



WHISTLE-BLOWING POLICY

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DEFINITIONS AND TERMS

| No. | Term | Definition |
|-----|---|---|
| 1. | Accounting Officer | <ul style="list-style-type: none"> a) In a Constitutional Institution: The Chief Executive Officer; b) In a National Department: The Director-General c) In a Provincial Department: The Head of Department |
| 2. | Executive Authority | <ul style="list-style-type: none"> a) In a National Department: The Cabinet member who is accountable to Parliament for that Department b) In a Provincial Department: The Member of the Executive Council of province who is accountable to the Provincial Legislature for that department |
| 3. | Audit Committee | An Independent committee constitute to review the control, governance and risk management within the Department established in terms of section 77 of PFMA |
| 4. | Chief Risk Officer | A senior official who is the head of Risk Management unit. |
| 5. | Fraud | Fraud is an intentionally deceptive action designed to provide the perpetrator with an unlawful gain, or to deny a right to a victim. |
| 6. | Corruption | Corruption is a form of dishonesty undertaken by a person entrusted with a position of authority, often to acquire personal benefit. |
| 7. | Theft | Theft is an unauthorized taking of property from another with the intent to permanently deprive them of it. |
| 8. | Maladministration | Is an inefficient and dishonest administration |
| 9. | Country | Republic of South Africa |
| 10 | Risk | An unwanted outcome, actual or potential, to the department's services delivery and other performance objectives, caused by the presence of risk factors. |
| 11 | Department | Department of Social Development Eastern Cape |
| 12 | Tolerance level | Is the amount risk that the department is willing to accept |
| 13 | Senior Management Services | Are all official that appointed in the Senior management posts in the department in terms of Public Service Act |
| 14 | Whistle Blower | The person that has blown the whistle in relation to misconduct in the department. |
| 15 | Risk, Ethic & Anti-Corruption Management Committee | 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. |
| | Occupational Detriment | <p>Means in working environment:</p> <ul style="list-style-type: none"> 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 |

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| | | <p>g) Being denied appointment to any employment, profession or office</p> <p>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,</p> <p>i) Being threatened with any of the actions referred above.</p> |
| | Extortion | 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 |
| | Forgery | the action of forging a copy or imitation of a document, signature, banknote, or work of art. |
| | Public official | Any person who is a member, an officer, an employee or servant of a public body. |
| | Public Body | Any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government |
| | Position of authority | Only the following the holds a position of authority: <ol style="list-style-type: none"> 1. Head of the Department 2. Any public officer in the Senior Management Service of the public body 3. Any person in an acting or temporary capacity of the (1) & (2) |
| | ACRONYM | |
| | PFMA | Public Finance Management Act 1 Of 1999 |
| | PRECCA | Prevention and Combatting of Corrupt Activities Act 12 of 2004 |
| | SAPS | South African Police Services |
| | MEC | Member of the Executive Council |
| | DPCI | Department of Priority Crime Investigations |

LEGISLATIVE FRAMEWORK

- I. Protected Disclosure Amendment Act 5 of 2017
- II. Provincial Whistle Blowing Policy

1. PREAMBLE

- 1.1 The Department of Social Development recognizes the fact that, criminal and other irregular conduct within the Department is detrimental to good, effective, accountable and transparent governance with the department and can endanger the economic stability of the department and have the potential to cause social damage.
- 1.2 There is a need for procedures in terms of which employees may, without fear of punishment, disclose information relating to 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
- 1.3 Every employer has a responsibility to take all necessary steps to ensure that employees who disclose such information are protected from any reprisals as results of such disclosure.
- 1.4 This policy is developed based on the principles objects of the Protected Disclosure Act, which encourages employees to disclose any acts of misconduct without fear of any occupational detriment.

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

The objective of this policy is to:

- 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 having made a protected disclosure
- 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.

4. SCOPE OF APPLICABILITY

There are existing grievance procedures in place to enable employees of the Department to raise grievance relating to their employment conditions. This policy 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 etc.)
- 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:

- a) Integrity- official to be honest to themselves when raising concerns
- b) Accountability- take responsibility for malicious intent of raising concern.
- c) Trustworthy- to be honest and provide reliable information
- d) Openness- don't keep irregularities happening under your nose.

6. POLICY STATEMENT

Department of Social Development recognizes that employees are often the first to realize that something is seriously wrong may be happening within the Department. However they may not express their concerns for fear of being disloyal to their colleagues or because of they fear of harassment or victimization. The department is committed to achieving the highest possible standards of service openness, accountability and the highest ethical standards in all its practices. In line with that commitment, it encourages all staff to raise matters of concern responsible through the procedures laid done in this policy.

6.1. WHAT IS WHISTLE-BLOWING

The term is generally use 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 put the interest of the public, department at risk. Irregularly accepting or requesting anything of material value (which may otherwise not be accessible by proper means) from contractors, suppliers or other persons providing services/ goods to the department

6.2. WHAT IS 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 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 should be avoided.

6.4. DEPARTMENT’S ASSURANCE TO EMPLOYEES

Department of Social Development is committed to this policy. The Department will ensure that an employee who makes a disclosure in the above mentioned circumstances will not be penalized or suffer any occupational detriment for doing so.

If a concern is raised in good faith in terms of this policy, an employee will not be at a risk of losing his/her job or suffering any form of retribution as results.

This assurance is not extended to employees who maliciously raise matters they know to be untrue.

6.4.1. Harassment OR Victimization

The Department acknowledges the fact that a decision to report a concern can be a difficult one to make, not least because of fear of reprisal 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

6.4.2. Confidentiality

The Department will do its best to protect an individual's identity when he/she raises concern and does not want their identity to be disclosed.

6.4.3. Anonymous allegations:

The Department encourages employees to report anonymously. Concerns expressed anonymously are difficult to investigate; nevertheless, they will be followed up at the discretion of the Department. This discretion will be applied by taking into account the following

- Seriousness of the issue raised;
- Credibility of the concern; and
- Likelihood of confirming the allegations
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6.4.4. False Allegations

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.

6.5. IMPLEMENTATION PLAN

6.5.1. How to raise the concern internally?

- i. For some minor issues (e.g. personal use of Department stationery etc.) employee should 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)
- ii. The first step will be for the employee to approach his/her immediate supervisor/manger unless he/she or senior management is the subject of the complaint, in which case Risk Management & Anti-Corruption unit(reportcorruption@ecdsc.gov.za/ 043 605 5297/5339/5452) within the Department must be informed.
- iii. Concerns are better raised in writing. The background and history of the concern, give names, dates and places where possible should be set out
- iv. 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
- v. 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 will be acknowledged with seven (7) working days.
- c) If it is requested, an indication of how the matter will be dealt with and likely time scale could be provided.
- d) If a decision is made not to investigate the matter, reason will be given.
- e) The whistle-blower will be informed of how be handling the matter, how to contact him/her and whether further assistance may or will be needed.
- f) If the concern falls more properly within the Grievance Procedure, he/she will be informed accordingly.
- g) The amount of contact between the body investigating the issue and the person raising the concern will depend on the nature of the matter raised, the potential difficulties involved and the clarity of the information provided.
- h) The Department accepts that employees need to be assured that the matter has been properly addressed. However, the progression of investigating will be handle in confidential manner and will not 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:

- The Office of the Public Protector- 040 635 1286
- National Anti-Corruption Hotline – 0800 701 701
- Presidential Hotline - 17737

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

- i. In order for the policy to be sustainable, it must be supported by structure education, communication and awareness programs

- ii. 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.
- iii. Risk Management & Anti-Corruption unit shall facilitate the awareness and training to staff of the department including induction of newly appointed staff
- iv. The policy shall be accessible to the Departmental website.

7. APPROVING AUTHORITY

Executive Authority 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

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

The head of forensic investigation and delegated by the Accounting Officer as the Investigating officer.

9.3 **Officials**

Responsible to raise concerns noticed during their course of employment as detailed in this policy 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:

- a) Capturing of received cases into the investigation register
- b) Assign cases to skilled personnel to handle
- c) Proper and timeous feedback to the client
- d) Maintenance of confidentiality of employee raise concerns
- e) Protecting employees raise concern in good faith from occupational detriment.

12. MONITORING MECHANISMS

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

- Feedback report to clients raised concerns.

13. REVIEW OF THE POLICY

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

14. POLICY RECOMMENDATION & APPROVAL

Head of Department: Dept. of Social Development

Date

Approved/ Not Approved

MEC: Dept. of Social Development

Date