

Establishing the Office of Public Integrity and Anti- Corruption

A Consulting Report



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Executive Summary

This report outlines key findings and recommendations developed by Limina researchers as mandated by the contracting partner, GIZ, and the beneficiary of the report, the National Anti-Corruption Advisory Council (NACAC). It addresses the anticipated establishment of the OPI – the Office of Public Integrity and Anti-Corruption – and is based on NACAC's initial recommendations set out in its Mid-Term Report from May 2024.


The establishment of the OPI is a pivotal step in South Africa's fight against systemic corruption. The OPI is designed to provide a comprehensive and coordinated approach to combating corruption, leveraging the strengths of existing institutions while introducing new mechanisms to enhance effectiveness and accountability.

The report proposes the following definition: *'Systemic corruption refers to the pervasive presence of corrupt practices within an organisation or economy. It implies that corruption is the norm, and encountering an honest officer would be surprising. Systemic corruption often involves private sector players and can include elements of political corruption, where senior government officials initiate or support corrupt activities for personal political and/or financial gain. This political dimension can create hidden networks that guide institutions in their routine corrupt behaviour. Systemic corruption can encompass both major and minor incidents and may not always be illegal.'* This definition is important as it helps distinguish occasional and systemic corruption and consequently allows for proper inter-agency cooperation.

The report highlights the urgent need for a dedicated, independent, and well-resourced institution to lead the fight against systemic corruption, promote ethical governance, and ensure accountability across all spheres of government and public administration. The OPI's mandate will encompass a wide range of powers and functions, including investigations, public education, policy advisory, and corrective actions, all aimed at addressing systemic corruption comprehensively.

The integration of the Special Investigating Unit (SIU) into the OPI is a strategic move that allows for the immediate commencement of operations, utilising the existing infrastructure and expertise of the SIU. This integration will be managed carefully to ensure a smooth transition, with a focus on maintaining the integrity and effectiveness of both entities. For this, the report explains the processes of strategy development as well as project and change management.

The OPI's success will depend on several critical factors, including strong leadership, adequate funding, and effective coordination with other anti-corruption agencies. The proposed governance structure, with clear roles and responsibilities, will ensure that the OPI operates with the necessary independence and authority. The emphasis on public awareness and education is crucial, as it fosters a culture of integrity and empowers citizens to participate actively in the fight against corruption.



Financial considerations are crucially important, and the OPI will require a sustainable funding model to support its operations. The proposed mix of government funding, retained portions of recovered funds, and service fees will provide a balanced approach to financial sustainability. Performance measurement and oversight mechanisms will be integral to the OPI's operations, ensuring transparency, accountability, and continuous improvement.

The establishment of the OPI will be carried out in a phased approach to ensure swift commencement of operations while laying the groundwork for a robust and independent institution. The initial phase involves a proclamation within the current SIU framework providing for the immediate start of OPI operations. This is immediately followed by an amendment of the SIU Act. After that, the development of dedicated legislation to formally establish the OPI as a statutory body will be the next phase. The final phase aims to transition the OPI into a Chapter 9 institution, ensuring its independence and constitutional protection. The report details all phases, highlights advantages and challenges and provides for a technical brief on aspects that should be included in an OPI legislation.

The OPI's mandate will include the power to conduct investigations into systemic corruption, either through a Presidential Proclamation or on its own accord. The OPI will work closely with the National Prosecuting Authority (NPA) and the South African Police Service (SAPS) to ensure swift and effective prosecution of corruption cases. The OPI will also have the authority to initiate civil recovery actions, including claiming damages and recovering proceeds of corruption.

Public awareness and education will be key components of the OPI's strategy to combat systemic corruption. The OPI will lead efforts to foster integrity and anti-corruption values from a young age, engaging with educational institutions, communities, and the private sector. The institution will also implement a whistleblowing mechanism, ensuring that those who expose corruption are safeguarded from retaliation.

The OPI's success will be measured through a comprehensive performance measurement framework, including oversight and accountability mechanisms, impact assessments, performance audits, and public feedback. These measures will ensure that the OPI operates transparently and effectively, continuously improving its efforts to combat systemic corruption.

In summary, the OPI is positioned to play a crucial role in South Africa's multi-agency anti-corruption landscape. By addressing systemic corruption through a multi-faceted approach, the OPI will contribute to restoring public trust, enhancing institutional integrity, and promoting a culture of accountability. The successful implementation of the OPI will require commitment and collaboration from all stakeholders. It will incur initial expenses, but will be beneficial in the long run, caring for the political, economic, and societal development of the country.



1. Introduction

In deepening and strengthening the efforts of ridding corruption in South Africa, the National Anti-Corruption Advisory Council (NACAC) was formed to provide strategic guidance and independent oversight on the implementation of the National Anti-Corruption Strategy 2020 - 2030 (NACS)¹. The NACS envisions a corruption-free South Africa by 2030, built on integrity, transparency, active citizenry, and strengthened anti-corruption systems across government, business, and civil society. Part of the responses towards achieving the NACS objectives was the urgent need for a dedicated, independent, and well-resourced institution that can lead the fight against systemic corruption, promote ethical governance, and ensure accountability across all spheres of government and public administration.

In its May 2024 mid-term report (as revised), 'one of the principal tasks in terms of the mandate of the NACAC is the formulation of a proposal to the President and Cabinet regarding the creation of a new permanent institution, to play a leading role in the nation's work against corruption, in collaboration with existing law enforcement'² - which is the Office of the Public Integrity & Anti-Corruption (OPI). The report further details recommendations for the establishment of the OPI.

Through the collaboration between the Department of Planning, Monitoring and Evaluation (DPME) and GIZ's Transparency, Integrity, and Accountability Programme (TIP), this research team was commissioned to support the implementation of the NACAC's proposal by conducting in-depth research into the establishment of a permanent anti-corruption body, the OPI. This paper/research seeks to provide an independent view in terms of the design and authority of the OPI and the possible route to its establishment in terms of the NACAC recommendations in line with the NACS.

¹NACS 2020 - 2030

²NACAC: Mid-Term Report, May 2024

1.1 Problem Statement and Rationale

In his keynote address, President Ramaphosa, at the 2023 National Dialogue on Anti-Corruption, asserted that ‘corruption has wounded our democracy and shaken people’s faith in our institutions. If corruption is not arrested, the greatest damage will not be in the funds stolen, the jobs lost, or the services not delivered. The greatest damage will be to the belief in democracy itself’³. Given the entrenched and pervasive nature of systemic corruption, addressing it requires a coordinated, systemic approach. The proposed OPI reflects this by being strategically structured to combat systemic corruption across all spheres of government, ensuring integration, consistency, and focused action in the fight against corruption. The establishment of the OPI is in direct response to the NACS committing governments to the establishment of ‘an independent statutory/constitutionally entrenched state body that will report to Parliament’⁴ as a matter of urgency.

1.2 Purpose and Scope

The purpose of this paper is to present research findings on the available options for the establishment of the OPI in line with the NACAC’s recommendation as indicated in its 2024 mid-term report. It presents the reader with a holistic view in terms of the required considerations and preparations. The scope of the research is set out in the Terms of Reference (ToR)⁵ for the Research on Anti-Corruption Institutional and Governance architecture concluded between GIZ and Limina. The most important expectations in the research were stipulated in the ToRs as follows:

- a. Conduct an analysis and mapping of anti-corruption mandates and functions as contained in existing laws and regulations governing
 - all the law enforcement agencies (SIU, NPA, IDAC, DPCI, SAPS, IPID)
 - institutions supporting democracy (the Auditor-General [AGSA], Public Protector [PPSA] and Public Service Commission PSC)]
 - National Treasury, public service and local government departments in relation to the Public Finance Management Act (PFMA), Municipal Finance Management Act (MFMA), Public Service Act (PSA), Public Administration Management Act (PAMA) and the Municipal Structures and Systems Acts.
- b. Identify the administrative, legal and financial implications of existing mandates and functions if the baseline proposal is implemented and make findings and recommendations on how to best implement the baseline proposal, taking into consideration the implications.
- c. Conduct research and make recommendations on a governance model for the new anti-corruption body that will ensure the integrity of operations, minimise external interference, support internal and external accountability and safeguard independence.
- d. Provide a refined baseline proposal with an accompanying operational model and organisational structure.

³Corruption wounded SA democracy-Pres Ramaphosa | The Public Servant Online

⁴NACAC: Mid-Term Report, May 2024

⁵ToR for the research (Limina contract with GIZ)

- e. Provide a preliminary costing for the new body with an annual budget, taking into account transfers of functions from other institutions.
- f. Present the final products to the project team and other stakeholders at the validation workshop and handover session.
- g. Provide progress/technical reports on key outputs achieved, with an executive summary.

In the process of the project, further tasks were required by NACAC, namely the participation in the Annual Anti-Corruption Conference in December 2024 and a workshop on the definition of systemic corruption in April 2025.

1.3 Research Methodology

A mixed-method approach was used to conduct this research, integrating both qualitative and quantitative approaches. This included desktop analysis, engagements with NACAC members (weekly meetings with Workstream 1, participation in plenary meetings of NACAC), interviews with various stakeholders (SIU, NT) and collaboration with a research team that was simultaneously assigned by NACAC.

A detailed review and analysis of the relevant legislative frameworks relating to corruption response measures in South Africa was conducted. Furthermore, a comparative analysis was conducted on anti-corruption bodies from countries/jurisdictions such as

Kenya, Uganda, Namibia, Nigeria, Malaysia and Hong Kong.

The research outcomes were shared through a validation workshop, with the NACAC members and relevant key stakeholders to present, review, and confirm the accuracy, relevance, and completeness of the findings. The primary purpose of this comprehensive research methodology was to ensure that NACAC's baseline proposal for the establishment of the OPI is informed by South Africa's unique context of systemic corruption, experiences and best practices from other countries, relevant legislative boundaries and South Africa's multi-agency architecture in the fight against corruption.



2. Systemic Corruption

This chapter addresses two key issues. Firstly, it looks at the definition of systemic corruption from a theoretical and managerial perspective. Secondly, it provides an overview of systemic corruption in South Africa. These two parts of this chapter are important as they will pave the way for the roadmap towards establishing the OPI for the fight against systemic corruption.

2.1 Understanding and Defining Systemic Corruption

Systemic corruption refers to corruption that is deeply embedded in the structures and functioning of an organisation, institution, or society. It occurs when corruption is not limited to isolated cases but becomes a regular, normalised, and pervasive feature of a system. This type of corruption often involves networks of individuals or entities that perpetuate unethical practices, undermining the integrity and efficiency of governance and other societal structures. Below, we introduce various definitions of systemic corruption and the NACAC's definition to provide a world/best practice view of what constitutes systemic corruption. Then, we propose a definition of systemic corruption that has been discussed with NACAC members in a workshop in April 2025. It takes key components of all the presented definitions into account.

The following definitions of systemic corruption have been taken into account for this report:

World Bank⁶

Systemic corruption occurs when it is pervasive throughout an entire organisation or society and becomes a defining characteristic of its interactions and operations.

Transparency International⁷

Systemic corruption is corruption that is entrenched in the political, legal, and economic framework of a society, where it influences laws, institutions, and practices to serve corrupt interests.

United National Office on Drugs and Crime (UNODC)⁸

Systemic corruption is the most challenging type to address, as it involves corrupt behaviours institutionalised within the rules of practices of systems, often blurring the line between legality and illegality.

Anti-Corruption Resource Centre⁹

Systemic Corruption, also known as endemic corruption, describes a scenario in which corruption is an integral part of a state's economic, social and political system, and where most people have no alternatives to dealing with corrupt officials. Sporadic corruption, in contrast, occurs irregularly and does not compromise the mechanisms of governance in the same crippling way.

⁶World Bank: Understanding corruption in governance contexts

⁷Transparency International: Exploring corruption types and their impacts globally. Transparency International

⁸United Nations Office on Drugs and Crime (UNODC): UN anti-corruption resources and definitions. UNODC

⁹<https://www.u4.no/terms#systemic-corruption>

NACAC Mid-Term Report¹⁰

Systemic corruption is defined as a form of corruption that does not always involve individual criminal acts and is not necessarily punishable through criminal law. It enables corrupt actions and is usually unethical, but not always criminal. Systemic corruption often involves hidden networks of public and private actors that distort and capture democratic processes to facilitate the misuse of public authority for personal and political advantage. These networks are governed by unwritten rules and held in place by rewards (including promotion) or punishments (including bullying). Systemic corruption has eroded the value systems of democratic institutions, turning their purpose from serving the public good (ubuntu) to personal gain. It has affected the functioning of public institutions and negatively impacted public welfare and the delivery of public services. The NACAC emphasises the need for a combination of different powers, functions, and capacities to expose and dislodge systemic corruption, as it is resistant to conventional methods of reform.

Further explanations of systemic corruption highlight the following key characteristics:

- **Commonplace and institutionalised:** Systemic corruption describes environments where corrupt practices have become commonplace, institutionalised, or normalised (also called 'legal corruption').
- **Political decay:** Corruption becomes integral to the system, often involving those in power shaping the system to serve corrupt ends.
- **Everyday experience:** Systemic corruption refers to environments where corruption, such as bribery, is a common experience for the population in their interactions with the state.
- **Collective norm:** Systemic corruption can function as a collective norm, tolerated or even encouraged by those in power. Low levels of trust in others to behave non-corruptly.

Examples of systemic corruption:

- **Politicised public institutions:** Public institutions providing jobs and benefits to supporters in exchange for votes. Such activities are often linked to corrupt practices like 'buying and selling' public offices.
- **Corruption in developing countries:** In many developing countries, systemic corruption can be seen in the form of widespread bribery, embezzlement, and nepotism. Public officials may use their positions to extract bribes from citizens or divert public funds for personal use. Typically, it is an environment in which it is known that certain services are only rendered against a bribe.
- **Oligarchic influence:** In some countries, a small group of wealthy individuals (oligarchs) can exert significant influence over political decisions and public policies. This can lead to policies that favour the interests of the few over the many, perpetuating inequality and corruption.

To support NACAC's recommendations for establishing the OPI, we propose a twofold approach: defining systemic corruption and providing a managerial tool to identify cases of systemic corruption.

¹⁰National Anti-Corruption Advisory Council. Mid-Term Report May 2024

¹¹Johnston, M. (2005). Syndromes of Corruption. Cambridge University Press

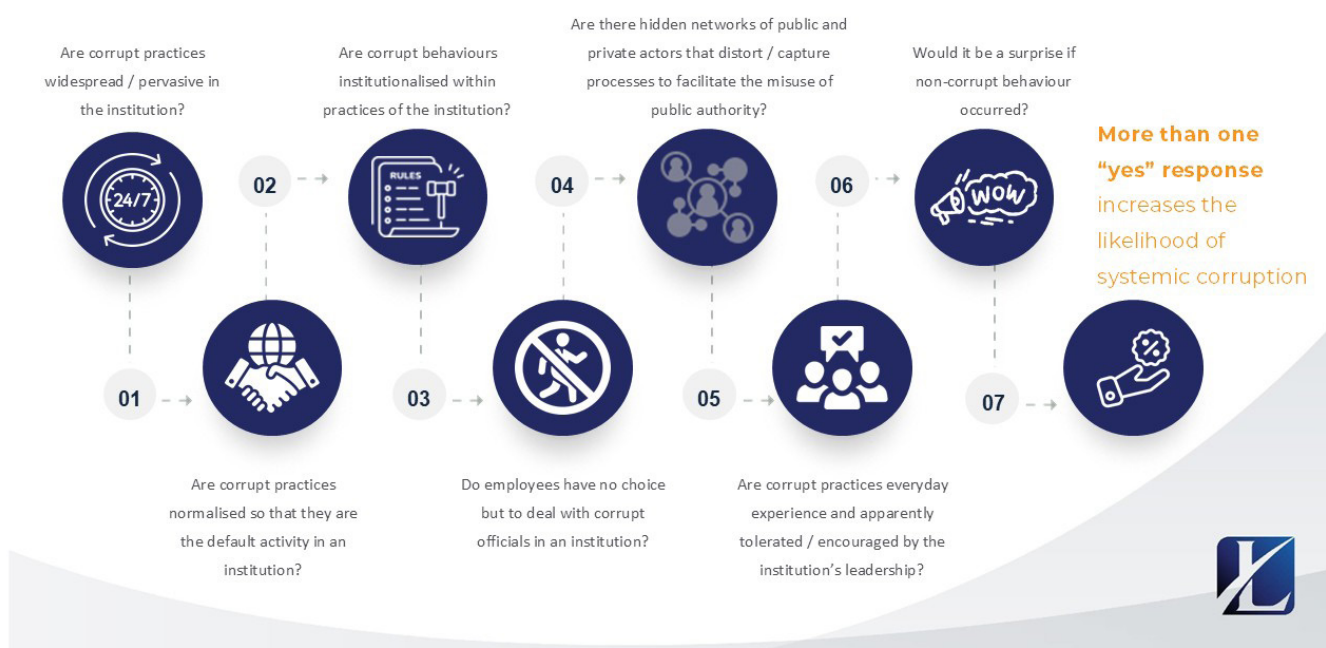
Proposal: Definition of Systemic Corruption

'Systemic corruption refers to the pervasive presence of corrupt practices within an organisation or economy. It implies that corruption is the norm, and encountering an honest officer would be surprising. Systemic corruption often involves private sector players and can include elements of political corruption, where senior government officials initiate or support corrupt activities for personal political and/or financial gain. This political dimension can create hidden networks that guide institutions in their routine corrupt behaviour. Systemic corruption can encompass both major and minor incidents and may not always be illegal.'

Given the broad definition of systemic corruption, we also propose a managerial tool for the OPI's daily operations. The OPI is intended to coordinate efforts to determine whether a case of systemic corruption exists, hence the necessity to identify such cases. To ensure a focused and consistent approach to investigating systemic corruption, we suggest the following **Systemic Corruption Checker**. This tool is based on a number of questions, which have been derived from the various definitions of systemic corruption presented above. The checklist provides clear indicators to assess complexity, institutional entrenchment, and the involvement of high-level networks, thereby preventing scope creep and misclassification of cases. Unlike traditional approaches, it standardises investigative criteria, strengthens case prioritisation, and enhances the strategic targeting of entrenched corruption. Ultimately, this tool ensures that the OPI's interventions remain high-impact, evidence-driven, and aligned with its core mandate.

Below is the **Systemic Corruption Checker**, as a guiding tool to support consistent identification and response to systemic corruption, subject to continuous refinement as required for continued relevance and accuracy:

Systemic Corruption Checker



2.2 Systemic Corruption in South Africa

In order to establish the current state of systemic corruption in South Africa, we employed a number of different sources. From the Zondo Commission of Inquiry into State Capture¹² - the pervasive and systemic nature of corruption involving senior state officials and the private sector was revealed. Other commissions include the Seriti Commission (arms deal)¹³ and the Nugent Commission (SARS)¹⁴ - all revealing deep-rooted corruption and decaying state institutions. These commissions, among others, have highlighted that corruption in South Africa has evolved into a systemic threat to democracy, development, and social justice, demanding immediate action. The relatively similar insights that the reports of these commissions brought to light are backed by the Corruption Perception Index (CPI) of Transparency International. In its 2024 report, South Africa scored 41 out of 100, thus ranked 82nd out of 180 countries. The CPI ranges between a score of 0, which is considered 'highly corrupt' and a score of 100, which is considered 'very clean'. With the global average score at 43 and the sub-Saharan mean of 33, South Africa's score of 41 highlights pervasive public-sector integrity challenges and the urgent need for renewed reform efforts¹⁵.

The impact of systemic corruption has far-reaching effects and permeates every aspect of society. It results in misallocation of resources, with billions of rands lost each year to corrupt practices, undermining service delivery and hindering infrastructure development. Moreover, it deepens inequality, disproportionately affecting the most vulnerable communities and perpetuating cycles of poverty and social injustice, manifesting in the issues below:

- **Monetary loss:** For example, the Zondo Commission and National Treasury estimates between R500 billion and R1 trillion lost to state capture and corruption over the past decade¹⁶.
- **Service delivery:** Over the years, public service delivery has severely weakened, especially in crucial services such as health, education, and infrastructure, resulting in unreliable access to essential services for millions of South Africans, more so the poor.
- **Livelihoods and jobs:** Corruption has contributed to high unemployment (31.9% as at Q4 2024), eroded investor confidence, and undermined economic growth, with all-time high levels of youth unemployment¹⁷.
- **Institutional damage:** Corruption has undermined key institutions like State-Owned Entities like Eskom and Transnet, amongst others, resulting in rolling blackouts and reduced economic productivity, negatively impacting livelihoods and economic activities.
- **Public trust:** Corruption has led to declining public confidence in government and democratic institutions¹⁸.

¹²Johnston, M. (2005). Syndromes of Corruption. Cambridge University Press

¹³Seriti Commission of Inquiry

¹⁴Nugent Commission of Inquiry

¹⁵Corruption Transparency Index 2024 - Corruption Perceptions Index 2024 - Transparency.org

¹⁶State capture scorecard: R500bn looted, zero assets recovered - Moneyweb - [Sthttps://www.moneyweb.co.za/news/south-africa/state-capture-scorecard-r500bn-looted-zero-assets-recovered/](https://www.moneyweb.co.za/news/south-africa/state-capture-scorecard-r500bn-looted-zero-assets-recovered/)

¹⁷Statistics South Africa - Quarterly Labour Force Survey _Stats SA - Q4 2024

¹⁸Afrobarometer Dispatch No. 474: South Africans' trust in institutions and representatives reaches new low - <https://www.ijr.org.za>

The fight against corruption causes tremendous costs for the country. South Africa invests extensively in fighting corruption, with the Peace and Security Cluster receiving R244 billion in the 2024/25 budget (R765 billion over the 2024/2025 to 2026/2027 term)¹⁹, funding entities such as the NPA, SIU, DPCI, SAPS, and AFU, as well as supporting key anti-corruption efforts through the PPSA, AGSA, SARS, FIC, and various commissions of inquiry. In addition to the Peace and Security Cluster allocation, the country incurs significant costs in fighting corruption through multiple avenues. These expenditures encompass judicial inquiries (over and above what is covered by the judicial system), consultancy fees, and funding for anti-corruption bodies that receive resources from other sources. Understanding these costs is essential for assessing the country's anti-corruption efforts. The same is true in understanding the true impact of corruption in the country. To accurately determine this, a comprehensive analysis is required, encompassing all stakeholders as supported by research, given the lack of sufficient studies on this²⁰.

The OPI, through its multi-agency approach, mandate and powers, will assist the state in identifying the true cost of fighting corruption by collecting and analysing critical management information. This will enable a clearer understanding of existing gaps, duplication of efforts, and inefficiencies across institutions. Equipped with the right expertise and resources to respond to systemic corruption, the OPI will ultimately streamline efforts and reduce long-term costs by closing overlaps and keeping key capabilities in-house. By investigating systemic corruption, introducing preventative measures, providing public awareness, and engaging in policy advice, the OPI will contribute positively to South Africa's attempt to curb corrupt practices.

At the same time, there are a number of challenges and lessons learned, which must be considered for the OPI to be effective. At this point, we just mention the most important ones.

For the OPI, there is a crucial need to be legally safeguarded to ensure autonomy, independence, security of tenure and function, and a high consideration for compliance with international standards and best practices. The following key aspects are of utmost importance in its establishment to ensure past mistakes are not repeated:

a. Structure and operational independence: Both in law and in practice, the OPI must be free of political interference. This will be achieved in the four-phased implementation approach, which ultimately lands the OPI as a Chapter 9 Institution. In this process, care should be taken to ensure that the legislative drafting process fully aligns with constitutional requirements, takes into account existing mandates and functions of other anti-corruption agencies, avoids challenges experienced in the disbandment of the Scorpions and the establishment of the Hawks (DPCI), and avoids any legislative challenges that may render the process unconstitutional. Lessons from these precedents underscore the need for strong legislative clarity, independence, and structural integrity to prevent future constitutional invalidations

¹⁹National Treasury 2024 Budget review - <https://www.treasury.gov.za/documents/national%20budget/2024/review/FullBR.pdf>

²⁰Colette Ashton: August 2024, Rethinking Anti-Corruption in South Africa: Pathways to Reform

- b. Security of tenure, resources and funding:** Shielding the leadership, resources, funding, and tenure of the OPI from political interference is crucial. It is of utmost importance that the OPI be adequately capacitated and continually assessed to ensure that this remains the case to execute its mandate without fear or favour.
- c. Avoid executive dominance:** A permanent independent multi-stakeholder oversight mechanism must be in place for the OPI to ensure that its oversight does not rest solely with the Executive, such as a President, Minister, cabinet, or department of government officials. Where, in the interim, as the OPI transitions to its ultimate position, i.e., a Chapter 9 Institution, the NACAC or its equivalent, may serve as an interim advisory role with a long-term oversight vested in a more structured body accountable to Parliament, such as²¹:
- Multi-party members of Parliament
 - Civil society and legal and constitutional experts
 - Chapter 9 Institutions
 - Whistleblower protection advisory groups
 - Anti-corruption specialists and academics
 - Private sector representatives.
- d. Compliance with international standards and best practice:** The legal frameworks and structure of the OPI must reflect international norms and best practice, such as the following (these are discussed in detail later in the report):
- **United Nations Convention against Corruption (UNCAC):** Being the first legally binding international anti-corruption instrument adopted by the UN General Assembly in 2003, it sets out minimum global standards for countries to prevent and combat corruption effectively. Applicable to the OPI in this regard are articles 6, 8, 13, 32 and 36²².
 - **Jakarta Statement on Principles for Anti-Corruption Agencies:** It endorses independence, adequate resourcing, legal clarity, public accountability, and collaboration. It also emphasises that anti-corruption agencies (like OPI) must be free from undue influence and have operational autonomy.
 - **Colombo Commentary on the Jakarta Statement:** This expands on how countries can apply the Jakarta Principles in practice and recommends strong legal mandates, security of tenure for leadership, and multi-agency collaboration without mandate conflict.
 - **African Union Convention on Preventing and Combating Corruption (AUCPCC):** Urges member states to establish independent national anti-corruption bodies. South Africa is a signatory; thus, the OPI should reflect AU standards in structure and operation.
 - **STIRS principles:** The principles of Simplicity, Transparency, Integration, Reliability, and Sustainability are a critical framework for the establishment of the OPI. They assist in building the OPI on clear processes, integrity, and public trust and assist in making the OPI an institution of accountability.

²¹Considerations for structured body accountable to Parliament

²²Summary of articles 6,8,13, 32 and 36 of UNCAC



2.3 Experiences from Other Countries

One part of our assignment was to conduct desk research on experiences made in other countries. For this purpose, we employed a variety of sources, namely:

- Rethinking Anti-Corruption in South Africa: Pathways to Reform (Colette Ashton)²³
- Learning Journey on Anti-Corruption Institutional Reforms – Kenya (GIZ)
- GIZ-TIP NACAC East Asia Learning Journey – Hong Kong
- Internet searches

We have summarised the insights gained from exchange visits and internet searches as follows:

Country	Finding
Kenya	The Ethics and Anti-Corruption Commission (EACC) is a multi-purpose agency with preventive and investigative powers. It has achieved several high-level convictions and engages extensively with the public and private sectors in prevention programs. The Ethics and Anti-Corruption Commission (EACC) plays a key role in combating corruption through law enforcement, prevention, and public education. The Office of the Auditor-General (OAG) and the Public Procurement Regulatory Authority (PPRA) also contribute to transparency and accountability. Learning from this, the OPI can focus on high-impact investigations, asset tracking and recovery, and promoting transparency in public procurement. Engaging civil society organisations and enhancing public participation can also foster a culture of accountability and integrity.
Malaysia	The Malaysian Anti-Corruption Commission (MACC) is a multi-purpose agency with preventive functions, enhanced investigative powers, and the power to prosecute. Has had significant success in dealing with high-profile corruption cases, such as the Malaysia Development Board scandal.

²³Recommendations from the Collete Ashton report (summarised)

Country	Finding
Brazil	Brazil's anti-corruption efforts are coordinated by the Office of the Comptroller General, which undertakes public audits, imposes disciplinary measures, and maintains a national register of red-listed companies. The Car Wash investigation is a notable example of successful anti-corruption enforcement in Brazil.
Latvia	The Corruption Prevention and Combating Bureau (KNAB) in Latvia is a multi-purpose agency combining preventive, policy, and investigative powers. It is often cited as a model anti-corruption agency, although its success is partly due to Latvia's specific context as a high-income, developed country with a small population.
Indonesia	The Corruption Eradication Commission (KPK) in Indonesia was one of the world's most effective anti-corruption agencies until recent years. It had preventive, investigative, and prosecution powers and achieved a 100% conviction rate for years. However, recent political changes have undermined its independence and effectiveness.
Hong Kong	The Independent Commission Against Corruption (ICAC) has been successful in controlling corruption due to strong political support, rigorous oversight, and effective community engagement. They use an integrated approach involving investigation, prevention, and education. Drawing from this, OPI can adopt an integrated approach involving investigation, prevention, and education, and establish strong partnerships with the public, business, and education sectors. Additionally, investing in public education and creating safe spaces for reporting corruption can enhance community trust and participation.
Uganda	The Inspectorate of Government (IG) operates independently and uses the Transparency, Accountability, and Anti-Corruption (TAAC) framework to engage citizens in oversight. The Whistleblower Protection Act provides mechanisms and incentives for whistleblowers. From this, the OPI can implement mechanisms for whistleblower protection and use frameworks like TACC to involve citizens in oversight and monitoring. Leveraging ICT for the detection, investigation, and reporting of corruption can also be beneficial.

Country	Finding
Namibia	<p>The Anti-Corruption Commission (ACC) is the primary institution for combating corruption, working closely with law enforcement and financial sector regulatory authorities.</p> <p>The Financial Intelligence Centre (FIC) focuses on protecting the financial system against money laundering and other financial crimes. From these lessons, the OPI can focus on educating the public about the dangers of corruption and ensuring compliance with anti-money laundering controls. Addressing institutional and bureaucratic shortcomings and enhancing regional presence can improve accessibility and effectiveness.</p>
Nigeria	<p>The Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) are responsible for investigating and prosecuting corruption and financial crimes. They aim to maintain integrity and professionalism while addressing widespread corruption. The OPI can focus on investigating and prosecuting corruption, examining corruption-prone systems, and educating the public. Collaborating with various stakeholders and maintaining integrity and professionalism are also crucial.</p>

Interestingly, there are several commonalities that show that the fight against corruption presents similar challenges in the countries observed. The most important challenges can be summarised as follows:

- Institutional and bureaucratic shortcomings are widespread
- Public trust and confidence are crucial
- Whistleblower protection is essential for uncovering corruption and misconduct
- Coordination and cooperation among various agencies improve efficiency
- Education and public awareness campaigns are needed to foster a culture of integrity
- Adequate resource allocation is necessary for combating financial crimes
- Political will and leadership drive the enforcement of anti-corruption measures
- Robust legal/regulatory framework to ensure compliance with international standards

The exchange visits and the Colette Ashton Report propose a range of mitigation measures, which again seem to be applicable to most, if not all, countries considered in this report. According to the findings, the most promising measures to address the mentioned challenges are:

- Institutionalised structure addressing Systemic Corruption
- Leadership and staff training are critical to developing institutional integrity
- Whistleblower protection → Amendment of the PDA
- Coordination mechanism needed between OPI/SIU, SAPS/DPCI, NPA/IDAC and other institutions
- Education and public awareness campaigns
- Sustained funding of corruption-fighting institutions
- Political will and leadership
- Robust legal and/or regulatory framework

We have taken all these recommendations into consideration in our proposal for the establishment of the OPI.



3. Analysis of Legal Frameworks

Our analysis of the legal frameworks of the country's existing anti-corruption architecture reveals systemic fragmentation, overlapping mandates, and inconsistent legal powers across institutions such as the SIU, NPA, DPCI (Hawks), and the PPSA. Each institution operates under separate enabling legislation, which, in some instances, has resulted in blurred lines of responsibility, institutional turf wars, and inefficiencies in responding to complex, cross-cutting corruption cases, such as systemic corruption. For instance, the Hawks cannot prosecute, relying on the NPA, which in turn faces internal capacity challenges and case backlogs. This results in delays that potentially weaken deterrence. Another concern is the processes of the SIU, where the SIU is required to approach the President for a Proclamation before acting, causing delays in urgent matters and dependence on external legal enforcement through the NPA or civil litigation.

These gaps warrant the need for a single, independent body with a harmonised legal mandate to which the OPI, eventually as a Chapter 9 Institution, is positioned to provide from inception. The OPI can consolidate and integrate investigative, analytical, and oversight functions, while also coordinating systemic responses across institutions. If properly structured, it will not only resolve legal and operational inefficiencies but also safeguard independence and public trust, enhancing South Africa's ability to fight corruption at scale.

As the OPI takes shape in absorbing the powers and functions of the SIU and expanding its powers and functions in incremental phases to ultimately fully implement all the NACAC recommendations, it will be essential to avoid any mandate overlaps and develop clear coordination mechanisms from the outset. This way, the OPI will be enabled to function effectively within South Africa's multi-agency anti-corruption landscape.

Our research has noted mandate overlaps that come with duplication of efforts and a lack of adequate and effective resource utilisation mechanisms, hindering the nation's efforts to fight corruption effectively. Therefore, to prevent this, it is crucial to draft the enabling legislation in a way that takes into account the strategic intent of the OPI. The negative effects of current legislative overlaps were also highlighted in the Glennister judgment and the Zondo Commission of Inquiry. A well-crafted OPI will close these mandate overlaps and ineffective coordination mechanisms and improve the effectiveness and efficiencies of investigations and prosecutorial outcomes, thereby providing a clear, unified strategic direction for the nation's effort in the fight against corruption.

For the purpose of this report, we just list the institutions and legal frameworks in the following table. We also included the Protected Disclosures Act in our analysis, given its importance in the fight against corruption.

Institution	Legal Frameworks	Mandate	Key Provisions
Special Investigating Unit (SIU)	Special Investigating Units and Special Tribunals Act (Act 74 of 1996)	Investigate State Corruption	<ul style="list-style-type: none"> Recovery of public funds lost to corruption or irregularities Recommendations for systemic improvements Referral of cases to the NPA for prosecution
National Prosecuting Authority (NPA)	National Prosecuting Authority Act (Act 32 of 1998)	Prosecute Corruption Crimes	<ul style="list-style-type: none"> Sole authority to institute criminal proceedings on behalf of the state Powers to investigate, prepare, and prosecute complex corruption cases
Investigating Directorate for Corruption and Economic Crime (IDAC)	National Prosecuting Authority Act (Act 32 of 1998)	Investigates High-Profile Corruption and State Capture Cases	<ul style="list-style-type: none"> Investigative and prosecutorial focus on organised crime and corruption
Directorate for Priority Crime Investigation (DPCI)	South African Police Service Act (Act 68 of 1995 as amended in 2008)	Investigate Serious Crimes	<ul style="list-style-type: none"> Investigates serious and high-priority crimes, including corruption, organised crime, and economic offences Operates as an independent unit within SAPS
South African Police Service (SAPS)	South African Police Service Act (Act 68 of 1995)	General Policing and Investigations	<ul style="list-style-type: none"> General law enforcement, including investigating corruption complaints Works alongside specialised units like the Hawks and IPID

Institution	Legal Frameworks	Mandate	Key Provisions
Independent Police Investigative Directorate (IPID)	Independent Police Investigative Directorate Act (Act 1 of 2011)	Oversight of SAPS	<ul style="list-style-type: none"> • Oversight of SAPS and municipal police services • Investigates police corruption, misconduct, and human rights abuses
Auditor General of South Africa (AGSA)	Public Audit Act (Act 25 of 2004)	Audit Public Finances	<ul style="list-style-type: none"> • Mandates the AG to audit and report on public sector financial management • Includes special investigations into financial irregularities
Public Protector South Africa (PPSA)	Section 182 of the Constitution of South Africa Public Protector Act (Act 23 of 1994)	Investigate Maladministration	<ul style="list-style-type: none"> • Investigates improper conduct in public administration • Recommends corrective actions and refers matters for further action where necessary
Public Service Commission (PSC)	Chapter 10 of the Constitution of SA Public Service Commission Act (Act 46 of 1997)	Promote Good Governance	<ul style="list-style-type: none"> • Promotes ethical behaviour, accountability, and efficiency in public service • Monitors corruption and maladministration
National Treasury (NT)	Public Finance Management Act (PFMA, Act 1 of 1999) Municipal Finance Management Act (MFMA, Act 56 of 2003)	Fiscal Oversight	<ul style="list-style-type: none"> • Oversees fiscal management and promotes financial discipline • Detects and addresses financial misconduct in government institutions

Institution	Legal Frameworks	Mandate	Key Provisions
Public Service and Local Government Departments	Municipal Structures Act (Act 117 of 1998) Municipal Systems Act (Act 32 of 2000)	Governance and Service Delivery	<ul style="list-style-type: none"> • Ensure transparent and effective governance at the municipal level • Promote accountability and ethical conduct among public servants
Protected Disclosures Act	Protected Disclosures Act, 26 of 2000 (PDA)	Whistleblower Protection	<ul style="list-style-type: none"> • Key legal framework in South Africa aimed at encouraging whistleblowing • Providing protection for employees who disclose information about unlawful or irregular conduct in the workplace.

The Protected Disclosures Act, 26 of 2000 (PDA) needs to be analysed further, given its cross-cutting function in the fight against corruption. The Act complements the legal frameworks of anti-corruption institutions and other entities by strengthening mechanisms for exposing and addressing corruption. The Act provides that employees who disclose information in good faith about corruption, criminal offences, failure to comply with legal obligations, or abuse of authority are protected from occupational detriment (e.g., dismissal, harassment, or victimisation). Employers are required to implement internal procedures for whistleblowing and ensure the confidentiality of disclosures. Disclosures can be made to employers, legal advisers, specific regulatory bodies, or the public (under specific conditions).

The Protected Disclosures Act could be a very powerful tool in the fight against corruption, and in some cases, it indeed was. However, the act in its current version has a number of weaknesses, and these may deter potential whistleblowers from speaking up. In the act, the definition of misconduct is narrowly construed, limiting the scope of what can be reported. There is no protection for individuals who report misconduct for purposes of personal gain, a criterion that is both vague and subjective. Employees who face victimisation as a result of whistleblowing cannot expect rapid reinstatement or protection; instead, they must seek relief through the courts. Furthermore, there is no specific compensation for victimisation, including lost past and future wages, legal fees, and other costs, as well as moral damages.

The absence of penalties for those who retaliate or threaten retaliation against whistleblowers exacerbates the issue. Additionally, no public institution is ultimately responsible for enforcing the law and overseeing the whistleblower system, leaving it without adequate oversight and enforcement mechanisms.

General Considerations for the OPI Establishment

In NACAC's Mid-Term Report, the SIU was identified as the preferred partnering institution of choice for the OPI establishment. There are a number of reasons for this approach: The SIU's current mandate – as set out in the SIU Act – does not specifically refer to systemic corruption, but to *'...serious malpractices or maladministration in connection with the administration of State institutions, State assets and public money as well as any conduct which may seriously harm the interests of the public...'*²⁶. This mandate is very close to what is recommended by NACAC as the objective for the OPI. Secondly, the SIU has gained knowledge and experience in the fight against corruption, suggesting it to be the best institution to partner with. Thirdly, the approach to link the OPI with the SIU ensures an immediate start to the fight against systemic corruption.

Current Powers of the SIU

The SIU, established under the SIU Act, is empowered to investigate serious malpractices, maladministration, and corruption in state institutions. It can subpoena witnesses, interrogate under oath, and access financial records. However, the SIU does not have prosecutorial powers, it relies on the NPA for criminal prosecution and the Special Tribunal for civil litigation to recover assets or set aside contracts. Experience has proven that the SIU is not always successful in its referrals to the NPA.

Current mandate and functions

In addition to the investigations indicated above, the SIU also undertakes civil litigation to recover state funds, supports disciplinary processes, and recommends systemic improvements. Recent strategic advancements have enabled the SIU to broaden its scope into digital forensic investigations and develop a corruption risk register to guide preventive efforts.

Challenges faced by the SIU (structural and operational)

In spite of its success, the SIU face a number of structural and operational challenges which mainly include:

- Dependence on Presidential Proclamations, delaying urgent responses and possible political interference.
- SIU recommendations are not legally binding.
- The SIU report is only issued to the President.
- Lack of criminal prosecutorial powers, requiring coordination with the NPA.
- Inadequate and unpredictable funding, primarily driven by fee-based recovery models.
- Backlogs due to capacity shortages and increasing investigative complexity.
- Delayed implementation of disciplinary or criminal action due to dependency on other institutions.

²⁶SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT: <https://www.justice.gov.za/legislation/acts/1996-074.pdf>

- Unpredictable and recovery-based funding model.
- Inter-institutional dependency.
- Preventative work is not fully supported by legislation.

Prevention Frameworks

The SIU has taken steps towards prevention by implementing fraud detection systems, compiling public sector corruption trend reports, and contributing to sector-specific anti-corruption forums. However, its preventative role remains limited due to its primary investigative mandate, which often focuses on post-facto interventions. It is also worth noting that preventative measures are not within the legislative scope of the SIU Act.

OPI Absorbing the SIU

Recommendation 2 of the NACAC mid-term report - recommending '*that in the transitional phase, the OPI absorbs the mission, powers, and resources of the SIU, maintaining its full portfolio of work, thus enabling the OPI to be operational with immediate effect and adding to its functions, powers, staff, and resources.*'²⁷

Given the urgency of the establishment of the OPI in response to the entrenching and eroding nature of the systemic corruption and the expectation for the operations of the OPI to commence within 12 months of the December 2024 National Dialogue on Anti-Corruption²⁸, this would be achieved by the OPI absorbing the powers and functions of the SIU in its current form. This should also trigger immediate SIU legislation amendments or a completely new OPI legislation. The skeleton of this research paper is based on the understanding that the OPI should initially be started through proclamation within the SIU and simultaneously start the process of amending the current SIU legislation, taking into account the mandate, powers and functions of the OPI. Then, in order to eventually absorb the SIU in its entirety and to enhance and strengthen the existing mandate, powers and functions to accommodate the objective of the OPI, the OPI should be established as a statutory institution. Once this has been achieved, the OPI should then be transitioned into a Chapter 9 Institution. The proposed process of the OPI establishment will be explained in detail later in this chapter.

Absorbing the SIU into the OPI will:

- Provide an operational foundation with already-skilled investigators, legal experts, and digital forensic capacity.
- Enable continuity by embedding existing tools, systems, and institutional knowledge.
- Accelerate the functionality of the OPI, reducing the lead time required for capacity development.
- Ensure the OPI enters the system with proven investigation and recovery capability, leveraging the SIU's existing case load, infrastructure, and footprint.
- Consolidate duplication and streamline mandates, avoiding parallel investigations and overlapping mandates with other anti-corruption bodies.

²⁷NACAC 2024 Mid-Term Report

²⁸The National Dialogue on ant-corruption_2024 Report_9-10 December2024

- However, a major consideration shall not be overlooked: In its initial stage, when the OPI operates within the current SIU legislation, investigations can only be commenced by way of Presidential Proclamation. This limitation may be acceptable in return for the immediate start of the OPI operations. But, when establishing an OPI legislation in which the SIU will be fully absorbed, it should be ensured that investigations shall be initiated on the institution's own accord.

Critical Powers and Functions Required for the OPI

In line with the NACS and in support of the NACAC recommendations, below are the required critical mandates, powers and functions of the OPI. These were further debated and critiqued during the National Dialogue on Anti-Corruption held in December 2024.²⁹

The power to conduct investigations into systemic corruption: The recommendation is that 'the OPI should have the power to conduct investigations into systemic corruption, either through a Presidential Proclamation or in line with the mandate given to it by drafting a new enabling legislation'.

Granting the OPI the power to investigate systemic corruption through either a Presidential Proclamation or new enabling legislation is essential to ensure it operates with clear legal authority and independence. This will empower the OPI to proactively uncover and address entrenched patterns of corruption, strengthening institutional accountability and reinforcing public trust.

Countries like Singapore³⁰, Hong Kong³¹, Brazil³², and the UK³³ have shown that granting independent anti-corruption bodies strong investigative powers through legislation or executive authority is essential to effectively tackle systemic corruption. Their success demonstrates that with legal authority, operational independence, and a clear mandate, agencies like the proposed OPI can disrupt entrenched corruption networks and restore public trust. However, the OPI's mandate must be carefully framed in law to ensure it has the authority to investigate systemic corruption while avoiding an open-ended scope that allows it to pursue any matter arbitrarily, therefore ensuring focus, accountability, and legitimacy.

Investigations: The recommendation is for the OPI to work closely with the NPA and SAPS and refer evidence of criminal conduct during systemic corruption investigations to the NPA or ID (Investigating Directorate), which will assign an ID prosecutor-led investigation.

²⁹The National Dialogue on ant-corruption_2024 Report_9-10 December 2024

³⁰Corrupt Practices Investigation Bureau - <https://www.cpiib.gov.sg/about-corruption/legislation-and-enforcement/introduction>

³¹The Independent Commission Against Corruption - <https://www.elegislation.gov.hk/hk/cap204>

³²The Federal Public Ministry - <https://www.globalcompliancenes.com/anti-corruption/handbook/anti-corruption-in-brazil>

³³The Serious Fraud Office - <https://www.thetimes.com/business-money/companies/article/watchdog-to-be-lenient-with-firms-owning-up-to-fraud-7mvghzdmn?>

The OPI's effectiveness in tackling systemic corruption hinges on an investigation model, where cases are swiftly referred to the NPA or ID for immediate prosecutorial guidance. This model, proven in countries like Italy³⁴ and Brazil³⁵, ensures admissible evidence, faster prosecutions, and stronger convictions in complex corruption cases. A proper coordination mechanism will prevent duplication and enhance the delivery of credible results aligned with FATF standards, especially Recommendations 2, 30, and 31³⁶.

Search and Seizure Powers: It is recommended that OPI investigators should be granted search and seizure powers to investigate potential criminal conduct that is discovered during the course of a systemic corruption investigation and prepare criminal dockets for presentation to the NPA.

Granting search and seizure powers to OPI investigators is essential to uncover critical evidence of criminal conduct during systemic corruption probes and to prepare dockets for referral to the NPA. In countries like Singapore³⁷ and Hong Kong³⁸, this model has shown success, where these anti-corruption bodies CPIB (Singapore) and ICAC (Hong Kong), have high conviction rates and strong public trust emanating from these powers. Empowering the OPI in this way aligns with international standards and enhances its ability to disrupt systemic corruption effectively.

Civil Recovery Processes: *'The OPI should have a mandate in its civil recovery to claim damages and utilise other civil recovery mechanisms, this should be expanded to include asset recovery from criminal investigations.'*

Through non-criminal means, the OPI should be granted statutory powers to initiate civil recovery actions, including claiming damages and recovering proceeds of corruption. The new OPI legislation and required legislative amendments must provide the OPI with these powers, together with the State Liability Act, the Financial Intelligence Centre Act (FICA), and the Prevention of Organised Crime Act (POCA), enabling OPI to recover assets independently or in partnership with the NPA's Asset Forfeiture Unit.

This approach emulates successful frameworks under the Proceeds of Crime Act 2002³⁹ in the UK, and where the Ethics and Anti-Corruption Commission (EACC)⁴⁰ in Kenya routinely uses civil processes to recover stolen public assets without the need for criminal conviction.

³⁴Mani Pulite (Clean Hands) - <https://rowman.com/ISBN/9781666938487/Among-Equals-The-Causes-of-Effective-Corruption-Prosecution-in-Italy?>

³⁵"Operação Lava Jato" (Operation Car Wash) - <https://www.economist.com/the-economist-explains/2021/03/09/what-did-lava-jato-brazils-anti-corruption-investigation-achieve?>

³⁶INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM & PROLIFERATION

³⁷CPIB - Mission, Vision, Core Values - <https://www.cpi.gov.sg/who-we-are/our-corporate-philosophy/mission-vision-core-values/>

³⁸ICAC - Independent Commission Against Corruption, Hong Kong Special Administrative Region - <https://www.icac.org.hk/tc/home/index.html>



The OPI's broader mandate and constitutional mandate is aimed at allowing it to exercise these powers more comprehensively compared to the current SIU, addressing corruption embedded in hidden networks and collaborating closely with other entities like the National Prosecuting Authority.

Special Tribunal Powers: It is recommended that *'legislative amendments should enable the Special Tribunal to have powers of criminal forfeiture, exercised by the OPI in collaboration with the NPA Asset Forfeiture Unit and subject to the provisions of POCA'*.

Legislative amendments should empower the Special Tribunal to issue criminal forfeiture orders in systemic corruption cases referred by the OPI, in collaboration with the NPA's AFU. A new enabling law must explicitly link the powers of the Special Tribunal to the OPI's mandate, and amendments to the Special Investigating Units and Special Tribunals Act (Act 74 of 1996) are necessary to allow for expanded jurisdiction. This is in line with mechanisms used in Nigeria, where the Economic and Financial Crimes Commission (EFCC)⁴¹ collaborates with special courts to fast-track forfeiture, and Italy, where anti-mafia tribunals handle similar asset-based penalties as part of criminal procedures.⁴²

To strengthen the OPI's efforts against systemic corruption, legislative amendments should grant the Special Tribunal authority to issue criminal forfeiture orders in cases referred by the OPI, in collaboration with the NPA's AFU. The new OPI legislation must explicitly link the Special Tribunal's powers to the OPI's mandate, while amendments to the SIU Act are essential for

³⁹Proceeds of Crime Act 2002 - UK

⁴⁰<https://eacc.go.ke/en/default/eacc-records-significant-progress-in-asset-recovery/>

⁴¹Economic and Financial Crimes Commission - EFCC - EFCC Makes Single Largest Asset Recovery till Date - <https://www.efcc.gov.ng/efcc/news-and-information/news-release/10562-efcc-makes-single-largest-asset-recovery-till-date>

⁴²Italy's progress in strengthening measures to tackle money laundering and terrorist financing - <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fur-italy-2019.html>

expanding its jurisdiction. This approach aligns with practices in Nigeria, where the Economic and Financial Crimes Commission (EFCC), in partnership with special courts, expedite forfeiture proceedings. Similarly, in Italy, the anti-mafia tribunals impose similar asset-based penalties as part of criminal procedures.

Appointment Criteria: *'The appointment of the Head of the OPI as the Accounting Officer must meet certain statutory criteria of eligibility and qualifications.'*

In terms of the position of the Head of the OPI, and consideration for it ultimately being a Chapter 9 Institution, research⁴³ recommends appointing the Executive Authority as the Head of the OPI, with a CEO serving as the Accounting Officer, in line with the Constitution and PFMA. This model, consistent with other Chapter 9 Institutions, ensures clear separation between strategic oversight and operational execution, enhancing both accountability and efficiency. This should be embedded in the appointment procedures defined above.

It is important to ensure no individual holds unfettered power, and governance powers should be separated. This needs to be considered when planning the organisational model for the OPI.

To uphold competence, independence, and integrity, the Head of the OPI should meet statutory eligibility criteria akin to those required for the Public Protector. The new enabling legislation should codify these standards, integrating provisions from the Public Protector Act and revising the Public Service Act to establish a transparent, accountable, inclusive and merit-based appointment process.

This approach aligns with best practices seen in South Africa and Ghana, where openness in leadership selection bolsters institutional trust. Additionally, insights from the SIU's reports underscore the necessity of robust governance frameworks to enhance accountability within oversight institutions.

Public Hearings: *'The OPI should be granted additional powers to convene public hearings into instances of systemic corruption, to compel the attendance of witnesses at those hearings, and to require evidence production of documents and other physical and digital evidence in conjunction with those hearings.'*

To ensure accountability and public participation, the OPI should be granted the authority, either through new legislation or Presidential Proclamation, to hold public hearings, compel testimony, and mandate the disclosure of evidence. Amendments to the Commissions Act and Criminal Procedure Act should support this power. This is a tested model in South Korea, where the Anti-Corruption and Civil Rights Commission has used public hearings to promote transparency in systemic corruption cases⁴⁴.

Mandate to drive the NACS: *'The statute must give the OPI the mandate to 'drive the long-term roll-out of the National Anti-Corruption Strategy' and advise the government on policy measures to advance the NACS, to educate and mobilise the public, to gather and analyse*

⁴³SIU report: Proposed Concept Notes - Establishment of the Office of Public Integrity_2 December 2024

data relevant to corruption and anti-corruption, and to monitor and evaluate the impact measures designed to prevent corruption, including the receipt, analysis of material classified as restricted, confidential, or secret.'

The implementation of the NACS cannot be overemphasised in the fight against corruption in South Africa. Therefore, it is of utmost importance that the OPI be granted a clear legislative mandate to oversee its implementation. This new role requires a new statutory framework and mandate, along with amendments to the Public Service Act to empower the OPI to coordinate effectively with government departments. Through the KPK in Indonesia⁴⁵ and via the office of the Ombudsman in Rwanda⁴⁶, comparable institutional mandates have been successfully implemented, ensuring sustained policy continuity in anti-corruption reform efforts.

Expert Staff: The OPI should *'have statutory authority to create an organisation and to employ staff with expertise in particular areas, which will be essential to its participation with other government entities in the implementation of the NACS.'*

New legislation should give the OPI the power to independently recruit a multidisciplinary team with skills in forensics, data analysis, law, and administration, etc. To accommodate non-standard hiring and pay structures, amendments to the Public Service Act and relevant employment legislation are necessary. This approach aligns with global best practices, as seen by the UK's Serious Fraud Office (SFO)⁴⁷ and Kenya's Ethics and Anti-Corruption Commission (EACC)⁴⁸.

Multi-Institution Architecture: It is recommended that *'South Africa retain its multi-institution architecture in fighting corruption rather than consolidating all the work and powers in a single commission or other institution.'*

The enabling legislation should explicitly define the OPI's mandate to focus on systemic corruption, complementing existing institutions like the NPA and DPCI - and not competing with any other. The Anti-Corruption Task Team model could be enhanced through legislative clarity and formalisation of mandates. Countries like Singapore's Corrupt Practices Investigation Bureau (CPIB)⁴⁹ and Botswana's Corrupt Practices and Economic Crime Act⁵⁰ use clearly delineated mandates among agencies to prevent duplication and promote operational efficiency. The OPI would benefit immensely in adopting a similar model.

Conflict Resolution Mechanisms: It is recommended that there be an *'establishment of conflict resolution mechanisms to deal with problems that arise when more than one institution is investigating a particular situation.'*

⁴⁴Anti-Corruption and Civil Rights Commission (South Korea) - <https://www.acrc.go.kr/en/>

⁴⁵KPK Indonesia - kpk.go.id

⁴⁶Rwanda Office of the Ombudsman - ombudsman.gov.rw

⁴⁷SFO UK - Serious Fraud Office - GOV.UK - <https://www.gov.uk/government/organisations/serious-fraud-office>

⁴⁸EACC - <https://eacc.go.ke/en/default/>

⁴⁹Singapore CPIB - <https://www.cpiib.gov.sg/advisory/>

⁵⁰Corrupt Practices and Economic Crime Act, Botswana

The aim is to avoid duplication of efforts, resulting in frustrated process and misuse of resources, and improper use of resources, resulting in possible turf wars. Therefore, it is imperative that formal conflict resolution mechanisms where institutional mandates overlap are guarded and facilitated through new legislation and amendments of existing (e.g., amendments to the NPA Act and the SAPS Act). The OPI can draw lessons from similar mechanisms in Australia's multi-agency coordination forums through the Australian Criminal Intelligence Commission (ACIC)⁵¹ and have enhanced cross-agency cooperation.

NPA Coordination: *'Strengthening the efficiency and effectiveness of the NPA's coordination and collaboration role in a multi-agency anti-corruption framework and system.'*

Formal joint protocols mandated through legislation and the OPI's framework should be enabled to ensure structured collaboration with NPA and ID to successfully expedite complex investigations on systemic corruption. This would require amendments to the NPA Act and inter-agency MoUs to institutionalise the NPA's role in coordinating corruption case management. The OPI can draw lessons from the successes of South Africa's State Capture Task Force⁵² and Brazil's Lava Jato (Operation Car Wash) coordinated frameworks⁵³.

Colette Ashton's research titled *Rethinking Anti-Corruption in South Africa: Pathways to Reform*⁵⁴ further supports the OPI in building a credible and effective anti-corruption framework and system in South Africa.

Other critical considerations for the functions of the OPI:

- **Public Awareness and Education**

In a 2024 address, Public Protector Advocate Kholeka Gcaleka, emphasising the need for a courageous and collective response to combat corruption, said, *'We need to start reading books of anti-corruption to children. We need to ensure that our educational system is centred around ethics, is centred around human character'*.⁵⁵

This call by the Public Protector underscores the importance of early ethical education as a foundation for long-term societal change. It is critical for the OPI to lead in fostering integrity and anti-corruption values from a young age as part of its systemic prevention mandate.

Furthermore, in the 2022/2023 SAPS Annual Report, the role of community involvement in combating crime, including corruption, is also emphasised. The report advocates for active

⁵¹ Australian Criminal Intelligence Commission (ACIC) - <https://www.acic.gov.au/>

⁵² NPA Task Force on State Capture - <https://www.npa.gov.za/index.php/media/task-force-handle-state-capture-cases>

⁵³ Priscila Villela 2024, Operation Car Wash beyond Borders: The Making of a Transnational Policing Field, <https://doi.org/10.1590/S0102-8529.20244602e20220105>

⁵⁴ Colette Ashton: August 2024, *Rethinking Anti-Corruption in South Africa: Pathways to Reform*

⁵⁵ Public Protector Gcaleka believes SA needs a courageous response to corruption



citizenry and collaboration between the police and communities to enhance transparency and trust.⁵⁶

A sector-based approach would be key for the OPI. Currently, the SIU has a number of targeted awareness campaigns concluded, including an anti-corruption and ethics awareness campaign at a primary school and an engagement with Communal Property Associations in the Northern Cape. Other initiatives by the SIU include the engagement of the public through syndicated community radio programmes in different provinces and languages. Youth engagement via social media platforms is also important. The SIU already has a strategy in place, i.e. Know Your SIU, which the SIU communicates via social media⁵⁷.

As some of these initiatives are already being implemented by the SIU, but with the OPI fully mandated and resourced to lead educational awareness through a multi-agency approach, this becomes the only viable path to achieving lasting, systemic change.

• Whistleblowing

South African whistleblowers play a crucial role in the uncovering, investigation and prosecution of corruption. This is evidenced in the recent Zondo Commission of Inquiry, amongst others. However, the protection is therefore concerningly lacking where whistleblowers' experiences have not been positive in terms of retaliation and protection. The Zondo Commission of Inquiry included recommendations to introduce legislation or amend existing legislation to strengthen the protection for whistleblowers⁵⁸.

⁵⁶South African Police Service Annual-Report-2022-23-final-draft-2023-10-12

⁵⁷SIU Interviews

⁵⁸Judicial Commission of Inquiry into State Capture Report: Part VI Vol. 4: All the Recommendations

The protection of whistleblowers is an integral part in the fight against corruption and upholding our democracy. Positioning the OPI to play an oversight role in ensuring that the Zondo Commission of Inquiry's recommendations on the protection of whistleblowers are implemented will demonstrate a decisive and urgent commitment to protecting those who expose systemic corruption, reinforce the OPI's institutional integrity and elevate it as a trusted defender of public interest. Restoring public confidence, fostering a culture of accountability, and ensuring that critical disclosures are not silenced by fear or intimidation is critical.

In a country where whistleblowers are retaliated against and are faced with '*lethal violence and murder-for-hire*'⁵⁹, this function of the OPI towards whistleblowers is not only necessary, but rather urgent, critical, and transformative⁶⁰.

- **Oversight responsibilities towards the NCAS**

To ensure continuity, coherence, and accountability in delivering the NACS objectives, the OPI should assume oversight of the implementation of its strategy, as recommended by NACAC. This alignment will consolidate institutional efforts, avoid duplication, and embed systemic monitoring of anti-corruption reforms within a dedicated and independent body. In ensuring this, the OPI must be equipped with appropriate resources, data access, monitoring tools, and the authority to coordinate with all relevant stakeholders and departments. The enabling legislation should provide for this.



⁵⁹National Anti-Corruption Advisory Council. Mid-Term Report May 2024

⁶⁰Whistleblower Retaliation_list

General Design of the OPI

The OPI will adopt a multi-agency design approach⁶¹. The legislative requirements (new OPI Act and/or amendment of existing legislation) will enable this design approach to ensure adequate coordination and integration mechanisms with other institutions. In the design of the OPI, it is imperative to distinguish between a single and a multi-agency approach. The table below provides a clear distinction to be considered in drafting the OPI framework:

Institution	Multi-agency approach	Single-agency approach
Description	OPI functions as a collaborative body with other institutions mandated to investigate and prosecute systemic corruption. Through a coordinated structure, lead anti-corruption efforts.	OPI as a standalone body or sole anti-corruption authority. Full powers, mandate, and function powers to investigate and prosecute systemic corruption.
OPI absorbing the SIU	OPI takes over all SIU powers, mandate, and functions AND operates as a coordinated ecosystem with other bodies, like PPSA, AGSA, DPCI, FIC, SARS, ID (NPA), etc.	OPI takes over all SIU powers, mandates and functions.
Implications	<ul style="list-style-type: none"> • All agencies retain powers, functions, and mandates • OPI lead all systemic corruption efforts/response • Requires vigorous and resilient coordination frameworks 	<ul style="list-style-type: none"> • Legislative amendments for the transfer of all relevant functions • One unified, empowered body or authority • Oversight and accountability simplified
Pros	<ul style="list-style-type: none"> • Responsive to complexity • Leverages existing capabilities and capacities • Encourages inter-agency coordination 	<ul style="list-style-type: none"> • Clear accountability • Authority centralised • Streamlined operations
Cons	<ul style="list-style-type: none"> • Requires strong coordination • Potential risks: <ul style="list-style-type: none"> • Turf wars • Mandate overlaps 	<ul style="list-style-type: none"> • Resource-intensive • Potential risks: <ul style="list-style-type: none"> • Gaps in skills and capacity • Isolation from broader institutional support

⁶¹NACAC – OPI Proposal Overview, 10 December 2024

In absorbing the SIU, the OPI framework should note any current design approaches adopted by the SIU as well as the adequacy and effectiveness thereof. Currently, *“the SIU is part of the National Priority Committee on Organised Crime (NPCOC), formerly known as the Anti-Corruption Task Team. NPCOC is a multi-agency structure that plays a key role in South Africa’s national crime-fighting strategy. It operates under the Justice, Crime Prevention and Security (JCPS) Cluster and is coordinated by the Directorate for Priority Crime Investigation. The main purpose of the NPCOC is to facilitate inter-agency coordination among law enforcement (SAPS, DPCI/Hawks), the National Prosecuting Authority (NPA), intelligence services, customs, the SIU and other departments to ensure a unified and effective response.”*⁶²

Other important factors to consider in the design are avoiding mandate overlaps and ensuring that a robust and effective coordination mechanism is adopted from the outset. This will require effective continuous monitoring processes that will ensure that this is achieved.

It is also crucial that the independence of the OPI is maintained from the outset and that it avoids interfering with the mandate and functions of other law enforcement agencies. It is also noted that considering that some of the anti-corruption agencies have been in existence for some time, there is an inherent risk of possible turf wars. In a single-agency approach, the OPI will be heavily involved in anti-corruption efforts and taking away other agencies’ functions and powers, which may, in turn, create resistance and a lack of harmony between them, where the OPI may be perceived as claiming supremacy over others.

On the other hand, a multi-agency approach would not be without inherent risks or challenges. These anti-corruption agencies must have a clear mandate, functions and responsibility, and the prioritisation and distinction of responses to systemic corruption must be clear. By design, this also presents the emergence of potential turf wars in terms of who does what, the type, urgency, and priority of such systemic corruption reforms. These anti-corruption agencies would potentially compete over jurisdiction or prestige, rather than collaborating effectively. It is therefore crucial to design this approach in a manner that avoids situations where anti-corruption agencies potentially avoid cases that are considered to be either less prominent, appear to not to be of ‘high-profile’, less politically valuable but rather focusing on cases that assert their dominance and validate their existence and importance (creating a perception of supremacy over others.)

Therefore, taking into account that this paper, in its broad definition of systemic corruption, provides a clear triage process where cases are categorised in terms of the type of systemic corruption, which in turn determines which anti-corruption agency is required to respond. This includes promoting a structural design and architecture that eliminates or aims to eliminate institutional competition, and promotes and enables a cooperative environment that prioritises impact and effectively fights systemic corruption.

⁶²SIU Interviews

Whole-of-Society Approach

In appointing the NACAC members on 29 August 2022, the President stated that the NACAC *'is the embodiment of our united resolve as a nation to rid all components of our society of all forms of crime and corruption and develop a whole-of-society response to and prevention of this scourge corruption'*.⁶³ This statement was made with the understanding that fighting corruption means mobilising every sector, i.e., government, business, civil society, communities and individuals in a coordinated effort that combines active citizen engagement, strengthened institutions, and multi-stakeholder partnerships to prevent, detect and respond to corruption.

In its 2024 Annual Report, the Corruption Watch advocates a whole-of-society response, via initiatives like Strengthening Action Against Corruption (SAAC) and Rallying Efforts to Accelerate Progress (REAP) that empowers civil society, forges multi-sector collaboration and centres community engagement to drive transparency and accountability. This emphasises that a unified, whole-of-society effort to end corruption is essential as tolerance and impunity will never lift people from poverty, sustain infrastructure, create jobs, or grow our economy.⁶⁴

It is understood that systemic corruption thrives in gaps between institutions and communities, therefore, a whole-of-society approach will assist in the fight against this scourge. The OPI, working in collaboration with all stakeholders, can unlock intelligence, build legitimacy and public trust, and leverage diverse expertise and resources. With this, the OPI can ensure that its responses to systemic corruption are targeted, credible, and capable of dismantling /disrupting it.

Lessons to Draw from the Successes of the Fusion Centre

The Fusion Centre is one of South Africa's success stories of an effective collaboration in combating corruption through a multidisciplinary initiative. It was established in May 2020 by the Anti-Corruption Task Team (ACTT) and the National Priority Committee on Organised Crime (NPCOC) to fight COVID corruption. It has proven that a collaborative, intelligence-driven, and multi-agency approach is essential for effectively investigating and prosecuting complex financial crimes, including corruption and fraud. It brings together key institutions like the NPA, SIU, FIC, SARS, SAPS, and others to share data, expertise, and resources, resulting in faster case resolution and successful convictions.

The South African Anti-Money Laundering Integrated Task Force (SAMLIT) plays a pivotal role in facilitating real-time financial intelligence sharing between the banking sector and law enforcement agencies. Since March 2023, the Fusion Centre has expanded into a multi-agency hub tackling broader financial crimes through an intelligence-led and collaborative approach across the public and private sectors.

The OPI can adopt this model to ensure seamless collaboration, data sharing, and collective accountability, which are critical for dismantling systemic corruption in both the public and private sectors. This approach ensures a comprehensive, coordinated response to corruption, leveraging diverse expertise and resources to achieve sustainable impact, thereby strengthening its mandate to combat systemic corruption.

⁶³President appoints members of the National Anti-Corruption Advisory Council | The Presidency

⁶⁴Corruption Watch 2024 Annual Report

⁶⁵Lieutenant General Godfrey Lebeya: Achievements and accomplishments of Fusion Centre | South African Government

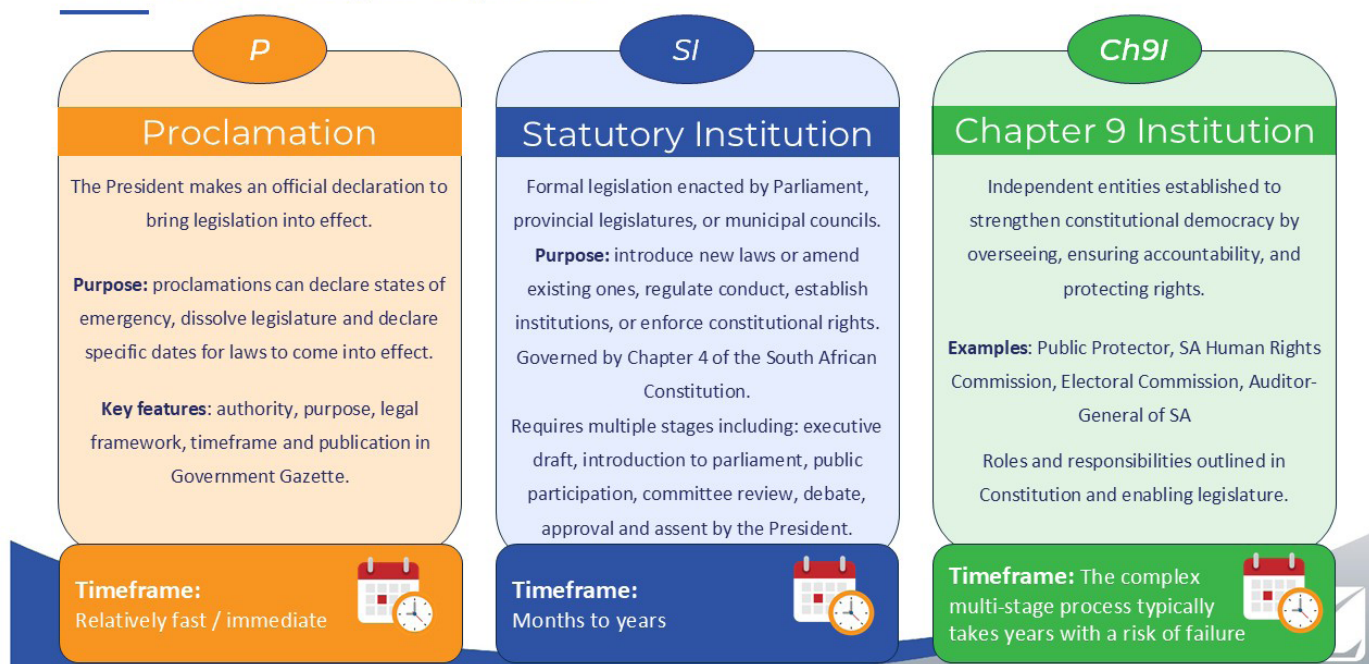
4. Establishing the OPI

In this chapter, we will first explain the legal options to establish the OPI. We take into account that an immediate start of OPI operations is important and that a Chapter 9 Institution is the anticipated final state of the OPI.

In enabling the establishment of the OPI, legislative amendments or new laws based on the NACAC's recommendations are required. Below are the legal options available for the OPI.

4.1 Legal Options: Proclamation, Statutory Body & Chapter 9 Institution⁶⁶

Potential Legal Options



Proclamation

A Proclamation is a formal legal instrument issued by the President of South Africa to bring legislation into effect or declare executive actions⁶⁷. The Proclamation is issued against an existing legislation, and it is issued under the authority of the particular Act (enabling legislation). The Proclamation cannot grant powers, functions, or authority beyond those provided for in the underlying legislation under which it is issued. Without the Act, there is no legal authority for the President to issue a Proclamation.

⁶⁶Constitution of the Republic of South Africa, 1996 - Chapter 5: The President and National Executive | South African Government

⁶⁷Section 84(2)(f) - The Constitution of the Republic of South Africa, 1996

There are limitations in adopting the intended functions of the OPI by way of Proclamation under the SIU Act. In instances where the underlying legislation (SIU Act) does not offer the required powers, functions, and authority required for the full function of the OPI, the Proclamation cannot be used long-term⁶⁸. It can assist in assigning specific investigative functions or mandate temporary capacity where urgent action is needed (but within the scope of the SIU Act).

Therefore, this route to the OPI through the Proclamation cannot be utilised as a substitute for legislative amendment or the development of new legislation to grant the OPI a broader or permanent mandate in terms of the NACAC recommendations. It is rather a process that triggers the amendment of the SIU legislation and the potential drafting of a new OPI legislation.

A Statutory Body

A statute is formal legislation enacted by Parliament with the purpose of introducing new laws or amending existing ones, regulating conduct, establishing institutions, or enforcing constitutional rights. It is governed by Chapter 4 of the South African Constitution and requires multiple stages, including executive draft, introduction to Parliament, public participation, committee review, debate, approval, and assent by the President.

For the purpose of the OPI establishment, two options are available:

1. Amendment of the existing SIU Act incorporating the mandate, powers and functions of the OPI
2. Development of an OPI Act that will include the mandate, powers and functions of the current OPI

The amendment of the existing SIU Act is considered faster as it builds on existing legislation. On the other hand, the development of an entirely new OPI Act enables a completely new framework of mandate, powers and functions of the new institution with a fit-for-purpose institutional and organisational structure. At the same time, the political process may take more time⁶⁹. In several rounds of discussions within NACAC, a phased approach was agreed upon, which moves from Proclamation to SIU Act Amendment, OPI Statute and eventually OPI as a Chapter 9 Institution.

A Chapter 9 Institution

Chapter 9 Institutions are independent entities established to strengthen constitutional democracy. These institutions, such as the PPSA, SAHRC, Commission for Gender Equality, Independent Electoral Commission, and AGSA, are responsible for overseeing, ensuring accountability, and protecting rights. Their roles and responsibilities are outlined in the Constitution and enabling legislation. Amendments to these institutions may require special procedures to maintain their independence, impartiality, and effectiveness.

⁶⁸Section 3(1) SIU Act 74 of 1996

⁶⁹SIU interview

Establishing the OPI as a Chapter 9 Institution will position the OPI as a state institution defending constitutional democracy, granting the OPI a significant degree of independence and authority. With corruption presenting as one of the major threats to democracy and decaying public trust in state institutions, as a Chapter 9 Institution, the OPI will be best positioned to defend democratic values and serve as the leading force in the fight against systemic corruption.

4.2 OPI Establishment: A Phased Approach

The objective is to establish an OPI that is free of undue political influence, established as a Chapter 9 Institution, and one of the State’s preferred Prevention and Investigations Units, in particular with regard to systemic corruption. Considering the urgent need to combat corruption and strengthen institutional integrity, it is recommended that the OPI be established through a phased approach, ensuring rapid initial implementation while transitioning towards its ultimate institutional form. This phased approach will allow the required time for the relevant and necessary process to take shape, whilst the objective of the OPI is being met. In order to ensure the immediacy in operational activities, the SIU is seen as the base institution for the phased approach.

Below is the phased approach from Phase 1 through to Phase 4 for the implementation of the OPI.

Roadmap to the OPI: A Phased Approach



Phase 1: Proclamation in Terms of the SIU Act

The purpose of establishing the OPI by way of Proclamation is to make provisions for the OPI under executive authority in the interim while legislative reforms are underway, therefore short-circuiting the process to address the urgent need.

This provides for the immediate operationalisation of the institution, given the urgent requirement to combat corruption. Given current national budget constraints and the pressing need to address systemic corruption, leveraging existing structures of the SIU is optimal to provide the OPI with a robust and immediate foundation. Leveraging its established infrastructure, experienced personnel, and operational capabilities, the SIU can facilitate a swift and cost-effective launch of the OPI, ensuring continuity and momentum in anti-corruption efforts.

This phase is not without limitation, as there would be limited autonomy and legal powers dependent on executive discretion. Not enjoying protection from enabling legislation means that the approach is not fit for long-term sustainability. In this initial phase of the OPI, the SIU in its current form requires immediate structural and operational changes in some areas. This will be further discussed in the chapter on organisational change.

Phase 1: Proclamation



Advantages:

- Immediate start
- Share SIU's internal organisational functions
- Use SIU's existing competencies

Disadvantages:

- Powers and functions limited to SIU Act
- Additional functions e.g. public hearings, are not legally covered
- Funding of additional functions uncertain
- No investigations on SIU / OPI own accord

NACAC Recommendations partly included



Phase 2: Amendment of the SIU Act

In the execution of the implementation of the NACAC's recommendation in terms of the OPI, it is apparent that legislative intervention is required and urgent. Significant progress could be achieved through strengthening the SIU through the express inclusion of the intended powers of the OPI into the existing SIU. This could be achieved by proposing those immediate powers in the current SIU Amendment Bill. Such provisions may address issues such as giving the SIU to investigate cases of its own initiative, without a Presidential Proclamation, while retaining the Presidential powers to instruct the SIU where they deem it necessary to do so⁷⁰.

This phase focuses on transitioning statutory powers and personnel from the SIU to the OPI framework and using the existing SIU legal framework as a base for OPI's functions, while gradually expanding powers and capabilities. The required and relevant staff would be added in incremental phases.

Amendments to the SIU Act are necessary to empower the OPI with statutory authority for prevention functions, including provisions for proactive measures, impact assessments, data analytics, and systemic recommendations. Legislative mandate should be expanded to allow proactive investigations without presidential proclamations. Additionally, granting criminal prosecution authority or streamlining processes with the NPA is essential. Increasing funding and resources, including 100% government funding, is crucial⁷¹.

Phasing the absorption of the SIU into the OPI in this approach will preserve institutional memory and capacity, established infrastructure and operational processes, providing ease for scope expansion into systemic corruption in a structured manner.

Current SIU amendments with the DOJ

There is an urgent need for the SIU Amendment Bill to be prioritised, in that it may need to skip the queue of Bills already before the houses of Parliament, something requiring political influence and persuasion. The Minister of Justice needs to prioritise the SIU Amendment Bill in the Department's Legislative Programme and table the same in Cabinet for approval, progress the Bill to be certified by the Office of the Chief State Law Advisor prior to introduction in the National Assembly. This urgent action and support from the Minister are crucial in the success of these amendments being passed into law.

We acknowledge and appreciate the current SIU Act amendments that are underway. The SIU Act proposed amendments from this research in line with the OPI requirements should be considered in the same breath as the current amendments underway to ensure a seamless process. During this transition phase, the OPI should continue operating under Presidential Proclamation whilst these current proposed amendments are underway.

⁷⁰SIU interview

⁷¹SIU report: Proposed Concept Notes - Establishment of the Office of Public Integrity_2 December 2024

The challenges envisioned in Phase 1 will also be experienced in this phase, where the SIU's mandate remains limited by Section 2 of the SIU Act, i.e., recommendations that are not legally binding, reporting line to the President only and still dependent on case-specific Proclamation, etc. The priority would be to see these amendments through and ensure that enabling OPI legislation is expedited.

The amendments should be in sync and not in contradiction with the enabling legislation in Phase 3 to enable a smoother transition into a full Statutory Body.

Phase 2: Amendment of the SIU Act



Phase 3: OPI Statute

The purpose of this phase is to pass dedicated legislation that formally establishes the OPI as a dedicated anti-corruption Statutory Body with clearly defined powers and independence. This enabling legislation will detail institutional clarity, provide a full legal standing, and mandate and powers tailored to systemic corruption, enhancing public trust and legal legitimacy.

The challenge with this process may be lengthy, as the process requires extensive stakeholder engagement and is subject to political contestation. With the leveraging of the SIU's infrastructure, additional resources and upgrading of the infrastructure in incremental stages, the transitioning process would be smoother and less resource intensive.

The statute, as opposed to a constitutional amendment, may be a great starting point, given that constitutional amendments require a higher threshold to be passed in both the National Assembly (NA) and the National Council of Provinces (NCOP). Furthermore, the OPI needs to be a constitutional institution in order to be independent and be an effective corruption-fighting entity. The same outcome could be achieved through an Act of Parliament.

Phase 3: OPI Statute

SI

Phase 3

OPI as Statutory Institution

Requires: Development of OPI Legislation (Statute)

Timeframe: Parliamentary Process with a simple majority

Modus Operandi:

1. Establish OPI Act
2. OPI operates completely independently

Advantages:

- Legally robust
- Comprehensive governance Framework

Disadvantages:

- Timeframe
- Political challenges
- Resource intensive
- Some political and financial implications

NACAC Recommendations partly included

Phase 4: OPI as Chapter 9 Institution

The purpose of transitioning to Phase 4 is to entrench independence and constitutional status, ensuring constitutional protection and independence. This phase will ultimately provide the OPI with security of tenure, full oversight powers, secure funding from parliament, and full independence from executive interference. However, it is admitted that this process is rather complex, politically sensitive, and requires constitutional amendment, i.e., a 2/3 majority in parliament.

Phase 4: OPI as Chapter 9 Institution

Ch9I

Phase 4

OPI as a Chapter 9 Institution

Requires: New legislation. NOT Proclamation.

Timeframe: Parliamentary Process with a 2/3 majority

Modus Operandi:

1. Establish OPI Act
2. OPI operates completely independently & is constitutionally protected

Advantages:

- Legally robust
- Constitutional protection
- Comprehensive governance Framework

Disadvantages:

- Timeframe
- Political challenges
- Resource intensive
- Challenges regarding the political and financial implications

NACAC Recommendations fully included

It is important to note that each phase is dependent on the other, and all phases are to be completed to achieve the full implementation of the NACAC recommendations. Phases 1 and 2 will run in parallel. The use of a Proclamation in terms of the SIU Act should immediately trigger the process of amending the SIU Act. The development of an OPI Act should start right after that, providing the SIU with the mandates, powers, and functions of the institution and fully absorbing the current SIU.

4.3 Technical Brief on SIU Act Amendment and OPI Legislation

Given our strong recommendation to amend the SIU Act and establish the OPI as a statutory institution, we will provide a brief on the potential content of a respective act here. Having said that, it must also be pointed out that a more in-depth legal analysis and advice would be beyond the scope of our assignment. Yet, we believe it is important to provide an overview of the potential criteria for the new Act aimed at establishing the OPI. It is also important to note that the current powers and functions of the SIU– as set out in the SIU Act– must also be included in the OPI Act, though with amendments. However, in this chapter, we will focus on the specifics of an OPI act that is directed to the OPI key mandate: the fight against systemic corruption.

The primary objective of the SIU Act amendment and the OPI Act is to investigate systemic corruption within state institutions, state assets, and public money, as well as any conduct that may seriously harm the interests of the public. The Acts should encompass various powers and functions, including investigations, powers of search and seizure, preparation of criminal dockets, civil recovery, expanded powers of the Special Tribunal, policy advice, whistleblowing, public hearings, and corrective actions.

The Acts must definitely contain a definition of systemic corruption. In Chapter 2, we proposed the following definition of systemic corruption:

'Systemic corruption refers to the pervasive presence of corrupt practices within an organisation or economy. It implies that corruption is the norm, and encountering an honest officer would be surprising. Systemic corruption often involves private sector players and can include elements of political corruption, where senior government officials initiate or support corrupt activities for personal political and/or financial gain. This political dimension can create hidden networks that guide institutions in their routine corrupt behaviour. Systemic corruption can encompass both major and minor incidents and may not always be illegal.'

Independence and Powers of the OPI

The OPI should have the authority to initiate investigations independently and exercise its powers without prior consultation or approval. This independence is crucial to ensure that the OPI can address systemic corruption without undue political influence. The President or the OPI must set out the terms of reference for investigations or the Special Tribunal. Any amendment to a Presidential Proclamation must be agreed upon by the OPI.

Governance Structure and Competencies

We propose that the governance structure of the OPI be amended to clearly define the competencies and skills required for its head. The head of the OPI should be appointed by the President or Parliament, and the amendment should stipulate the necessary competencies and skills for this role. This structure will ensure that the OPI is led by individuals with the expertise and integrity needed to combat systemic corruption effectively.

Powers of the OPI

The OPI should be tasked with investigating all allegations of systemic corruption and collecting evidence related to such cases. Additionally, the OPI should engage in the prevention of systemic corruption, public education, and policy advisory. These functions will enable the OPI to address corruption comprehensively, from investigation to prevention and education.

Functions of the OPI

The specific powers and functions of the OPI should include investigations, powers of search and seizure, preparation of criminal dockets, civil recovery, expanded powers of the Special Tribunal, whistleblowing, public hearings, and corrective actions. These powers will provide the OPI with the necessary tools to effectively combat systemic corruption and hold individuals and institutions accountable.

In summary, we emphasise the importance of amending the SIU Act and then establishing the OPI with the necessary powers and functions to address systemic corruption effectively. By defining systemic corruption, ensuring the independence of the OPI, and outlining its governance structure and specific powers and functions. Thus, a robust framework will be created to combat corruption and promote integrity within state institutions.

4.4 Prevention and Public Awareness

The OPI's operations will have a strong emphasis on preventative measures and public awareness, not just investigations. Therefore, we want to highlight some important objectives and activities at this point in order to explain further the uniqueness of the institution's anticipated role.

We propose a comprehensive approach to reducing systemic corruption through cultural change and public awareness campaigns. Leadership at state institutions, staff at state institutions, the general public, non-governmental actors, educational institutions, and the private sector all play crucial roles in this effort. Awareness and public education campaigns could include, for example:

- online courses
- video short casts
- podcasts
- social media posts
- influencer campaigns
- school and university programs

- mandatory programs for the public sector (leadership and staff)
- training for ethics officers and concerned staff in private companies
- campaigns specifically targeting local/rural communities and the youth

The importance of public awareness cannot be overstated. By educating the public and fostering a culture of integrity, the OPI can create an environment where corruption is less likely to thrive. Online courses and video shortcasts can provide accessible and engaging content to a wide audience, while podcasts and social media posts can reach individuals who may not have access to traditional educational resources. Influencer campaigns can leverage the reach and credibility of popular figures to spread anti-corruption messages, and school and university programs can instil values of integrity in the next generation.

Mandatory programs for the public sector are essential to ensure that leadership and staff at state institutions are well-versed in anti-corruption measures and ethical behaviour. Training for ethics officers and concerned staff in private companies will assist in creating a culture of integrity within the private sector, which is often intertwined with public sector corruption. Campaigns specifically targeting local/rural communities and the youth can address the unique challenges faced by these groups and empower them to take a stand against corruption.

Whistleblowing as a Preventive Measure

Whistleblowing should be an integral part of the preventive measures against systemic corruption. Key challenges of the current Protected Disclosures Act (PDA) must be addressed to ensure effective whistleblowing mechanisms. Legal advice, safety, protection from victimisation, and financial support must be granted to whistleblowers. While witness protection is beneficial, it is not sufficient, as not every whistleblower is a witness.

Effective whistleblowing mechanisms are crucial for uncovering corruption and holding individuals accountable. Legal advice can help whistleblowers navigate the complexities of reporting corruption, while safety and protection from victimisation can ensure that they are not retaliated against for their actions. Financial support can provide whistleblowers with the resources they need to continue their fight against corruption, and witness protection can offer additional security for those who may be at risk.

It is important to consider the pros and cons of internal versus external whistleblowing mechanisms. Internal whistleblowing mechanisms can provide a more controlled and confidential environment for reporting corruption, but they may also be subject to internal biases and conflicts of interest. External whistleblowing mechanisms, on the other hand, can offer greater independence and transparency, but they may also be more challenging to implement and manage. It is important to carefully consider the advantages and disadvantages of each approach and develop a system that best meets the needs of the organisation and its stakeholders.

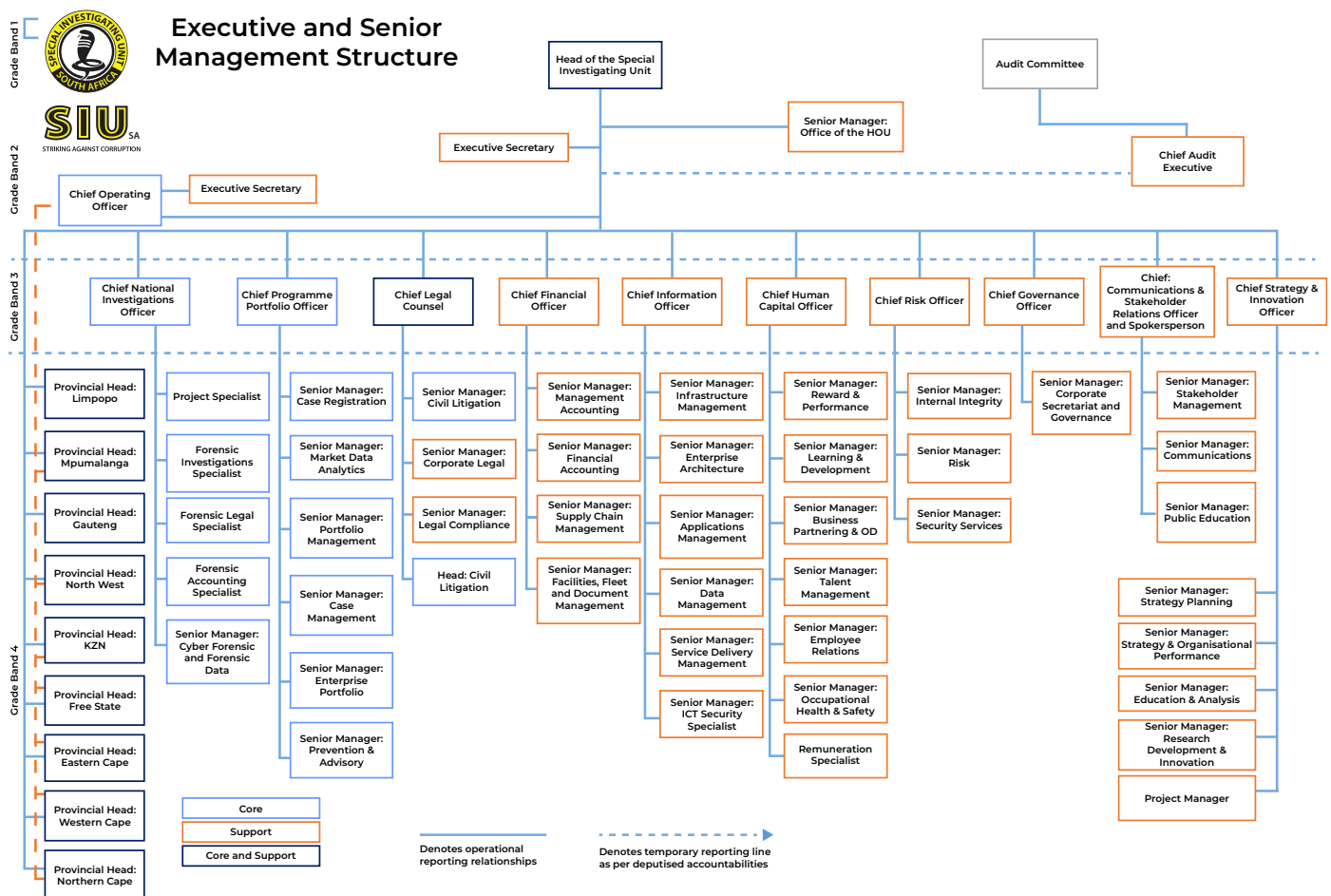
These are only some initial ideas of how to shape the OPI concerning its mandate for prevention and public awareness.

5. Organisational Structure

The existing organisational structure and employees of the SIU are the starting point in Phase 1 – Proclamation. Towards Phase 2 – Amendment of the SIU Act and Phase 3 - OPI Statute, the current SIU employees should be transferred to the OPI. A fit-for-purpose organisational structure with additional functions like policy development, criminal docket preparation, and whistleblower protection should then be developed. A conceptual human capital framework for the transition of functions and employees should be developed⁷². A transition project plan covering job design, capacity development, and organisational culture is also necessary. For the purpose of this report, we will highlight the most important organisational changes.

5.1 From SIU to OPI

The establishment of the OPI is proposed in phases. Therefore, the planning for the organisational structure follows this approach and is split in two steps which will be explained in this chapter. To do so, the current organisational structure of the SIU is regarded as the starting point. The SIU presents its current organisational structure as follows:



⁷²SIU report: Proposed Concept Notes - Establishment of the Office of Public Integrity_2 December 2024

The approach to organisational change follows the phased approach towards SIU Act amendment first, and then OPI Statute establishment. We see two major changes necessary for the organisation to adopt the OPI and its activities targeting systemic corruption:

- **In Phase 1 – Proclamation:** Immediate start of operations through proclamation and within the SIU structure
- **In Phase 3 – OPI Statute:** The OPI being established as a statutory institution absorbing the current SIU.

Both Phases consider the scarcity of resources for government institutions and anticipate that such funds will remain limited. For this reason, the proposal tries to combine effective OPI operations with efficiency concerning necessary resources.

Phase 1: Proclamation

This phase assumes that, through Presidential Proclamation, the SIU will be mandated to start operating the OPI within its current structure. In order to do so, there are some divisions that are unique for the OPI and others which can be shared with the current SIU. In the current SIU structure, we propose that the following divisions receive additional staff to cover the increasing workload that will result from OPI operations. Our proposal for these divisions with shared functions is as follows:

a. Additional Staff in Current SIU Divisions (Shared Functions)

Divisions (Heads)	Potential Function	Proposed Additional Number of Staff for OPI Operations
Provincial OPI Representatives		9
Chief National Investigations Officer	Forensics	2
Chief Programme Portfolio Officer		
Chief Legal Counsel		
Chief Financial Officer	Accounting and Fleet, Facilities and Documentation	2
Chief Information Officer	Data Management, ICT Security	3
Chief Human Capital Officer	HR	2
Chief Risk Officer	Risk Management	1

Divisions (Heads)	Potential Function	Proposed Additional Number of Staff for OPI Operations
Chief Governance Officer	Governance	1
Chief Communication and Stakeholder Relations Officer (Spokesperson)	Communication	1
Chief Strategy and Innovation Officer	Strategy, Innovation	1
Total Amount of Additional OPI Staff		22

b. New Divisions (OPI Specific)

Additionally, there are functions which are unique and should be covered by specific OPI divisions. These divisions are important to gain valuable experiences and to build knowledge. We propose the following structure for these divisions:

OPI Divisions	Potential Function	Proposed Initial Number of Staff
Investigations	Head of Division	1
	Investigators	8
	Whistleblowing Specialists	2
	Lawyers: Preparation of Criminal Dockets	2
	Lawyers: Special Tribunal (Criminal Forfeiture)	1
	Search and Seizure Specialists	1
	Civil Recovery Specialists	1
Prevention	Head of Division	1
	Public Education	4
	Policy Advisory	3
	Corrective Actions	3
	Public Hearings	2
Total Amount of Additional OPI Staff		30
Total OPI Staff Phase 1 a) and b)		52

The composition of shared and OPI-specific functions leaves room for debate. For example, the two Forensic Specialists in (a) could also be allocated to the OPI-specific Investigations Division. Our take on this is that they would be better placed in the SIU Investigation function in order to share forensics knowledge with colleagues. We also acknowledge that lawyers for special tribunals within the OPI may appear to be a duplication, given that such function is already assumed in the SIU. In this case, we believe it would be good to build specific OPI knowledge and experiences, hence the OPI-specific function.

It shall also be noted that the number of staff proposed will not be hired on day one; rather, it is anticipated that the employees will be employed over a period of a year. In the beginning, the main task in many of the functions will be establishing well-working structures (e.g. Whistleblowing).

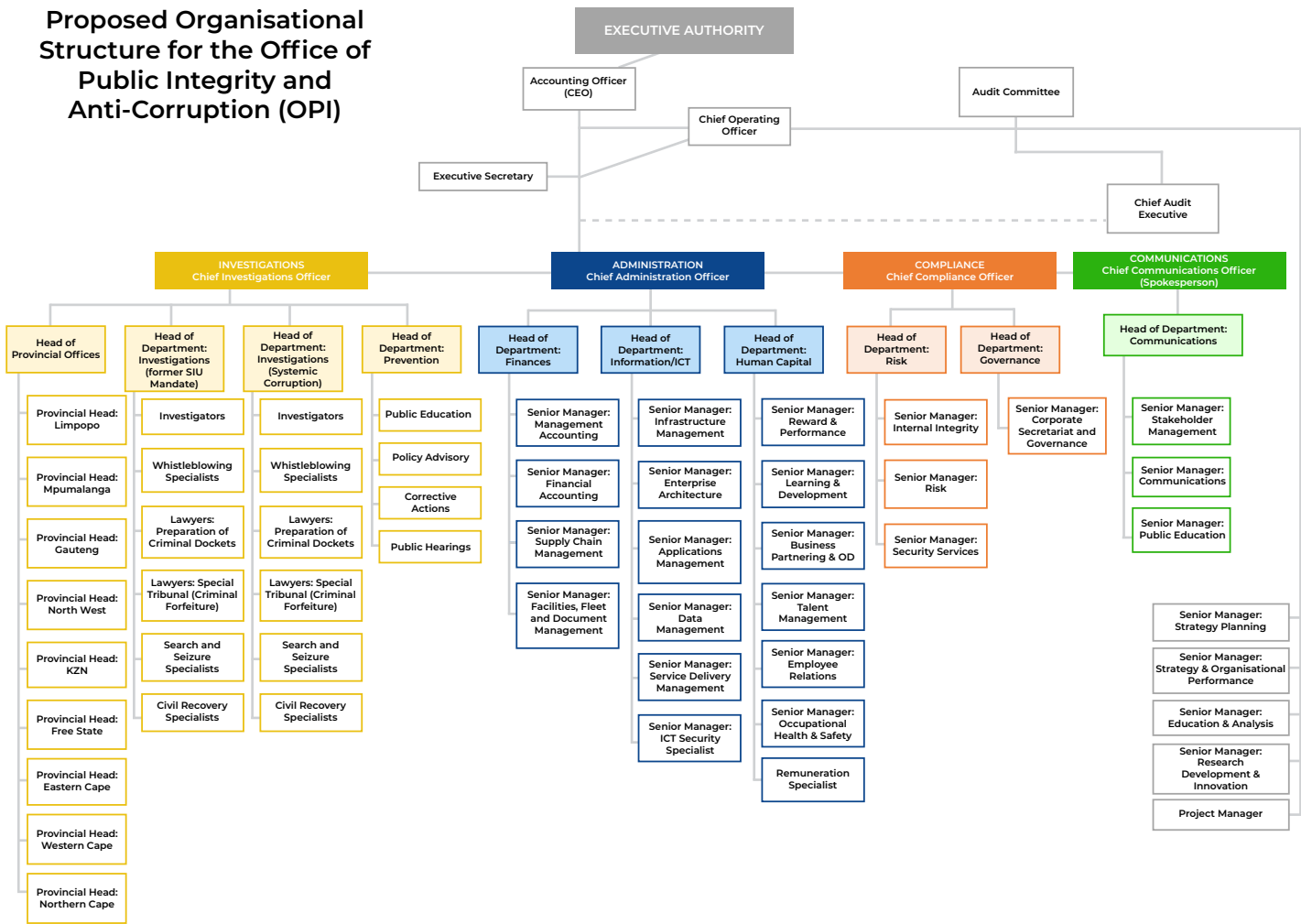
Phase 3: OPI Statute

Once the OPI operations are started through proclamation and within the current SIU and subsequent SIU Act amendment, the legislative and organisational preparation for a statutory OPI (taking on board the SIU) shall start. We propose that the development of a new and comprehensive legislation covering the SIU and OPI mandates should go hand in hand with a completely new organisational structure for the new institution.

We anticipate that the new OPI in Phase 3 - OPI Statute will require more staff than what is proposed for Phase 1 - Proclamation. The reason is that we assume an increasing demand for activities countering systemic corruption. Obviously, this will also affect budgeting – an issue that will be addressed in the next chapter. We suggest a change in the governance structure with clear division of duties between the Executive Authority and the Accounting Officer (CEO). Secondly, we believe that the organisation should be simplified at top-management level, employing a four-pillar structure (Investigation, Administration, Compliance, Communications).



For the OPI as a statutory institution and absorbing the current SIU (as outlined in the table at the beginning of this chapter), we propose the following structure:



At the end of the financial year 2023/2024, the SIU had 702 employees. In Phase 1 - Proclamation, according to our proposal, this number goes up to approximately 752. With growing expertise and experience, we anticipate that the new organisational structure for the statutory institution OPI will grow further to approximately 1000 employees. The organisational changes anticipated for Phase 3 – OPI Statute will impact the budget further, which will be addressed in the following chapter. The changes in Phases 1 and 3 also require a solid project and change management process, which will also be presented in a separate chapter.

5.2 Skill Sets for Top Leadership

With the change of the organisational structure, we also propose to develop skill sets for the top leadership positions, namely Executive Authority and Accounting Officer, within the OPI. We believe this will assist in identifying sufficiently qualified candidates and visibly express the qualification demands for these roles. Both positions are critical in ensuring financial integrity, risk management, and compliance within the unit, adhering to principles outlined in Sections 63 and 64 of the Public Finance Management Act (PFMA) with Parliamentary oversight. We hold that such a skill set will positively contribute to the overall effectiveness and credibility of the OPI.

Our proposal shall be seen as blueprints that need to be discussed and amended further. Yet, we hold it is good to provide the baseline qualification set here.

Executive Authority

The Executive Authority will oversee financial integrity, risk management, and compliance within the unit. We suggest that the minimum educational qualifications for this role include a bachelor's degree in accounting, finance, forensic auditing, or economics, with a Chartered Accountant (CA(SA)) qualification being highly preferred. Alternatively, credentials such as Certified Internal Auditor (CIA), Certified Fraud Examiner (CFE), or ACCA are advantageous.

The Executive Authority must possess extensive knowledge, skills, and experience, including 8 to 12 years in financial management, forensic auditing, or risk governance, preferably in a regulatory or anti-corruption setting. We propose that they should have deep knowledge of PFMA, Municipal Finance Management Act (MFMA), and Treasury Regulations, expertise in detecting and preventing financial fraud, procurement fraud, and money laundering schemes, and a strong understanding of government financial accountability, budget oversight, and forensic financial investigations. Proven leadership and strategic management experience in government agencies, regulatory bodies, or multinational compliance environments is crucial.

Accounting Officer (CEO)

The Accounting Officer (CEO) must have leadership, investigative, and strategic capabilities to manage and guide the unit effectively, in line with sections 36, 38, and 40 of the PFMA 4. We suggest that the minimum educational qualifications for this role include a bachelor's degree in law (LLB), forensic accounting, criminology, public administration, or political science, with a master's degree in business administration (MBA), public policy, law, or governance, being highly advantageous. Certifications such as Certified Fraud Examiner (CFE) or Certified Anti-Money Laundering Specialist (CAMS) would be beneficial.

The Accounting Officer should have 10 to 15 years of experience in law enforcement, forensic investigations, anti-corruption, compliance, or financial crime risk management, with experience in handling high-profile corruption investigations and working with international anti-corruption bodies. We propose that they must have a strong understanding of South Africa's anti-corruption laws, the Prevention and Combating of Corrupt Activities Act (PRECCA), PFMA, and related governance frameworks. Proven leadership and strategic management experience in government agencies, regulatory bodies, or multinational compliance environments is essential.



6. Project and Change Management (GTAC)

The establishment of the OPI marks a significant milestone in this ongoing struggle. The OPI is a newly formed institution dedicated to investigating cases of systemic corruption within public institutions. It will eventually integrate the SIU, which has been responsible for probing serious malpractices in public institutions. The following strategy outlines the project and change management process necessary in order to establish the OPI. It takes into account the stepwise approach proposed in this report. We believe that it is crucial to start the project and change management process right from Phase 1. The following strategy employs Project Management Processes and Tools proposed by South Africa's Government Technical Advisory Centre (GTAC).

The overall project of establishing the OPI consists of three major steps:

- a. Developing the Strategy for the OPI
- b. Developing the Project Management Plan
- c. Developing the Change Management Plan.

We will highlight the most important steps of the project here, but please note that a comprehensive plan will require detailed plans for all steps, including the assignment of responsibilities, funds and a time plan.

a. Developing the Strategy for the OPI

Crafting a robust strategy is the first important step in establishing the OPI. This involves collaboratively developing the vision, mission, and values of the new organisation, followed by setting clear goals, devising a strategy, and formulating an action plan. The following statements are just proposals to start the collaborative process within the OPI and the SIU.

Examples:

- **Vision:** The vision of the OPI is a transparent and accountable public sector, free from systemic corruption.
- **Mission:** The mission of the OPI is to investigate and eradicate systemic corruption within public institutions, thereby ensuring integrity and trust in public administration.
- **Values:** The OPI stands firm on the pillars of Integrity, Accountability, Transparency, Excellence, and Collaboration.
- **Goals:** The goals are ambitious yet achievable:
 - To identify and investigate cases of systemic corruption within public institutions.
 - To promote ethical practices and integrity in public administration.
 - To collaborate with other agencies and stakeholders to combat corruption.
 - To undertake preventative measures to avoid systemic corruption.
 - To provide policy advice for a more transparent and accountable, corruption-free public service.

Strategy: The strategy is multifaceted and will only be explained here in broad steps:

- **Research and Analysis:** Conducting thorough research to understand the extent and nature of systemic corruption in public institutions.

- **Stakeholder Engagement:** Engaging with key stakeholders, including government agencies, civil society, and the public, to gather insights and build support for the OPI's mission.
- **Capacity Building:** Developing the necessary infrastructure, resources, and expertise to effectively investigate and address systemic corruption.
- **Public Awareness:** Launching awareness campaigns to educate the public about the OPI's role and the importance of combating systemic corruption.
- **Policy Advice:** Advise the government and stakeholders to tackle systemic corruption comprehensively.

Action Plan: This report explains a number of interventions towards the establishment of the OPI. In a narrow sense, the action plan unfolds in phases as follows:



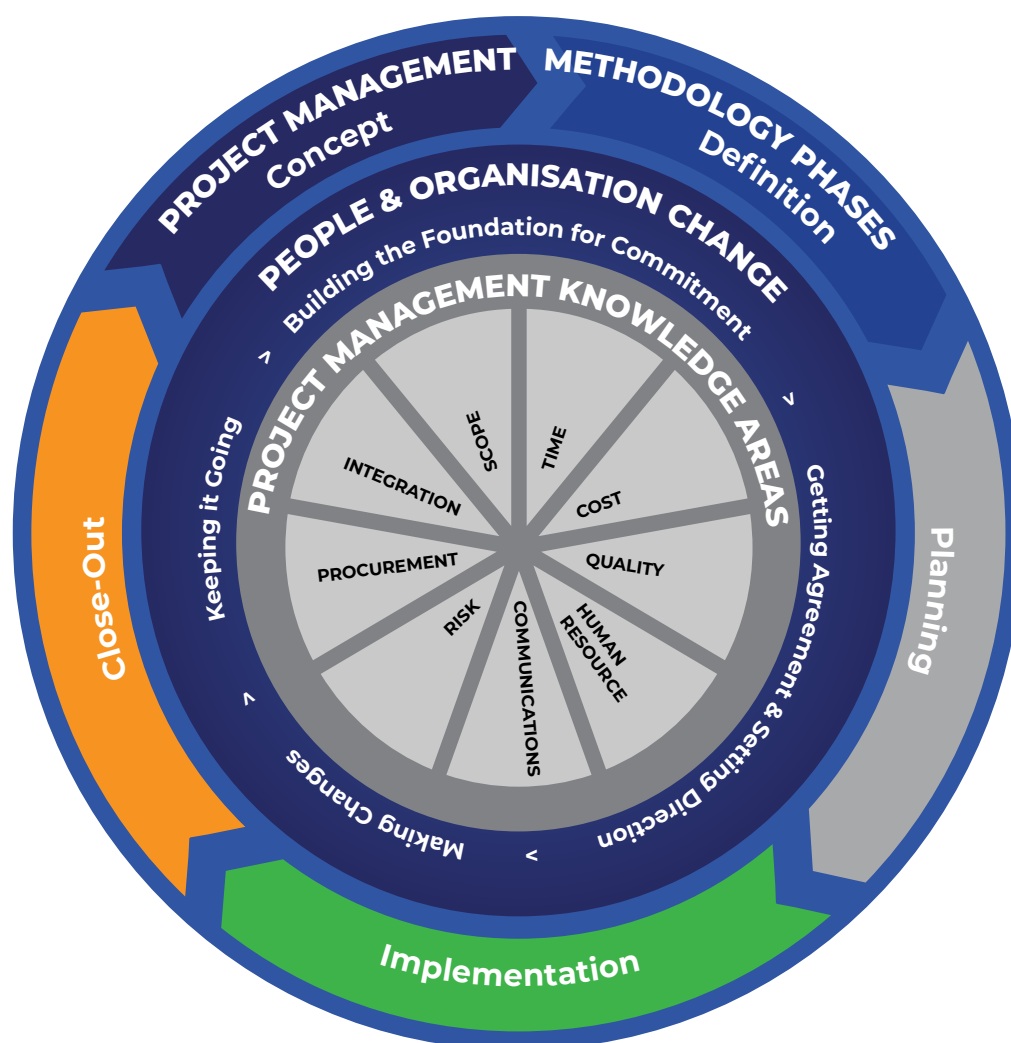
The Strategy Pyramid



b. Developing the Project Management Plan

The project management plan for establishing the OPI is a meticulous process that employs the Project Management Processes and Tools proposed by South Africa's Government Technical Advisory Centre (GTAC). The project management plan consists of five key steps: Concept, Definition, Planning, Implementation, and Close-out.

- **Concept:** The first step begins with defining the purpose and scope of the OPI. Identifying key stakeholders and their roles is crucial, as is outlining the initial vision, mission, and values.
- **Definition:** Next, detailed project objectives and deliverables must be developed. The organisational structure and governance framework will be established, and resource requirements and budget will be identified.
- **Planning:** A detailed project plan will be created, including timelines, milestones, and dependencies. Risk management and contingency plans will be developed, and communication and reporting protocols will be established.
- **Implementation:** The project plan will be executed, encompassing recruitment, training, and infrastructure development. Progress will be monitored, and any issues or challenges will be addressed. Compliance with legal and regulatory requirements is ensured.
- **Close-out:** Finally, a comprehensive review and evaluation of the project will be conducted. Lessons learned and best practices will be documented, and the transition to operational status will be completed, ensuring ongoing support and maintenance.

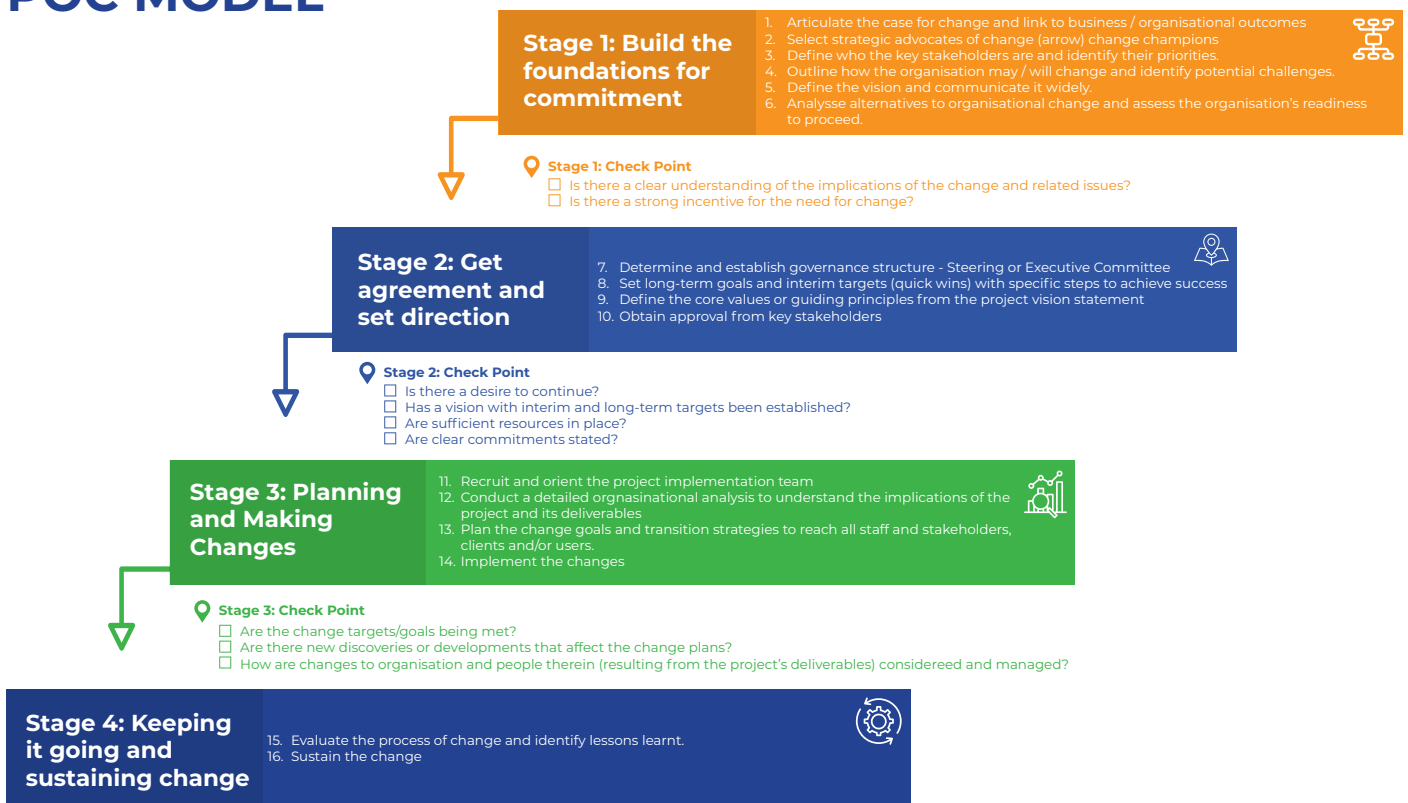


c. Developing the Change Management Plan

The change management plan for the OPI is a thoughtful process and consists of four key steps: Building the foundation of commitment, getting agreement and setting direction, making changes, and keeping it going. Change management must be taken very seriously, given that the newly established OPI will take on board the already existing SIU. This can lead to a number of challenges, particularly concerning organisational culture and resistance to change. The key steps of change management are:

- **Building the foundation of commitment:** The vision, mission, and values of the OPI are communicated to all stakeholders. Trust and support are built through transparent and inclusive processes, and concerns and resistance to change are addressed through open dialogue and engagement.
- **Getting agreement and setting direction:** Buy-in from key stakeholders and decision-makers is secured. Clear goals, roles, and responsibilities are established, and a roadmap for the change process, including timelines and milestones, is developed.
- **Making changes:** The necessary changes to integrate the SIU into the OPI are implemented. Training and support are provided to ensure a smooth transition, and progress is monitored, with any issues or challenges addressed.
- **Keeping it going:** The momentum of change is sustained through ongoing communication and engagement. Continuous evaluation and improvement of the OPI's processes and initiatives are carried out, and successes are celebrated, with contributions recognised to maintain morale and commitment.

POC MODEL



Key Challenges of the Project

Integrating the staff of the Special Investigating Unit (SIU) into the newly established Office of Public Integrity (OPI) presents several key challenges. These challenges must be addressed thoughtfully to ensure a smooth transition and the successful operation of the OPI. One of the primary challenges is resistance to change. SIU staff may feel uncertain or anxious about the transition to the OPI, fearing changes in their roles, responsibilities, or job security. This resistance can stem from a lack of understanding of the new organisation's vision, mission, and values, or from concerns about how the integration will impact their daily work. To mitigate this resistance, it is crucial to engage SIU staff early in the process. Inclusion and participation in the planning and implementation phases can help build trust and buy-in. By involving SIU staff in developing the OPI's strategy, project management plan, and change management plan, they can feel a sense of ownership and commitment to the new organisation.

Leadership commitment is another critical factor in overcoming integration challenges. Leaders must demonstrate their dedication to the transition by actively participating in the process, communicating transparently, and addressing concerns promptly. Their commitment can help reassure SIU staff and foster a positive attitude towards the change. Ongoing communication is essential throughout the integration process. Regular updates, open forums for discussion, and clear channels for feedback can help keep SIU staff informed and engaged. This communication should be two-way, allowing staff to voice their concerns and suggestions, which can then be addressed by leadership. Training and support are also vital to ensure that SIU staff can adapt to new roles and responsibilities within the OPI. Providing comprehensive training programs and resources can help staff develop the necessary skills and knowledge to succeed in the new organisation. Additionally, offering support services, such as counselling or mentoring, can help staff navigate the transition more smoothly.

Finally, it is important to recognise and celebrate achievements throughout the integration process. Acknowledging the contributions and successes of SIU staff can help maintain morale and motivation, reinforcing their commitment to the OPI's mission. By addressing these challenges through inclusion, leadership commitment, ongoing communication, training, and recognition, the integration of SIU staff into the OPI can be managed effectively, ensuring a successful transition and the fulfilment of the OPI's mandate to investigate and eradicate systemic corruption within public institutions.



7. Financial Considerations

Currently, the SIU is partially funded by a Government grant from the National Treasury, allocated through the SIU's Executive Authority, the Department of Justice and Constitutional Development. During the Medium-Term Expenditure Framework (MTEF) budget processes, the SIU would be able to motivate for additional funding for the initial establishment of the OPI, as the SIU is already partly funded through annual budgetary processes that are in place. It is estimated that the SIU would require between R50 million and R120 million per annum over the MTEF period to kickstart the OPI. This would be in areas regarding investigations, prevention, additional communication and awareness capabilities, policy advice and shared functions with the current SIU (e.g. finances, HR, etc.). In the event that National Treasury is not able to allocate additional funding for the establishment of the OPI within the SIU, the SIU stated it could provide funds for approximately 50 additional employees from its own funds and will prioritise the recovery of its debt book in order to do so⁷³.

Given the aforementioned, this chapter addresses two financial aspects of the OPI establishment, namely:

- The anticipated costs of the OPI establishment
- Potential funding solutions

Importantly, the figures presented here do not take into account inflationary trends. All amounts are based on the buying power of the rand at the time of the release of this report.

7.1 The Anticipated Costs of the OPI Establishment

For the OPI establishment, budget considerations are based on estimates. Given that Phase 1 – Proclamation of our proposal basically adds core and support staff to the current SIU, we anticipate additional costs based on the increase in the number of employees. For Phase 3 – OPI Statute, we again base our estimates on the figures of the most recent financial report of the SIU. We also assume that the transition into Phase 4 - Chapter 9 Institution will not incur further operational costs.

For the financial year 2023/2024, the SIU states the following⁷⁴:

Number of staff at the end of the financial year	702
Average number of staff during the financial year	663
Employee-related expenditure in the financial year	645,307,000 ZAR
Expenditure per employee in the financial year	973,000 ZAR
Total Expenditure of the SIU in the financial year	1,118,480,176 ZAR
Average total costs per employee based on the total expenditure of the SIU in the financial year	1,686,998 ZAR
(Total Expenditure of the SIU in the financial year/average number of staff during the financial year)	

⁷³SIU Interview

⁷⁴SIU Annual Report 2023/2024: https://www.siu.org.za/wp-content/uploads/2024/10/SIU-202324-Annual-Report_Tabled.pdf

For our forecasts, we use the average number of staff and the total expenditure of the SIU in the financial year. We acknowledge that employee expenditure and total expenditure of the institution do not increase proportionally, given that there are fixed costs which do not go up when more staff are hired. However, we believe that establishing the OPI will also incur extra costs such as costs for the project and change process, additional equipment, office space, staff training, etc. Therefore, we hold that it is sensible at this point to use the two figures mentioned and to extrapolate them into the future. Consequently, we anticipate the following budgetary influences through the OPI establishment:

Phase 1: Proclamation

As explained in the chapter on the organisational structure, in this phase, 52 employees are assumed to join the SIU. Employing the average total costs per employee (f) of 1,686,998 ZAR, this totals to 87,723,935 ZAR. Given that the new employees will be hired throughout the year, it is reasonable to assume that 50% of the mentioned amount will be necessary in the first year and 100% for every year, until the OPI, as a Statutory Institution, is established.

Additional costs in the first year (50%)	43,861,967 ZAR
Any following year	87,723,935 ZAR

Phase 3: OPI as Statute

Based on our organisational assumptions, we anticipated that the OPI, as a statutory institution, would have approximately 1000 employees. Taking into account that the SIU had 702 employees at the end of the financial year, we foresee an increase of 298 employees in order to establish a fully functional OPI which absorbs the current SIU. 298 additional employees, averaging total costs per employee of 1,686,998 ZAR, will lead to 502,725,404 ZAR additional costs.

With this in mind, the total expenditure of the SIU will amount to 1,621,205,580 ZAR annually. It is important to note that for this estimate, we use the number of staff at the end of the financial year of the SIU (2023/2024) and not the average number of employees, hence the addition of 298 employees. The reason is that the employees to be hired for OPI purposes add to the 702 staff at the end of the financial year, not the average number.

Additional costs when OPI is a statute:	502,725,404 ZAR
Anticipated annual expenditure for OPI:	1,621,205,580 ZAR

We hold that a 50% budget by the government would be the bare minimum for an institution that is supposed to have full government attention and support. In fact, if one considers the devastating social, economic, financial and political consequences of rampant (systemic) corruption, any amount spent on the fight against corruption will pay off societally.

7.2 Potential Funding Solutions

Any proposal for funding the OPI must somehow range between what can be seen as ideal and what is realistic in the light of the current financial situation of the government and the overall economy in South Africa.

In an ideal scenario, the current SIU, as well as the future OPI, would be fully funded by government grants. This would ensure the independence of the institution in its operations, as far as the inflow of financial resources is concerned. In fact, an under-resourced anti-corruption institution will not be in the position to fulfil its mandate. In addition, it may be politically steered through funds that are either withheld or provided.

Based on the experience with the current SIU and its funding, it is reasonable to assume that full government funding is not going to happen in the foreseeable future. In fact, the SIU currently receives only 43% of its overall budget through government grants, while 57% must be sourced elsewhere⁷⁵.

While the ideal – full funding by government – is rather unrealistic, even maintaining the 43% funding ratio will be challenging when the OPI is fully established as a statutory institution. According to our interview with the National Treasury, the capacity to provide further funds is seen to be low, given the constraints that the government is currently facing⁷⁶.

Against this background, we still believe that at least 50% budget coverage by the government should be granted throughout the OPI establishment. This would mean the following:

Phase 1 – Proclamation

Total expenditure of the SIU in the financial year (2023/2024) 1,118,480,176 ZAR + additional costs in the first year (50 %): 43,861,967 ZAR = 1,162,342,134 ZAR total costs, of which 50% is to be funded by the government = 581,171,071.59 ZAR

Any additional year in this phase would lead to the following:

Total expenditure of the SIU in the financial year (2023/2024) 1,118,480,176 ZAR + additional costs in any further year (100%): 87,723,935 ZAR = 1,206,204,111 ZAR total costs, of which 5 % is to be funded by the government = 603,102,055.50 ZAR

Phase 3 – OPI Statute

For the OPI as a statutory institution and having absorbed the current SIU, 1,000 employees are assumed. This leads to the following budget estimates:

Anticipated annual expenditure for OPI: 1,621,205,580 ZAR, of which 50% is to be funded by the government = 810,602,790 ZAR

⁷⁵SIU Annual Report 2023/2024: https://www.siu.org.za/wp-content/uploads/2024/10/SIU-202324-Annual-Report_Tabled.pdf

⁷⁶National Treasury Interview

Even if government funding is provided to this extent, the current SIU will have to find resources in the amount of 581,171,071.59 ZAR in the initial phase and must consider this amount to increase up to 810,602,790 ZAR annually, once the OPI as a statutory institution is established and fully operational. This will put the institution under pressure, and the question of how to cover these amounts must be answered.

We would propose a funding model, a combination of the following options (in line with the SIU Proposal⁷⁷):

- A major share of the funding gap should be covered, in that the OPI is allowed to keep a portion of 25% of recovered funds from its operations.
- A considerable share of the funding gap should be covered by OPI services rendered. Examples would be advisory/consultation services.
- A minor share could be covered by direct funding from private sector partners and development partners, however, such funding must be limited to training purposes in order to avoid conflicts of interest and undue influences by foreign institutions on OPI operations.

It is important to note that the current SIU legislation does not allow for the institution to keep a share of recovered funds. Therefore, to make this proposal viable, the OPI legislation must clearly allow for the OPI to keep such benefits from its operations.



⁷⁷SIU report: Proposed Funding Model - Establishment of the Office of Public Integrity_2 December 2024

8. Performance Measurement

The OPI's credibility, long-term effectiveness, and sustainability depend on strong oversight and evaluation measures integrated from the beginning. These mechanisms will ensure transparency, accountability, and public trust while enabling continuous performance improvement and alignment with legislative requirements and global anti-corruption standards as systemic corruption evolves. Within the scope of this report, we can only provide a first idea of potential criteria for performance measurement. However, we believe this aspect is important for the long-term success of the OPI, hence the following notions.

Oversight and Accountability Mechanisms

To ensure its success in fulfilling its mandate, adequate oversight and accountability mechanisms should be in place and properly implemented. 'Coordination of planning and execution of relevant activities between officials from the Presidency, the Department of Justice and Constitutional Development (DoJ), the Special Investigating Unit (SIU) and NACAC is crucial as a point of departure'⁷⁸. To achieve this, a multi-stakeholder oversight body is required to ensure accountability and review the performance of the OPI. Lessons can be drawn from Hong Kong's ICAC Operations Review Committee⁷⁹ by adopting a similar approach and in line with the legislative requirements of the OPI.

Impact Assessment

It is critical that tools to evaluate the broader impact of OPI actions on systemic change, deterrence, and institutional integrity across the state are embedded at the onset.

Performance Audits

The OPI should have regular review audits to assess its efficiency and effectiveness by bodies such as the AGSA and other external evaluators deemed fit. These audit reports should be shared with the oversight bodies, and any improvements should be identified and implemented accordingly (with binding recommendations). These should be enabled by legislation.

Performance Metrics

Key performance indicators (KPIs) count the number of investigations, prosecutions, and asset recoveries, and measure the impact of the response to systemic corruption by continually assessing and measuring the state of level systemic corruption in the country, as well as public perceptions and satisfaction. A closer look at the indicators (local and international) that measure the state and perception of corruption in South Africa should be considered (such as Transparency International's CPI).

Whistleblower and Public Feedback

To provide the OPI with the required credibility and eminence, transparency is key. Considering whistleblower and public feedback helps rebuild lost public trust and confidence. In addition, it will strengthen current mechanisms for the protection of whistleblowers, given the dire state

⁷⁸SIU interviews

⁷⁹ICAC, HKSAR - Operations Review Committee

in which whistleblowers find themselves. This can be achieved through institutionalising feedback mechanisms that provide whistleblowers with real-time (need-to-know basis) case tracking, public awareness, and progress reports to the public on how the government is responding to systemic corruption. This should align with global trends in citizen-centred accountability, restoring public trust and investor confidence.

Currently, the SIU conducts the National Stakeholder Perception Survey⁸⁰ every two years to measure its effectiveness and impact. With the latest survey concluded on 31 March 2025, the outcome showed an average appreciation of the SIU services work at 75%, noting provinces with gaps requiring more work⁸¹. The OPI should leverage this survey to measure its effectiveness for systemic corruption.



9. Conclusion

In conclusion, the establishment of the Office of Public Integrity (OPI) represents a significant step forward in South Africa's fight against systemic corruption. The OPI is designed to provide a comprehensive and coordinated approach to combating corruption, leveraging the strengths of existing institutions while introducing new mechanisms to enhance effectiveness and accountability. It maintains South Africa's multi-agency architecture. The phased approach to the OPI's establishment ensures that the OPI can begin operations swiftly, addressing urgent needs while laying the groundwork for a robust and independent institution.

The integration of the Special Investigating Unit (SIU) into the OPI is a strategic move that allows for the immediate commencement of operations, utilising the existing infrastructure and expertise of the SIU. This integration will be managed carefully to ensure a smooth transition, with a focus on maintaining the integrity and effectiveness of both entities. At the same time, the immediate start of amending the SIU Act, followed by the development of an OPI legislation to become a statutory institution and eventually transition into a Chapter 9 Institution, calls for an ambitious, yet realistic approach of establishing the OPI.

⁸⁰National Stakeholder Perception Survey 31.03.2025_SIU

⁸¹SIU Interviews

The OPI's mandate will encompass a wide range of powers and functions, including investigations, public education, policy advisory, and corrective actions, all aimed at addressing systemic corruption comprehensively. The OPI's success will depend on several critical factors, including strong leadership, adequate funding, and effective coordination with other anti-corruption agencies. The proposed governance structure, with clear roles and responsibilities, will ensure that the OPI operates with the necessary independence and authority. The report also highlights important aspects to be considered for the legal establishment of the OPI statute.

The emphasis on prevention through public awareness and education is crucial, as it fosters a culture of integrity and empowers citizens to participate actively in the fight against systemic corruption. This also includes a solid whistleblowing mechanism. All this resonates well with the whole-of-society approach.

Financial considerations are carefully considered, and the OPI will require a sustainable funding model to support its operations. The proposed mix of government funding, retained portions of recovered funds, and service fees for consulting will provide a balanced approach to financial sustainability. This approach takes into account the constrained resources of the government and proposes a funding mix that ensures uninterrupted OPI operations. Performance measurement and oversight mechanisms will be integral to the OPI's operations, ensuring transparency, accountability, and continuous improvement.

The report also explains the strategic, project and change management processes necessary to align the current SIU organisation with the anticipated OPI structure. Here, aspects such as resistance to change and the role of leadership are taken into consideration. The entire process demands ongoing commitment by leadership and transparent communication across the organisation.

In summary, the OPI is positioned to play a pivotal role in South Africa's anti-corruption landscape. By addressing systemic corruption through a multi-faceted approach, the OPI will contribute to restoring public trust, enhancing institutional integrity, and promoting a culture of accountability. The successful implementation of the OPI will require commitment and collaboration from all stakeholders, but the potential benefits for the country's democracy and economic and societal development are immense.



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