

CONFIDENTIAL

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DIMENSIONS OF CORRUPTION

1. INTRODUCTION

Corruption comes in a range of forms, or dimensions. The following are all examples of corruption and fall within the definition of the crime:

2. NEPOTISM

Nepotism is a form of corruption. It occurs when an officer shows unfair favour towards relatives, instead of applying an objective evaluation of the ability or suitability of the person or company. This may involve a public servant ensuring that family members are appointed to public-service positions or that family members receive contracts from State resources. It also implies that the decision-maker has a conflict of interest.

- For example, employment is offered to a relative, despite the fact that there are others who are better qualified and who are willing to perform the job. The best interest of the organisation is not served.
- In a small, family-owned business, the owner may decide to appoint his or her child to take over or learn the trade. In most instances, this will not be a corrupt act because there is no damage to third parties. If the appointed child is incompetent or lazy, it will be to the detriment of the owner.

3. FAVOURITISM

Favouritism involves the provision of services or resources according to personal affiliations (for example, ethnic, religious, or party-political affiliations, etc.).

- For example, a regional manager in a particular province ensures that only persons from the same tribe as the manager are successful in tenders for the supply of foods into the manager's geographic area of responsibility. Other service providers, who may have better or cheaper products or services, are harmed by this form of exclusion.

4. ABUSE OF POWER

Abuse of power involves a person using his or her vested authority improperly to benefit another public servant, business person or entity (or using the vested authority improperly to discriminate against another public servant, business person or entity).

- For example, during a tender process, but before the actual selection of a successful contractor, the head of a department expresses his or her wish to see the contract awarded to a specific person or company.

5. CONFLICTS OF INTEREST

Transparency International defines a conflict of interest as follows:

- A situation in which an individual or the entity for which he/she works, whether a government, business, or civil society organisation, is confronted with choosing between the duties and demands of his/her position and his/her own private interests.

This involves an employee putting his/her personal interest before the organisational best interest. A conflict of interest can lead to poor judgment and to actions that are not honest and open, ultimately leading to broader damage.

- For example, a procurement officer considers tenders for a contract and awards the tender to a company of which his or her partner is a director.

In South Africa, both the Public Finance Management Act of 1999 (PFMA) and the Companies Act of 2008 require a written declaration of interest.

- **Resource:** <http://www.transparency.org>

6. FACILITATION PAYMENTS

“Facilitation”, “speed”, or “grease” payments are small unofficial payments made to secure or expedite the performance of a routine or necessary action to which the payer of the facilitation payment has legal or other entitlement. In other words, a facilitation payment is a small payment made for the purpose of expediting an administrative process.

Government employees whose duties are essentially administrative or clerical in nature often demand small “facilitating” payments for performing or expediting routine functions that they are in any event required to perform, such as granting a licence or visa.

Facilitation payments are prohibited by the South African Corrupt Activities Act. Companies should therefore refrain from making facilitation payments, since such payment may be construed as a corrupt act.

7. USE OF AGENTS AND INTERMEDIARIES

In many instances, the appointment of an intermediary or agent is a necessary and normal business practice. Companies, which, however, appoint an agent or intermediary to act as a middle man in giving or receiving a bribe (the agent receives a cut of the bribe) are guilty of participating in corruption.

Various convoluted mechanisms may be set up to make the transaction (bribe payment) look legitimate, such as a contract for "services", whereby the agent acts as a consultant hired to resolve some problems with a government minister or other public official. Sometimes, the public official will suggest (or even demand) that the negotiations happen only if the consultant/agent is used.

The true intent behind the use of the agent, however, is that the fees paid to the agent are merely being channelled back to the public official as a bribe.

- **Resource:** <http://www.busa.org.za/docs/Implications%20when%20dealing%20with%20agents.pdf>

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