loan accounts and other financial interests owned by the employee or held in the corporate entity
- b) Income-generating assets
  - Description of the income-generating asset;
  - Nature of income and;
  - Amount or value of income received.
- c) Trusts
  - Name of trust, trust reference or registration number and region trust is registered;
  - Purpose of trust and interest or role held in trust and
  - Benefits or remuneration received, including remuneration for services rendered.
- d) Directorships and Partnerships
  - Name, type and nature of business of the corporate entity or partnership and
  - Amount of remuneration received for such directorship or partnership if applicable.
- e) Remunerated work outside the Department
  - Type of work;
  - Name, type and nature of business activity of employer;
  - Amount of remuneration received and
  - Proof of compliance with section 30 of the PSA attached.
- f) Consultancies and Retainerships
  - Nature of consultancy or retainership;
  - Name, type and nature of business activity of client concerned and
  - Value of any benefits received from such consultancy or retainership.
- g) Sponsorships

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- Source and description of direct financial sponsorship or assistance;
  - Relationship between sponsor and employee;
  - Relationship between sponsor and the Department and
  - Value of any sponsorship or assistance.
- h) Gifts and hospitality from a source other than family members
- Description, value and source of gift
  - Relationship between giver and employee;
  - Relationship between giver and the Department and
  - Description and value of any hospitality intended as a gift in kind.
- i) Ownership and other interests in immovable property
- Description and extent of land or property;
  - Area in which it is situated;
  - Purchase price, date of purchase and outstanding bond on property and
  - Estimated market value of land or property.
- j) Vehicles
- Description in terms of make and model of vehicle;
  - Registration number of vehicle and
  - Purchase price, date of purchase and outstanding amount owing on vehicle.

### 13.10. Confidentiality of Designated Employees' Interests

**Regulation 20 (1)** – No person may have access to the submitted disclosure forms or financial interest registers except:

- MPW;
- MPSA;
- Accounting Officer (DG of the Department);
- Commissioners of the PSC;
- DG: Office of PSC;
- DG: Public Service and Administration;
- Designated ethics officers under the GRC Branch and
- And any other person duly designated by the above authorities.

**Regulation 20 (2)** – No person with access to submitted disclosure forms or registers may, except when the courts so order, disclose any information in that form or register to anyone other than:

- The designated employee in respect of his or her submitted form or entry in the register or
- Any person permitted access in terms of sub-regulation 1 or 3.

**Regulation 20 (3)** – Access to a submitted form or the register may only be granted to any other person other than a person contemplated in sub-regulation 1 in terms of section 11 of the Promotion of Access of Information Act, 2000.

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### 13.11. Verification of Employees' Interests

#### Regulation 21 (1)

- a) The PSC shall verify interests disclosed by SMS members
- b) The PSC shall verify the interest disclosed by SMS members if it is of the opinion that the disclosed interest is likely to conflict with the execution of the official duty of the SMS member.
- c) The Executive Authority shall consult the SMS member concerned take appropriate steps to remove the conflict of interest upon verification and referral back to the Executive Authority by the PSC.
- d) Executive Authority shall instruct the relevant authority to take disciplinary action against the SMS member who fails to take appropriate steps to remove the conflict of interest after consultation referred to in sub-regulation 1 (c).
- e) The Executive Authority shall within 30 days after the referral report to the PSC by:
  - Stating whether any steps were taken; and
  - If steps were taken, a description of those steps or reasons why steps were not taken.

**Regulation 21 (2)** – Relating to a conflict of interest in respect of designated employees other than SMS members:

- a) The Accounting Officer shall verify the interests disclosed.
- b) The Accounting Officer shall consult the employee to take appropriate steps to remove the conflict of interest if Accounting Officer is of the opinion that the disclosed interest is likely to conflict with the execution of the official duty of the designated employee.
- c) The Accounting Officer shall take disciplinary action against the designated employee who fails to take appropriate steps to remove the conflict of interest after consultation referred to in sub-regulation 2 (b).
- d) The Accounting Officer shall no later than 31 August of each year report to the MPW on –
  - The number of cases identified in terms of sub-regulation 2 (b);
  - Whether any steps were taken;
  - If steps were taken, a description of those steps and
  - If no steps were taken, reasons thereof.

## **The Public Service Regulations, 2016 PART 3: Anti-corruption and ethics management (Regulations 22 to 24)**

### 13.12. Anti-corruption and ethics functions

#### Regulation 22

The Accounting Officer shall –

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- a) Analyze ethics and corruption risks as part of the Department's system of risk management;
- b) Develop and implement an ethics management strategy that prevents and deters unethical conduct and acts of corruption;
- c) Establish a system that encourages and allows employees and citizens to report allegations of corruption and other unethical conduct and such system shall provide for –
  - Confidentiality of reporting
  - Recording of all allegations of corruption and unethical conduct received through the systems
- d) Establish and information system that –
  - Records all allegations of corruption and unethical conduct;
  - Monitors the management of allegations of corruption and unethical conduct;
  - Identifies any systematic weaknesses and recurring risks;
  - Maintains records of outcomes of allegations of corruption and unethical conduct and
  - Refer allegations of corruption to the relevant law enforcement agency and investigate whether disciplinary steps must be taken against the employee and if so, institute such disciplinary action.

### 13.13. Prohibition of re-employment of Former Employees Dismissed for Misconduct

#### Regulation 61

A former employee dismissed in terms of section 17 (2) (d) may not be reappointed until the expiry of the prohibition periods – a maximum of five years for the most serious misconduct and minimum of one year for the least serious misconduct.

## 14. APPROVAL

### 14.1. Implementation

The Framework will be implemented by the GRC Branch, as delegated to the Ethics Function.

### 14.2. Review

The Framework will be reviewed by the GRC Branch, as delegated to the DDG: GRC and Governance and Ethics Committee, who will monitor and evaluate its implementation and report on its effectiveness to the DG, EXCO and Minister.

### 14.3. Approval

The Framework will be approved by the DG.

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DIRECTOR GENERAL

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DDG Governance Risk & Compliance