



Public Service Commission Report on Anti-corruption Hotlines

APRIL 2002

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1. EXECUTIVE SUMMARY

1.1. Introduction

The purpose of the report is:

- To assess the current situation in South Africa with regard to the existence, operation and management of hotlines covering public sector corruption;
- To draw from comparative experience and assess how hotlines within the public service can be managed effectively;
- To explore the effectiveness of existing hotlines with a view to informing its approach to the establishment of a national hotline;
- To draw from comparative experience to assess how hotlines within the public service can be managed most effectively;
- To cover the question of how to deal with anonymous whistleblowers, especially in the context of the relevant piece of legislation – the Protected Disclosures Act 2000 (which came into effect in February 2001); and,
- To make recommendations on the feasibility of establishing a national anti-corruption hotline and key issues to take into account thereto.

1.2. Findings

It was found that there is scope for improvement as far as the management of hotlines at national and provincial level is concerned. However, the following problems were identified in the report:

- Only eight National Departments, namely, Trade and Industry, Public Works, Water Affairs and Forestry, Home Affairs, Correctional Services, Justice and Constitutional Development, South African Police Service and South African Revenue Services have established hotlines.
- No hotlines exist in Eastern Cape Province, North West Province and Free State Province.
- Provinces with the most efficient hotlines are those that are well budgeted for and had sufficient resources.
- Only one department (Trade and Industry) has established International Best Practice on Hotlines.
- In Gauteng Province the reported cases are captured and compiled on a monthly basis. The status report released in late 2000 estimates that 54% of the reported cases that come through hotlines were solved.
- In Northern Cape Province the reported cases are captured and callers are given an option of remaining anonymous. Calls are not recorded.
- In Mpumalanga Province the reported cases are captured and the total annual calls received in 2001 were 3600. Twelve criminal charges were laid against individuals.

- In Western Cape Province there were a total of 83 recorded calls, while 27 disciplinary/criminal verdicts were laid against individuals.

1.3. Recommendations

To deal with the above-mentioned problems, the following recommendations are made in the report:

- There is a need for the establishment of a national hotline either in the Office of the Public Service Commission or Office of the Auditor General.
- A data management system should be established for the national hotline to provide a coherent recording of disclosures.
- A specific training course is needed to support the specialized staff working on hotlines.
- A Standard Investigating Procedure should be developed for the hotline investigation unit.
- There is a need for the implementation of International Best Practice.
- The responsibility for day to day operations of the hotline system must be at the appropriate management level to ensure buy in of senior managers and staff in the organization.

2. TERMS OF REFERENCE ON ANTI-CORRUPTION HOTLINES

2.1 INTRODUCTION

Since the National Anti-Corruption Summit held in April 1999, a number of hotlines have been established, both in the provinces and in national departments. This report arises from the wish of the Public Service Commission (PSC) to explore the effectiveness of existing hotlines with a view to informing its approach to the establishment of a national hotline.

Hotlines offer an attractive option for policy-makers concerned to be seen to be taking action against corruption. They demonstrate both action and intent, and, they are relatively easy to present and package to the public.

But the establishment of a hotline requires some clear, preliminary thinking about the objective: what is the specific purpose of a hotline? According to the Department of Trade & Industry, the purpose of hotlines is:

- To deter potential fraudsters by making all employees and other stakeholders aware that the DTI is not a soft target, as well as encouraging their participation in supporting, and making use of the whistle blowers programme;
- To raise the level of awareness that the DTI is serious about fraud;
- To detect incidents of fraud through encouraging whistle blowers to report incidents which they witness;
- To assist the DTI in managing the requirements of the Protected Disclosures Act by creating a channel through which whistle blowers can report irregularities which they witness or which come to their attention; and,

- To further assist the DTI in identifying areas of fraud risk in order that preventive and detective control measures can be appropriately improved or developed.

These points articulate a clear and reasonable approach to the purpose and use of hotlines. However, the fundamental question that underlies any exploration of the effectiveness of hotlines is whether the management and infrastructural dimension of the operation of a hotline is adequate to achieve the outcomes desired of the hotline. The establishment of a hotline sounds like a relatively straightforward undertaking, but it is clear to us, based on international experience as well as an analysis of the South African experience, thus far, that to be effective, hotlines require an extensive operational infrastructure.

A central purpose of this report is to examine precisely what is meant by an “extensive operational infrastructure” and, in turn, what would represent minimum levels for the effective implementation of a national hotline.

2.2 METHODOLOGY & STRUCTURE

Although the report provides a concise overview of the hotlines that exist at national departments, the main research emphasis was to review the operation of the various provincial hotlines that have been established. The information contained in this report was collected through face-to-face as well as telephonic interviews with employees responsible for the management, administration and running of hotline operations in the Provinces and National Departments.

There are no operational hotlines in three provinces: Free State, North West and the Eastern Cape Province. Of the remaining provinces, three basic models emerge:

- Hotline based within Police (KZN)
- Hotline based in Forensic Audit Department (Western Cape)

- Hotline based in Executive, either Premier's Office (Mpumalanga/Northern Province), or in the Provincial Director-General's office (Northern Cape) or in a line Department (Gauteng).

Accordingly, site visits were conducted in Mpumalanga, Western Cape and KZN. In other provinces interviews were conducted by telephone to elicit the basic information; additional information was faxed through to the researcher.

In conducting the audit assessment a number of **Key Focus Areas** were covered. These include:

- **Contact details** – What (toll-free) number can people call to “blow the whistle”?
- **Location** – Where is the hotline situated within the governance structures of provinces, departments, organizations?
- **Public awareness** – How are people made (continually) aware of the operation and existence of the hotline?
- **Operational procedures** – How are callers and calls logged, recorded and dealt with in general ?
- **Investigative procedure** – How are reports investigated - internally by hotline investigators or referred to external agencies such as the police with regard to criminal matters?
- **Budget** – What financial resources are available to run the hotline?
- **Human resources** – What human resources in terms of number, expertise and skills are in place to staff the hotline?
- **Evaluation and data capturing mechanism** – How is the success of the hotline measured and what data is available in terms of calls received, types of complaints etc?

2.3 LIMITATIONS

Reported cases of corruption on hotlines were not disclosed in order to ensure the confidentiality of the information. Statistics regarding the nature of the calls made in the hotlines were not reflected in the report.

2.4 SCOPE

The main body of this report is divided into the following sections:

- International best practice guidelines for establishing an effective hotline.
- An overview of the operation and management of hotlines including national departments.
- An audit and assessment of provincial hotlines operating in all nine provinces.
- An analysis of the relationship between Hotlines and the Protected Disclosures Act 2000.
- Recommendations.

3. INTERNATIONAL BEST PRACTICE: GUIDELINES FOR ESTABLISHING EFFECTIVE HOTLINES¹

This section discusses the critical elements and principles for the establishment of a successful hotline for the reporting of alleged waste, abuse, mismanagement, criminal activity, etc.

Before announcing the opening of a hotline operation there should be:

- dedicated and sufficient staff;
- standardized forms for capturing information; and,
- formal systems for referral and follow up.

3.1 Authority/Management buy in/political will

The effectiveness of a hotline program is dependent upon the existence of corporate or company policy authorizing the establishment and operation of such a program – lack of such authority leaves the programme open to challenge by organizational elements. The guiding document for the establishment of a hotline programme should authorize the creation of the programme, provide for the staffing of the unit, set forth the authority to receive and evaluate information and specify the relationship and responsibilities of the other components of the organization to the hotline programme.

The office or element tasked with the responsibility for day to day operations of the hotline system must be at the appropriate management level to possess the stature needed to ensure the cooperation and compliance of subordinate organizational elements.

¹ Drawn largely from material gathered, and insights acquired, during a research trip to Washington DC in June 2000 by Richard Calland and Lala Camerer. A short paper describing the Botswana Hotline is provided at Appendix Three.

- Ensure that the hotline has the personal buy in of the senior managers and staff in the organization.
- Ensure that there are formalised hotline operating policies and directives in place.
- Ensure that the hotline is located at the correct management level to guarantee co-operation from other organizational elements.

3.2 Contact/Ease of reporting

- Provide a toll free number for source reporting.
- Provide a dedicated local area telephone number for reporting.
- Provide a specific address or Box Number for correspondence.
- Establish specific hours during which information can be reported – hours, should allow for calls before and after normal working hours.

3.3 Public awareness/publicity

- Create a programme which avoids negative perception of the caller .
- Use themes that appeal to the employee such as protection of jobs through avoidance of waste and inefficiency.
- Let employees know how the programme operates and what is to be reported.
- Display hotline information (posters, brochures, etc) in highly visible or utilized areas.
- Publicise successful actions and reward the personnel providing the information.

3.4 Policy and Procedural Considerations

In developing a successful hotline the following needs should be considered:

a) Goals and Objectives

- A set of clearly defined goals and objectives must be developed to ensure that the programme developers, operators and monitors understand the purpose of their role in the hotline programme.

b) Governing Documentation

- A policy document that specifies the programme's operational policies, procedures and responsibilities should be published.
- The policy document should also contain the requirements and responsibilities of other elements of the organization to the hotline.

c) Source protection

The success of a hotline programme is dependent upon the willingness of individuals to report what is believed to be acts of fraud, waste, abuse and mismanagement within government. Such individuals are more likely to provide information if they are allowed to report anonymously or be assured that their names will be held in confidence by the investigators.

- This is one of the most important features of a hotline, namely that it is able to protect the identity, if requested, of the person who makes the call.
- The hotline needs to accept anonymous allegations and complaints as well as confidential calls.
- Internal operation policies and procedures developed to ensure the protection of the source's identity. There is a range of methods available to ensure this, which are familiar to investigators dealing with confidential cases.
- The hotline needs a formal policy against retribution and reprisals.
- Access to the source information needs to be limited and controlled in order to protect sources.

3.5 Operational considerations

3.5.1 Hotline staffing

The number of personnel required to staff a hotline office will depend upon the known or anticipated number of complaints that will be received during a given period of time and the requirements established for handling allegations/complaints received.

Failure to provide adequate personnel support may result in “burnout” due to excessive workload. International experience has shown that staff members could not adequately handle more than 8 to 10 substantive calls in an 8 hour day.

Over an extended period of time, hotline staff exhibited evidence of nervous strain, inaccuracy in reporting details of the interview, as well as not being efficient and tactful in handling telephone sources.

A staff complement for a national department (such as SANDF) which might receive 800-1200 telephone and letter contacts a month, might consist of the following employees (16):

- Staff who receive, evaluate, process and refer for examination those matters that warrant such action (4).
- Staff assigned to review and analyze the reports of investigation received from the examining agencies to ensure each complaint has been properly examined and corrective measures, if warranted, taken by the responsible officials(3).
- Staff involved in operations analysis and the conduct of field quality assurance reviews (2).
- Staff for administrative requirements (4).
- Staff for management and supervisory functions (3)

Staff skills, interests and expertise should match the main strategic approach of the programme. For example, if criminal activity is the main programme focus, then staff should consist of personnel with experience and knowledge of the criminal investigative field. The experience level of hotline employees must be sufficient to enable them to (a) demonstrate knowledge of the issue under discussion (b) evaluate the complaints being raised by the caller (c) ask the appropriate questions, and (d) provide guidance, where possible to enable the source to resolve the matter through the proper local channels. To meet these requirements it is appropriate that hotline desk positions should be established at a senior/management grade level and be filled with staff who are knowledgeable of organization operations and administrative matters.

- Dedicated personnel is the best way to staff the hotlines.
- Staff should be trained and experienced investigators and auditors should be appointed.
- Staff should be familiar with the functions, policies and procedures of the organization/public sector.
- Staff should be senior grade, supervisors and at management level
- Staff should be placed in agreeable working environments in order to counteract stress levels as a result of their constant involvement with situations which require immediate attention, continued exposure to complaints and demands of the general public, combined with never ending workload and the frustrations of witnessing ineffective operations within government departments.

3.6.2 Equipment requirements

In order to operate an effective hotline the following equipment is appropriate, depending on the volume of calls expected as well as the availability of funds

- **Multi-line telephone instrument:** To ensure that both government employees and the general public have cost free, easy access to the hotline.
- There should be a separate dedicated number.

After-hour calls:

In most cases the hotline operating hours are 08h00 to 16h30, Monday to Friday. During non-duty hours, a machine could provide a recorded message that informs callers of the hotline operating hours and requests the caller to contact the hotline during those hours. The caller is also informed that she/he may present a complaint in writing if such action is more convenient.

The use of recorders to take complaints during non-operating hours is not recommended since recorded complaints normally lack the detail required to support the initiation of a formal inquiry. Most callers are not aware of what information is required for such matters and generally provide such data only with the prompting of a trained, experienced investigator. This underlines the importance of trained people answering the phone. Additionally, when a source makes an anonymous complaint and fails to provide sufficient significant details, there is no way the source can be recontacted and a potentially valuable investigation is lost.

3.5.3 Computer equipment and software support

This is important for retaining a comprehensive case inventory database. It is appropriate that the logging of calls/cases be automated from the start. A hotline management information system should be capable of rapid retrieval of complaint data by case control number, source, subject or organization name.

The system should also be able to provide for automatic assignment of case control numbers as well as produce status data, case activity, case suspense

and information analysis reports and any nature of statistical reports from the cases.

It is appropriate that a computer network be established and supporting programmes be developed and utilized as an integral part of any contemplated hotline system.

3.6 Investigation process

- Ensure that the inquiry is conducted by an independent and objective examiner.
- Ensure that the inquiry is thorough and covers all issues raised by complainant.
- Ensure that the inquiry is completed timeously.

3.7 Responsiveness to complaints

- People who blow the whistle and report to the hotline may want to be informed as to whether their complaint resulted in any action being taken.
- As calls come in they will need to be weighed up according to their merit and possibly referred to an objective element for examination and reply.
- A defined period of time is required for the conducting of an inquiry and results of such an inquiry should be tested by the court of law.
- Questioning must be structured in such a way that it captures essential information.

3.8 Oversight and follow up action

- Conduct quality assurance reviews of completed inquiries.
- Conduct follow up inquiries to ensure corrective measures are implemented.

3.9 Data management

Keep good basic statistics. Information would include:

- Number of calls.
- Number of calls resulting in write-ups.
- Number of referrals (audit, investigations, management).
- Results of the referrals.
- Examples of substantiated cases.

4. NATIONAL DEPARTMENTS' ANTI-CORRUPTION HOTLINES

The National Anti-Corruption Summit, that took place in April 1999 in Cape Town, resolved that the Public Service Commission should monitor, manage, lead and promote Sectoral and other hotlines within the Public Service to strengthen a National Hotline. During October 2001, the Public Service Commission started the process of monitoring the effectiveness of the anti-corruption hotlines at national and provincial level. A brief review of national departments revealed the following information with respect to the existence of hotlines management:

Anti-Corruption Hotlines			
	Name of Department	NO	YES
1.	Agriculture	No	
2.	Arts, Culture Science and Technology.	No	
3.	Social Development	No	
4.	Sports and Recreation	No	
5.	Education	No	
6.	S.A. National Defence Force	No	
7.	Environmental Affairs & Tourism	No	
8.	Foreign Affairs	No	
9.	Housing	No	
10.	Minerals and Energy	No	
11.	Land Affairs	No	
12.	Labour	No	

13.	National Treasury	No	
14.	Transport	No	
15.	Public Enterprise	No	
16.	Communications	No	
17.	Provincial & Local Governments	No	
18.	Trade and Industry		Yes
19.	Public Works		Yes
20.	Water Affairs & Forestry		Yes
21.	Home Affairs		Yes
22.	Correctional Services		Yes
23.	Justice & Constitutional Development		Yes
24.	South African Police Services		Yes
25.	South African Revenue Services		Yes

CONCISE ANALYSIS

Out of 25 National Departments surveyed it appears that only 8 (just over a quarter) have a hotline system in place. Most of the departments, however, indicated that they are in the process of establishing anti-corruption hotlines. The majority of them have at least implemented anti-corruption strategies. They do have reporting systems in place, Internal Audit and control, Financial inspections, Anti-corruption units, Anti-fraud and Anti-Corruption campaign units, Internal Audit Committees. Some of them have indicated that they have displayed adverts and documents warning employees about corruption. They all encourage a culture of whistle-blowing as well.

With regard to those departments that have hotlines in place, it was detected that no standard guidelines are in place for the establishment of a hotline facility in departments. International best practice can serve as guidelines for the efficacious management of hotlines.

In terms of **contact details** – it is unclear if there is a toll-free number or whether the normal department number is used.

In terms of **location** of the hotlines, some of these are located internally in the form of a specific directorate and others outsourced to a call center.

In terms of **public awareness** – it is unclear how the hotline service is advertised.

When it comes to **operational and investigative procedures**, calls are captured, often recorded and cases are referred by the call center either to the departments to conduct initial investigations where there is capacity and the issue is a clear cut disciplinary issue, or straight to the police with regard to criminal matters.

It is unclear what **human resources or budgets** have been allocated to specific hotline operations from the information at hand.

In terms of **evaluation and data management** more information is required to make an analysis of this aspect of the study.

5. SURVEY OF NATIONAL DEPARTMENT HOTLINES

	TRADE AND INDUSTRY (DTI)	PUBLIC WORKS	WATER AFFAIRS AND FORESTRY	HOME AFFAIRS	CORRECTIONAL	JUSTICE AND CONSTITUTIONAL DEVELOPMENT	SOUTH AFRICAN POLICE SERVICES (SAPS)	SOUTH AFRICAN REVENUE SERVICES (SARS)
Hotline NO.	0800 600 234	0800 20 11 04	0800 200 821	(012) 314-8948	(012) 307-2275	0800 00 5933	0800 600 10111	0800 00 2870
Location	It is outsourced to and by a company called "Whistleblower" which is based in Durban	KMPG Forensic Audit: Ethics line Call Centre	KPMG Forensic Audit: Ethics line Call Centre	Directorate: Security and Ethical Conduct, Sub-Directorate: Investigations	Directorate: Inspectorate	Outsourced to - Deloitte/Touche and Brown Associates called Tip-Offs Anonymous	Five call centers nationally - Gauteng, North-West and Limpopo Province, Durban, Bloemfontein and Port Elizabeth	- Outsourced and run by KPMG - Reports made to Special Investigations Divisions
Public Awareness	- Held presentations with the employees within the Department	- Use posters, pamphlets and internal screen savers - Use Libraries	- Posters, Pamphlets, Road shows and Workshops	No information available	No information available	No information available	- TV Programmes like "Crime Stop" - Business South Africa events - Publications - Marketing and publicity campaign	- E-mail - Posters are displayed at Airports for general public awareness.
Operational Procedure	- Complaints reported ranged from alleged tax fraud, improper employment practices, procurement, etc - Hotline is in line with the best International Best Practice	- KPMG consultants capture calls and record them with a reference number - Compile a monthly reports - Reports are submitted to Fraud and Awareness Head	- KPMG consultants capture calls and record them with a reference number - Reports are submitted to the CFO	All calls are recorded and thereafter information is passed onto investigators within the Departments	Calls are captured and referred to investigators to conduct investigations	Once information has been captured and recorded, reports are prepared for the clients	Once information has been captured and recorded, reports are made available to the relevant Department for further investigation	- KPMG handles incoming calls - Reports are regularly submitted to the Special Investigations Division of SARS
Investigative Procedure	- Call Centre only collects information from callers. - The Department investigated the reported cases	- Institute investigations - Reports submitted to DDG: Finance	- Internal Auditors investigate the cases - Reports are submitted to CFO	SAPS conduct investigations	Cases are referred to the Police or Internal Disciplinary Hearings for further action	- The Department carries on the preliminary investigations - Cases are referred to the Police as well	Cases are referred to the Police for investigations	- SARS undertakes its own investigations - Cases are also referred to the Police
Budget	R 500 000 for developing the facility as well as conducting investigations	R 1.796 million ± R 100 000 consultancy fees KPMG	R 2.5 million excluding consultancy fee for KPMG	No information available	No information available	No information available	R 4 million for the running of hotlines	KPMG receives a monthly fee for the running of the two hotlines
Human Resources	- All agents handle calls for all of the company's clients. - Have language and subject matter specialists	5 People 1 Director 1 Secretary 3 Investigators	12 People 1 Director 1 Secretary 10 Auditors	16 People 1 Director 15 Investigators	5 People 1 Director 1 Admin Officer 3 Investigators	Not known	140 Officials are involved in the operations of the (5) five call centers nationally	Two officials are based at Head Office in Pretoria
Evaluation and Data Management	- 40% of complaints received are from Government Departments or Parastatals. At least R 17 000 has been recovered	None	None	None	No information available	No information available	No information available	Only SARS has this information

6. PROVINCIAL HOTLINES

6.1 Overview of current Provincial Hotlines

General Observations

It appears that a number of anti-corruption hotlines were formed based on the recommendations of the April 1999 National Anti-corruption Summit. However, one of the main shortcomings is the fact that no uniform guidelines were distributed as to how the hotlines should be set-up and administered. This gap essentially left provinces with the autonomy to establish and run hotlines pretty much as they wish. This, in turn, has resulted in the absence of a coherent operational plan or organizational structure as well as no uniform data-capturing mechanisms which records the number of calls, the types of complaints, nor the way in which they have been dealt with.

The ad-hoc manner in which hotlines that are in existence were established makes it difficult to assess or evaluate them in any coherent way. This report does, however, provide a fairly comprehensive scan of the hotlines environment, sufficient for a clear analysis and set of recommendations to be offered.

Location

From the research it appears that there is no standard location for hotlines. In three provinces (Mpumalanga, Northern Province and Northern Cape) the hotlines are based in the Office of the Premier. In the Western Cape the hotline is located in the Forensic Audit Department, while in Gauteng province, the hotline forms part of the Department of Finance. In Kwa-Zulu-Natal the hotline is run through the South African Police Service.

These represent four basic models for the location and operation of a hotline. The Office of the Premier offers high profile, possibly high political commitment and the likelihood of greater resourcing. This is evident in provinces like

Mpumalanga and Northern province where the hotline operation is staffed by a full-time complement ranging from three to nine people and a budget that runs to more than R250 000.

On the other hand the location of provincial hotlines in the Forensic Audit Department also appears to make sense since this office appears to have the human resources and expertise to manage the hotline, as well as a greater degree of independence, all of which is important for building public credibility.

Public awareness

The general comment is that after an initial buzz of activity in terms of high profile awareness campaigns, brochures, and posters public awareness building campaigns fall away. Clearly, if hotlines are to be successful they must be seen as a part of a long-term strategy for combating corruption, which in turn requires a long-term commitment to public awareness building.

Operational Procedure

Our research found that the six provinces, where anti corruption hotlines were operational, used a similar format for processing calls. In all cases calls were not recorded. The caller has the option of remaining anonymous, which is what most callers prefer. Each caller is allocated a reference number, as a way of tracking progress of the case should the caller wish to.

For investigation and prosecution purposes sometimes a need arises for an identifiable witness. This is impossible in the case where a caller is anonymous. Ideally all calls should be recorded and a call line identity installed to all hotlines to make follow-up possible in cases where more information or a witness is needed.

Investigative procedure

Our research revealed certain weaknesses and strengths in the several models used by different provinces to investigate cases reported to hotlines. Gauteng and KwaZulu-Natal do not have any investigative capacity attached to the hotline centre. Instead they refer all cases to the internal audit section of the particular department about which a concern has been raised. There is no mechanisms of checking whether any follow-ups do occur with these cases. Nor is there any guarantee that the audit section of the relevant department has capacity itself to undertake the investigation.

Provinces such as the Western Cape, Mpumalanga and Northern province, which have in-house investigators attached to the hotline, have proved to be more effective. These provinces only refer cases to the relevant departments in terms of making recommendations for disciplinary procedure or to the police in case of preliminary investigation, based on the hotline report. Ideally, all provinces should have some investigative capacity based in their hotline offices.

Budget and human resources

Unsurprisingly our research found that provinces with the most efficient hotlines, are those that are well budgeted for which enable provinces to appoint sufficient human resources. Provinces like Western Cape, Mpumalanga and Northern Province have proven to be the most effective and efficient provincial government run hotlines. The Northern Cape whose hotline operates with skeleton staff has failed to produce tangible documentation of any successes.

Provinces that operate with voluntary staff or a few stretched people and use answering machines have failed to deliver an adequate hotline service. The task of capturing and processing calls made to hotlines is a delicate one requiring time, patience and skills in order to elicit useful and reliable information on which to base an investigation.

Only provinces with a full time staff compliment can deliver a proper service. All hotlines should therefore be budgeted for from provincial administration or from the Premier's Office to appoint full time staff who are in a position to conduct preliminary investigations based on calls made to the hotline.

Evaluation and data management

An effective data-capturing system associated with hotline operations would allow one to determine whether the cost in setting up a hotline could be offset against the benefit. It is therefore crucial that adequate information-capturing systems are in place to be able to make this sort of evaluation.

7. SURVEY OF PROVINCIAL HOTLINES

	GAUTENG PROV.	LIMPOPO PROV.	NORTHERN CAPE PROV.	KWAZULU-NATAL PROV	MPUMALANGA PROV.	WESTERN CAPE PROV.	EASTERN CAPE PROV	NORTH-WEST PROV	FREE STATE PROV.
Hotline NO.	0800 600 933	0800 002 383	0800 600 129	0800 3132 33	0800 004 993	0801 226 545	-	-	-
Location	Department of Finance : Communication Section	Office of the Premier: Fraud and Corruption Control Unit	Office of the Director General within the Premier's Office	Commercial Crime Branch Unit of the Durban Central Police Station	Premier's Office	Forensic-Audit Department	-	-	-
Public Awareness	Mass media campaign including banners, stickers and radio talk campaigns	Media Campaigns	No information available	- Banners - Posters - Leaflets - Slots in the local radio station	- Mass Media Campaign - Visits to local schools - Distribution of pamphlets	- Messages printed on employees salary advice - E-mail and - Posters			
Operational Procedures	-Calls are not recorded -There is voice-mail system that-operates in the evenings to capture calls	-Calls are not recorded - Line operators use standard questionnaire to capture reports - Cases are allocated a reference number	- No full-time call operator -Cases are reported through recording machine	- Two lines are fully functional - Call operators have a standard form and questions -Calls are not recorded	-Have standard questionnaire to capture cases - Calls are not recorded - Other cases are reported personally - Cases are also faxed or mailed to the Office	- A standard form is filled for each complaint - Cases are allocated reference numbers - Calls are answered by the investigators - The line operates 24 hrs			
Investigative Procedures	- Information is passed to the HOD of Finance - The HOD passes the information to HOD of the Department where corruption is alleged	- Cases are passed onto internal investigators - Some cases are referred to the Office of the Public Protector in Pretoria - A report with recommendations is compiled	- Management committee reviews all recorded calls - Cases are referred to Accounting Officers of the relevant Departments Reports completed are forwarded to MEC	- No investigative capacity - Cases are referred to the Auditor General in Pietermaritzburg	- Investigations are done by in-house officers - Files are then passed onto Director-General - The hotline investigation office has the power to open dockets and order investigation	- An in-house investigator initiates the preliminary investigation - Criminal cases are referred to the Commercial Crime Branch of the SAPS			
Budget	-Department of Finance pays for the line, facilities and staff -Budget not known	-The Office of the Premier pays for the operation of the lines and salaries staff - Budget not known	No information available	-The SAPS finances the operation of the hotline -Budget not known	No information available	Annual budget – R 2 101 039.00 (not specified for what purpose)			
Human Resources	3 people - 1 Call Operator - 1 Supervisor - 1 Manager	- 8 people - 1 Assistant Director - 7 Call Operators	No information available	For different shifts between 08:00 – 16:00	3 people -1 Assistant Director - Administration Officer - 1 Police Officer	9 people - 1 Manager - 1 Deputy Director - 1 Senior Auditor - 2 Assistant Directors - 4 Junior Auditors			
Evaluation and Data Management	- Cases are compiled monthly - No statistics on the number of cases	No information available	No information available	- Can not follow up on cases referred to the Office of the Auditor General	Out of the cases reported -12 were criminal charges - 14 ended in disciplinary hearing	- 83 calls were recorded - 27 ended in disciplinary hearing			

8. THE RELATIONSHIP BETWEEN HOTLINES AND THE PROTECTED DISCLOSURES ACT 2000: A LEGAL ANALYSIS

The Protected Disclosures Act 2000 (PDA) came into effect in February 2001. It aims to provide protection to those employees who in good faith blow the whistle on corruption or wrong doing in accordance with the scheme for disclosure established by the new law and who subsequently suffer occupational detriment as a result of their disclosure.

The first of five 'doors' (namely, a legal advisor, employer, a member of Cabinet or of the Executive Council of a province, a person or body in accordance with section 8, and any other person or body in accordance with section 9) through which the whistleblower must walk in if he or she is to be protected by the PDA is to make the disclosure to his or her employer. This is the 'widest' of the various doors. The concept that underpins the PDA is that prevention is better than cure, and that encouraging employees to raise concerns at an early stage privately to their employer is more likely to lead to remedial action being taken.

The question that has been raised concerns confidential hotlines. Hotlines are intended to encourage people to blow the whistle on corruption, albeit anonymously. There are a number of policy issues in relation to such hotlines, including the danger that they will provide a "cloak for the malicious". What is the relationship between the PDA and hotlines? That is the question that this section of the report aims to consider and answer.

The starting point is to note that the operation of the PDA is triggered by an occupational detriment, such as harassment or dismissal, and not by the disclosure. Plainly, for a whistleblower to attract the PDA's protection he or she has to reveal their identity in order to say to the court "I blew the whistle and I suffered occupational detriment as a consequence".

In other words, it is not possible for an anonymous whistle-blower to attract the protection of the PDA without losing their anonymity.

Hence, unless the person making the telephone call to the confidential, anonymous hotline later suffers occupational detriment and is prepared to reveal their identity at that point in time, the PDA is irrelevant to such hotlines, and vice versa.

What, though, if the anonymous hotline whistleblower does suffer occupational detriment later because, for instance, the person accused or exposed of corruption or someone else (for example, a potential new employer who is told that the applicant was a source of the previous anonymous whistle-blowing and is, therefore, a trouble maker) causes the whistle-blower to suffer occupational detriment? In such a case, the whistle-blower would have to be able to show that they made a “protected disclosure” within the regime established by the PDA.

Would they be able to do so if they had made the disclosure via an anonymous/confidential hotline? In other words, would such a disclosure be a “protected disclosure” for the purposes of the new law?

A “protected disclosure” is defined (section 1 of the PDA) as:

- (i) a disclosure of information regarding any conduct of an employer, or an employee or that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following:
 - (a) that a criminal offence has been committed, is being committed or likely to be committed;
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;

- (d) that the health or safety of an individual has been, is being or is likely to be endangered;
 - (e) that the environment has been, is being or is likely to be damaged;
 - (f) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act 2000; and,
 - (g) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed.
- (ii) Where such a disclosure is made to -
- (a) a legal advisor;
 - (b) an employer;
 - (c) a member of Cabinet or of the Executive Council of a province;
 - (d) A person or body in accordance with section 8; and,
 - (e) Any other person or body in accordance with section 9.

For the purposes of this advice it is assumed that the information disclosed to the confidential hotline falls within one of the categories (a)-(g) set out above. Which of the five “doors” would be open to an anonymous, hotline whistle-blower? Plainly not a legal advisor nor member of cabinet or of the Executive Council of a province: neither would apply. There are, therefore, three “doors” open to the anonymous, hotline whistle-blower:

- An employer;
- A person or body in accordance with section 8 – the Public Protector; the Auditor-General; or a person or body prescribed for the purposes of this section (ie. by subsequent regulation) – in the case where they have established a hotline (which is entirely possible); and,
- Any other person or body in accordance with Section 9.

“An employer” is defined broadly in the PDA. Section 6(1) states that any disclosure made in good faith in one of two circumstances constitutes a protected disclosure:

- if it is made “substantially” in accordance with any procedure prescribed, or authorised by the employee’s employer for reporting or otherwise remedying the impropriety concerned” [section 6(1)(a)] or
- if it is made “to the employer of the employee, where there is no procedure as contemplated” (as above) [section 6(1)(b)].

While it might be possible to argue that a hotline procedure run by an independent body or company (for example, Tip Offs Anonymous, or a central government corruption hotline) on behalf of an employer constitutes an agency arrangement, the neater fit is section 6(1)(a). If the employer decides that the best procedure is a confidential hotline, and prescribes and/or authorises such a procedure, then a disclosure made to a hotline would, in our opinion, be covered for the purposes of the PDA.

Our view is fortified by section 6(2), which states that “Any employee who, in accordance with a procedure authorised by his or her employer, makes a disclosure to a person other than his or her employer, is deemed, for the purposes of this Act, to be making the disclosure to his or her employer”. This would cover a hotline that is owned and organised independent of the employer itself, provided that it is the prescribed and/or authorised procedure.

An important question of evidence does arise, however. For the whistle-blower to later gain the protection of the PDA he or she will have to prove that he or she made a disclosure in accordance with the procedure. Hence, the procedure that the hotline follows will be crucial: if they do not keep records, in order to help protect the anonymity of the individual, then the whistle-blower will be in difficulties in terms of retrieving evidence from the hotline to help prove that he or

she made the disclosure. The design and operation of hotlines should, therefore, take this into account.

Where the impropriety “falls within any description of matters, which, in the ordinary course are dealt with by” one of the prescribed bodies in section 8 (the public protector, the auditor-general, or other body subsequently prescribed by regulation) [section 8(1)(i)] then it is protected. It seems to us that were the Auditor-General, for example, to set up a hotline then a disclosure made to that hotline would constitute a disclosure to the Auditor-General. However, the threshold for the whistle-blower is higher in such a case: the information disclosed must be “substantially true” [section 8(ii)].

Finally, Section 9 is the last and narrowest “door”. In the context under consideration, a situation might arise where government or a private entity or a constitutional body were to establish a hotline and the hotline entity concerned was neither the whistle-blower’s employer, nor the operator of the employer’s prescribed and/or authorised procedure (in accordance with section 6(2)), nor a prescribed body under section 8. Such an entity would, therefore, represent a disclosure under section 9, in which case the whistle-blower is only protected if he or she:

- “reasonably believes the information disclosed, and any allegation contained within it, are substantially true.”
- “does not make the disclosure for purposes of personal gain, excluding any reward payable in terms of the law” [this would have important implications for hotlines that offer rewards (unless the reward has a statutory basis)].
- one or more of certain conditions referred to section 9(2) apply
- and “in all the circumstances of the case, it is reasonable to make the disclosure”.

The conditions referred to in section 9(2) are as follows:

- (1) that the employee who makes the disclosure has reason to believe he or she will be subjected to an occupational detriment if he or she makes a disclosure to his or her employer (in accordance with section 6);
- (2) In a case where there is no person or body prescribed by section 8 to make the disclosure to and the employee has reason to believe that that it is likely that evidence relating to the impropriety will be concealed or destroyed if he or she makes the disclosure to his or her employer;
- (3) That the employee making the disclosure has already made substantially the same disclosure to the employer or prescribed body (under section 8) and no action has been taken within a reasonable period ; and,
- (4) That the impropriety is of an exceptionally serious nature.

The anonymous, hotline whistle-blower could well satisfy conditions (4), (2) and (1). Indeed (1) fear of occupational detriment is the most likely reason why a bona fide whistle-blower would want to make an anonymous disclosure. In terms of having already made the disclosure to the employer, the same question would arise as discussed above. If the analysis there is correct, then the whistle-blower would satisfy condition (3); it is important to note, once again however, that the question of evidence and proof would arise.

In conclusion, it seems that confidential hotlines do have a place within the new legal scheme, subject to two important caveats. The first relates to the policy issue of whether it is expeditious or efficacious to encourage anonymous, and possible mala fides, disclosures (the UK law upon which the PDA is based leaned away from such anonymous disclosures). Second, the important question of evidence and proof arises, which in the event of a bona fide whistle-blower seeking the protection of the court would be vital; any doubts in that regard would undermine both the individual's own case and the wider joint operation of a hotline and the PDA.

9. RECOMMENDATION

9.1 There are three main reasons in support of the establishment of a National Hotline:

- There is currently an inequality of opportunity in respect of the availability of a hotline reporting mechanism: citizens in the Free State Province, in the North West Province and in the Eastern Cape Province have no hotline to call.
- The environmental scan reveals that the approach to hotlines across South Africa is a disparate one; different approaches are adopted in different provinces and from one national department to another.
- Accordingly, there is an incoherence in the overall approach to hotlines and their role in the strategic combating of corruption.

9.2 None of the approaches adopted by the provincial hotlines accords with best practice as deciphered from the international experience.

9.3 The main lessons of international best practice are discussed in section 3. This represents a possible model that a South African national hotline should follow. To this extent, Paragraph 9.1 above should be regarded as a part of the recommendations of this report.

9.4 The establishment of a national hotline provides an opportunity to create:

- National best practice
- Uniform standards
- Common training, human and technical resource development
- A comprehensive 'reach' offering citizens equal access to report wrongdoing wherever they come across it.

9.5 It also provides an excellent opportunity to build meaningful public awareness and capacity in government for preventative measures to combat wrongdoing and corruption, provided that the hotline is adequately resourced.

9.6 In this regard, the most important finding from both the international best practice and from the analysis of the current South African provincial hotlines is that the hotline must be backed-up by a strong investigative capacity. The importance of this cannot be over-emphasized. Without adequate investigative capacity there is little or no point in establishing a hotline; it will simply raise public expectations that cannot be fulfilled. In a short time the credibility of the hotline and its potential for making a contribution to the overall fight against corruption will be eclipsed.

9.7 The alternative to a national hotline is a “devolved” model, which is really what the current practice amounts to, albeit in disparate form. If the Public Service Commission were to recommend for this route to be taken, many of the same considerations apply with regard to the need to develop skills and investigative capacity, and the creation of uniform procedures and standards, as well as the need to drive greater public awareness.

9.8 If the decision is taken to establish a national hotline, the following recommendations would apply:

9.9 That the decision be only taken once there is a firm commitment to the proper resourcing of the hotline.

9.10 In particular, it is essential that there is a commitment to develop the investigative capacity to support the hotline, as well as the infrastructural needs.

9.11 It is therefore recommended, that the National Hotline follow the model used in the Western Cape, where the hotline is attached to a strong forensic investigation team. In terms of location, this could mean that the hotline be based

either within the Public Service Commission or in the National Auditor-General's office. In the former case, it would be necessary to establish, therefore, a forensic investigations unit to service the hotline.

9.12 In support of the hotline and its investigation unit, a Standard Investigating Procedure can be developed for the hotline investigation unit and to provide a best practice framework for other hotlines.

9.13 In turn, a data-management system should be established for the national hotline, so as to provide coherent recording of disclosures and in order to support preventative policy work as well as detection and investigation.

9.14 Finally, a specific training course will need to be developed to support the specialised staff working on the national hotline. There is no centralised or other specialised training course available at present. Trainers can take advantage of experience in other jurisdictions to inform the training design.

The National Hotline and the Protected Disclosures Act 2000 (PDA)

9.15 On the basis of the legal analysis above, it should be clear that the best course for hotlines is that they be implemented either as the clearly prescribed and/or authorised procedure for disclosure selected by an employer or directly by the Auditor-General or the Public Protector. In this final regard, the parliamentary Portfolio Committee chose to limit the number of prescribed bodies under section 8 of the Act to these two constitutional bodies – with the additional power available to the Minister to add to the list through regulation. If the government is thinking of a central hotline available to both public service employees and members of the public, it seems that it would be sensible to give some thought to arguing now for the addition of the Public Service Commission to the list, if it is that body that is to administer such a hotline.

9.16 In any event, guidelines and advice should be prepared to assist the administrators of hotlines in respect of the evidential aspect to the issue, so that they can keep suitable records without in any way jeopardising or undermining confidence in the confidentiality of such hotlines.

9.17 Finally, hotlines should not be viewed as a substitute for good whistle blowing policies within the public service. As noted above, to a large extent the sort of anonymous reporting that hotlines facilitate and encourage are inimical to the conceptual and legal design of the Protected Disclosures Act, which promotes the notion of responsible conduct by both the employee and the employer. Therefore, hotlines should be seen as a back-up, to complement the development of good whistle blowing practice and policy within the public service. In saying this, however, it should be recognised that the PDA does not cover and protect a whistleblower who is making a disclosure outside of the employment relationship (e.g a pensioner blowing the whistle on fraud in the welfare payments office) and that a hotline does have a specific practical value for such disclosures.

10. APPENDIX ONE: DETAILED OVERVIEW OF HOTLINES AT NATIONAL DEPARTMENTS

a. Department of Trade and Industry (DTI)

Contact Details: The number is 0800 600 234.

Location: The hotline is outsourced to a company called “Whistleblowers”. The call-centre is based in Durban.

Public awareness: They have held a number of presentations with the employees in the Department.

Operational procedure

Complaints reported on the hotline range from alleged tax fraud (not DTI or government officials) perceptions of improper employment practices and non adherence of procurement rules, etc.

The DTI Whistle Blowers Fraud Hotline is in line with International **Best Practice** as it provides the following features:

- Anonymity to the person providing information;
- Confidentiality in the identification of whistle blowers who make their identities known;
- Callers can e-mail; fax and telephonically make reports;
- An independent service where trained people receive the information thus further encouraging potential whistle blowers to report irregularities;
- DTI has developed appropriate follow-up mechanisms for all calls that are received;
- Information received is logged on a secure data base; and
- The Call Centre is secured against infiltration by unauthorised parties.

Investigative procedure

The hotline/call-centre only collects information from callers. The department does investigations.

Budget

The department spent approximately R500 000 developing the facility and conducting investigations.

Human resources:

There are no people specifically designated to the Department of Trade & Industry. All agents handle calls for all of the department’s clients. They have language and subject-matter specialists.

Evaluation and data management:

Since its inception, people outside the department have used the hotline as well. Over 40% of the complaints received thus far are either from or relate to other government departments or parastatals. Though the programme was never intended for this purpose, DTI refers cases reported on other government departments and parastatals.

As far as statistics are concerned, the DTI would prefer to only report actual cases finalized or those cases where disciplinary processes are instituted. Currently, three disciplinary cases are in progress and several other cases are being investigated.

Though it is not easy to determine the total savings as a result of the programme, R17 000 has been recovered as a direct result of actions arising from cases reported to the hotline.

b. Department of Public Works

Contact number: 0800 20 1104
Contact person : **Mr. Jan Hoon**
Director: Fraud Awareness and Special Projects
Dept. of Public Works
(012) 337 3111

The communications section of the Department of Public Works provided the above number as their Fraud Line.

Location

KPMG Forensic Audit: Ethics Line Call Centre

Public Awareness

They have used posters, pamphlets, and internal screensavers to publicise the hotline. They also used libraries and tender offices to create exposure to publicity material for the hotline.

Operational procedure

KPMG Call Centre consultants capture calls, record them and issue them with a reference number. KPMG then compiles a monthly report that is submitted to the Fraud and Awareness Head.

Investigative procedure

The directorate institutes the investigations and writes recommendations of either disciplinary hearings or criminal prosecutions. Reports are then submitted to the Deputy Director General: Finance and Corporate Services, who then decides and approves the next step/ further investigations, disciplinary or criminal prosecution.

Budget

R 1. 796 million; +- R 100 000 consultancy fees to KPMG.

Human Resources

5 people
1 director
1 secretary
3 investigators

Evaluation and data management

None

c. Department of Water Affairs and Forestry

Contact person: Mr. Obed Thenga
Head: Internal Audit
Dept of Water Affairs
(012) 336 8141

Hotline number: 0800 200 821

The department spokesperson provided the toll-free number. After making a call, it was discovered that the number was not answered or there was no person responsible for the hotline.

Location

KPMG Forensic Audit: Ethics Line: Call Centre.

Public Awareness

Posters, Pamphlets, Roadshows/Workshops are used to raise awareness about the availability of the hotline.

Operational procedure

KPMG Call Centre consultants capture calls, record them and issues them with a reference number. KPMG then compiles a monthly report that is submitted to the Chief Financial Officer (CFO) of the Department of Water Affairs. The CFO then allocate cases to different departments according to his own discretion. Not all cases are forwarded to the Internal Audit. Only those cases that are mostly related to financial fraud and misuse of government resources are referred to Internal Audit.

Investigative procedure

The Internal Auditors investigate only those cases that have been forwarded to them. A report with recommendations is then submitted to the Head of the relevant department/Chief Financial Officer/Human Resources/ and Legal Services

Budget

R 2.5 million

The department pays for those excluding consultancy fees for KPMG.

Human Resources

10 people

1 director

1 secretary

8 auditors

Evaluation and data management

None

d. Department of Home Affairs

Contact person: Ms. Londi Mutshembele

Tel: (012) 314 8948

Location

Directorate: Security and Ethical Conduct, Sub-directorate: Investigations

Public Awareness

No information available.

Operational procedure

This is a national hotline. All calls are recorded. Once the report has been captured, information is passed onto investigators within the department.

Investigative procedure

Police officials seconded from the South African Police Service make up the investigation team that has police powers of arrest. Should the investigations warrant internal disciplinary measures against Home Affairs staff, investigators recommend such actions.

Budget

No information available.

Human Resources

16 people:

1 Director

15 Investigators

Evaluation and data management

No information available.

e. Department of Correctional Services

Contact person: Ms Adelaide Sieta
(012) 307 2275

Location

Directorate: Financial Inspections

Public Awareness

No information available.

Operational procedure

Calls are captured and referred to the investigators to conduct investigations.

Investigative procedure

Depending on the outcome of the initial investigation, cases are either passed onto the police or internal disciplinary hearings for further action.

Budget

Not known

Human Resources

5 people:
1 Director
1 Administrative officer
3 Investigators.

Evaluation and data management

No information available

f. Department of Justice and Constitutional Development

Contact person: Celeste Hardson
Hotline number: 0800 00 5933

Location

Hotlines are outsourced to the consortium of Delloite/Touche and Brown Associates called Tip-Offs Anonymous and they do information management for the department.

Public Awareness

No information

Operational procedure

Once the information has been captured and recorded reports are prepared for the client (namely, Department of Justice).

Investigative procedure

The department carries out preliminary investigations that may result in disciplinary hearings or cases are referred to the police in criminal matters.

Budget

No information available.

Human Resources

Not known

Evaluation and data management

No information

g. South African Police Service (SAPS)

Contact person: Supt. Attie Lamprecht

Hotline number: 082 809 6025

The 0800 11 12 13 line was suspended in March 2001 and replaced by the 0800 600 10111 after receiving a lot of wrong tip-offs because the line was free. The new line is not free, but a flat rate of 65 cents a unit and then the SAPS pays for the distance tariffs.

Location

This line has call centres nationally in Gauteng, Mpumalanga, North-West, Northern Province, Durban, Bloemfontein and Port Elizabeth. The call automatically routes itself to a local call centre.

Public Awareness

Much of their public awareness strategy has revolved around using TV programmes like "Crimestop" to create awareness of the hotline. They have also used Business South Africa (BSA) events and publications to publicise the hotline. They will roll-out an intensive marketing and publicity campaign in 2002.

Operational procedure

Once information has been captured and recorded, reports are made available to the relevant departments for further investigation or criminal prosecution.

Investigative procedure

Once the information has been captured it is referred to the SAPS for investigations and further steps, which might either take the form of criminal charges or disciplinary hearings.

Budget

R 4-million. Some of the funding comes from the SAPS.

Human Resources

140 people are involved in the operations of the five (5) call-centres nationally.

Evaluation and data management

The SAPS would be in a better position to provide this data.

h. South African Revenue Services (SARS)

Contact person: Phillipa

(012) 543 1559

Hotline: 0800 00 2870

Location

Outsourced and run by KPMG. Reports are made to Special Investigations Division in SARS.

Public Awareness

E-mail and posters have been used to publicise the hotline to employees. Posters have been displayed at airports for the general public and all SARS offices.

Operational procedure

KMPG handles incoming calls and reports regularly to the Special Investigations Division of SARS.

Investigative procedure

The division undertakes its own investigations and recommends disciplinary hearings or criminal charges, referred to the police, based on the findings of the investigation.

Budget

KPMG receives a monthly fee for the running of the two hotlines. There is another all-inclusive management fee. Respondent would not divulge the actual amounts.

Human Resources

There are two (2) people based at Head Office in Pretoria.

Evaluation and data management

Only SARS has this information. The call-centre does not have any access to information regarding outcomes of the cases reported to SARS.

11.APPENDIX TWO: DETAILED SURVEY OF PROVINCIAL HOTLINES

11.2 Detailed Survey of Provincial Hotlines

a. Gauteng Province

The Minister of Finance, Mr. Jabu Moleketi, established the Gauteng anti-corruption hotline in March 1998

Contact person: Barbara van Jaarsveld
Tel: 0800 600 933

Location

Initially the hotline was located in the Cheque Fraud Unit of the Department of Finance. It was then moved to the Premier's Office for six months, after which it was moved to the Internal Audit section of the same department of finance. Now it is in the Communication section of the department of finance.

Public Awareness

The lines were launched with a mass media campaign including banners, stickers and radio campaigns. During this period the hotline operation received between 50-100 calls a day, most of which did not include serious information for follow up.

Operational procedures

The lines cover the whole of Gauteng province, but since the province was the first to launch a hotline, they also received calls from other provinces. Calls are captured with no standard format or questionnaire and are not recorded. A caller is asked whether she/he wants to remain anonymous or is prepared to give her/his identity. Each report is allocated a reference number so that follow-ups can be made by callers on the status of reported cases. There is a voice-mail system that operates in the evenings to capture calls.

Investigative procedures

There is no investigative capacity attached to the hotline. Information captured from the calls is passed to the Head of Department of Finance before it is delivered by hand to the heads of relevant departments where corruption is alleged. The Internal Audit section of the relevant department handles investigations.

Budget

The Department of Finance pays for the lines, facilities and staff of the hotlines.

Human resources

3 people:
 1 call operator,
 1 supervisor
 1 manager

Evaluation and data management

Reported cases are captured and compiled on a monthly basis. Staff who are managing the hotlines are confident that the hotline is successful. No reliable statistics on the number of cases dealt with by the hotline was available. However, the report on the status of the hotlines that was released late in 2000, estimates that 54% of reported cases that come through their hotlines are solved.

b. Limpopo Province

Contact person: Jabu Mphahlale
 Tel. (015) 291 4020
 Hotline number: 0800002383

Location

The Northern Province anti-corruption unit was established in 1998 under the Anti Fraud/ Corruption Unit in the Office of the Premier. In June 2000 the unit was renamed Fraud and Corruption Control Unit falling under the Sub-Directorate: Security and Risk Management of the Chief Directorate: Transformation.

Public Awareness

During the formation of the unit in June 2000, a media campaign was undertaken to create awareness among the community on the work and role of the anti-corruption hotlines. The campaign raised the profile of the lines and the number of calls was very high.

Operational procedures

The lines cover the whole province and calls/cases from the provinces are also received, which are usually referred to the Public Protector in Pretoria. Calls are not recorded and the callers have an option of remaining anonymous if they want to. The line operators use a standard questionnaire to capture reports of corruption. Calls are allocated a reference number for administrative and filing purposes. The hotline office has an informal relationship with the regional Office of the Public Service Commission, basically to share information on reported cases and investigative/procedures.

Investigative procedures

Reported cases are captured on a form, given a reference number and allocated to one of the internal investigators. The Unit has seven full-time investigators who conduct investigations and inquiries on reported cases. All of the investigators have an auditing background and are trained in investigations to equip them to handle more complex cases. Cases beyond their expertise are transferred to the Public Protector in Pretoria. Once all the investigations and inquiries have been

conducted in relevant departments, a report with recommendations is compiled and submitted to the head of the relevant department. It is the task of the head of that particular department to take action based on the investigations and recommendations.

Budget

The Office of the premier pays for the operation of the lines, office space and salaries for all staff. The overall operation and financial allocation of the hotline office is provided for in the Premier's budget.

Human resources

The Fraud and Corruption Control Unit has a staff compliment of eight people. It is headed by an Assistant Director and seven call operators/investigators who handle calls as well as conduct investigations of the reported cases.

Evaluation and data management

The unit has only been operating for one year and claims to record great successes. They could not provide relevant reliable statistics but the head of the unit claim that about 25% of the reported cases have been taken up for disciplinary action.

c. Northern Cape Province

Contact Person: Martin van Zyl
Tel (053) 830 9222
Hotline Number: 0800600129

Location

The Northern Cape Anti-Corruption Hotline was formed in 1996 and is located in the Office of the Director General of the province within the Premier's Office.

Public Awareness

No information available.

Operational procedures

There is no full-time call operator but a recording machine with a recorded message of the Director General himself. The machine leaves enough time for callers to record their complaints.

Investigation procedures

The Management Committee of the hotline is made up of the Director General of the Province, Head of the Department of Finance and the Provincial Auditor General. This Committee reviews all the recorded calls and follows up on those that have enough information to initiate an investigation. The Committee then invites the Accounting Officers of the relevant Department to lead the investigation. The final report containing recommendations on whether or not to discipline or prosecute individuals is then passed to the MEC's of the relevant Department and Provincial Cabinet to take the necessary actions.

Budget

No information available.

Human Resources

Not known

Evaluation and data management

No information available.

d. Kwa-Zulu-Natal Province

Contact person: Pam Hoffman

Tel (031) 360 4583

Hotline Number: 0800 3132 33

Location

The KwaZulu-Natal anti-corruption hotline was established during 1996 and located in the Commercial Crime Branch Unit of the South African Police Services. In 1999, the hotline was moved to the Durban Central Police Station and shares the 10th floor with the SAPS 10111 Control Room.

Public Awareness

During the launching of the hotline, a public awareness strategy was initiated which included posters, leaflets, banners and a radio slot with the local radio station where callers could discuss and report corruption on air which were followed up on by volunteer call operators. Currently no media or public awareness activities take place, which has greatly affected the line operation.

Operational procedures

The hotline has two lines that are fully functional and staffed by two volunteers at a time. The line operation covers the whole of the KwaZulu-Natal province. If calls are received from outside the province they are usually passed over to the Office of the Auditor General or the hotline office of the relevant Province. Call operators have a standard form and questionnaire. Callers have an option of either remaining anonymous or releasing their identity. Each reported case is issued with a reference number to identify the case properly. Calls are not recorded.

Investigative procedures

The Anti-corruption hotline does not have any investigative capacity since cases warranting investigation are passed on to the Office of the Auditor-General in Pietermaritzburg who then deals directly with each department. Investigations and auditing are done internally in each department. Each department carries out the internal investigations through their internal audit department up to the disciplinary or prosecution level.

Budget

The South African Police Services finances the operation of the hotlines. The hotline largely relies on volunteers. At the moment Business Against Crime pays the salary of the coordinator/ manager of the project and subsistence and transport allowance for the line operators.

Human resources

The lines are managed by 60 voluntary staff available at different shifts between 8h00am -16h00pm with two volunteers at any one time. There is one fulltime manager.

Evaluation and data management

Once cases from the hotline have been sent to the Auditor General there is no means of tracking the progress of those cases. This means the success of the hotline cannot be measured.

e. Mpumalanga Province

Contact person: Mr. Mike Mndawe
Tel (013) 766 2161
Hotline: 080000 4993

Location

The anti-corruption hotlines were started in 1996 under the Public Works Department. The main purpose of these lines was to take calls concerning the abuse of state resources for personal abuse, especially government cars. In February 2000, the anti corruption lines were re-launched in the Office of the Premier, directly accountable to the Director-General of the Province.

Public Awareness

At the time of the re-launching of the hotlines in February 2000, there was a mass media campaign to inform the public about the role and functions of the hotline. The Department of Communication was drawn in developing guidelines on how to use hotline. Community outreach activities were conducted to educate the public about what and how to report corruption using hotlines.

Operational procedures

The lines cover the whole province. During the inception of hotline, the Office of the Premier was tasked with the responsibility of managing anti-corruption hotlines in collaboration with the Office of the Auditor-General. A set of standard questionnaire forms to capture cases was developed. This format was short lived since the cases that came through were varied and did not fit the standard format of the questionnaire. Now line operators do not have a standard format or questionnaire to record cases. Cases are captured as they are reported. Callers are given an option of either remaining anonymous or releasing their identities and calls are not recorded, which makes it difficult sometimes when cases have to go to court and a witness is needed. The Office of the Premier when managing the anti-corruption hotlines, have an informal relationship with the Regional Office

of the Public Service Commission. They meet on ad-hoc basis to share reports and cases that the Regional Office of the Public Service Commission can monitor and investigate.

This Office does not rely on phone calls only. People visited the office with documentation regarding corruption. Cases are also received through fax and mail.

Investigative procedures

When cases are reported to the hotline, they are captured and compiled properly. If there are gaps in the case, the in-house officer investigates. Files are then passed to the Director-General and Director of Administration for perusal, before they are referred to the South African Police Service and the National Intelligence Agency (NIA) in Mpumalanga Province. The hotline investigation officer (a SAPS person) has the power to open dockets and order the investigations by the SAPS and National Intelligence Agency.

Human resources

Three staff members are responsible for the management of the Hotline:

- 1 Assistant Director
- 1 Administration Officer
- 1 Policeman

Budget

The Hotline is included in the Director-General's Budget, which is +/- R 7.1-million p.a. The budget entails payments of staff and the running of the hotline.

Evaluation and data management

Types of cases reported:

- Labour related cases
- Municipal maladministration
- Bribery and acceptance of gifts
- Land dispute and illegal occupation
- Misuse of government transport
- Fraudulent claims- transport and subsistence allowance
- Maladministration in hospital and educational institutions
- Mismanagement in municipalities.
- Unfair tender procedures
- Abuse of executive powers if government
- Irregularities of handling examination papers
- Public robbed by micro lenders
- Theft of government equipment
- Payment of services not rendered
- Unfair appointment of individuals
- Acceptance of bribes by the police

Total of calls received:

Total annual calls received: 3 600

Possible monthly calls: 300

Total breakdown of the number of cases that ended up in criminal charges:

12 criminal charges were laid against individuals

4 cases were related to theft of government equipment

3 persons were sentenced and are in prison

2 persons were found not guilty

1 person was reinstated to work on appeal

Total breakdown of cases that ended up in disciplinary hearings:

OFFENCE	DISCIPLINARY HEARINGS
1. Premier's Office	3
2. Dept of Education	2
3. Dept of Health	-
4. Dept of Social Services	1
5. Dept of Public Works	-
6. Dept of Safety and Security	1
7. Land Administration and Housing	2
8. Local Government and Traffic	5
9. Finance and Economic Affairs	-
10. Agriculture	-
Total	14

Results of the above Hearings

VERDICT	NO
1. Dismissal	2
2. Suspension without pay	1
3. Demotion	-
4. Warning	5
5. Acquittals	2
6. Withdrawals	1
7. Still pending	3
Total	14

f. Western Cape Province

Contact Person: Mr. W. Wierhard
 Tel (021) 426 2649
 Hotline Number: 0801 22 65 45

Location

The Western Cape Anti-Corruption hotline was established in 1998. It is located in the Forensic Audit Department of Support Services Branch in the Provincial Administration: Western Cape. The Head of Forensic Audit is committed to fighting and combating corruption. She argues that the fact that the hotline is located physically separate from the main institutions of (provincial) governance is vital to its efficacy and credibility. The location in the Forensic Audit Department is politically independent in that it does not report to the executive, but to the Audit Committee, which in turn reports to the Provincial Cabinet.

Public awareness

Their public awareness campaign includes messages printed on the employee's salary advices, e-mail, and posters to publicise the hotline. There is a full recognition that public awareness is important and that corruption should be eliminated. Public awareness is to be a key part of a new strategy, based on a top-down approach to awareness, for instance, through management.

Operational procedures

The lines cover the whole province and there is a standard form that is filled for each complaint. Each complaint is captured and allocated a reference number and a file is opened. The hotline offers a 24 hour service: out of office hours, the number reverts to the cell phone of a (rotating) on-duty member of the

investigation team. Senior Managers make initial assessments of the calls, some of which are referred to the relevant Department. The Western Cape investigation team argues that in the longer-run it saves time and increases the coherence of the service that is provided to the public.

Investigation procedures

An in-house investigator is allocated to initiate a preliminary investigation if it is necessary. If an investigator gathered evidence during the investigation, recommendations are made regarding disciplinary hearings - these are passed to the relevant department - or if it requires criminal procedures the case is referred to the Commercial Crime Branch of the South African Police Services. They also argue that it adds to their own understanding of the issues: they exist not just to investigate but also to prevent. This is a refreshing and welcome attitude.

Budget

The budget for the hotline falls under the following allocation: Provincial Administration of the Western Cape: Directorate: Forensic Audit which received an annual budget of R 2 101 039-00 for the year 2001-2002.

Human resources

The Western Cape Anti-Corruption office has nine full-time staff members:

- Manager (1)
- deputy director (1)
- senior auditor (1)
- assistant directors (2)
- junior auditors (4)

Investigators have experience in auditing and policy making, but do not have any police powers. The team estimated that about 25% of their collective time was spent on matters connected to the operation of the hotline, including investigations and call-taking.

Evaluation and data management

Total annual breakdown of the type of cases

Offence	Recorded calls	Disciplinary/Criminal verdict
1. Fraud	10	7
2. Theft	23	14
3. Corruption	5	2
4. Misappropriation of school funds	6	-
5. Unauthorized use of govt. vehicles	7	4
6. Harmful business practices	2	-
7. Matters to dept. for financial inspection	13	-
8. Non relevant allegations	17	-
Total	83	27

g. Eastern Cape Province

Contact

Manelisi Wolela

Tel No.: (040) 639 2070

No Hotline Number

According to Mr. Manelisi Wolela, Director of Communications in the Office of the Premier; the Eastern Cape Province does not have a functioning Anti-corruption hotline. The Province is in the process of outsourcing the service. The Provincial Administration invited quotes from three companies to install the hotlines. After careful consideration of the costs involved, they have resolved to outsource the hotlines through the tender procedure. According to the provincial spokesperson a tender announcement will be issued in due course

h. North-West Province

The researcher tried to make contact with the North-West Provincial Secretariat for Safety and Security, Legislature and the Office of the Premier with a view to obtain information regarding the location of the toll-free line.

Unfortunately, no one was able to provide information on the existence or location of a provincial anti-corruption hotline.

When calling the toll-free number 0800600182, an answering machine informs one that this line is temporarily unavailable.

On the basis of this we have concluded that the North West province does not have a functioning toll-free anti-corruption hotline.

i. Free State Province

Telephonic contacts with the Head of the regional Public Service Commission and the Office of the Premier to locate any hotlines, yielded no results.

The toll free number appearing on the Public Service Commission posters are managed by the Provincial Department of Communications. Call operators who are ordinary Communication Officers use this toll-free line to disseminate information on any issues of governance throughout the province. Crime and corruption related calls are referred to the South African Police service.

On the basis of this inquiry, it is without doubt that the Free State Province does not have a functioning toll-free anti-corruption hotline.

APPENDIX THREE: HOTLINE INSTALLATION IN BOTSWANA

Directorate on Corruption and Economic Crime (DCEC)

Hotline Installation

From a population of 2.2 million, Botswana's DCEC receives about 1800 complaints from the public each year, approximately 50% of which fall within its remit (corruption and economic crime). The remaining 50% are made by people who do not fully understand what corruption and economic crime are, or do understand but feel that DCEC will be instrumental in having their grievances addressed.

Our policy has been to encourage people to complain to us irrespective of their understanding of what corruption and economic crime are. We say to them "If you believe that corruption or economic crime has occurred, report it to us. If the matter is corruption or economic crime and it is possible to do so, we will investigate it and give you feedback. If it isn't we will refer the matter to the appropriate Ministry on your behalf"

We encourage reports by any means, in person, over our switchboard telephone number, by fax, e-mail **and** our **toll-free** hotline, the numbers for which are all contained in our advertising literature (e-mail only recently). We prefer complainants to identify themselves and tell them this but also advise them that we accept anonymous complaints and where possible we will pursue them. We also advise complainants that if they do identify themselves and they wish to have their identities kept secret, we will honour that wish. Many complainants have preferred the latter course. We do receive many calls which are false and malicious (it is an offence to do this) but the majority in this category are made anonymously. We have not yet had a false and malicious complaint made over the hotline where the complainant has identified him/herself to us but asked to have his/her identity kept confidential.

The hotline is staffed directly 9 hours each working day. Outside those hours callers receive a recorded message asking them to leave a recorded message (in Setswana and English) and giving instruction on how to make an urgent report.

We receive approximately 500 'genuine' calls over the hotline each year and many have resulted in investigations. We have not, perhaps unfortunately, kept accurate statistics.

A minor problem with the hotline is its use by hoax callers who can often be obscene and offensive. Those handling the line have had to develop a 'thick skin'. Despite this problem, which is of nuisance value only, feedback from the public suggests that the existence of a hotline is widely known (the number not so widely) and welcomed. Other feedback suggests that the mere act of installing and publicising the hotline indicates that DCEC is serious in its wish to have corruption reported.

The number itself must be eye-catching and one which is attractive as opposed to complex. In Botswana, we the DCEC pay the Botswana Telephone Corporation a monthly rental plus the cost of all calls made to the hotline.

APPENDIX FOUR: PROTECTED DISCLOSURES ACT, 2000

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper as 'n Nuusblad by die Poskantoor Geregistreer
t----- "-----"

CAPE TOWN, 7 AUGUST 2000

VOL. 422 No. 21453

KAAPSTAD, 7 AUGUSTUS 2000

THE PRESIDENCY

No. 785. 7 August 2000

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 26 of 2000: Protected Disclosures Act, 2000.

DIE PRESIDENSIE

No. 785. 7 Augustus 2000

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby (vir algemene inligging) gepubliseer word:—

No. 26 van 2000: Wet op Beskerming van Bekendmakings. 2000,

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Act No. 26,2000 PROTECTED DISCLOSURES ACT, 2000

(English text signed by the president.)

(Assented to 1 August 2000.)

ACT

To make provision for procedures in terms of which employees in both the private and the public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers; to provide for the protection of employees who make a disclosure which is protected in terms of this Act; and to provide for matters connected therewith.

PREAMBLE

Recomisin~ that—

the-Bill of Rights in the Constitution of the Republic of South Africa, 1996, enshrines the rights of all people in the Republic and affirms the democratic values of human dignity, equality and freedom;

section 8 of the Bill of Rights provides for the horizontal application of the rights in the Bill of Rights, taking into account the nature of the right and the nature of any duty imposed by the right;

criminal and other irregular conduct in organs of state and private bodies are detrimental to good, effective, accountable and transparent governance in organs of state and open and good corporate governance in private bodies and can endanger the economic stability of the Republic and have the potential to cause social damage;

And bearing in mind that—

- neither the South African common law nor statutory law makes provision for mechanisms or procedures in terms of which employees may, without fear of reprisals, disclose information relating to suspected or alleged criminal or other irregular conduct by their employers, whether in the private or the public sector;
- every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace;
- every employer has a responsibility to take all necessary steps to ensure that employee~ who disclose such information are protected from~any reprisals as a result of such disclosure;

And in order to—

- . create a culture which will facilitate the disclosure of information by employees relating to criminal and other irregular conduct in the workplace in a responsible manner by providing comprehensive statutory guidelines for the disclosure of such information and protection against any reprisals as a result of such disclosures;
- . promote the eradication of criminal and other irregular conduct in organs of state and private bodies,

BE IT THEREFORE EN-ACTED by the Parliament of the Republic of South Africa, as follows:—

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Act No. 26, 2000 PROTECTED DISCLOSURES ACT, 2000

Definitions

1. In *this Act*, unless the context otherwise indicates—

(i) “*disclosure*” means any disclosure of info, mation regarding any conduct of an *employer*, or an *employee* of that *employer*, made by any *employee* who has reason to believe that the information concerned shows or tends to show one or 5 more of the following:

- (a) That a criminal offence has been committed, is being committed or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject; 10
- © that a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) that the health or safety of an individual has been, is being or is likely to be endangered;
- (e) that the environment has been, is being or is likely to be damaged; 15
- (f) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No, 4 of 2000); or
- (g) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed; (i)

(ii) “*employee*” means— 20

(LZ) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and

- (b) any other person who in any manner assists in carrying on or conducting the business of an *employer*; (x) 25
- (iii) “*employer*” means any person—
- (a) who employs or provides work for any other person and who remunerates or expressly or tacitly undertakes to remunerate that other person; or
- (b) who permits any other person in any manner to assist in the carrying on or conducting of his, her or its business, including any person acting on behalf of or on the authority of such employer;
- (iv), “*impropriety*” means any conduct which falls within any of the categories referred to in paragraphs (a) to (g) of the definition of “*disclosure*”, irrespective of whether or not—
- (a) the impropriety occurs or occurred in the Republic of South Africa or elsewhere; or
- (b) the law applying to the impropriety is that of the Republic of South Africa or of another country; (vi) 40
- (v) “*Minister*” means the Cabinet member responsible for the administration of Justice; (v)
- (vi) “*occupational detriment*”, in relation to the working environment of an *employee*, means—
- (a) being subjected to any disciplinary action; 45
- b) being dismissed, suspended, demoted, harassed or intimidated;
- © being transferred against his or her will;
- (d) being refused transfer or promotion;
- (e) being subjected to a term or condition of employment or retirement which is altered or kept altered to his or her disadvantage; 50
- (f) being refused a reference, or being provided with an adverse reference, from his or her *employer*;
- (g) being denied appointment to any employment, profession or office;
- (h) being threatened with any of the actions referred to paragraphs (a) to (g) above; or 55
- (i) being otherwise adversely affected in respect of his or her employment, profession or office, **including** employment opportunities and work security; (ii)
- (vii) “*organ of state*” means—
- (a) any department of state or administration in the national or provincial sphere of governmental or any municipality in the local sphere of government; or
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- Act No. 26,2000 PROTECTED DISCLOSURES ACT, 2000
- (b) any other functionary or institution when—
- (i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
- (ii) exercising a public power or performing a public function in terms of any legislation; (vii) < J
- (viii) “*prescribed*” means prescribed by regulation in terms of section 10; (viii)
- (ix) “*protected disclosure*” means a *disclosure* made to—
- (a) a legal adviser in accordance with section 5;
- (b) an *employer* in accordance with section 6;
- (c) a member of Cabinet or of the Executive Council of a province in accordance with section 7;
- (d) a person or body in accordance with section 8; or
- (e) any other person or body in accordance with section 9, but does not include a *disclosure*—
- (i) in respect of which the *employee* concerned commits an offence by making that *disclosure*; or
- (ii) made by a legal adviser to whom the information concerned was disclosed in the course of obtaining legal advice in accordance with

section 5; (iii)

(x) “*this Act*” includes any regulation made in terms of section 10. (iv) 20

Objects and application of Act

2. (1) The objects of this *Act* are—

(u) to protect an *employee*, whether in the private or the public sector, from being subjected to an *occupational detriment* on account of having made a *protected disclosure*; 25

(b) to provide for certain remedies in connection with any *occupational detriment* suffered on account of having made a *protected disclosure*; and

(c) to provide for procedures in terms of which an *employee* can, in a responsible manner, disclose information regarding *improprieties* by his or her *employer*,

(2) *This Act* applies to any *protected disclosure* made after the date on which this 30 section comes into operation, irrespective of whether or not the *impropriety* concerned has occurred before or after the said date.

(3) Any provision in a contract of employment or other agreement between an *employer* and an *employee* is void in so far as it—

(a) purports to exclude any provision of *this Act*, including an agreement to 35 refrain from instituting or continuing any proceedings under *this Act* or any proceedings for breach of contract; or

(b) (i) purports to preclude the *employee*; or

(ii) has the effect of discouraging the *employee*, 40 from making a *protected disclosure*.

Employee making protected disclosure not to be subjected to occupational Detriment

3. No *employee* may be subjected to any *occupational detriment* by his or her *employer* on account, or partly on account, of having made a *protected disclosure*. 45

Remedies

4. (1) Any *employee* who has been subjected, is subject or may be subjected, to an *occupational detriment* in breach of section 3, may—

(a) approach any court having jurisdiction, including the Labour Court established by section 15 I of the Labour Relations Act, 1995 (Act No. 66 of 1995), 50 for appropriate relief or

(b) pursue any other process allowed or prescribed by any law.

(2) For the purposes of the Labour Relations Act, 1995, including the consideration of any matter emanating from this Act by the Labour Court—

(a) any dismissal in breach of section 3 is deemed [o be an automatically unfair 55 dismissal as contemplated in section 187 of that Act, and the dispute about such a dismissal must follow the procedure set out in Chapter VIII of that Act; and

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Act No. 26,2000 PROTECTED DISCLOSURES ACT, 2000

(ii) the information disclosed, and any allegation contained in it, are substantially true,

is a *protected disclosure*.

(2) A person or body referred to in, or prescribed in terms of, subsection(1) who is of the opinion that the matter would be more appropriately dealt with by another person or body referred to in, or prescribed in terms of, that subsection, must render such assistance to the *employee* as is necessary to enable that *employee* to comply with this section.

General protected disclosure

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9. (1) Any *disclosure* made in good faith by an *employee*—

- (a) who reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and
- (b) who does not make the *disclosure* for purposes of personal gain, excluding any reward payable in terms of any law;
- is a *protected disclosure* if—
- (i) one or more of the conditions referred to in subsection (2) apply; and
- (ii) in all the circumstances of the case, it is reasonable to make the *disclosure*.
- (2) The conditions referred to in subsection (1)(i) are—
- (a) that at the time the *employee* who makes the *disclosure* has reason to believe that he or she will be subjected to an *occupational detriment* if he or she makes a *disclosure* to his or her *employer* in accordance with section 6;
- (b) that, in a case where no person or body is *prescribed* for the purposes of section 8 in relation to the relevant *impropriety*, the *employee* making the *disclosure* has reason to believe that it is likely that evidence relating to the *impropriety* will be concealed or destroyed if he or she makes the *disclosure* to his or her *employe*~
- (c) that the *employee* making the *disclosure* has previously made a *disclosure* of substantially the same information to—
- (i) his or her *employen* or
- (ii) a person or body referred to in section 8, in respect of which no action was taken within a reasonable period after the *disclosure*; or
- (d) that the *impropriety* is of an exceptionally serious nature.
- (3) In determining for the purposes of subsection (1)(ii) whether it is reasonable for the *employee* to make the *disclosure*, consideration must be given to—
- (a) the identity of the person to whom the *disclosure* is made;
- (b) the seriousness of the *impropriety*;
- (c) whether the *impropriety* is continuing or is likely to occur in the future;
- (d) whether the *disclosure* is made in breach of a duty of confidentiality of the *employer* towards any other person;
- (e) in a case falling within subsection (2)(c), any action which the *employer* or the person or body to whom the *disclosure* was made, has taken, or might reasonably be expected to have taken, as a result of [the previous *disclosure*;
- (f) in a case falling within subsection (2)(c)(i), whether in making the *disclosure* to the *employer* the *employee* complied with any procedure which was authorised by the *employe*~ and
- (g) the public interest.
- (4) For the purposes of this section a subsequent *disclosure* may be regarded as a *disclosure* of substantially the same information referred to in subsection (2)(c) where such subsequent *disclosure* extends to information concerning an action taken or not taken by any person as a result of the previous *disclosure*.

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- (b) any other *occupational detriment* in breach of section 3 is deemed to be an unfair labour practice as contemplated in Part B of Schedule 7 to that Act, and the dispute about such an unfair labour practice must follow the procedure set out in that Part: Provided that if the matter fails to be resolved through col~ciliation, it may be referred to the Labour Court for adjudication.
- (3) Any *employee* who has made a *protected disclosure* and who reasonably believes that he or she may be adversely affected on account of having made that *disclosure*, **must**, at his or her request and if reasonably possible or practicable, be transferred from the post or position occupied by him or her at the time of the *disclosure* to another post or position in the same division or another division of his or her *employer* or, where the person making the *disclosure* is employed by an *organ of state*, to another *organ of state*.

(4) The terms and conditions of employment of a person transferred in terms of subsection (2) may not, without his or her written consent, be less favorable than the terms and conditions applicable to him or her immediately before his or her transfer.

Protected disclosure to legal adviser

5. Any *disclosure* made—

(a) to a legal practitioner or to a person whose occupation involves the giving of legal advice; and

(b) with the object of and in the course of obtaining legal advice,
is a *protected disclosure*

Protected disclosure to employer

6. (1) Any *disclosure* made in good faith—

(a) and substantially in accordance with any procedure *prescribed*, or authorised by the *employee's employer* for reporting or otherwise remedying the *impropriety* concerned; or

(b) to the *employer* of the *employee*, where there is no procedure as contemplated in paragraph (a),
is a *protected disclosure*.

(2) Any *employee* who, in accordance with a procedure authorized by his or her *employer*, makes a *disclosure* to a person other than his or her *employer*, is deemed, for the purposes of *this Act*, to be making the *disclosure* to his or her *employer*.

Protected disclosure to member of Cabinet or Executive Council

7. Any *disclosure* made in good faith to a member of Cabinet or of the Executive Council of a province is a *protected disclosure* if the *employee's employer* is—

(a) an individual appointed in terms of legislation by a member of Cabinet or of the Executive Council of a province;

(b) a body, the members of which are appointed in terms of legislation by a member of Cabinet or of the Executive Council of a province; or

(c) an *organ of state* falling within the area of responsibility of the member concerned.

Protected disclosure to certain persons or bodies

8. (1) Any *disclosure* made in good faith to—

(u) the Public Protector;

(b) the Auditor-General; or

(c) a person or body *prescribed* for purposes of this section; and in respect of which the *employee* concerned reasonably believes that—

(i) the relevant *impropriety* falls within any description of matters which, in the ordinary course are dealt with by the person or body concerned: and

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(ii) the information disclosed, and any allegation contained in it, are substantially true,

is a *protected disclosure*.

(2) A person or body referred to in, or *prescribed* in terms of, subsection(1) who is of the opinion that the matter would be more appropriately dealt with by another person or body referred to in, or *prescribed* in terms of, that subsection, must render such assistance to the *employee* as is necessary to enable that *employee* to comply with this section.

General protected disclosure

9. (1) Any *disclosure* made in good faith by an *employee*—
- (a) who reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and
 - (b) who does not make the *disclosure* for purposes of personal gain, excluding any reward payable in terms of any law;
- is a *protected disclosure* if—
- (i) one or more of the conditions referred to in subsection (2) apply; and
 - (ii) in all the circumstances of the case, it is reasonable to make the *disclosure*.
- (2) The conditions referred to in subsection (1)(i) are—
- (a) that at the time the *employee* who makes the *disclosure* has reason to believe that he or she will be subjected to an *occupational detriment* if he or she makes a *disclosure* to his or her *employer* in accordance with section 6;
 - (b) that, in a case where no person or body is *prescribed* for the purposes of section 8 in relation to the relevant *impropriety*~, the *employee* making the *disclosure* has reason to believe that it is likely that evidence relating to the *impropriety* will be concealed or destroyed if he or she makes the *disclosure* to his or her *employee*~
 - (c) that the *employee* making the *disclosure* has previously made a *disclosure* of substantially the same information to—
 - (i) his or her *employee* or
 - (ii) a person or body referred to in section 8, in respect of which no action was taken within a reasonable period after the *disclosure*; or
 - (d) that the *impropriety* is of an exceptionally serious nature.
- (3) In determining for the purposes of subsection (1)(ii) whether it is reasonable for the *employee* to make the *disclosure*, consideration must be given to—
- (a) the identity of the person to whom the *disclosure* is made;
 - (b) the seriousness of the *impropriety*;
 - (c) whether the *impropriety* is continuing or is likely to occur in the future;
 - (d) whether the *disclosure* is made in breach of a duty of confidentiality of the *employer* towards any other person;
 - (e) in a case falling within subsection (2)(c), any action which the *employer* or the person or body to whom the *disclosure* was made, has taken, or might reasonably be expected to have taken, as a result of [the previous *disclosure*];
 - (f) in a case falling within subsection (2)(c)(i), whether in making the *disclosure* to the *employer* the *employee* complied with any procedure which was authorised by the *employee*~ and
 - (g) the public interest.
- (4) For the purposes of this section a subsequent *disclosure* may be regarded as a *disclosure* of substantially the same information referred to in subsection (2)(c) where such subsequent *disclosure* extends to information concerning an action taken or not taken by any person as a result of the previous *disclosure*.

13. APPENDIX FIVE : LIST OF CONTACTS

Name	Position/Province	Contact
Barbara van Jaarsveld	Supervisor/Gauteng	0800 600 933
Jabu Mphahlele	Head: Fraud Control, Limpopo Province	(015) 291 4020
Martin van Zyl	DG: Northern Cape	(053) 830 9222
Manelisi Wolela	Dir: Comm: Eastern Cape	(040) 639 2070
Pam Hoffman	Manager: Holines; KwaZulu-Natal	(031) 360 4583
Londi Mutshembele	Admin Officer: Home Affairs Fraud Hotlines	(012) 314 8948
Adelaide Sieta	Admin Office: Correctional Services: Fraud Hotlines	(012) 307 2275
Anonymous	KPMG Ethics Line	0800 00 2870
Babs Naidoo	Dir: Comm: Water/Forestry	082 807 3547
Celeste Hardson	Delloite/Touche; Durban	0800 00 5933
Attie Lamprecht	Crime Stop	082 809 6025
W. Wiehard	Forensic Audit: W. Cape	(021) 426 2649
Mike Mndawe	Head: Fraud Hotlines	(031) 766 2161