



social development

Department:
Social Development
PROVINCE OF KWAZULU-NATAL

WHISTLE - BLOWING POLICY

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1. DEFINITIONS

- a) ***“Disclosure”*** is as defined in terms of the Protected Disclosures Act 26 of 2000,
- b) ***“Department”*** means the Department of Social Development in the Province of KwaZulu-Natal Provincial Government
- c) ***“Employee”*** means any person in the employ of the Department, as defined in terms of Section 1 of the Public Service Act;
- d) ***“Occupational detriment”*** is as defined in terms of the Protected Disclosures Act 26 of 2000

2. INTRODUCTION

The Department recognises the fact that:

- a) criminal and other irregular conduct within the Department is detrimental to good, effective, accountable and transparent governance and can endanger the economic stability of the Department and have the potential to cause social damage;
- b) every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace;
- c) every employer has a responsibility to take all necessary steps to ensure that employees who disclose such information on criminal and other irregular conduct, are protected from any form of reprisals as a result of such disclosure and
- d) there is a need for procedures in terms of which employees may, without fear of reprisals, disclose information relating to suspected or alleged criminal or other irregular conduct affecting the Department

3. PURPOSE

The purpose of this policy is to: -

- a) encourage and enable employees to disclose information relating to suspected or alleged criminal or other irregular conduct within the Department rather than overlooking such conduct and/or blowing the whistle to inappropriate channels;
- b) provide avenues for employees to disclose information relating to suspected criminal activities and receive feedback on any action taken;
- c) inform employees on how to take the matter further if they are dissatisfied with the response; and
- d) re-assure staff that they will be protected from reprisals or victimization for whistle blowing in good faith.

4. OBJECTIVES

The objectives of this Policy are to assist the Department to: -

- a) strive to create a culture which will facilitate the disclosure of information by employees relating to criminal and other irregular conduct in the workplace in a responsible manner by providing clear guidelines for the disclosure of such information and protection against reprisals as a result of such disclosure; and
- b) promote eradication of criminal and other irregular conduct within the Department.

5. SCOPE OF APPLICABILITY

This Policy is applicable to all employees of the Department.

6. LEGISLATIVE FRAMEWORK

- a) Constitution of South Africa Act 108 of 1996
- b) Labour Relations Act 66 of 1995 (After Constitution)
- c) Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
- d) Protected Disclosures Act 26 of 2000
- e) Public Service regulations, 2016
- f) Public Finance Management Act 1 of 1999
- g) Prevention and Combating of Corrupt Activities Act 12 of 2004
- h) Public Service Act 103 of 1994

7. REPORTING OF CONCERNS

- 7.1 Employees should normally raise the concerns with their immediate Supervisors/Managers for some minor issues (e.g. personal use of Department's equipment etc.). In general, however, the whistle blowing procedure is expected to be used for potentially more serious and sensitive issues (e.g. fraud and corruption).
- 7.2 The first step will 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 and Internal Control Directorate or the Head of Department should be informed. Should the matter be found by the Manager to be substantiated, he/she will consult with the Risk Management and Internal Control Directorate on whether the matter should be investigated internally, referred to Internal Audit Unit of Provincial Treasury or referred to the appropriate external law enforcement bodies (e.g. SAPS).
- 7.3 Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible, should be set out and the reason why the individual is particularly concerned about the situation.
- Those who are uncomfortable to put their concern in writing can report anonymously to the Public Service Commission National Anti – Corruption Hotline toll -free number **0800 701 701**. The earlier the concern is reported, the easier it is to take action and initiate recovery procedures where necessary.
- 7.4 Employees are not expected to prove the truth of an allegation however they need to demonstrate to the person contacted that there are sufficient grounds for concern.
- 7.5 Advice and guidance on how matters of concern may be pursued can be obtained from Risk Management and Internal Control Directorate.

8 ANONYMOUS ALLEGATIONS

- 8.1 The Department encourages its employees to put their names to allegations. 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:
- a) Seriousness of the issue raised;
 - b) Credibility of the concern; and
 - c) Likelihood of confirming the allegation.

9 CONFIDENTIALITY

The Department will do its best to protect an individual's identity when he/she raises a concern and does not want their identity to be disclosed. It must be appreciated, however that the investigation process may reveal the source of information and a statement by the employee may be required as part of evidence.

10 HARASSMENT OR VICTIMIZATION

- 10.1 The Department acknowledges the fact that the 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.
- 10.2 The Department will not and does not tolerate harassment or victimization, and will take action to protect employees when they raise a concern in good faith. Any act of harassment or victimization should be reported to the Head of Department, alternatively to the recognized law enforcement bodies.
- 10.3 This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted as a result of their whistle blowing.

11 FALSE ALLEGATIONS

Employees or other parties must understand the implications (resources and costs) of undertaking investigations and should therefore guard against making allegations, which are false and made with malicious intent.

12 DEALING WITH THE COMPLAIN/ALLEGATION

- 12.1 The action taken by the Department will depend on the nature of concern. The possible actions to the matters raised may, among others be to; -
 - a) Investigate internally by Internal Control or by Forensic Investigations Division of the Provincial Internal Audit Unit; and/ or
 - b) Refer to the SAPS or other relevant Law Enforcement Agency.
- 12.2 In order to protect individuals and Department, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.
- 12.3 Some concerns may be resolved by agreed action without the need for investigation.

12.4 The Department will write to complainants who have identified themselves: -

- a) Acknowledging that the concern has been received; and
- b) Informing them whether further investigations will take place, and if not, why not.

12.5 The amount of contact between the body investigating the issues and the persons raising the concern will depend on the nature of the matters raised, potential difficulties involved and clarity of information provided. If necessary, further information will be sought from the individual/whistle blower.

12.6 The Department accepts that employees need to be assured that matter has been properly addressed. However, the progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any persons other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of suspected persons who are subsequently found innocent of wrongful conduct.

13 ROLES AND RESPONSIBILITIES

13.1 The Head of Department is responsible for:

- (a) identifying and make available resources to implement provisions of this policy; and
- (b) ensuring that whistle blowers are protected.

13.2 Managers are responsible for:

- a) reporting all incidents and allegations of fraud, corruption and theft to the Head of Department; and
- b) ensuring that all employees are made aware of, and receive appropriate training and education with regard to this policy.

13.3 Employees and stakeholders are responsible for:

- a) Immediately report all suspected fraud, corruption, theft and irregular conduct using appropriate and prescribed reporting mechanisms; and
- b) Immediately report to the Head of Department incidents of harassment or victimisation as result of their disclosure.

13.4 Risk Management and Internal Control Directorate is responsible for:

- a) giving advice and guidance on how suspected allegation may be pursued; and
- b) ensure that all employees are made aware of, and receive appropriate training and education with regard to this policy.

14 CREATING AWARENESS

- 14.1 In order for the Policy to be sustainable, it must be supported by a structured education, communication and awareness programme.

15. NON-COMPLIANCE

An Employee who fails to comply with this Policy shall be guilty of an act of misconduct

16. MONITORING AND EVALUATION

The Policy will be monitored, evaluated and reviewed after three years from implementation date or as and when a need arises.

17. ADOPTION AND EFFECTIVE DATE

This Policy comes into effect on the date of approval.

18. TITLE OF THE POLICY

The Policy shall be called Whistle Blowing Policy

19. POLICY APPROVAL

This Policy is approved with effect from the 11th day of September in the year 2017



Ms NG Khanyile

Head of Department:

Department of Social Development