



Overview of the Implementation of the Financial Disclosure Framework: Financial Year 2007/2008



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Foreword

Senior managers, like all public officials are also private individuals. However, they play a strategic role in the management of the Public Service, including public resources, and care should be taken that their personal situation, inclinations or preferences and those of their family, friends and associates should not influence their decision making in discharging their public responsibilities. Mindful of this, the Financial Disclosure Framework (FDF) was introduced for senior managers to disclose their registrable interests and to support them in the management of potential conflicts of interest.



Unfortunately, senior managers have not fully appreciated this aim, and have perceived the submission of disclosure forms more as an inconvenience. As research by the PSC reflects, including this research, compliance rates on submission of disclosure forms have each year failed to reach the regulatory 100% mark. It is for this reason that the PSC continues to focus on the rate of compliance and has also begun scrutiny of the financial disclosure forms.

This overview report looks at the submission rate for the 2007/2008 financial year and provides insights into the extent of senior managers' involvement in private interests, such as directorships and partnerships in private companies and of close corporations. The view of the PSC is that there is nothing wrong in having such private interests. However, it is to be expected that there will be occasions when a senior manager's private interests will come into conflict with his/her public duties, and this must be avoided through a structured management of conflicts of interest. Where conflict of interest cannot reasonably be avoided it should be appropriately managed.

The overview identified repeat offenders as well as senior managers who did not disclose all their interests, such as properties and directorships in private companies and close corporations. Moreover, it was found that in some instances the undisclosed private interests pose a potential conflict of interest to the departments where the relevant senior manager is employed.

The PSC is therefore pleased to present this overview in the hope that it will encourage departments to apply concerted efforts in the management of conflicts of interest. It is trusted that the management of conflicts of interest will build integrity amongst senior managers in the disclosure of their financial interests and in so doing engender public trust.

A handwritten signature in black ink, appearing to read 'Sangweni'.

PROFESSOR S.S. SANGWENI
CHAIRPERSON: PUBLIC SERVICE COMMISSION

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GLOSSARY OF ABBREVIATIONS

COC	Code of Conduct for the Public Service
CIPRO	Companies and Intellectual Property and Registration Office
DRS	Deeds Registration System
EA/EAs	Executive Authority/Executive Authorities
FDF	Financial Disclosure Framework
GCIS	Government Communication and Information System
HOD	Head of Department
NACH	National Anti-Corruption Hotline
PALAMA	Public Administration Leadership and Management Academy
PSC	Public Service Commission
PSR	Public Service Regulations
SA	South Africa
SMS	Senior Management Service



Executive Summary

1. INTRODUCTION

An important consideration in the promotion of integrity in the Public Service is the extent to which conflicts that may exist between a public servant's private interests and public duties are managed. The PSC has as early as 1999 realised the importance of managing the potential conflicts of interest of public servants and developed a Financial Disclosure Framework (the Framework) for senior managers. This Framework requires all members of the Senior Management Service (SMS) in the Public Service to disclose all their registrable interests annually to their Executive Authorities. The Executive Authority in turn, is required to submit a copy of the financial disclosure form to the PSC by 31 May of each year.

The PSC has an important role to play with respect to the scrutiny of the financial disclosure forms, to identify potential conflicts of interest and to make recommendations regarding the management of conflicts of interest. Given this important role and the concerns with respect to the timely submission of disclosures this report is geared towards, not only promoting the effective management of the Framework, but also towards promoting the idea of integrity in government. The PSC believes that most public servants are honest. Strangely though, in anti-corruption strategies little focus is given to the protection of honest public servants. However, with the management of conflicts of interest the PSC hopes that the honest public servant will be kept honest.

In managing the Framework the PSC has placed major emphasis on the requirement to submit the disclosure forms timely to the PSC. However, since the inception of the Framework, disclosure forms have not been submitted in accordance with the requirements of the Framework. For the 2006/2007 financial year only 10% of the disclosure forms were received by the due date. During the 2007/2008 financial year the PSC received 48% of the disclosure forms by the due date.

However, managing the Framework goes beyond mere monitoring of compliance. Whilst the PSC will continue keeping a watchful eye over the compliance rate, and to bemoan the inability of the Public Service to reach the 100% mark, it has shifted its focus to the scrutiny of the financial disclosure forms. Furthermore, in order to ensure the proper scrutiny of these forms, the PSC will also conduct verification processes to validate the correctness of information contained in the financial disclosure forms. In this regard, section G of Chapter 3 of the Public Service Regulations provides that the PSC may scrutinise and verify the information contained in the financial disclosure forms, to identify potential conflicts of interest and to alert Executive Authorities accordingly.

Whilst the PSC has previously reported on its management of the Framework, the PSC deemed it necessary to conduct an overview on the Implementation of the Financial Disclosure Framework for the 2007/2008 financial year. However, this overview provides a statistical overview on the compliance with the Framework as at the due date of 31 May 2008 and 31 December 2008. In addition to such a statistical overview, the PSC, through this report, provides an analysis of scrutiny of a sample of the disclosure forms. The information obtained from the scrutiny of the sample of the disclosure forms, provided an indication as to the extent of the existence of potential or actual conflicts of interest. The report also contains findings and recommendations of the PSC to address the management of conflicts of interest at departmental level.

2. MANDATE OF THE PUBLIC SERVICE COMMISSION

The PSC's mandate to report on the Financial Disclosure Framework is contained in the Constitution of the Republic of South Africa, 1996, as well as the Public Service Commission Act, 1997, and the Public Service Regulations. The provisions are as follows:

Legislation	Description
Constitution of the Republic of South Africa, 1996	<p>In terms of Section 196 of the Constitution, 1996, the PSC is mandated to promote a high standard of professional ethics in the Public Service and to investigate, monitor and evaluate the organisation and administration, and personnel practices of the Public Service. In addition, the PSC may evaluate the application of public administration practices and to report to Executive Authorities and Legislatures. In terms of this mandate the following sections of the Constitution, 1996¹ are applicable:</p> <p><i>"195 (4)(a) to promote a high standard of professional ethics in the Public Service";</i></p> <p><i>"196(4)(b) to investigate, monitor and evaluate the organisation and administration, and the personnel practices, of the public service;"</i></p> <p><i>"196(4)(f)(i) to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executing authority and legislature;"</i></p>
Public Service Commission Act, 1997	<p>The following sections of the Public Service Commission Act, 1997 are applicable.</p> <p><i>"8. Subject to the provisions of the Constitution, the Commission may exercise the powers and shall perform the duties entrusted to the Commission by or under this Act, the Constitution or the Public Service Act.</i></p> <p><i>9. The Commission may inspect departments and other organisational components in the Public Service, and has access to such official documents or may obtain such information from heads of those departments or organisational components or from other officers in the service of those departments or organisational components as may be necessary for the performance of the functions of the Commission under the Constitution or the Public Service Act."</i></p>
Public Service Regulations	<p>Chapter 3 of the Public Service Regulations, 2001, deals with the prescripts of the Financial Disclosure Framework (the Framework) and provides for the PSC's role in the management of the Framework². Therefore, in pursuance of its mandate to promote professional ethics and the responsibility assigned to the PSC through Chapter 3 of the Public Service Regulations, 2001, the PSC is mandated to conduct this Overview.</p>

¹ Republic of South Africa, the Constitution of the Republic of South Africa, 1996, Act 108 of 1996.

² Republic of South Africa, Chapter 3 of the Public Service Regulations 2001.



3. METHODOLOGY

In terms of the applicable framework, the prescribed due date for the submission of the disclosure forms to the PSC is 31 May of each year. In this regard, the PSC sent letters to the Executive Authorities of each department reminding them of their obligations in terms of the disclosure framework. As many departments failed to submit by the prescribed date, the PSC continued to receive disclosure forms until 31st December 2008. Therefore, this report covers the submission and the scrutinisation of the disclosure forms received until 31 December 2008.

A desktop review on all the disclosure forms was conducted on the submission of the financial disclosure forms for the 2007/2008 financial year in order to provide a statistical analysis of all disclosures that were received by the PSC. Included in this review was an analysis of the submission of the disclosure forms for the 2006/2007 financial year. The comparison of the disclosure forms of the 2006/2007 financial year against the 2007/2008 financial year, revealed that a number of officials had failed to submit disclosure forms in both financial years. The identification of these officials allows the PSC to start monitoring any trends in compliance. In this regard, such “repeat offenders” can be closely monitored with the aim of ensuring compliance or advising the relevant Executive Authorities to institute disciplinary action. Repeat offenders may in itself raise a red flag towards potential or actual conflicts of interests.

In addition to the desktop study, a random sample of thirty percent (30%) of the disclosure forms, submitted during the 2007/2008 financial year, was taken to assess whether potential conflicts of interest exist. The sample covered ten (10) national departments as well as provincial departments of three (3) provinces. For national departments, the Departments of Public Enterprises, Public Works, etc were taken as part of the sample as they are involved in the issuing of large government tenders. In order to augment the scrutiny process, the PSC developed and approved rules for the management of conflicts of interest.³ The rules are aimed at strengthening the scrutiny processes and to assist the PSC in formulating an opinion on conflicts of interest and advising Executive Authorities.

During the scrutiny of the selected sample of disclosure forms, a list of private companies and close corporations was obtained from the Companies and Intellectual Property Registration Office (CIPRO). A desk top analysis of this list was done against the companies as disclosed by SMS members to identify cases of non-disclosure. Finally, in order to verify the properties as disclosed by members of the SMS the PSC utilised the Deeds Registration System (DRS) of the Deeds Registration Office, within the Department of Land Affairs. From this verification the PSC was able to obtain information and clarification on whether or not a designated official has neglected to disclose a property.

³ Republic of South Africa, Public Service Commission, *Rules for the Management of Conflict of Interest in the Public Service, 2008*

4. OBJECTIVES

The PSC through this report seeks to promote accountability and transparency by reporting:



5. FINDINGS

Some of the major findings of this research study were that:

- The PSC found that **434 (21%)** senior managers out of the sample of members of the SMS (**2038**) may have potential conflicts of interest between their private interests and their official duties i.e. **151** from national departments and **283** from provincial departments. From these identified cases, allegations of corruption have already been reported to the NACH in respect of three (3) individuals. This underscores the importance of proactively identifying and managing conflicts of interest.
- The PSC found that **210 (10%)** senior managers out of the sample of **2038** did not disclose their directorships/partnerships in private companies and close corporations. This figure includes **112** senior managers from national departments and **98** from provincial departments. This amounts to a transgression of the Regulatory requirements and impacts negatively on the ability of departments, Executive Authorities and the PSC to identify and manage potential conflicts of interest.
- The PSC also found that **182** senior managers did not disclose their properties as required by Chapter 3 of the Public Service Regulations. Of these, **89** were from national departments and **93** from provincial departments. The disclosure of properties, as an asset, forms an integral part of the Framework and non-compliance in this regard impedes the management of conflicts of interest.

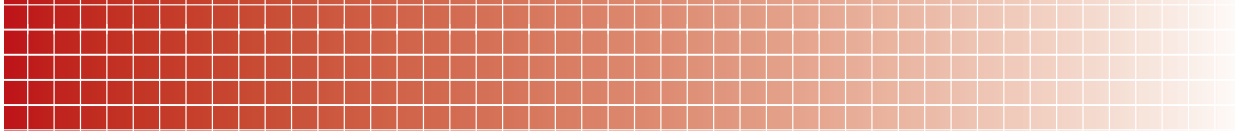
- Only **48%** of the disclosure forms were received by the due date of 31 May 2008. The submission of the financial disclosure forms by the due date for national departments was **38%** and **59%** for provincial departments. This low level of compliance is unacceptable, and the Executive Authorities must ensure that all disclosures reach the PSC by the due date of 31 May. Failure to do so will continue to raise concerns around the political will to promote integrity systems within the Public Service.
- As at 31 December 2008, **81%** (6844) of the financial disclosures of all members of the SMS in the Public Service were received. Senior managers in National Departments, who consistently lagged behind during the years, submitted **74%** (3188) of their financial disclosures and senior managers in the provinces **89%** (3656). The fact that seven months after the due date of 31 May 2008, only **81%** of all disclosures were received remains unacceptable. Only a 100% compliance rate by the due date will be acceptable.
- The compliance rate for Directors-General and Deputy Directors-General of national departments as at 31 December 2008 was **65%**. At provincial level the compliance rate for these categories of posts was **84%**. Directors-General and Deputy Directors-General, as the most senior officials in the Public Service, should lead by example and this low rate of compliance is inexcusable.
- The PSC identified **249** SMS members as repeat offenders in that they did not submit their financial disclosures for two consecutive financial years. These SMS members included 179 from national departments and 128 from provincial departments. It is of concern that such senior managers display a total disregard for the Regulatory requirements. Such conduct has a negative impact on the integrity of their departments and may lead to actual conflicts of interest occurring.

6. RECOMMENDATIONS

In this report the PSC, *inter alia*, recommends that:

- Executive Authorities charge transgressing Heads of Department with misconduct and ensure that other members of the SMS are charged with misconduct for failing to disclose an interest by instructing their Heads of Department to do so in terms of the Disciplinary Code and Procedures, as contained in the SMS Handbook. This is being emphasised by the PSC as previously this has not been the case. Instances where senior managers have been charged with misconduct must be reported to the PSC. Furthermore, the PSC should take steps against Executive Authorities who fail to submit copies of the disclosure forms of SMS members in their departments, to the PSC.
- Executive Authorities assign the duty to manage the financial disclosure process and ensure that the forms are submitted timely to dedicated units within a department or dedicated staff members. This recommendation is in line with the provisions of Chapter 3, Section F.1(a) of the Public Service Regulations which stipulates that staff may be appointed by an Executive Authority “for the purpose of record-keeping of the original disclosure form and submission of a copy of the form to the PSC”.⁴ Such staff members may liaise with officials of the PSC to ensure the effective management of the Framework.

⁴ Republic of South Africa, Public Service Regulation, 2001.

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- Members of the SMS be made aware of the fact that they need to disclose all companies, including dormant and non-profit making companies. Companies for which senior managers are performing work but are not receiving remuneration must also be declared. Instances where such managers have been charged with misconduct must also be reported to the PSC.
 - Executive Authorities should obtain the outstanding forms of the repeat offenders and submit them to the PSC as soon as possible. This will enable the PSC to scrutinise the forms to establish if there was deliberate non-disclosure or actual conflicts of interest. In the case of potential conflicts of interest, these can be managed appropriately.
 - Given their Legislative and Parliamentary oversight role, Portfolio Committees should call departments and Executive Authorities to account where there has been non-compliance as well as low levels of compliance.

7. CONCLUSION

It is the responsibility of the PSC, in terms of the Public Service Regulations to report to and advise Executive Authorities with regard to potential conflicts of interest. In terms of the findings of the sample tested this will be done in due course.

In this overview of the Financial Disclosure Framework it has been noted that financial disclosure forms are not submitted timeously to the PSC. Only 48% of the disclosure forms of members of the SMS have been submitted by the due date. This is a concern to the PSC as, on the one hand, senior managers are entrusted with public funds and therefore they need to show a high level of integrity and transparency by disclosing their financial interests. On the other hand, the timeous submission of the disclosure forms is imperative as it would place the PSC in a position to provide advice to the Executive Authorities timeously on the outcome of the scrutiny of the disclosures. This, the PSC believes, would prevent a potential conflict of interest becoming an actual conflict of interest.

Chapter One

Introduction to the Report

1.1 BACKGROUND

An important consideration in the promotion of integrity in the Public Service is the extent to which conflicts that may exist between a public servant's private interests and public duties are managed. The PSC has as early as 1999 realised the importance of managing the potential conflicts of interest of public servants and developed a Financial Disclosure Framework (the Framework) for senior managers. This Framework requires all members of the Senior Management Service (SMS) in the Public Service to disclose all their registrable interests annually to their Executive Authorities. The Executive Authority in turn, is required to submit a copy of the financial disclosure form to the PSC by 31 May of each year.

In managing the Framework, the PSC has placed major emphasis on the requirement to submit the disclosure forms timely to the PSC. In this regard, the PSC has published an annual fact sheet on monitoring compliance with the requirements of the Framework. However, since the inception of the Framework in the 1999/2000 financial year the submission of the financial disclosure forms by various members of the SMS has not been satisfactory, particularly given that every year many senior managers fail to disclose their financial interests. In the first financial year (1999/2000) the PSC received 61% of all disclosures. For the last three financial years i.e. 2004/2005, 2005/2006 and 2006/2007

there was a steady increase in the submission of the financial disclosure forms with a submission rate of 77%, 80% and 87% respectively. However, these submission rates have all been achieved after the due date. More recent years show that in the 2006/2007 financial year only 10% of the disclosure forms were received by the due date and during the 2007/2008 financial year the PSC received 48% of the disclosure forms by the due date. This inability to reach the 100% mark remains a serious indictment on the SMS members in the Public Service, and on the Executive Authorities.

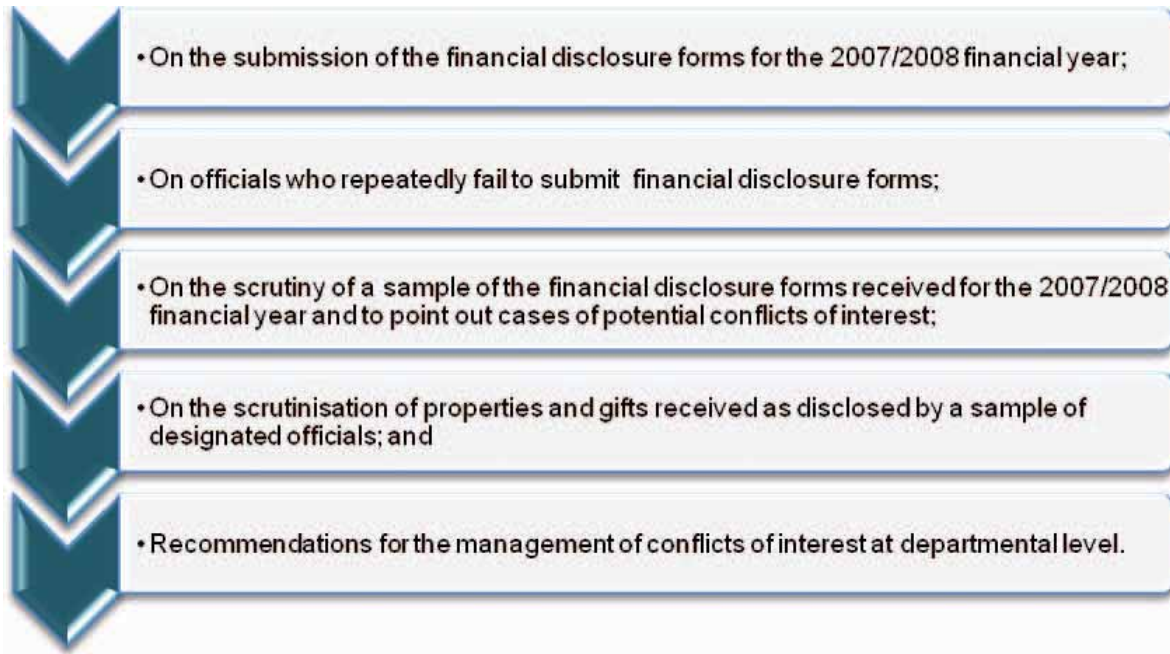
SUBMISSION OF FINANCIAL DISCLOSURE FORMS FOR THE LAST THREE FINANCIAL YEARS		
2004/2005	2005/2006	2006/2007
77%	80%	87%

However, managing the Framework goes beyond mere monitoring of compliance. Thus, whilst the PSC will continue to focus on monitoring compliance with the Framework, it has also shifted its focus to the scrutiny and verification of information contained in the financial disclosure forms. Such approach provides a more meaningful evaluation of the Framework and its impact on the management of conflicts of interest.

Given this additional focus, the PSC deemed it necessary to conduct an overview on the implementation of the Framework for the 2007/2008 financial year, and for the first time not only provide an overview on compliance to the Framework but also an analysis of its scrutiny of a sample of the disclosure forms. In this way, the PSC takes its work in this area to a deeper level, and enthusiasm can be drawn from the fact that such meaningful assessment would make a great contribution to the management of conflicts of interest in the Public Service.

1.2 OBJECTIVES OF THE RESEARCH REPORT

The PSC through this report seeks to promote accountability and transparency by reporting:



1.3 MANDATE OF THE PSC

The PSC's mandate to report on the Framework is contained in the Constitution of the Republic of South Africa, 1996, as well as the Public Service Commission Act, 1997, and the Public Service Regulations. The provisions are as follows:

Legislation	Description
Constitution of the Republic of South Africa, 1996	<p>In terms of Section 195 and 196 of the Constitution, 1996, the PSC is mandated to promote a high standard of professional ethics in the Public Service and to investigate, monitor and evaluate the organisation and administration, and personnel practices of the Public Service. In addition, the PSC may evaluate the application of public administration practices and to report to Executive Authorities and Legislatures. In terms of this mandate the following sections of the Constitution, 1996¹ are applicable:</p> <p><i>"195 (4)(a) to promote a high standard of professional ethics in the Public Service",</i></p> <p><i>"196(4)(b) to investigate, monitor and evaluate the organisation and administration, and the personnel practices, of the public service;"</i></p> <p><i>"196(4)(f)(i) to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executing authority and legislature;"</i></p>

¹ Republic of South Africa, the Constitution of the Republic of South Africa, 1996, Act 108 of 1996.

Public Service Commission Act, 1997	<p>The following sections of the Public Service Commission Act, 1997 are applicable.</p> <p>“8. Subject to the provisions of the Constitution, the Commission may exercise the powers and shall perform the duties entrusted to the Commission by or under this Act, the Constitution or the Public Service Act.</p> <p>9. The Commission may inspect departments and other organisational components in the Public Service, and has access to such official documents or may obtain such information from heads of those departments or organisational components or from other officers in the service of those departments or organisational components as may be necessary for the performance of the functions of the Commission under the Constitution or the Public Service Act.”</p>
Public Service Regulations	<p>Chapter 3 of the Public Service Regulations, 2001, deals with the prescripts of the Financial Disclosure Framework (the Framework) and provides for the PSC’s role in the management of the Framework.² In this regard, section G of Chapter 3 of the Public Service Regulations³ specifically provides that the PSC may scrutinise and verify the information contained in the financial disclosure forms, to identify potential conflicts of interest and to alert Executive Authorities accordingly.</p>

Thus the PSC monitors the implementation of the Framework within the Public Service in line with the relevant legislative framework, in fulfillment of its mandate to promote professional ethics within the Public Service.

1.4 RESEARCH METHODOLOGY

In terms of the Framework, Executive Authorities must submit copies of the financial disclosure forms of members of the SMS to the PSC. This Framework provides that the prescribed due date for the submission of the disclosure forms is 31 May of each year. In this regard, the PSC sent letters to the Executive Authorities of each department reminding them of their obligations in terms of the Framework. As many departments failed to submit by the prescribed date, the PSC continued to receive disclosure forms until 31st December 2008. Therefore, this report focuses on an overview on the compliance with the Framework for the 2007/2008 financial year as at 31 May 2008 as well as an analysis of the forms received until 31 December 2008. In this regard, this overview not only focuses on compliance with the Framework but also an analysis of the PSC’s scrutiny of a sample of the disclosure forms. The information obtained from the scrutiny of the sample of the disclosure forms, provided an indication as to the extent of the existence of potential or actual conflicts of interest.

1.4.1 Collation of financial disclosure forms

In terms of the Public Service Regulations, disclosure forms must be submitted to the PSC by 31 May of each year. Upon receipt of the disclosure forms, the PSC maintains a database of all the forms. A desktop review on all the disclosure forms was conducted on the submission of the financial disclosure forms for the 2007/2008 financial year as at 31 May 2008, and published in a Fact Sheet on “Monitoring Compliance With the Financial Disclosure Framework”⁴ in July 2008.

² Republic of South Africa, Chapter 3 of the Public Service Regulations 2001.

³ Republic of South Africa, Chapter 3 of the Public Service Regulations, 2001

⁴ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year, July 2008

However, despite the cut-off date of 31 May 2008 disclosure forms are received after this date. As a result, an additional statistical analysis was done on those disclosures that were received by 31 December 2008. Essentially, in terms of the scope of the overview, it needs to be mentioned that the compliance with the Framework covers all the national and provincial departments.

Included in this review was an analysis of the submission of the disclosure forms for the 2006/2007 financial year. This approach allowed for a comparison of the disclosure forms of the 2006/2007 financial year against the 2007/2008 financial year. In this way the study could identify repeat defaulters in submission of the disclosure forms, and established a trend that can be closely monitored. Such a trend will assist in raising a red flag towards potential or actual conflicts of interest.

1.4.2 Selection of a sample of the disclosure forms

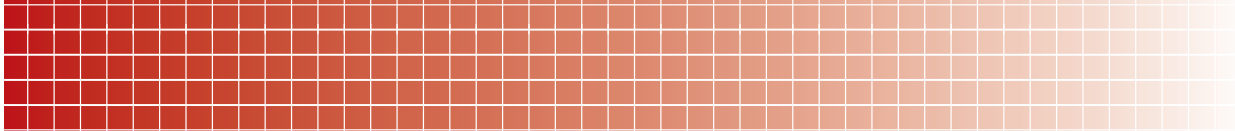
In addition to the desktop study, a random sample of thirty percent (30%) of the disclosure forms, submitted during the 2007/2008 financial year, was taken to assess whether potential conflicts of interest exist. Due to financial and capacity constraints, the sample for the scrutiny of the disclosure forms was limited to 30% of the disclosure forms.

The sample covered the following ten (10) national departments as well as provincial departments of three (3) provinces:

National Departments
Department of Minerals and Energy
Department of Public Works
Department of Science and Technology
Department of Public Enterprises
Department of Transport
Department of Agriculture
Department of Home Affairs
Department of Social Development
Department of Public Service and Administration
Department of Communications
Provinces
The Western Cape Province
The Eastern Cape Province
The Limpopo Province

1.4.3 Scrutiny and verification of the disclosure forms

During the scrutiny of the selected sample of disclosure forms, a list of private companies and close corporations was obtained from the Companies and Intellectual Property Registration Office (CIPRO). A desktop analysis of this list was done against the companies as disclosed by SMS members to identify cases of non-disclosure. Finally, in order to verify the properties as disclosed by members of the SMS the PSC utilised the Deeds Registration System (DRS) of the Deeds Registration Office, within



the Department of Land Affairs. From this verification the PSC was able to obtain information and clarification on whether or not a designated official has neglected to disclose a property.

As part of the scrutiny of the disclosure forms the PSC deemed it necessary to assess the extent to which members of the SMS received gifts. In this regard, the gifts registers kept by departments would be scrutinised.

1.5 LIMITATIONS

One of the limitations of this overview is that the PSC did not receive all the disclosure forms of the senior managers of the selected departments. Therefore, it was not possible to assess whether the financial interests of some of the senior managers in these departments posed a potential or actual conflict of interests.

A further limitation experienced is that the gifts registers of departments (many departments within the sample did not have gift registers) were not available and therefore the PSC was not able to perform a scrutiny on the receipt of gifts by members of the SMS, and assess whether the receipt of gifts constitutes a potential or actual conflict of interests.

1.6 OUTLINE OF THE REPORT

Chapter 1 provides an introduction to the research report. In Chapter 2, a statistical overview on the compliance with the Framework as at the due date of 31 May 2008 as well as the compliance with the Framework as at 31 December 2008, for the 2007/2008 financial, is provided. Moreover, in Chapter 2, a comparative analysis of the submission of the disclosure forms for the 2006/2007 and 2007/2008 financial years with the aim of identifying repeat offenders for these two financial years, is provided. The identified cases relating to repeat offenders are discussed in Chapter 2. In Chapter 3 an indication of the senior managers who did not disclose their private interests such as their partnerships/directorships in private companies and close corporations as well as their properties is provided. Importantly, this Chapter provides an indication on the extent to which the private companies and close corporations pose a potential conflict of interest to a department. Chapter 4 contains the findings of the overview and the recommendations of the PSC whilst in Chapter 5 a conclusion to the overview is provided.

Chapter Two

Statistical Overview of the Submission of the Financial Disclosure Forms

2.1 INTRODUCTION

Senior managers in the Public Service are entrusted with public funds and therefore they need to maintain the highest standard of professional ethics. Their integrity and that of their departments must be beyond question. It is for this purpose that the Framework was introduced in the Public Service. The Framework is aimed at preventing conflicts of interest by requiring of senior managers to disclose their financial interests.

The Framework was introduced when the Minister for the Public Service and Administration (MPSA) during March 2000 approved, in terms of Section 41 (1) (d) of the Public Service Act, 1994⁵ (as amended), the Framework for SMS Members which was incorporated as Chapter 3 of the Public Service Regulations. In terms of the Framework members of the SMS at levels 15 and 16 were compelled to annually disclose their financial interests. During May 2001 the MPSA extended the Framework to all members of the SMS in the Public Service.

In terms of the Framework every designated employee (member of the SMS) should, not later than 30 April of each year, disclose to the relevant Executive Authority particulars of all her/his registrable interests in respect of the period 1 April of the previous year to 31 March of the year in question.⁶

Since the inception of the Framework the timely submission of the financial disclosure forms has been a challenge. On numerous occasions departments fail to submit the disclosure forms timeously, or not at all. The PSC in numerous *State of the Public Service* reports point to this and more recently the PSC has published focused fact sheets on the compliance with the Framework. The main purpose of such fact sheets was to assess the level of compliance as of the 31 May due date and to provide early warning to all Executive Authorities of the risk of non-compliance, and the need to act on this.

This chapter builds on the fact sheet that was published in July 2008⁷ and provides a statistical overview of the submission of the financial disclosure forms for the financial year 1 April 2007 to 31 March 2008. In addition, a comparison is made with disclosure forms received in the 2006/2007 financial year. Not only does this reflect the rate of compliance between these years, but also allows for an identification of repeat offenders.

2.2 SUBMISSION OF THE FINANCIAL DISCLOSURE FORMS

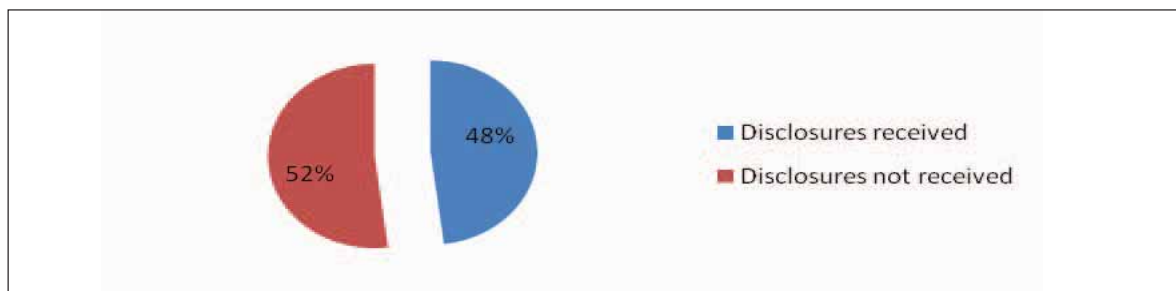
As prescribed by the Framework, the cut-off date for the submission of the disclosure forms to the PSC is 31 May for a particular year. Figure 1 reflects the percentage of disclosure forms received by the due date. In this regard, it needs to be noted that the PSC expected 8545 disclosure forms. However, by the prescribed due date, the PSC had received only 4091.

⁵ Republic of South Africa, Public Service Act, 1994 as amended.

⁶ Republic of South Africa, Chapter 3 of the Public Service Regulations 2001.

⁷ Republic of South Africa, Public Service Commission, Fact Sheet on Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year, July 2008.

Figure 1: Submission of Financial Disclosure Forms for the 2007/2008 Financial Year as at 31 May 2008: Country Average



The above figure reflects that the PSC received 48% of the disclosure forms by the prescribed date⁸ and 52% of the disclosure forms were outstanding. In the 2006/2007 financial year only 10% of disclosure forms were received by the due date.

The receipt of 48% of the disclosure forms represents a significant improvement of 38% as compared to the previous financial year. However, the submission of 48% of the disclosure forms is still an unacceptably low compliance rate. Submission by the due date is a regulatory requirement and the inability to meet the 100% requirement rate means that 52% of the SMS is transgressing the regulations.

Table I below reflects the number of financial disclosure forms received for the 2007/2008 financial year as at 31 May in respect of both national departments and provinces.

Table I: Submission of Financial Disclosure Forms for the 2007/2008 Financial Year as at 31 May 2008⁹

NATIONAL DEPARTMENT/ PROVINCE	NUMBER OF SMS MEMBERS	NUMBER OF FORMS RECEIVED	NUMBER OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
National Departments	4466	1691	2791	38%
Eastern Cape	547	274	273	50%
Free State	375	109	266	29%
Gauteng	857	403	454	47%
Kwazulu-Natal	683	399	284	60%
Limpopo	457	336	121	73%
Mpumalanga	268	138	130	51%
Northern Cape	182	161	21	88%
North West	306	277	29	90%
Western Cape	388	291	97	75%
OVERALL PROVINCIAL SUBMISSION	4063	2388	1675	59%
COUNTRY AVERAGE	8545	4079	4466	48%

⁸ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year, July 2008

⁹ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year, July 2008

Evident from **Table 1** is the fact that only 38% of the forms of national departments and 59% of the forms of provincial departments were received by the PSC by the due date of 31 May. This in actual fact means that **2791** SMS members at national level and **1675** of the SMS members in the provinces did not submit their disclosure forms by the due date. A number of departments also submit the disclosure forms of a percentage of their SMS members and thereafter neglects to submit the remainder of the disclosure forms. This may be attributed to the fact that some members of the SMS are either on leave or out of the country on official business at the time when the disclosures are due. The result is that many departments end up not fully complying with the Framework.

Of the thirty-seven (37) national departments, twenty (20) submitted disclosure forms by the due date. This is a significant increase from the previous financial year (2006/2007) when the forms of only eight (8) national departments were received by the due date. Of concern is that financial disclosure forms from departments that are involved in big programmes and tenders due to the nature of their work, such as Public Works and Trade and Industry are not received timeously. This impedes the PSC's ability to scrutinise their disclosures in order to monitor conflicts of interest. Given the large tenders awarded by departments such as Public Works and Trade and Industry there is a definite risk for potential corrupt practices.

The three provinces with the highest compliance rate and the three provinces with the lowest compliance rate by the due date are reflected in **Table 2**.

Table 2: Provinces with the highest and lowest compliance rate by the due date

PROVINCES WITH THE HIGHEST COMPLIANCE RATE BY THE DUE DATE		PROVINCES WITH THE LOWEST COMPLIANCE RATE BY THE DUE DATE	
North West	90%	Free State	29%
Northern Cape	88%	Gauteng	47%
Western Cape	75%	Eastern Cape	50%

The North West province with 90% is the best performing province in terms of submitting the disclosure forms of their SMS members by the due date and the Free State with 29% is the worst performing province. Nevertheless, none of the provinces achieved a 100% compliance rate by the due date. The low level of compliance by the due date especially by the Free State and Gauteng points to a lack of commitment, transparency and accountability. Senior managers, as leaders, are responsible for the overall guidance in their respective departments. Proper leadership cannot be exercised fully if there is a lack of compliance to basic prescripts. These are breaches that amount to misconduct and damage the ethical image of the Public Service.

Apart from the negative reflection this has on the Public Service leadership, there is also an indictment on the political leadership. Executive Authorities have the responsibility in terms of the regulations¹⁰ to receive these forms and submit them to the PSC. In order to address the challenge of non-compliance, the PSC sent a letter to all Executive Authorities. The letter served to remind Executive Authorities of their obligation to submit copies of the disclosure forms to the PSC. The Executive Authority was also advised that in cases where they did not receive the disclosure form from a designated official by the due date they should charge such officials with misconduct in terms of the Disciplinary Code of Procedures as contained in the SMS Handbook¹¹ for not complying with the Public Service Regulations Chapter 3. To date, despite the non-submission of the financial disclosure forms, the PSC has not heard of any SMS member being disciplined on this basis.

¹⁰ Republic of South Africa, Chapter 3, Section C.4 of the Public Service Regulations, 2001

¹¹ Republic of South Africa, Chapter 3 of the Public Service Regulations 2001.

2.2.1 Submission of the Disclosure Forms by National Departments

Table 3 below reflects the number of disclosure forms received from national departments for the 2007/2008 financial year as at 31 December 2008.

Table 3: Number of Financial Disclosure Forms Received for the Financial Year: 2007-2008: as at 31 December 2008: National Departments

NAME OF DEPARTMENT	NUMBER OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Department of Agriculture	61	57	4	93%
Department of Arts and Culture	40	0	40	0%
Department of Communications	63	57	6	90%
Department of Correctional Services	176	0	176	0%
Department of Defence	316	58	258	18%
Department of Education	101	101	0	100%
Department of Environmental Affairs and Tourism	108	99	9	91%
Department of Foreign Affairs	241	227	14	94%
Government Communications and Information System	46	46	0	100%
Department of Health	99	9	90	9%
Department of Home Affairs	86	72	14	84%
Department of Housing	62	50	12	81%
Department of Justice and Constitutional Development	216	211	5	98%
National Prosecuting Authority	236	0	236	0%
Department of Labour	73	69	4	95%
Department of Land Affairs	79	0	79	0%
Dept of Minerals and Energy	104	96	8	92%
Department of Provincial and Local Government	110	110	0	100%
Department of Public Enterprises	45	45	0	100%
Department of Public Service and Administration	89	84	5	94%
Department of Public Works	137	128	9	93%
South African Police Service & Secretariat for Safety & Security	680	664	16	98%
Dept of Science and Technology	77	42	35	55%

NAME OF DEPARTMENT	NUMBER OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Dept of Social Development	88	87	1	99%
Dept of Sport and Recreation	27	27	0	100%
Dept of Trade and Industry	165	161	4	98%
Department of Transport	118	101	17	86%
Dept of Water Affairs & Forestry	150	120	30	80%
National Intelligence Agency (Including NICOC)	2	2	0	100%
National Treasury	229	186	43	81%
Office of the Public Service Commission	39	39	0	100%
Presidency (including Youth Commission)	69	58	11	84%
PALAMA	18	18	0	100%
Statistics South Africa	151	147	4	97%
Independent Complaints Directorate	17	17	0	100%
South African Secret Service	1	1	0	100%
TOTAL	4319	3189	1130	74%

As at 31 December 2008 the disclosure forms of 3 188 (74%) designated officials of national departments were received by the PSC. The following national departments submitted no disclosure forms as at 31 December 2008:

- Department of Arts and Culture;
- Department of Correctional Services; and
- Department of Land Affairs.

This total lack of compliance with the Regulatory provisions is unacceptable and raises concerns regarding levels of integrity in these departments. Risks of potential conflicts of interest in the Department of Correctional Services are, due to the large tenders issued, self-evident. Similarly, the Department of Land Affairs, involved in land redistribution, has a strong interface with the public and is susceptible to conflicts of interest in the decision-making process.

As reflected in **Table 4** only a few departments have submitted the disclosure forms of all their SMS members by the due date and as at 31 December 2008.

TABLE 4: DEPARTMENTS THAT SUBMITTED ALL THEIR DISCLOSURE FORMS BY THE DUE DATE AND BY 31 DECEMBER 2008

FULL SUBMISSION BY THE DUE DATE	FULL SUBMISSION BY 31 DECEMBER 2008
Provincial and Local Government	Education
Public Enterprises	GCIS

FULL SUBMISSION BY THE DUE DATE	FULL SUBMISSION BY 31 DECEMBER 2008
South African Secret Service	Sports and Recreation
Office of the Public Service Commission	National Intelligence Agency
Independent Complaints Directorate	
PALAMA	

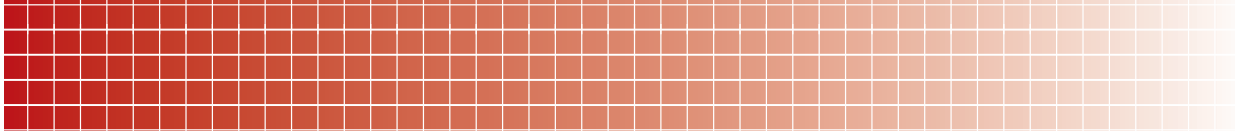
Six (6) national departments submitted all the disclosures of their SMS members by 31 May 2008 and ten (10) national departments submitted the disclosures of all the SMS members by 31 December 2008. The national departments that submitted 100% of their disclosure forms should be commended. These departments lead by example and uphold constitutional imperatives such as transparency and accountability. The challenge remains for all departments to achieve 100% compliance by the due date of 31 May.

2.2.2 Disclosures by Provinces

The overall submission rate as at 31 December 2008 in relation to provinces is 89% which is significantly better than that of National Departments (74%). As the provincial level of government is responsible for the actual delivery of basic services, the interaction between the public and private sectors does tend to be more intense and with it potential conflicts of interest are more likely to occur. Given the risks associated with the interaction between the public and private sector in terms of bribery and collusion it is important that potential conflicts of interest be identified and addressed before actual conflicts of interest occur. The compliance rate at provincial level is therefore a cause for concern. The status of compliance per province as at 31 December 2008 is provided in **Table 5**.

Table 5: Submission of Financial Disclosure Forms for the 2007/2008 Financial Year as at 31 December 2008

NATIONAL DEPARTMENT/ PROVINCE	NUMBER OF SMS MEMBERS	NUMBER OF FORMS RECEIVED	NUMBER OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Eastern Cape	548	450	98	82%
Free State	378	347	31	92%
Gauteng	875	774	101	88%
Kwazulu Natal	675	538	137	80%
Limpopo	469	444	25	95%
Mpumalanga	268	240	28	90%
Northern Cape	181	181	0	100%
North West	304	304	0	100%
Western Cape	400	380	20	95%
OVERALL PROVINCIAL SUBMISSION	4098	3658	440	89%



The North West (100%) and the Northern Cape Provinces are the two best performing provinces. The North West has consistently complied fully over the last three (3) years. The Western Cape (95%) and Free State (92) also performed well, but have still not reached the 100%. Kwazulu-Natal performed the worst (76%), however, their performance is still better than many national departments. The low performance by this province correlates with findings by the PSC “*Report of the State of Professional Ethics in the Kwazulu-Natal Province*”¹² where it was found that the Province has not performed adequately to address the state of professional ethics in the Province and that, based on the PSC’s assessment, this could be attributed to a lack of management commitment.

2.2.2.1 Eastern Cape Province

The compliance rate for the province by the due date of 31 May 2008 was 50%.¹³ In the previous financial year the compliance rate by the due date was 11%. By 31 December 2008 the compliance rate increased to 82% (see **Appendix A**). Only the Department of Education did not submit financial disclosure forms to the PSC as at 31 December 2008. This department has, since the introduction of the Framework been a poor performer. For the first four (4) financial years since the inception of the Framework in 2000/2001, no disclosure forms were received from this department.¹⁴ This improved to 99%, 96%, 91% and 86%, respectively, for the 2004/2005, 2005/2006, 2006/2007 and 2007/2008 financial years.

2.2.2.2 Free State Province

In the Free State the compliance rate for the Province as at 31 May 2008 was only 29%.¹⁵ At the same time during the previous financial year (i.e. 2006/2007) the compliance rate for the province was 0.8%. By 31 December 2008, 347 disclosure forms were received from the province which represents a compliance rate of 92% (see **Appendix A**).

Only the following three departments submitted some disclosure forms by the due date of 31 May 2008:

- Health 92 out of 134 (67%)
- Tourism, Environment and Economic Affairs 14 out of 18 (78%)
- Sports, Arts and Culture 3 out of 18 (17%)

The following departments did not submit any disclosure forms by 31 May 2008:

- Office of the Premier
- Department of Agriculture
- Department of Education
- Provincial Treasury
- Department of Local Government and Housing
- Department of Public Works, Roads and Transport
- Department of Social Development
- Department of Safety, Security and Liaison

¹² Republic of South Africa, Public Service Commission, *An Assessment of Professional Ethics in the Kwazulu-Natal Provincial Administration*, 2007.

¹³ Republic of South Africa, Public Service Commission, *Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year*.

¹⁴ Republic of South Africa, Public Service Commission, *Report on the Management of Conflicts of Interest through Financial Disclosures*, 2007.

¹⁵ Republic of South Africa, Public Service Commission, *Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year*.

Apart from the failure to meet the regulatory requirements by the prescribed date, disclosure forms not received timeously impacts negatively on the ability of the PSC to identify potential conflicts of interest and to advise Executive Authorities accordingly. By 31 December 2008 the Office of the Premier, Department of Education, Department of Local Government and Housing, and the Department of Public Works, Roads and Transport have achieved a 100% compliance rate. See **Appendix A** for full details.

2.2.2.3 Gauteng Province

The compliance rate for the Province by the due date of 31 May 2008 was 47%.¹⁶ At the same time during the previous financial year (i.e. 2006/2007) the compliance rate for the province was 5%. While a discernable increase from the previous year, it is still far below the requirements of the regulatory provisions. The compliance rate for the province as at 31 December 2008 is 87% (see **Appendix A**). The Department of Public Transport, Roads and Works (**Appendix A**), only submitted 54 out of the 82 (66%) senior managers' disclosure forms by 31 December 2008. This is unacceptable given the risk of conflicts of interest posed by the current infrastructure projects with large procurement contracts that this department deals with.

The following departments did not submit any disclosure forms by 31 May 2008:

- Economic Development
- Housing
- Gauteng Shared Service Centre
- Department of Local Government
- Public Transport, Roads and Works
- Sport, Recreation, Arts and Culture

By 31 December 2008, the above-mentioned departments have submitted disclosure forms as follows:

- | | |
|---------------------------------------|-------|
| • Economic Development | (75%) |
| • Housing | (86%) |
| • Gauteng Shared Service Centre | (91%) |
| • Department of Local Government | (90%) |
| • Public Transport, Roads and Works | (67%) |
| • Sport, Recreation, Arts and Culture | (74%) |

2.2.2.4 Kwazulu-Natal Province

For the 2007/2008 financial year KwaZulu-Natal achieved a compliance rate of 60% by the due date of 31 May 2008.¹⁷ The province had a zero compliance rate at the same time during the previous financial year (i.e. 2006/2007). The compliance rate for the province as at 31 December 2008 is 80%. This is the lowest compliance rate of all the provinces (see **Appendix A**). The main contributor to this situation is the Department of Health which submitted only 167 out of 260 (64%) disclosure forms by 31 December 2008. The following departments did not submit any disclosure forms by 31 May 2008:

¹⁶ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year.

¹⁷ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year.

- Housing
- Local Government and Traditional Affairs
- Royal Household

By 31 December 2008, the Department of Housing and the Department of Local Government and Traditional Affairs, respectively, submitted 74% and 85% of their disclosures. No disclosure forms were received from the Royal Household as at 31 December 2008. This is a recurring omission by this Department as disclosure forms were only received for the 2000/2001 financial year.

2.2.2.5 Limpopo Province

The Province achieved a compliance rate of 73% by the due date of 31 May 2008.¹⁸ At the same time during the previous financial year (i.e. 2006/2007) the compliance rate for the province was 25%. By 31 December 2008 the compliance rate had increased to 95% (see **Appendix A**).

The Department of Public Works and the Department of Roads and Transport did not submit any disclosure forms by the due date of 31 May 2008. This is of concern given the large construction and maintenance contracts managed by these departments, and the conflicts of interest that may arise in this respect. However, by 31 December 2008, the Department of Public Works and the Department of Roads and Transport achieved a submission rate of 89% and 95% respectively. By 31 December 2008, disclosure forms were received from all departments in the province.

2.2.2.6 Mpumalanga Province

The Mpumalanga Province achieved a compliance rate of 51% by the due date of 31 May 2008.¹⁹ At the same time during the previous financial year (i.e. 2006/2007) the compliance rate for the province was 15%. The compliance rate for the province as at 31 December 2008 was 90% (see **Appendix A**).

In the Mpumalanga Province the following three departments did not submit disclosure forms by the due date of 31 May 2008:

- Education
- Local Government and Housing
- Office of the Premier

A compliance rate of 81% and 95%, respectively, was achieved by the Department of Education and the Office of the Premier by 31 December 2008, whilst the Department of Local Government and Housing only submitted 89% of the disclosure forms by this date. Furthermore, the Departments of Agriculture and Land Administration, Safety and Security and Culture, Sport and Recreation achieved a 100% compliance rate by 31 December 2008.

¹⁸ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year.

¹⁹ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year.

2.2.2.7 Northern Cape Province

The following departments achieved a 100% compliance rate by the due date of 31 May 2008:²⁰

- Agriculture and Land Reform
- Housing and Local Government
- Safety and Liaison
- Sports, Arts and Culture
- Transport, Roads and Public Works

All the other departments of the Northern Cape Province also submitted disclosure forms by 31 May 2008 albeit not all the disclosure forms of their senior managers. This resulted in the province achieving a compliance rate of 88% by the due date. At the same time during the previous financial year (i.e. 2006/2007) the compliance rate for the province were 17%. By 31 December 2008 the province achieved a compliance rate of 100% (see **Appendix A**). The performance of the province is therefore commendable, especially given the fact that in the past the province continuously had one of the lowest compliance rates.

2.2.2.8 North West Province

The following departments achieved a 100% compliance rate by the due date of 31 May 2008:²¹

- Agriculture, Conservation and Environment
- Finance
- Public Works
- Transport, Roads and Community Safety
- Office of the Premier

All the other departments of the North West Province submitted disclosure forms by 31 May 2008. This resulted in the province achieving a compliance of 90% by the due date. At the same time during the previous financial year (i.e. 2006/2007) the compliance rate for the province was 51%. The North West Province with the Northern Cape Province are the only provinces that had a compliance rate of 100% for the 2007/2008 financial year in terms of forms received by 31 December 2008. The province has, since the inception of the Framework, had a good track record in complying with the Framework. However, the province is still experiencing challenges in ensuring full compliance by the due date of 31 May which, based on its performance, appears not to be insurmountable.

2.2.2.9 Western Cape Province

For the 2007/2008 financial year the Western Cape achieved a compliance rate of 75% by the due date of 31 May 2008.²² At the same time during the previous financial year (i.e. 2006/2007) the compliance rate for the province was 0%. The following departments did not submit any disclosure forms by 31 May 2008:

²⁰ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year.

²¹ Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year.

²² Republic of South Africa, Public Service Commission, Fact Sheet: Monitoring Compliance with the Financial Disclosure Framework for the 2007/2008 Financial Year.

- Cultural Affairs and Sport
- Economic Development and Tourism
- Social Services and Poverty Alleviation

The disclosure forms of all the senior managers of these departments were received by 31 December 2008. Therefore, as at 31 December 2008, the compliance rate for the province was 95%. This trend is similar to the 2006/2007 financial year where a compliance rate of 94% was achieved. In total, by 31 December 2008, 20 financial disclosure forms were outstanding from senior managers of the provincial departments, the highest being that of the Department of Transport and Public Works i.e 7 (25%) disclosure forms outstanding.

2.3 DISCLOSURES BY DIRECTORS-GENERAL AND DEPUTY DIRECTOR'S-GENERAL

As at 31 December 2008 there were 105 officials on the level of Directors-General at provincial and national departments of which 78 (74%) submitted their disclosure forms. For the same period there were 419 officials designated as Deputy Directors-General at national and provincial departments of which 295 (70%) submitted financial disclosure forms.

In terms of national departments there were 38 officials designated as Heads of Department (HOD) as at 31 December 2008. Of these officials, 29 submitted their financial disclosure forms to the PSC. This represents a submission rate of 79% by HODs. For the same period there were 236 officials at the level of Deputy Director-General attached to national departments. Of these officials, 153 (65%) submitted their disclosure forms to the PSC.

As at 31 December 2008 there were 67 officials on the level of Directors-General at provincial level of which 49 (73%) submitted their disclosure forms. For the same period there were 183 officials designated as Deputy Directors-General at provincial level of which 142 (78%) submitted financial disclosure forms.

The low level of compliance by Directors-General and Deputy Directors-General by both national and provincial departments is of grave concern to the PSC. At this level better compliance levels are expected as these officials take the lead in decision making within their departments. HOD's are also responsible for ensuring that other members of the SMS comply with the Framework. Moreover, the major government contracts are also signed at this level and therefore transparency and accountability with regard to the Financial Disclosure Framework is of utmost importance. Executive Authorities should therefore make every effort in ensuring that officials at this level submit their disclosure forms and those who do not comply should be charged with misconduct as provided for in Chapter 3 of the Public Service Regulations read with the Disciplinary Code and Procedures of the SMS Handbook.

2.4 REPEAT OFFENDERS

The PSC has noted that a number of senior managers across the Public Service continuously are in default with the provisions of the Framework. In order to identify and report on the repeat offenders a comparative analysis of disclosures received for the 2006/2007 financial year against disclosures received for the 2007/2008 financial year was conducted. From this analysis, it has been determined that there are 249 senior managers who could be identified as repeat offenders in that they failed to submit their disclosure forms for two successive financial years. Only two provinces i.e. the North West and Northern Cape Provinces have no identified repeat offenders (see **Table 6** and also **Appendix B** for a detailed analysis).

Senior managers are responsible for the management of public funds and the public places their trust in senior managers to be accountable and transparent in their actions as is required by the constitutional values and principles that govern public administration. Accountability and transparency are key principles that the Framework seeks to promote. By complying with these principles senior managers contribute towards the promotion of professional ethics in their respective departments. It is clear that the senior managers that have been identified as repeat offenders, show a total disregard to the principles of transparency and accountability and therefore, in the public eye, their official actions could be seen as questionable. There should therefore be no hesitation to charge them with misconduct as provided for in Chapter 3 of the Public Service Regulations, read with the Disciplinary Code of Procedures as contained in the SMS Handbook. HODs should ensure that these provisions are enforced as the integrity of their departments is at risk. HoDs should also take the lead in ensuring that their own disclosures are submitted. In this regard it is of concern that the HoD of the National Department of Health was identified as a repeat offender. **Table 6** provides figures of the number of repeat offenders identified at national and provincial levels.

Table 6: Submission of Financial Disclosure Forms: Repeat Offenders as at 31 December 2008

		2006 / 2007	2007 / 2008	Number of Repeat Offenders
NATIONAL DEPARTMENTS	No of SMS Members	4071	4318	121
	Disclosures Received	3583	3188	
	Disclosures Outstanding	488	1130	
	Percentage Received	88%	74%	
EASTERN CAPE	No of SMS Members	510	557	49
	Disclosures Received	367	446	
	Disclosures Outstanding	143	111	
	Percentage Received	72%	80%	
FREE STATE	No of SMS Members	358	378	1
	Disclosures Received	339	347	
	Disclosures Outstanding	19	31	
	Percentage Received	95%	92%	
GAUTENG	No of SMS Members	830	875	13
	Disclosures Received	731	774	
	Disclosures Outstanding	99	101	
	Percentage Received	88%	88%	
KWAZULU NATAL	No of SMS Members	648	675	47
	Disclosures Received	492	538	
	Disclosures Outstanding	156	137	
	Percentage Received	76%	80%	
MPUMALANGA	No of SMS Members	251	268	6
	Disclosures Received	218	240	
	Disclosures Outstanding	33	28	
	Percentage Received	87%	90%	

		2006 / 2007	2007 / 2008	Number of Repeat Offenders
NORTHERN CAPE	No of SMS Members	162	181	0
	Disclosures Received	156	181	
	Disclosures Outstanding	6	0	
	Percentage Received	96%	100%	
LIMPOPO	No of SMS Members	453	469	6
	Disclosures Received	419	444	
	Disclosures Outstanding	34	25	
	Percentage Received	92%	95%	
NORTH WEST	No of SMS Members	292	298	0
	Disclosures Received	292	298	
	Disclosures Outstanding	0	0	
	Percentage Received	100%	100%	
WESTERN CAPE	No of SMS Members	386	400	6
	Disclosures Received	362	379	
	Disclosures Outstanding	24	21	
	Percentage Received	94%	95%	

At national level there are 179 senior managers that failed to submit their financial disclosure forms for two financial years in succession. This raises serious concerns about management commitment to integrity and may point to a lack of supervision and discipline. In Kwazulu-Natal there were 47 repeat offenders. This is not surprising given the concerns already raised regarding the state of professional ethics in the province.

2.5 CONCLUSION

Executive Authorities should take the necessary steps to address the low compliance rate with the Financial Disclosure Framework. The timely submission of the disclosure forms should be attended to as the non-submission or late submission of disclosure forms undermines the integrity of the Framework. The timeous submission of the disclosure forms is imperative as it places the PSC in a position to scrutinise the disclosures, identify potential conflicts of interest and advise Executive Authorities timely. In doing so Executive Authorities are enabled to ensure that a potential conflict of interest does not become an actual conflict of interest. In the event where a designated official does not disclose his/her financial interest by the due date to the Executive Authority, such officials should be charged with misconduct for not complying with the Public Service Regulations Chapter 3, in terms of the Disciplinary Code of Procedures as contained in the SMS Handbook.

Chapter Three

Scrutiny of the Financial Disclosure Forms

3.1 INTRODUCTION

The purpose of the Financial Disclosure Framework is to identify potential conflicts of interest of senior managers to enable Executive Authorities and departments the opportunity to put in place measures to manage such conflicts interest. In this regard the PSC has an important role to play as provided for in Section G.I of the Public Service Regulations which states that-

*"If the Commission is of the opinion that a registrable interest of a designated employee disclosed in terms of regulation C of this Chapter conflicts or is likely to conflict with the execution of any official duty of that employee, it shall verify the information regarding that interest and consult with the employee in question."*²³

This Chapter presents the findings of the PSC's assessment of the financial disclosures submitted to it with specific reference to the extent to which potential conflicts of interests have been identified. An indication is also provided of the senior managers who did not disclose private interests such as partnerships/directorships in private companies and close corporations as well as their properties. Due to capacity and time constraints the PSC has decided to assess a sample of 30% of the financial disclosures received. This is not an ideal situation, but due to the PSC's limited human resource capacity and the slow rate at which the forms were received, there was no other choice.

3.2 PROCESSES APPLIED BY THE PSC IN ASSESSING FINANCIAL DISCLOSURES TO IDENTIFY POTENTIAL CONFLICTS OF INTEREST

In terms of the Public Service Regulations²⁴ the following types of interests are registrable interests and must be disclosed by a SMS member:

Shares and other financial interests in private or public companies and other corporate entities recognised by law;
Directorships and partnerships;
Remunerated work outside of the Public Service;
Consultancies and retainerships;
Sponsorships;
Gifts and hospitality from a source other than a family member; and
Ownership and other interests in land and property, whether inside or outside the Republic of South Africa.

In order to arrive at an "opinion" on whether any particular disclosure by a senior manager constitutes a potential conflict of interest between his/her private interests and official responsibilities, the PSC applies a stringent verification process. This verification process includes the following:

Check proper name of company/consultancy etc.
Check on the CIPRO website if company/consultancy is registered in the official's name.
Check what the designated official say what type of business the company is doing.

²³ Republic of South Africa, Chapter 3 of the Public Service Regulation, 2001.

²⁴ Republic of South Africa, Chapter 3 of the Public Service Regulation, 2001.

Check on the CIPRO website, whether the type of business actually correlates to what the official is indicating on the disclosure form.

Make a correlation between what the company is doing against the official duties of the designated official as well as identifying the general purpose of a department.

Check through the disclosure forms who else is involved in the same company.

Check if the company is dormant and if the designated official receives remuneration.

Where applicable, check if approval was granted to perform work outside of the Public Service.

The information contained in the disclosure forms is assessed through a diligent application of the above checklist. Information relating to directorships and partnerships are verified against information on the CIPRO website. Furthermore, with regard to consultancies and retainerships as well as work performed outside of the Public Service, the nature of the activities is assessed against the nature of the official's responsibilities in order to formulate an opinion on potential or actual conflicts of interest. The PSC further used the Deeds Registration System (DRS) to check and to verify whether a senior manager has disclosed all his/her properties.

In addition, the PSC developed and approved rules for the management of conflicts of interest.²⁵ Although geared towards the management of conflicts of interest, the rules are also aimed at strengthening the scrutiny processes and to assist the PSC in formulating an opinion on conflicts of interest and advising Executive Authorities. These Rules will be Gazetted during 2009.

With the Rules on Managing Conflicts of Interest as the basis the PSC used the following parameters to formulate an opinion on whether or not the financial interests of a designated official could lead to a potential conflict of interest:

- **Link between the operations of a department or official duties of a senior manager and the business activities of a company or consultancy:** In this instance the opinion is formulated on the basis that if there is a correlation between the official duties of an official and the company with which he /she is involved in, then it is deemed to be a potential conflict of interest. A typical example would be of a senior manager whose responsibilities involves driving communication projects for a department, and who then is also involved in a telecommunications company or is receiving gifts from a telecommunications company.
- **Identification of conflicts of interest by number of companies:** In a research study which the PSC did in conjunction with the Auditor-General (AG) it was found that many senior managers are involved in much more than one company. In one instance, for example, it was found that a senior manager was involved in more than thirty (30) companies. The PSC presupposed that an official involved in a large number of companies could experience potential conflicts of interest. In this regard note was taken of Section 30 of the Public Service Act, 1994 (as amended) which stipulates that: *"every officer and employee shall place the whole of his or her time at the disposal of the State."*²⁶ The PSC is therefore of the opinion that should an official be involved in three or more companies, he or she would not, in all probability, have the time to devote his/her full attention to the requirements of the State in terms of his/her job.

²⁵ Republic of South Africa. Public Service Commission, Rules for the Management of Conflicts of Interest in the Public Service, 2008.

²⁶ Republic of South Africa, Public Service Act, 1994 (as amended), Section 30.

- **Officials sharing companies:** It is quite common that in some instances two or more officials from the same department are involved in the same company or companies. The PSC identified this as a potential conflict of interest as such officials could make decisions that favour one another during the discharge of their official duties.

3.3 ASSESSING A SAMPLE OF THE FINANCIAL DISCLOSURE FORMS

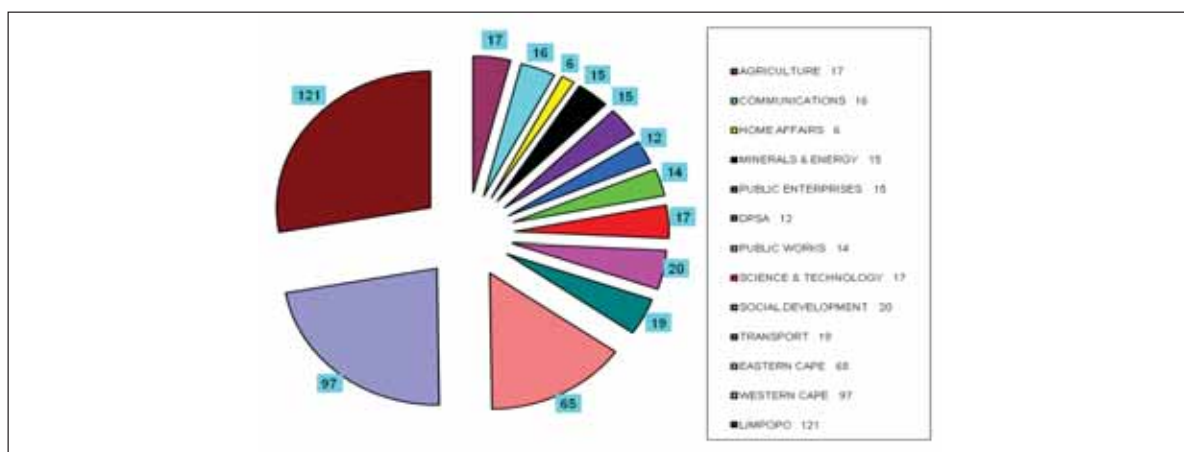
In terms of the scope of this report, a sample of thirty percent (30%) of the disclosure forms received for the 2007/2008 financial year was assessed for the purpose of identifying potential conflicts of interest. This sample included the Western Cape, Eastern Cape and the Limpopo Provincial departments. The financial disclosure forms of the senior managers of the following national departments were also included as part of the sample:

• Department of Minerals and Energy
• Department of Public Works
• Department of Science and Technology
• Department of Public Enterprises
• Department of Transport
• Department of Agriculture
• Department of Home Affairs
• Department of Social Development
• Department of Public Service and Administration
• Department of Communications

3.4 NUMBER OF POTENTIAL CONFLICTS OF INTEREST IDENTIFIED

The sample of 30% scrutinised by the PSC amounted to 2038 financial disclosure forms. This included all the forms of the departments and provinces as listed in paragraph 3.3 received by the PSC by 31 December 2008. **Figure 2** reflects the number of potential conflicts of interest identified per department and province based on the PSC's assessment of the sample.

Figure 2: Number of SMS Members that may have Potential Conflicts of Interest



As indicated in **Figure 2**, out of the 2038 financial disclosure forms scrutinised, the PSC identified 434 senior managers that may have potential conflicts of interest between their private interests and their official duties. This total represents 21% of all senior managers that formed part of the sample. The fact that 21% of all senior managers that formed part of the sample may experience potential conflicts of interest illustrates the importance of a system such as the Financial Disclosure Framework as a mechanism to prevent corruption. Through the identification of the potential conflicts of interest departments are able to manage the risks associated with the conflicts of interest, and ensure that it does not become an actual conflict of interest.

As will be noted from **Figure 2** the highest number of potential conflicts of interest at provincial level were identified in the Limpopo Province (121) whilst the highest number in a National Department was identified at Social Development (20). The extent to which potential conflicts of interest were identified is further analysed in the following sections per national department and province.

3.5 IDENTIFICATION OF POTENTIAL CONFLICTS OF INTEREST: NATIONAL DEPARTMENTS RESULTS

The incidences of cases of potential conflicts of interest per national department are reflected in **Table 7**. In this table, the incidences per department are ranked from highest to lowest in terms of the percentage conflicts of interest that were identified.

Table 7: Identification of Potential Conflicts of Interest: National Department Results

NO.	NATIONAL DEPARTMENT	NUMBER OF SMS MEMBERS	NUMBER OF FORMS RECEIVED	NUMBER OF FORMS OUTSTANDING	CASES OF POTENTIAL CONFLICTS OF INTEREST	PERCENTAGE POTENTIAL CONFLICTS OF INTEREST
1	Science and Technology	77	42	35	17	40%
2	Public Enterprises	45	45	0	15	33%
3	Agriculture	61	57	4	17	30%
4	Communications	63	57	6	16	28%
5	Social Development	88	87	1	20	23%
6	Transport	118	101	17	19	19%
7	Minerals and Energy	104	96	8	15	16%
8	Dpsa	89	84	5	12	14%
9	Public Works	137	128	9	14	11%
10	Home Affairs	86	72	13	6	8%
	Total	868	769	98	151	19%

As indicated in **Table 7**, seven hundred-and sixty-nine (769) disclosure forms of ten (10) national departments were scrutinised. Out of the 769 disclosures scrutinised, the PSC found that one-hundred-and-fifty-one senior managers (151 or 19% of the sample) may have a potential conflict of interest between their private interests and their official responsibilities. In terms of **Table 7** the highest number of potential conflicts of interest was identified in the Department of Social Development (20 cases).

This amounts to 23% of the total number of disclosure forms scrutinized from the Department of Social Development. However, 40% of all senior managers in the Department of Science and Technology that have submitted disclosure forms have potential conflicts of interest (17 out of 42). This is the highest percentage of all departments that formed part of the sample. The risk that such conflicts of interest pose to integrity and good governance will have to be managed. Of further concern is the fact that 35 senior managers in this department did not submit their disclosure forms. Potential conflicts of interest in this Department could therefore be even worse.

In respect of the Department of Public Enterprises it was found that 33% (15 out of 45) of the senior managers that have submitted financial disclosures may experience potential conflicts of interest. This is of concern given the nature of the functions performed by the Department where there is a high level of interface with the private sector:

3.6 IDENTIFICATION OF POTENTIAL CONFLICTS: PROVINCIAL DEPARTMENTS' RESULTS

The extent to which conflicts of interest were identified in the departments within the provinces that were selected for the sample is illustrated in **Table 8**.

Table 8: Identification of Potential Conflicts of Interest: Provincial Departments' Results

NO.	PROVINCE / PROVINCIAL DEPARTMENT	NUMBER OF SMS MEMBERS	NUMBER OF FORMS RECEIVED	NUMBER OF FORMS OUTSTANDING	CASES OF POTENTIAL CONFLICTS OF INTEREST	PERCENTAGE POTENTIAL CONFLICTS OF INTEREST
LIMPOPO PROVINCE						
1	Agriculture	35	33	2	15	45%
2	Economic Development, Environment and Tourism	38	38	0	12	32%
3	Education	48	47	1	9	19%
4	Health and Social Development	91	84	7	9	11%
5	Local Government and Housing	46	45	1	21	47%
6	Office of the Premier	73	67	6	12	18%
7	Provincial Treasury	47	44	3	12	27%
8	Public Works	28	25	3	7	28%
9	Roads and Transport	38	36	2	19	53%
10	Safety Security and Liaison	13	13	0	3	23%
11	Sports Arts and Culture	12	12	0	2	17%
	TOTAL	469	444	25	121	27%

NO.	PROVINCE / PROVINCIAL DEPARTMENT	NUMBER OF SMS MEMBERS	NUMBER OF FORMS RECEIVED	NUMBER OF FORMS OUTSTANDING	CASES OF POTENTIAL CONFLICTS OF INTEREST	PERCENTAGE POTENTIAL CONFLICTS OF INTEREST
WESTERN CAPE PROVINCE						
1	Agriculture	17	17	0	5	29%
2	Community Safety	18	17	1	5	29%
3	Cultural Affairs and Sport	9	9	0	2	22%
4	Economic Development and Tourism	13	13	0	0	0
5	Education	52	52	0	10	19%
6	Environmental Affairs and Development Planning	10	9	1	2	22%
7	Health	144	137	7	49	36%
8	Local Government and Housing	25	22	3	4	18%
9	Office of the Premier	51	49	2	7	14%
10	Provincial Treasury	17	17	0	2	12%
11	Social Services and Poverty Alleviation	16	16	0	5	31%
12	Transport and Public Works	28	21	7	6	29%
	TOTAL	400	379	21	97	26%
EASTERN CAPE PROVINCE						
1	Agriculture	27	23	4	4	17%
2	Economic Affairs Environment and Tourism	24	23	1	4	17%
3	Education	71	61	10	2	3%
4	Health	183	104	79	16	20%
5	Housing, Local Government and Traditional Affairs	42	39	3	1	3%
6	Office of the Premier	51	46	5	8	17%
7	Provincial Treasury	42	40	2	8	20%
8	Public Works	23	22	1	3	14%

NO.	PROVINCE / PROVINCIAL DEPARTMENT	NUMBER OF SMS MEMBERS	NUMBER OF FORMS RECEIVED	NUMBER OF FORMS OUTSTANDING	CASES OF POTENTIAL CONFLICTS OF INTEREST	PERCENTAGE POTENTIAL CONFLICTS OF INTEREST
EASTERN CAPE PROVINCE						
9	Roads and Transport	35	33	2	7	21%
10	Safety and Liaison	6	5	1	1	20%
11	Social Development	29	28	1	9	32%
12	Sports, Arts, Culture and Recreation	24	22	2	2	9%
	TOTAL	557	446	111	65	14%
	GRAND TOTAL	1426	1269	157	283	22%

As indicated in **Table 8**, one thousand-two-hundred-and sixty-nine (1269) disclosure forms of senior managers from the three (3) provinces that formed part of the sample were scrutinised. The PSC found that two-hundred-and-eighty-three (283) senior managers (22% of the sample) may have a potential conflict of interest between their private interests and their official responsibilities. In the Limpopo province a total of 121 senior managers (27%) may be experiencing potential conflicts of interest. The fact that 27% of senior managers in Limpopo may have potential conflicts of interest between their private interests and official responsibilities is of concern and may indicate that the Province is at risk of actual conflicts of interest occurring. Such potential conflicts of interest should be managed appropriately before incidences of actual conflict of interest arise.

In the Western Cape, 97 senior managers (26%) may have potential conflicts of interest between their private interests and official responsibilities. As in the case of Limpopo this is a high percentage of all senior managers in the province and illustrates the need for conflicts of interest to be proactively identified and managed. In comparison to Limpopo and the Western Cape, a relatively low percentage of senior managers in the Eastern Cape (14%) may have potential conflicts of interest. The fact, however, is that 65 managers in this province are at risk of actual conflicts of interest occurring should the potential conflicts of interest not be appropriately managed.

The following three departments in each of the provinces have the highest percentage of senior managers with potential conflicts of interest:

Limpopo Province:	Department of Roads and Transport (53%) Department of Local Government and Housing (47%) Department of Agriculture (45%)
Western Cape:	Department of Health (36%) Department of Social Services and Poverty Alleviation (31%) Department of Transport and Public Works (29%)
Eastern Cape:	Department of Social Development (32%) Department of Roads and Transport (21%) Department of Health (20%)

As will be observed, the Transport departments of all three provinces have a high percentage of senior managers with potential conflicts of interest. In the Limpopo province in particular, 53% of managers who submitted financial disclosures (19 out of 36) may have potential conflicts of interest between

their private interests and official responsibilities. This is a matter of concern as these departments play an instrumental role in road infrastructure development, and manage substantial contracts with service providers. The fact that such a high percentage of senior managers in these departments may experience conflicts of interest may point to risks that should be managed in the process of procuring service providers. The management of conflicts of interest in these departments should therefore be prioritised by the respective Executive Authorities, and declaration of interests should form part and parcel of the supply chain management process.

The PSC found that 434 out of the 2038 senior managers (21%) that formed part of the sample may experience potential conflicts of interest. If these findings are extrapolated to the entire SMS it could mean that over 1700 managers in the Public Service (20% of 8440) could be experiencing potential conflicts of interest. This again underscores the importance of the Financial Disclosure Framework and the need for Executive Authorities to use the information provided through the financial disclosures to identify and manage potential conflicts of interest and the risks associated therewith.

3.7 IDENTIFICATION OF POTENTIAL CONFLICTS OF INTEREST ACCORDING TO CATEGORY

The potential conflicts of interest of senior managers were identified by the PSC on the basis of the relationship between the work of the senior manager and that of the private company the individual is involved in, the number of companies the senior manager is involved in and instances where senior managers share interests in a company with their colleagues. The different categories of potential conflicts of interest that senior managers that formed part of the sample may experience are outlined in **Table 9**.

Table 9: Identification of Potential Conflicts of Interest by Specific Categories

DEPARTMENT OR PROVINCE	LINK BETWEEN OFFICIAL RESPONSIBILITIES AND PRIVATE COMPANY	IDENTIFICATION BY NUMBER OF COMPANIES	OFFICIALS SHARING COMPANIES	NO CONCLUSION ON CONFLICTS OF INTEREST
AGRICULTURE	16	0	0	1
COMMUNICATIONS	7	0	0	4
DPSA	11	0	0	1
HOME AFFAIRS	5	0	0	0
MINERALS AND ENERGY	15	0	0	0
PUBLIC ENTERPRISES	14	0	0	1
PUBLIC WORKS	14	0	0	0
SCIENCE AND TECHNOLOGY	11	0	0	5
SOCIAL DEVELOPMENT	18	1	0	1
TRANSPORT	18	0	0	1

DEPARTMENT OR PROVINCE	LINK BETWEEN OFFICIAL RESPONSIBILITIES AND PRIVATE COMPANY	IDENTIFICATION BY NUMBER OF COMPANIES	OFFICIALS SHARING COMPANIES	NO CONCLUSION ON CONFLICTS OF INTEREST
PROVINCES				
LIMPOPO	87	19	0	15
WESTERN CAPE	83	9	3	2
EASTERN CAPE	42	22	0	1
TOTAL	341	51	3	32

As indicated in **Table 8**, the relationship between the official responsibility of a senior manager and his/her interest in a private company posed the highest likelihood of potential conflicts of interest. In this regard it was found that 341 (78%) senior managers that formed part of the sample have interests in a private company whose functions are closely related to that of their departments. The relationship between the work of the designated official and that of the private company the individual is involved in was such that the PSC was of the opinion that a potential conflict of interest could arise. For example, a senior manager has shares in a construction company and is employed by the Department of Public Works.

Another 51 (12%) senior managers had directorships or shares in multiple companies raising concerns about the extent to which such official would be able to devote his/her full time and attention to the Public Service. The extent to which such senior managers may have to be engaged in the activities of such companies may therefore pose a conflict of interest with his/her official duties. For example, in one department a senior manager holds directorships in four different companies.

In the Western Cape, three officials within the same department share a company/private interest. This is potentially a dangerous situation as these officials, in order to advance the interests of the company, may make decisions that could favour each other.

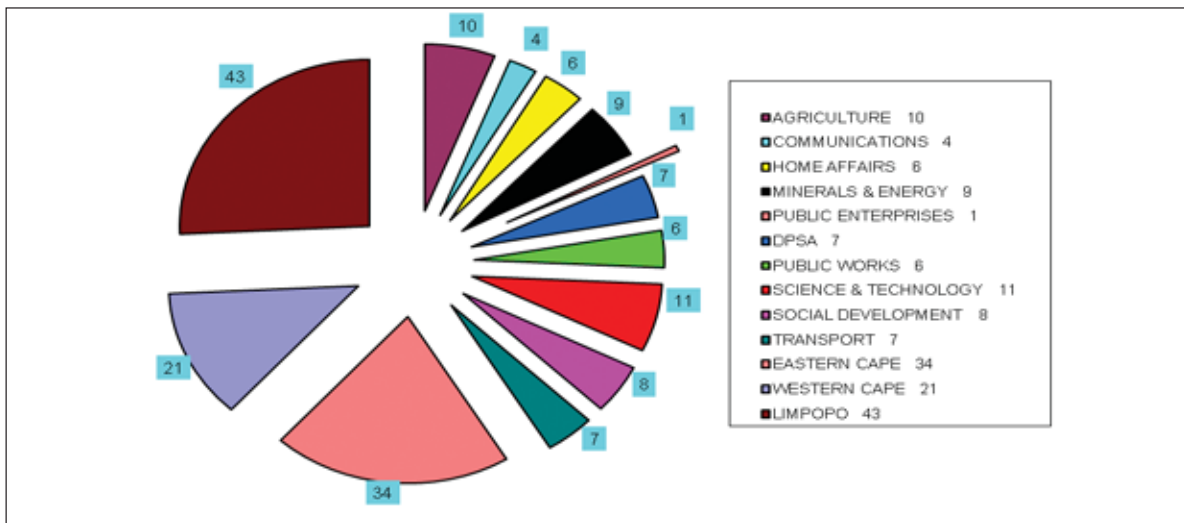
As would be noted from **Table 8**, the PSC could not conclusively identify whether a potential conflict of interest exists in respect of 32 of the senior managers that formed part of the sample. This was due to the fact that insufficient information was available on the financial disclosure forms of certain senior managers, as well as the fact that not enough information concerning the company was available from the CIPRO database. In such instances, the manager would have indicated the name of a company but neither the financial disclosure form nor the CIPRO database provided details on the functions of the company. Based on the limited information available to the PSC there may, however, be a risk of potential conflicts of interest in respect of these senior managers.

Whilst it is incumbent of senior managers to declare conflicts of interest and to recuse themselves from processes which would result in actual conflicts of interest, the potential conflicts of interest identified by the PSC illustrates that there is a need for departments and Executive Authorities to proactively identify and manage conflicts of interest. Failure to do so may result in corrupt practices in their departments and tarnish the integrity of the Public Service.

3.8 NON-DISCLOSURE OF DIRECTORSHIPS/PARTNERSHIPS IN PRIVATE COMPANIES AND CLOSE CORPORATIONS

Senior managers must, in terms of the Framework identify all directorships/partnerships in private companies and closed corporations. In the past, analysis of financial disclosures by the PSC was limited to the disclosures made by senior managers on their disclosure forms. The PSC was concerned that senior managers may not make full disclosures and therefore decided to identify non-disclosure of directorships/partnerships in private companies and close corporations. In order to do so, the PSC firstly obtained a name list from Persal to identify all the senior managers in the departments as per the sample. After obtaining this name list the PSC, as a second step, extracted the information on senior managers who have been registered as having partnerships in companies and close corporations on the CIPRO database. This information was compared to the information as disclosed by the senior managers on their financial disclosure forms for the period 1 April 2007 to 31 March 2008. These disclosure forms were then scrutinised to identify instances of non-disclosure of directorships/partnerships in private companies and close corporations. **Figure 3** illustrates the number of SMS members in national departments and provinces that did not disclose their interests in companies and closed corporations.

Figure 3: Number of SMS members in national departments and provinces that did not disclose their interests in companies and closed corporations



As indicated in **Figure 3** the PSC found that two hundred-and-ten (210) SMS members within the sample, did not disclose their interests in some companies or closed corporations. A total of 112 senior managers from national departments did not disclose their interests. This included 11 senior managers of the Department of Science and Technology, and 10 of the Department of Agriculture.

In total, 98 senior managers from provincial departments did not disclose their interests. The highest number of such senior managers are employed by the Limpopo province (43) and followed by the Eastern Cape (34). The non-disclosure of these interests by managers is in contravention of the Public Service Regulations, and such managers should be charged with misconduct.

The PSC's scrutiny of the disclosure forms found that in many cases the companies that were not disclosed by the SMS members, actually pose a potential conflict of interest. The extent to which potential conflicts of interest were identified is reflected in **Table 10**.

Table 10: Non-Disclosure of Private Companies and Close Corporations and Related Incidences of Potential Conflicts of Interest

NO.	DEPARTMENT / PROVINCE	NUMBER OF NON DISCLOSURES	CASES OF POTENTIAL CONFLICTS OF INTEREST LINKED TO NON DISCLOSURES	DISCLOSURE FORMS OUTSTANDING FROM NON DISCLOSING OFFICIALS
1	SCIENCE AND TECHNOLOGY	11	11	3
2	AGRICULTURE	10	5	0
3	MINERALS AND ENERGY	9	4	1
4	SOCIAL DEVELOPMENT	8	3	1
5	TRANSPORT	7	4	0
6	DPSA	7	1	0
7	PUBLIC WORKS	6	4	1
8	COMMUNICATIONS	4	4	0
9	HOME AFFAIRS	3	1	0
10	PUBLIC ENTERPRISES	1	1	0
1	LIMPOPO	43	18	5
2	EASTERN CAPE	34	10	6
3	WESTERN CAPE	21	8	0
	TOTAL	210	78	17

As reflected in **Table 10**, it was found that of the 210 senior managers that did not disclose their interests in companies and close corporations, 78 (35%) may have a potential conflict of interest. In 17 of these cases the relevant senior managers did not submit their financial disclosures to the PSC. All the officials in the Department of Science and Technology that did not disclose their interests in private companies and close corporations (11) have a potential conflict of interest. This is consistent with the findings as indicated in **Table 7** where the Department of Science and Technology was also identified as the Department whose senior managers have the highest percentage potential conflicts of interest of all the national departments. In the Department of Public Enterprises only one senior manager did not disclose his/her directorship/partnership in private companies and close corporations. However, this case also poses a potential conflict of interest to the Department.

In the Limpopo Province 18 out of the 43 senior managers (43%) that did not disclose their interests in a private company may have a potential conflict of interest. Similarly in the Eastern Cape 10 out of the 34 senior managers that did not disclose their interest (29%) may be experiencing a conflict of interest. This points to the dangers involved in not making full disclosures. Departments and Executive Authorities will not be aware of the involvement of these officials in the companies that they did not disclose and will therefore not be in a position to identify and manage potential conflicts of interest.

The PSC is concerned about the high rate of non-disclosure of private companies and close corporations and randomly enquired the reason or reasons for the non-disclosures. In many instances it was found that, SMS members were not aware that they should disclose dormant companies or companies from

which they have not received remuneration. It was also found that officials were not aware that they should disclose non-profit making entities. The PSC wants to reiterate that the aim of the Framework is to promote integrity in the Public Service and to prevent conflicts of interest and thus, the reasons for non-disclosure are not acceptable.

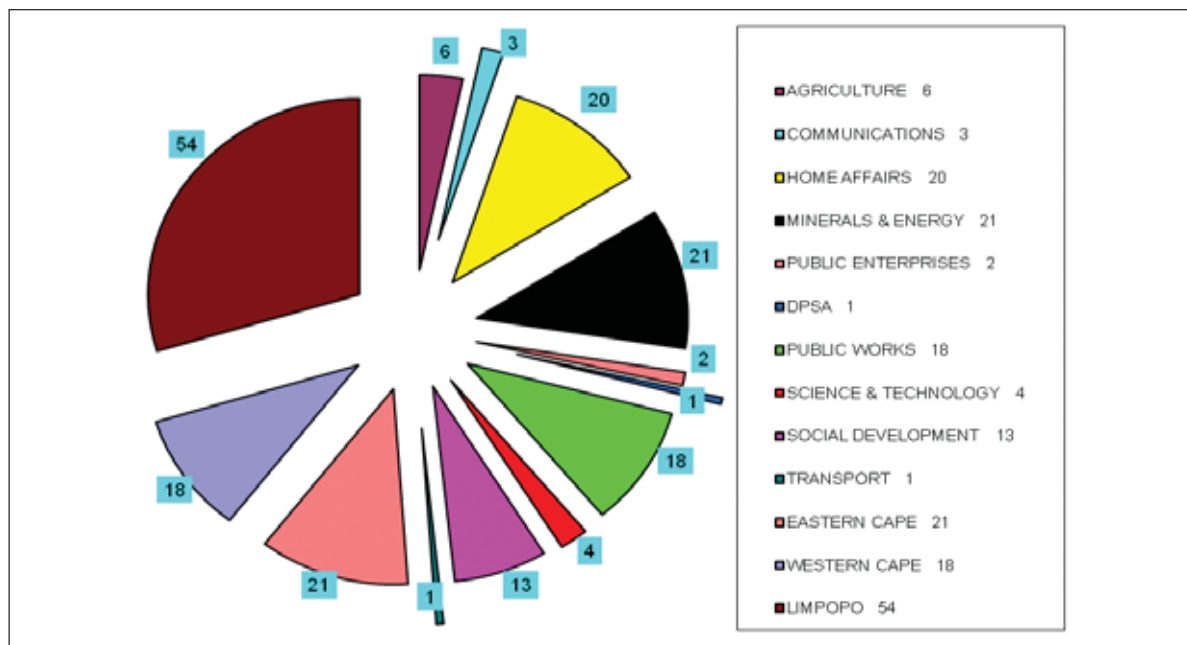
3.9 SCRUTINY OF PROPERTIES

Disclosure of properties is an important aspect of the Framework as it forms a key element in, amongst others, the conducting of life style audits of members of the SMS where this is deemed necessary. The Deeds Registration Office of the Department of Land Affairs has a system called the Aktex Information System (AKTEX). On this system, the Deeds Office registers all properties as acquired by South Africans. In order to verify the properties as disclosed by SMS members on their disclosure forms the PSC decided to do a search of properties as registered on the AKTEX of the Deeds Registration Office. This search enabled the PSC to:

- Verify all properties as disclosed by a member of the SMS;
- Obtain clarification on whether or not a member of the SMS has neglected to disclose a property. Such an official should then be charged with misconduct as provided for in Chapter 3, Section H (b) of the Public Service Regulations;
- Inform the relevant Executive Authority, with the information at its disposal, who may then take disciplinary steps against a member of the SMS who has failed to disclose a property.

The number of SMS members that formed part of the sample that did not disclose their properties is reflected in Figure 4.

Figure 4: Number of Officials who did not Disclose their Properties



As indicated in **Figure 4**, the PSC found that one hundred-and-eighty-two (182) SMS members did not disclose their properties. The registration dates of the properties were checked and it was found that registration occurred well before the date on which the disclosures were due. The following three national departments had the highest incidence of non-disclosures:

Department of Minerals and Energy	21 cases
Department of Home Affairs	20 cases
Department of Public Works	18 cases

A total of 54 senior managers in the Limpopo Province did not disclose all of their properties. In this regard, Chapter 3, Section C1 of the Public Service Regulations clearly provides that: *“Every designated employee shall, not later than 30 April of each year, disclose to the relevant Executive Authority, on the form determined for this purpose by the Commission, particulars of all her or his registrable interests.”* This provision was not upheld by 182 members of the SMS and therefore they should be charged with misconduct.

3.10 POTENTIAL CONFLICTS OF INTEREST LINKED TO THE NATIONAL ANTI-CORRUPTION HOTLINE

Since its inception in 2004, the National Anti-Corruption Hotline (NACH) has proved to be a significant tool in the fight against corruption. An abundance of cases of alleged corruption have already been reported to the NACH. Many achievements were made through cases of corruption, reported to the NACH, that were successfully investigated. Large sums of money were recovered from perpetrators and where applicable, perpetrators were dismissed from various government departments or were found guilty of misconduct. Three (3) of the alleged corruption cases that were reported to the NACH involve senior managers whose financial disclosures were assessed by the PSC and where the PSC held the opinion that their private interests pose a potential conflict of interest. These cases are currently under investigation.

The fact that only three (3) senior managers that formed part of the sample have been reported to the NACH might seem insignificant. However, the concern is that should conflicts of interest not be managed appropriately and swiftly many more cases that were identified by the PSC as potential conflicts of interest might be reported to the NACH for alleged corruption. The PSC holds the view that the majority of public servants are honest, but there is a need to manage conflicts of interest and avoid a potential conflict of interest becoming an actual conflict of interest.

3.11 CONCLUSION

The fact that 21% of senior managers that formed part of the sample may have potential conflicts of interest between their private interests and their official responsibilities illustrates the importance of proactively identifying and managing potential conflicts of interest. It is trusted that this finding will underscore the importance of managing conflicts of interest to departments and Executive Authorities.

It is of concern to the PSC that 182 members of the SMS, whose disclosure forms were scrutinised, did not disclose their partnerships/directorships in private companies and close corporations. Many of the companies that were not disclosed actually pose potential conflicts of interest illustrating the need for compliance to the Framework. In some instances allegations of corruption have already been made against officials whose financial interests pose a potential conflict of interest. The findings of the PSC therefore suggest that the management of conflicts of interest at departmental level is of utmost importance and must therefore be prioritised.

Chapter Four

Key Findings and Recommendations

4.1 INTRODUCTION

Potential conflicts of interest not managed well lead to actual conflicts of interest. Efforts at effective prevention must include timeous submission of disclosure forms and early scrutiny to provide advice on the management of conflicts of interest. While the Executive Authority should encourage the proper and timeous submission of the disclosure forms, the responsibility for accurate disclosure remains that of the SMS member. Throughout this report the PSC has raised various concerns regarding compliance with the timely submission of financial disclosures as well as the non-disclosure by some senior managers of all their financial interests.

A summary of the key findings of the PSC highlighting such concerns are presented in this Chapter. Recommendations are also made with a view to improve the management of conflicts of interest through the Financial Disclosure Framework.

4.2 SUMMARY OF FINDINGS

In this research study the PSC made numerous findings pertaining to the submission of the disclosure forms and the identification of potential conflicts of interest. The major findings of the PSC were that:

- Only **48%** of the disclosure forms were received by the due date of 31 May 2008. The submission of the financial disclosure forms by the due date for national departments was 38% and 59% for provincial departments. This low level of compliance is unacceptable, and the Executive Authorities must ensure that all disclosures reach the PSC by the due date of 31 May. Failure to do so will continue to raise concerns around the political will to promote integrity systems within the Public Service.
- As at 31 December 2008, **81%** (6844) of the financial disclosures of all members of the SMS in the Public Service were received. Senior managers in National Departments, who consistently lagged behind during the years, submitted **74%** (3188) of their financial disclosures and senior managers in the provinces **89%** (3656). The fact that seven months after the due date of 31 May 2008, only **81%** of all disclosures were received remains unacceptable. Only a **100%** compliance rate by the due date will be acceptable.
- The compliance rate for Directors-General and Deputy Directors-General of national departments as at 31 December 2008 was **65%**. At provincial level the compliance rate for these categories of posts was **84%**. Directors-General and Deputy Directors-General, as the most senior officials in the Public Service, should lead by example and this low rate of compliance is inexcusable.

- The PSC identified **249** SMS members as repeat offenders in that they did not submit their financial disclosures for two consecutive financial years. These SMS members included **179** from national departments and **128** from provincial departments. It is of concern that such senior managers display a total disregard for the Regulatory requirements. Such conduct has a negative impact on the integrity of their departments and may lead to actual conflicts of interest occurring.
- The PSC found that **434 (21%)** senior managers out of the sample of members of the SMS (**2038**) may have potential conflicts of interest between their private interests and their official duties i.e. **151** from national departments and **283** from provincial departments. From these identified cases, allegations of corruption have already been reported to the NACH in respect of three (3) individuals. This underscores the importance of proactively identifying and managing conflicts of interest.
- The PSC found that **210 (10%)** senior managers out of the sample of **2038** did not disclose their directorships/partnerships in private companies and close corporations. This figure includes **112** senior managers from national departments and **98** from provincial departments. This amounts to a transgression of the Regulatory requirements and impacts negatively on the ability of departments, Executive Authorities and the PSC to identify and manage potential conflicts of interest.
- The PSC also found that **182** senior managers did not disclose their properties as required by Chapter 3 of the Public Service Regulations. Of these, **89** were from national departments and **93** from provincial departments. The disclosure of properties, as an asset, forms an integral part of the Framework and non-compliance in this regard impedes the management of conflicts of interest.

4.3 RECOMMENDATIONS

Since the inception of the Framework all departments have been kept up to date by means of official correspondence regarding the submission of the disclosure forms. All Executive Authorities and members of the SMS should therefore be aware that financial disclosure forms need to be submitted to the PSC by 31 May of each year. These disclosure forms need to be scrutinised for potential conflicts of interest. Based on the findings of this report the PSC has deemed it appropriate to make the following recommendations to improve the management of the Framework:

- Charging members of the SMS with misconduct;
- Appointment of dedicated staff to administer the financial disclosure forms;

- Disclosure of private companies and close corporations;
- Updating information pertaining to companies on the CIPRO website;
- Dealing with repeat offenders;
- Addressing the management of conflicts of interest; and
- Interaction by Portfolio Committees.

4.3.1 Charging Members of the SMS with Misconduct

The PSC has on numerous occasions advised and reminded Executive Authorities of the requirement that all senior managers in their departments must comply with the Framework by submitting the financial disclosures. It appears that such reminders are not followed up by Executive Authorities in all instances and members of the SMS may easily become complacent with regard to the submission of the disclosure forms. Chapter 3, Section H of the Public Service Regulations clearly stipulates that any designated official who fails to disclose her/his financial interests, or willfully provides incorrect or misleading details, is guilty of misconduct.

A total of **1611 (19%)** senior managers failed to disclose their financial interests for the financial year 1 April 2007 to 31 March 2008. It is therefore recommended that Executive Authorities charge transgressing Heads of Department with misconduct and ensure that other members of the SMS are charged with misconduct for failing to disclose an interest by instructing their Heads of Department to do so in terms of the Disciplinary Code and Procedures, as contained in the SMS Handbook. This is being emphasised by the PSC as previously this has not been the case. Instances where senior managers have been charged with misconduct must be reported to the PSC. Furthermore, the PSC should take steps against Executive Authorities who fail to submit copies of the disclosure forms of SMS members in their departments, to the PSC.

4.3.2 Assignment of Duties to Dedicated Units or Staff Members

Based on the PSC's findings it appears that Executive Authorities may not have adequate measures in place to ensure that every senior manager in their departments submit their disclosure forms prior to the due date. In the case of submission to Executive Authorities this due date is 30 April of each year. In order to alleviate this challenge, it is recommended that Executive Authorities assign the duty to manage the financial disclosure process and ensure that the forms are submitted timely to dedicated units within a department or dedicated staff members. This recommendation is in line with the provisions of Chapter 3, Section F.1(a) of the Public Service Regulations which stipulates that staff may be appointed by an Executive Authority "*for the purpose of record-keeping of the original disclosure form and submission of a copy of the form to the PSC*".²⁷ Such staff members may liaise with officials of the PSC to ensure the effective management of the Framework.

²⁷ Republic of South Africa, Public Service Regulations, 2001.

4.3.3 Disclosure of Private Companies and Close Corporations

A total of **210** members of the SMS failed to disclose their directorships/partnerships in private companies and close corporations. This is in contravention with Chapter 3 of the Public Service Regulations and it is recommended that Executive Authorities charge transgressing Heads of Department and ensure that other members of the SMS are charged with misconduct for failing to disclose an interest by instructing their Heads of Department to do so. It is further recommended that members of the SMS be made aware of the fact that they need to disclose all companies, including dormant and non-profit making companies. Companies for which senior managers are performing work but are not receiving remuneration must also be declared. Instances where such managers have been charged with misconduct must also be reported to the PSC.

4.3.4 Update of Companies on the Cipro Website

The PSC found that **182** SMS members failed to disclose companies and close corporations. When following up with some of these SMS members it was found that some of them had resigned from a specific company after completing resignation forms. However, this information is not regularly updated on the CIPRO website. The PSC therefore recommends that members of the SMS should take personal responsibility for their resignations from companies by following up and making sure that their details are removed and the CIPRO database is accordingly updated.

4.3.5 Dealing with Repeat Offenders

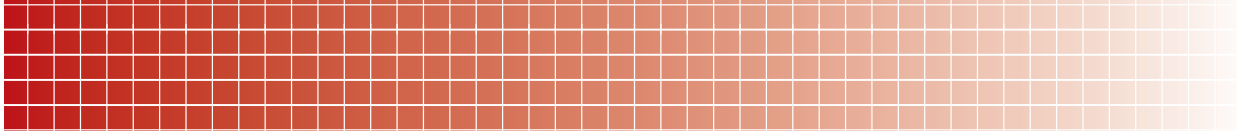
A total of **249** SMS members have been identified as repeat offenders in that they did not submit their financial disclosures for two consecutive financial years. The PSC recommends that they should be charged with misconduct and that Executive Authorities should obtain the outstanding forms of these repeat offenders and submit them to the PSC as soon as possible. This will enable the PSC to scrutinise the forms to establish if there was deliberate non-disclosure or actual conflicts of interest. In the case of potential conflicts of interest, these can then be managed appropriately.

4.3.6 Addressing the Management of Conflicts of Interest

In the PSC's report on the "Management of Conflicts of Interest in the Public Service" it was mentioned that *"effective management of conflicts of interest is based on the ability to identify specific conflicts of interest and managing them while they remain potential conflicts. Effective management also depends on staff and senior managers being aware of the Public Service's approach to conflicts of interest and their responsibilities towards managing conflicts of interest."*²⁸

The PSC therefore recommends that in managing conflicts of interest at departmental level, departments should consider strategies in dealing with persons who have been identified, through the disclosure of their financial interests, as having a potential conflict of interest. In this regard the following could be considered:

²⁸ Republic of South Africa, Public Service Commission, Report on the Management of Conflicts of Interest in the Public Service, 2006.

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- *“Re-assigning the duties of the official if this can be effected in the interest of the state.*
 - *If it is not possible to re-assign the duties of the official, the feasibility of a transfer to another component if in the interest of the state should be considered.*
 - *If the re-assignment of duties or a transfer is not possible consideration should be given to request the official to resign from the private interest that is causing the conflict of interest.”*

4.3.7 Monitoring by Portfolio Committees

The PSC recommends that given their Legislative and Parliamentary oversight role, Portfolio Committees should call departments and Executive Authorities to account where there has been non-compliance as well as low levels of compliance.

Chapter Five

Conclusion



5. CONCLUSION

The management of potential conflicts of interest forms an integral part in the Public Service's desire to become integrity driven. Through the identification and management of potential conflicts of interests honest public servants are kept honest and professional ethics is promoted within the workplace. Compliance to the Framework should therefore not be seen purely as a mandatory requirement but as an ethical obligation of each and every senior manager.

It is therefore of concern to the PSC that financial disclosure forms are not being submitted timeously to the PSC. Only 48% of the disclosure forms of members of the SMS were submitted by the due date of 31 May 2008. Senior managers are entrusted with public funds and therefore they need to show a high level of integrity and transparency by disclosing their financial interests. The timely submission of disclosures places the PSC in a position to identify potential conflicts of interest and inform the Executive Authorities timeously. In doing so, the PSC is enabled to assist Executive Authorities and senior managers in preventing a potential conflict of interest becoming an actual conflict of interest.

The PSC has, through the scrutiny of the sample of financial disclosure identified 434 managers who may have potential conflicts of interest. Of concern is that some of these senior managers have already been reported to the NACH and allegations of corruption have been leveled against the relevant individuals. If these potential conflicts of interest had been identified proactively, Executive Authorities would have been in a position to introduce measures to ensure that there are no actual conflicts of interest. It is therefore incumbent on the Executive Authorities to introduce measures for the effective management of conflicts of interest in their respective departments. The PSC trusts that the findings and recommendations contained in this report will assist departments and Executive Authorities to improve the management of the Framework and that a greater level of compliance to the Framework will be achieved.

Appendices

APPENDIX A

Number of Financial Disclosure Forms Received for the Financial Year: 2007-2008 as at 31 December 2008

NATIONAL DEPARTMENTS

NAME OF DEPARTMENT	NUMBER OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Department of Agriculture	61	57	4	93%
Department of Arts and Culture	40	0	40	0%
Department of Communications	63	57	6	90%
Department of Correctional Services	176	0	176	0%
Department of Defence	316	58	258	18%
Department of Education	101	101	0	100%
Department of Environmental Affairs and Tourism	108	99	9	92%
Department of Foreign Affairs	241	227	14	94%
Department of Government Communications and Information System	46	46	0	100%
Department of Health	99	9	90	9%
Department of Home Affairs	86	72	14	84%
Department of Housing	62	50	12	81%
Department of Justice and Constitutional Development	216	211	5	98%
National Prosecuting Authority	236	0	236	0%
Department of Labour	73	69	4	95%
Department of Land Affairs	79	0	79	0%
Dept of Minerals and Energy	104	96	8	92%
Department of Provincial and Local Government	110	110	0	100%
Department of Public Enterprises	45	45	0	100%
Department of Public Service and Administration	89	84	5	94%
Department of Public Works	137	128	9	93%
Department of Safety and Security (SAPS) & Secretariat for Safety & Security	659	643	16	96%
Dept of Science and Technology	77	42	35	55%
Dept of Social Development	88	87	1	99%
Dept of Sport and Recreation	27	27	0	100%
Dept of Trade and Industry	165	161	4	98%
Department of Transport	118	101	17	86%
Dept of Water Affairs & Forestry	150	120	30	80%
National Intelligence Agency	1	1	0	100%
National Treasury	229	186	43	81%
Office of the Public Service Commission	39	39	0	100%
Presidency (including Youth Commission)	69	58	11	84%
PALAMA	18	18	0	100%
Statistics South Africa	151	147	4	97%
Independent Complaints Directorate	17	17	0	100%
South African Secret Service	1	1	0	100%
TOTAL	4318	3188	1130	74%

EASTERN CAPE PROVINCE

Financial Disclosure Forms Received and Outstanding for the Financial Year | April 2007 to 31 March 2008

NAME OF DEPARTMENT	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: Eastern Cape (Office of the Premier)	51	46	5	90%
Department of Agriculture	27	23	4	73%
Department of Economic Affairs, Environment and Tourism	24	23	1	99%
Department of Education	71	61	10	86%
Provincial Treasury	42	40	2	95%
Department of Health	183	104	79	57%
Department of Housing, Local Govt. and Traditional Affairs	42	39	3	93%
Department of Public Works	23	22	1	99%
Department of Safety and Liaison	6	5	1	99%
Department of Sports, Arts, Culture and Recreation	24	22	2	92%
Department of Roads and Transport	35	33	2	94%
Dept of Social Development	29	28	1	99%
TOTAL	557	446	111	80%

FREE STATE PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year | April 2007 to 31 March 2008

NAME OF DEPARTMENT	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: Free State (Office of the Premier)	32	32	0	100%
Department of Agriculture	20	18	2	90%
Department of Education	42	42	0	100%
Department of Tourism, Environmental and Economic Affairs	18	16	2	89%
Department of Finance and Expenditure (Prov. Treasury)	18	14	4	78%
Department of Health	135	118	17	87%
Department of Local Government and Housing	40	40	0	100%
Department of Public Works, Roads and Transport	31	31	0	100%
Department of Social Development	23	19	4	83%
Department of Safety, Security and Liaison	7	5	2	71%
Department of Sport, Arts, Culture and Science	12	12	0	100%
TOTAL	378	347	31	92%

GAUTENG PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year 1 April 2007 to 31 March 2008

Name of the Department	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: Gauteng (Office of the Premier)	24	24	0	100%
Department of Agriculture, Conservation & Environment	36	36	0	100%
Department of Local Government	19	19	0	100%
Gauteng Shared Services Centre	69	69	0	100%
Dept of Economic Development	40	30	10	75%
Department of Education	58	49	9	84%
Department of Health	358	328	30	92%
Department of Housing	81	70	11	86%
Department of Public Transport, Roads and Works	82	54	28	66%
Department of Safety and Liaison (Community Safety)	21	21	0	100%
Gauteng Treasury	38	32	6	84%
Department of Social Development	26	25	1	99%
Department of Sport, Recreation, Arts & Culture	23	17	6	74%
TOTAL	875	774	104	88%

KWAZULU-NATAL PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year 1 April 2007 to 31 March 2008

Name of the Department	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: KZN (Office of the Premier)	52	48	4	90%
Department of Agriculture and Environmental Affairs	35	28	7	80%
Department of Economic Development	15	15	0	100%
Department of Education	92	75	17	82%
Department of Arts, Culture and Tourism	24	24	0	100%
Provincial Treasury	38	38	0	100%
Department of Health	260	167	93	64%
Department of Housing	19	14	5	74%
Department of Royal Household	1	0	1	0%
Department of Traditional and Local Government Affairs	39	33	6	85%
Department of Transport	30	30	0	100%
Department of Welfare and Population Development	22	20	2	91%
Department of Works	26	24	2	85%
Dept of Community Safety and Liaison	12	12	0	100%
Department of Sport and Recreation	10	10	0	100%
TOTAL	675	538	137	80%

LIMPOPO PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year | April 2007 to 31 March 2008

Name of the Department	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: Limpopo (Office of the Premier)	73	67	6	92%
Department of Agriculture	35	33	2	94%
Department of Education	48	47	1	99%
Department of Economic Development, Environment and Tourism	38	38	0	100%
Department of Health and Social Development	91	84	7	92%
Department of Local Government and Housing	46	45	1	99%
Provincial Treasury	47	44	3	94%
Department of Public Works	28	25	3	89%
Department of Safety, Security and Liaison	13	13	0	100%
Department of Roads and Transport	38	36	2	95%
Department of Sport, Arts and Culture	12	12	0	100%
TOTAL	469	444	25	95%

MPUMALANGA PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year | April 2007 to 31 March 2008

Name of the Department	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: Mpumalanga (Office of Premier)	41	39	2	95%
Department of Agriculture and Land Administration	26	26	0	100%
Department of Education	26	21	5	81%
Department of Finance	17	15	2	88%
Department of Economic Development and Planning	18	16	2	89%
Department of Health and Social Services	44	31	13	70%
Department of Local Government and Housing	18	16	2	89%
Department of Public Works	26	26	0	100%
Dept of Roads and Transport	33	31	2	94%
Department of Safety and Security	8	8	0	100%
Department of Culture, Sport and Recreation	11	11	0	100%
TOTAL	268	240	28	90%

NORTHERN CAPE PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year | April 2007 to 31 March 2008

Name of the Department	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: Northern Cape (Office of Premier)	24	24	0	100%
Department of Agriculture, and Land Reform	12	12	0	100%
Department of Economic Affairs	13	13	0	100%
Department of Education	25	25	0	100%
Department of Finance	16	16	0	100%
Department of Health	30	30	0	100%
Department of Housing and Local Government	15	15	0	100%
Department of Provincial Safety and Liaison	6	6	0	100%
Department of Social Services and Population Development	12	12	0	100%
Department of Sport, Arts and Culture	9	9	0	100%
Department of Transport, Roads and Public Works	10	10	0	100%
Department of Tourism, Environment and conservation	9	9	0	100%
TOTAL	181	181	0	100%

NORTH WEST PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year | April 2007 to 31 March 2008

Name of the Department	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: North West (Office of the Premier)	36	36	0	100%
Department of Agriculture, Conservation and Environment	24	24	0	100%
Department of Education	35	35	0	100%
Department of Economic Development and Tourism	13	13	0	100%
Department of Finance	26	26	0	100%
Department of Health	75	74	0	100%
Department of Developmental Local Government and Housing	19	19	0	100%
Department of Transport, Roads and Community Safety	22	22	0	100%
Department of Public Works	15	15	0	100%
Department of Social Development	17	17	0	100%
Department of Sport, Arts and Culture	16	16	0	100%
TOTAL	298	298	0	100%

WESTERN CAPE PROVINCE

Financial Disclosure Forms Received and Outstanding for The Financial Year | April 2007 to 31 March 2008

Name of the Department	NO. OF SMS MEMBERS	NO. OF FORMS RECEIVED	NO. OF FORMS OUTSTANDING	PERCENTAGE RECEIVED
Provincial Administration: Western Cape (Office of the Premier)	51	49	2	96%
Department of Community Safety	18	17	1	99%
Department of Agriculture	17	17	0	100%
Department of Education	52	52	0	100%
Dept of Environmental Affairs and Development Planning	10	9	1	99%
Dept of Economic Development And Tourism	13	13	0	100%
Department of Cultural Affairs and Sport	9	9	0	100%
Provincial Treasury	17	17	0	100%
Department of Health	144	137	7	95%
Department of Local Govt. and Housing	25	23	2	88%
Department of Social Services and Poverty Alleviation	16	16	0	100%
Department of Transport and Public Works	28	21	7	75%
TOTAL	400	380	20	95%

APPENDIX B

NUMBER AND LEVELS OF REPEAT OFFENDERS

NAME OF DEPARTMENT	LEVELS AND NUMBER OF REPEAT OFFENDERS			
	DIRECTORS-GENERAL	DEPUTY DIRECTORS-GENERAL	CHIEF DIRECTORS	DIRECTORS
Arts and Culture			5	6
Communications				2
Environmental Affairs and Tourism				4
Health	1	2	15	40
Home Affairs		1		3
Labour				3
DPSA				1
Science and Technology		1		9
Minerals and Energy				1
Water Affairs and Forestry		1	3	13
National Treasury		1	6	2
Statistics South Africa				1
PROVINCES				
FREE STATE				
Health				1
LIMPOPO				
Office of the Premier				1
Roads and Transport			1	1
Agriculture			1	1
Health and Welfare				1
MPUMALANGA				
Economic Development and Planning				1
Department of Finance				2
Health and Social Services				2
Social Development				1
KWAZULU-NATAL				
Agriculture and Environmental Affairs		1	2	2
Public Works				1
Office of the Premier		2	1	2
Provincial Treasury			1	
Education				5
Health			1	29

NAME OF DEPARTMENT	LEVELS AND NUMBER OF REPEAT OFFENDERS			
	DIRECTORS-GENERAL	DEPUTY DIRECTORS-GENERAL	CHIEF DIRECTORS	DIRECTORS
EASTERN CAPE				
Health			4	42
Education				3
GAUTENG				
Sport, Recreation, Arts and Culture				3
Health			1	1
Public Transport, Roads and Works			1	4
Provincial Treasury	1			
Education				2

