



## **WHISTLE BLOWING POLICY**

**POLICY REGISTRATION NO:2024 -06**

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## DEFINITIONS AND TERMS

No.	Term	Definition
1.	<b>Accounting Officer</b>	Means the Accounting Officer of a Department or Provincial Government in terms of Public Finance Management Act No 1 of 1999 as amended.
2.	<b>Executive Authority</b>	The Member of the Executive Council of the province who is accountable to the Provincial Legislature for that department
3.	<b>Audit Committee</b>	An Independent committee constitute to review the control, governance and risk management within the Department established in terms of section 77 of PFMA
4.	<b>Chief Risk Officer</b>	Head of Risk Management & Anti-Corruption unit.
5.	<b>Fraud</b>	Fraud is an intentionally deceptive action designed to provide the perpetrator with an unlawful gain, or to deny a right to a victim.
6.	<b>Corruption</b>	Corruption is a form of dishonesty undertaken by a person entrusted with a position of authority, often to acquire personal benefit.
7.	<b>Theft</b>	Theft is an unauthorized taking of property from another with the intent to permanently deprive them of it.
8.	<b>Maladministration</b>	Is an inefficient and dishonest administration
9.	<b>Country</b>	Republic of South Africa
10	<b>Risk</b>	An unwanted outcome, actual or potential, to the department's services delivery and other performance objectives, caused by the presence of risk factors.
11	<b>Department</b>	Department of Social Development Eastern Cape
12	<b>Tolerance level</b>	Is the amount risk that the department is willing to accept
13	<b>Senior Management Services</b>	All Senior Management Service members appointed in terms of Public Service Act.
14	<b>Whistle Blower</b>	The person that has reported allegations of fraud, misconduct or corruption in the department.
15	<b>Whistle Blowing</b>	Is the processes of disclosing information relating to some kind of malpractice, misconduct which members of staff may have come across during the course of their work and which they feel would compromise the interest of the public and tarnish the image of the department.
16	<b>Risk &amp; Anti-Corruption Committee</b>	A committee appointed by the Accounting Officer to review the Department's system of risk management, Ethics management, and Anti-corruption strategies implemented by the Department.

<b>17</b>	<b>Occupational Detriment</b>	Means in working environment: a) Being subjected to any disciplinary action b) Being dismissed, suspended, demoted, harassed, intimidated c) Being transferred against his/her will d) Being refused transfer or promotion e) Being subjected to a term or condition of employment or retirement which is altered or kept altered to his or disadvantage f) Being refused a reference or being provided with an adverse reference, from his or her employer g) Being denied appointment to any employment, profession or office h) Being subjected to any civil claim for the alleged breach of duty of confidentiality or a confidentiality agreement arising out of the disclosure of criminal offence, i) Being threatened with any of the actions referred above.
<b>18</b>	<b>Extortion</b>	is a crime in which one person forces another person to do something against his will, generally to give up money or other property, by threat of violence, property damage, damage to the person's reputation, or extreme financial hardship
<b>19</b>	<b>Forgery</b>	The action of forging a copy or imitation of a document, signature, banknote, or work of art.
<b>20</b>	<b>Public official</b>	Any person who is a member, an officer, an employee of servant of a public body.
<b>21</b>	<b>Public Body</b>	Any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government
<b>22</b>	<b>Position of authority</b>	Head of the Department
<b>ACRONYM</b>		
	<b>PFMA</b>	Public Finance Management Act 1 Of 1999
	<b>PRECCA</b>	Prevention and Combatting of Corrupt Activities Act 12 of 2004
	<b>SAPS</b>	South African Police Services
	<b>MEC</b>	Member of the Executive Council
	<b>DPCI</b>	Department of Priority Crime Investigations

## **LEGISLATIVE FRAMEWORK**

- i.** Constitution of Republic of South Africa 1996
- ii.** Protected Disclosure Amendment Act 5 of 2017
- iii.** Prevention and Combating of Corrupt Activities Act No 12 of 2004
- iv.** National Anti-Corruption Strategy 2015
- v.** Eastern Cape Provincial Whistle Blowing Policy
- vi.** Eastern Cape Fraud and Anti-Corruption Strategy
- vii.** Public Finance Management Act 1 Of 1999

## **1. PREAMBLE**

Department of Social Development recognizes the fact that, criminal and other irregular conduct is detrimental to good, effective, accountable and transparent governance and can endanger the economic stability of the department and have the potential to cause reputational damage. Departmental employees are often the first to identify that wrongful activities may be happening within the institution. However, they may not express their concerns due to fear of being disloyal to their colleagues, harassment and victimization.

This policy has been developed based on the principles objects of the Protected Disclosure Act No 5 of 2017, which encourages employees to disclose any acts of misconduct without fear of any occupational detriment. There is a dire need for a procedure of disclosure in terms of which employees may, without fear of prejudice, disclose any information on suspected or alleged criminal or other irregular conduct affecting Department of Social Development. Every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace.

## **2. PURPOSE**

The purpose of this policy is to provide means by which employees are able to raise concerns with the appropriate line management, or specific appointed person within the Department, where they have reasonable grounds for believing that there is fraud, corruption, misconduct and maladministration taking place.

## **3. OBJECTIVES**

- a) To encourage employee to disclose any genuine misconduct without fear of any occupational detriment.
- b) To protect an employee from being subjected to an occupation detriment on account of blowing the whistle.
- c) To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her colleagues, other stakeholders and employer.
- d) To report on issues of maladministration in the Department of Social Development which will assist the institution in delivery of services to communities of the Eastern Cape

## 4. SCOPE OF APPLICABILITY

This policy is applicable to all officials of the Department.

It covers all genuine concerns raised including:

- a) Financial and non-financial misconduct (e.g. Theft, fraud, breach of contract etc.)
- b) Corruption (e.g. bribes, embezzlement of funds )
- c) Attempts to suppress or conceal any information relating to any of the above.

If in the course of investigation any concern raised in relation to the above matters appears to the investigator to relate more appropriately to grievance or discipline, those procedures will be revoked.

## 5. PRINCIPLES AND VALUES

The Department subscribed to the following principles and values in all times:

- 5.1. **Integrity:** To report honest, fair and with respect to others
- 5.2. **Accountability:** To uphold professional standard of conduct when reporting
- 5.3. **Trustworthy:** The processes for managing investigation must honest and ethical.
- 5.4. **Openness:** To provide full detailed information regarding the concern raised

## 6. POLICY STATEMENT

### 6.1. WHAT IS WHISTLE-BLOWING

The term is generally used to describe the process of disclosing information relating to some kind of malpractice, misconduct which members of staff may have come across during the course of their work and which they feel would compromise the interest of the public and tarnish the image of the department.

### 6.2. WHAT IS A DISCLOSURE

The Act, in its definition of “disclosure” and “protected disclosure” in section 1, read with section 5 sets out what disclosures, made by the employee to an employer, are protected in terms of the Act. “Disclosure is any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by

an employee who has reasons to believe that the information concerned shows or tend to show one or more of the following:

- a) That a criminal offence has been committed, is being committed or is likely to be committed;
- b) That a person has failed, is failing or likely to fail to comply with any legal obligation to which that person is subjected
- c) That a miscarriage of justice has occurred or is likely to be endangered
- d) That the environment has been, is being or is likely to be endangered
- e) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
- f) That any matter referred to in paragraphs (a) –(f) has been, is being or likely to be deliberately concealed.

### **6.3. WHAT IS NOT A DISCLOSURE**

Officials are urged to report responsibly:

- a) A disclosure that is made in bad faith is not a disclosure;
- b) The Provincial Code of Ethics prohibits unauthorized disclosure of official information to press. E.g. newspaper
- c) Malicious or reckless disclosure or reporting of information must be avoided.
- d) Malicious disclosure by employees and/ employer will be treated as misconduct and will be dealt in terms of Section 16A and 16 B of the Public Service Act.

### **6.4. PROTECTION OF WHISTLE BLOWERS**

#### **6.4.1. Harassment OR Victimization**

- a) The Department acknowledges the fact that a decision to report a concern can be a difficult one to make, because of fear of abuse/harassment/victimization from those responsible for the irregularity. The department of Social Development will not tolerate harassment or victimization and will take action to protect employee when they raise concern in good faith. Any Act of harassment or victimization must be reported to the Head of Department, alternatively to the Director: Risk Management & Anti-Corruption
- b) Risk Management & Anti-Corruption unit together will Labour Relations will investigate such reported victimization/harassment of the whistle blower and if proma facie evidence is found, a disciplinary action will be taken against the person harassing/victimizing the whistle blower.



#### **6.4.2. Confidentiality**

The Department shall protect an individual's identity when he/she raises concern and those who do not want their identity to be disclosed.

#### **6.4.3. External Protection of Whistle blowers**

- a) Department of Social Development shall advise the whistle blower on the channels available for protection by Department of Justice and SAPS when a case had to be in court of law. Risk Management and Anti-Corruption unit will further go on and assist the whistle blower in accessing those protection services that are available from SAPS and Department of Justice.
- b) Even when the employee experiences life threats after disclosure, they must immediately inform Risk Management & Anti-Corruption so that she/he can be assisted in report such incidents to SAPS immediately.

#### **6.4.4. Anonymous reporting:**

- a) The Department encourages employees to report anonymously with full details of the allegations.

#### **6.4.5. False Allegations**

- a) Employee or other parties must understand the implications (resource and costs) of undertaking investigations and should therefore guard against making allegations, which are false and made with malicious intent.
- b) The department shall not tolerate any false reporting from the employees and if it came to the attention of the department that a false reporting was made by employee, disciplinary actions will be taken against that officials if is known according to disciplinary procedures of the department.

#### **6.4.6. Withdrawal of raised concern by whistle blower**

If the whistle blower withdraws the reported allegation, the department shall continue with the investigation until the case is finalized.

### **6.5. IMPLEMENTATION PROCEDURE**

#### **6.5.1. How to raise the concern internally?**

- a) For minor issues (e.g. personal use of Department stationery, telephone etc.) employee shall raise the concerns with their immediate supervisor /manager. In general, however, the whistle blowing procedure is expected to be used for potentially more serious and sensitive issues (e.g. fraud and corruption)
- b) The first step shall be for the employee to approach his/her immediate supervisor/manager unless he/she or senior management is the subject of the complaint, in which case Risk Management & Anti-Corruption must be contacted using the stated telephone numbers and email ([reportcorruption@ecdsd.gov.za](mailto:reportcorruption@ecdsd.gov.za)/ 043 605 5297/5339/5452).
- c) Should the complaint be found by Risk Management & Anti-Corruption unit to be substantiated, the unit will consult with Accounting officer if she/he is not a subject matter, whether the matter will be investigated internally or referred to the appropriate external bodies (e.g. SAPS)
- d) Concerns are better raised in writing. The background and history of the concern, give names, dates and places where possible should be set out
- e) Employees are not expected to prove the truth of an allegation; they will need to demonstrate to the person contacted that there are sufficient grounds for concern
- f) Advice and guidance on how matters of concern may be pursued can be obtained from the Risk Management & Anti-Corruption unit.

#### **6.5.2. How the concern will be handled?**

- a) Once a concern is raised, it will be assessed to decide to what action should be taken. This may involve internally inquiry or more formally investigation.
- b) The issue raised shall be acknowledged with seven (7) working days.
- c) If it is requested, an indication of how the matter shall be dealt with and likely time scale could be provided.
- d) If a decision is made not to investigate the matter, reason shall be given to the person reported the case.

- e) If the concern falls more properly within the Grievance Procedure, he/she shall be informed accordingly.
- f) The amount of contact between the body investigating the issue and the person raising the concern shall depend on the nature of the matter raised, the potential difficulties involved, and the sensitivity of the information provided.
- g) The Department accepts that employees need to be assured that the matter has been properly addressed. However, the progression of investigating will be handled in confidential manner and will not be disclosed or discussed with any person other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of suspected person who are subsequently found innocent of wrong conduct.

### **6.5.3. Raising a concern External**

While it is trusted that this policy reassures employee to raise such matters internally, it is also preferable to raise a matter with an appropriate external regulator than not at all. Provided employees are acting in good faith, concerns can also be raised with:

- a) The Office of the Public Protector- 040 635 1286
- b) National Anti-Corruption Hotline – 0800 701 701
- c) Presidential Hotline – 17737.
- d) South African Police Services (Nearest police station)

## **6.6 DISSATISFACTION WITH OUTCOMES OF INVESTIGATION**

If an employee is at any stage unhappy with the outcomes of the investigation, he/she can go to other levels and bodies detailed in this policy. While it cannot be guaranteed that the outcomes will in all instances be the way that he/she might wish, the Department is committed to handle the matter fairly and properly.

## **6.7 TRAINING, EDUCATION AND AWARENESS**

- 6.7.1. In order for the policy to be sustainable, it must be supported by structure education, communication and awareness programs
- 6.7.2. It is the responsibility of all managers to ensure that all employees, are made aware of and receive appropriate training and education with regard to the Whistle Blowing Policy.
- 6.7.3. Risk Management & Anti-Corruption unit shall facilitate the awareness and training to staff of the department including induction of newly appointed staff
- 6.7.4. The policy shall be accessible to the Departmental website.

## **7. APPROVING AUTHORITY**

Head of Department will recommend this policy to MEC for approval and the MEC shall be responsible for the approval of this policy.

## **8. ADMINISTRATION OF THE POLICY**

The custodian of this policy is the Accounting Officer who is supported in its implementation by Risk Management & Anti-Corruption Unit.

## **9. ACCOUNTABILITIES AND RESPONSIBILITIES**

**9.1 Accounting Officer-** Is ultimate accountable person for this policy. The accounting officer will everything in his/her power to ensure that whistle blowers are protected for victimization and harassment internally. Accounting Officer will ensure that the policy properly funded so that is fully and effectively implemented.

**9.2 Director: Risk Management & Anti-Corruption**

The head of forensic investigation and delegated by the Accounting Officer as the Investigating officer and to protect whistle blowers from occupational detriment. The Director: Risk Management & Anti-Corruption will perform investigations on all reported investigation, protect the identity of the whistle blowers and ensure that whistle blowers are not victimized or harassed by the perpetrators.

**9.3 All Officials**

Responsible to raise concerns noticed during their course of employment as detailed in this policy and in good faith.

## **10.EFFECTIVE DATE OF THE POLICY**

This policy shall be effective from the date of approval by the Executive Authority.

## **11.PROCEDURES FOR IMPLEMENTATION**

A detailed plan on implementation procedures will be compiled to include but not limited to the followings:

- 11.1. Capturing of received cases into the investigation register
- 11.2. Assign cases to skilled personnel to handle
- 11.3. Proper and timeous feedback to the client
- 11.4. Maintenance of confidentiality of employee raise concerns

11.5. Protecting employees raise concern in good faith from occupational detriment.

## 12. MONITORING AND EVALUATION

The monitoring of the policy will be carried out through the following mechanism:

- 12.1. Feedback report to clients raised concerns.
- 12.2. Timeous completion of cases reported [completed within 40 working days of reporting the allegation]
- 12.3. Reports with recommendation to the Accounting Officer on reported cases within the 40 days' period.

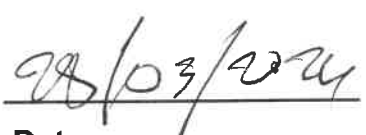
## 13. REVIEW OF THE POLICY

This policy will be reviewed after three (3) years and whenever a need arises, change in legislation, new directives or national mandates had been given.

## 14. POLICY RECOMMENDATION AND APPROVAL

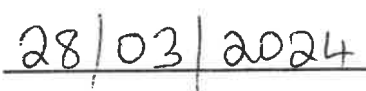
**RECOMMENDED / NOT RECOMMENDED**

  
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**MR. M. MACHEMBA**  
**Head of Department**  
**Dept. of Social Development**

  
\_\_\_\_\_  
**Date**

**APPROVED/ ~~NOT APPROVED~~**

  
\_\_\_\_\_  
**MS. B. FANTA**  
**Member of Executive Council**  
**Dept. Of Social Development**

  
\_\_\_\_\_  
**Date**