



DEPARTMENT OF COMMUNITY SAFETY AND LIAISON

“WHISTLE-BLOWING” POLICY

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1. INTRODUCTION

1.1 The Department of Community Safety and Liaison recognizes the fact that:-

- (a) Criminal and other irregular conduct within Department of Community Safety and Liaison is detrimental to good, effective, accountable and transparent governance within the Department and can endanger the economic stability of this Department and have the potential to cause social damage;
- (b) 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 of Community Safety and Liaison;
- (c) Every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace; and
- (d) Every employer has a responsibility to take all necessary steps to ensure that employees who disclose such information are protected from any reprisals as a result of such disclosure.

2. OBJECTIVES

2.1 The Protected Disclosures Act, 2000 (Act No. 26 of 2000) came into effect on 16 February 2001. In order to remain in compliance with the Act, the Department of Community Safety and Liaison will:-

- (a) Strive to create a culture which will facilitate the disclosure 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;
- (b) Promote the eradication of criminal and other irregular conduct within the Department of Community Safety and Liaison;
- (c) The Policy is intended to encourage and enable staff to raise concerns within the Department of Community Safety and Liaison rather than overlooking a problem or blowing the whistle to inappropriate channels; and

- (d) Furthermore the policy aims to:-
 - (i) Provide avenues for staff to raise concerns and receive feedback on any action taken;
 - (ii) Inform staff on how to take the matter further if they are dissatisfied with the response; and
 - (iii) Reassure staff that they will be protected from reprisals or victimisation for whistle blowing in good faith.

3. SCOPE

3.1 This Policy is intended to cover concerns that fall outside the scope of grievance procedures, as there are existing grievance procedures in place to enable employees of the Department to raise grievances relating to their employment. This policy is intended to cover concerns indicated in the Act, which include:-

- (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 is likely to fail to comply with any legal obligation to which that person is subject;
- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) That the health or safety of an individual has been, is being or is likely to be endangered;
- (e) That the environment has been, is being or is likely to be damaged;
- (f) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000); or
- (g) That any matter referred to in paragraphs (a) to (f) had been, is being or is likely to be deliberately concealed.

4. STATEMENT OF POLICY

Protected Disclosures Act

4.1 Section 2 of the Protected Disclosures Act clearly defines the "Objects of the Act" as follows:

- (a) To protect an employee from being subjected to an occupational detriment on account of having made a protected disclosure;
- (b) To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- (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.

4.2 This Policy is developed based on the principle objects of the Protected Disclosures Act, which encourages employees to disclose any acts of misconduct without fear of any recriminations and reprisals.

Harassment or Victimisation

4.3 Department of Community Safety and Liaison 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.

4.4 Department of Community Safety and Liaison will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith.

4.5 Any act of harassment or victimisation should be reported to the Head of Department or alternatively to the ICRMU.

4.6 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.

Confidentiality

4.7 The Department of Community Safety and Liaison 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 the information and a statement by the employee may be required as part of the evidence.

Anonymous Allegations

- 4.8 The Department of Community Safety and Liaison encourages 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 Head of 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.

False Allegations

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

5. ADMINISTRATION: REPORTING OF CONCERNS

- 5.1 For some minor issues (eg. personal use of departmental equipment etc), employees should normally raise the concerns with their immediate supervisor/manager, and in general, the whistle blowing procedure is expected to be used for potentially more serious and sensitive issues such as fraud and corruption.
- 5.2 Any person wishing to make a protected disclosure may do so by reporting the matter in writing to—
- (a) The MEC;
 - (b) The Head of Department;
 - (c) The Senior Manager: Legal Administration Support;
 - (d) The ICRMU; or
 - (e) Forensic Section of Provincial Treasury Internal Audit Unit
- 5.3 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. The earlier the concern is reported, the easier it is to take action and initiate recovery procedures where necessary.
- 5.4 Employees are not expected to prove the truth of an allegation but they will need to demonstrate to the person contacted that there are sufficient grounds for concern.

6. ADMINISTRATION: HOW A COMPLAINT WILL BE DEALT WITH

- 6.1 The action taken by the Department will depend on the nature of the concern, and includes the matter being:-
- (a) investigated internally; and/or
 - (b) referred to the Forensic Section of the Provincial Internal Audit Unit; and/or
 - (c) referred to the South African Police Service (SAPS) or other relevant law enforcement agency.
- 6.2 In order to protect individuals and the Department, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.
- 6.3 The Department will ensure that any person making a protected disclosure is not exposed to any occupational detriment, in compliance with the objects of the Act referred to in clause 4.
- 6.4 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.
- 6.5 The amount of contact between the bodies investigating the issues and the persons raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.
- 6.6 The Department accepts that employees need to be assured that the 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 doing.

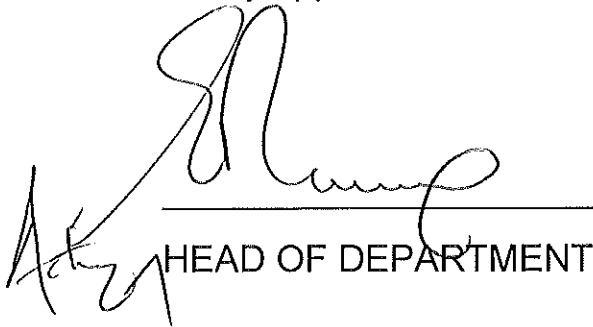
7. ADMINISTRATION: CREATING AWARENESS

- 7.1 In order for the Policy to be sustainable, it must be supported by a structured communication and awareness programme.
- 7.2 It is the responsibility of the Head of Department and SMS Members to ensure that all employees, are made aware of the Whistle Blowing Policy.

8. ADMINISTRATION: MAINTENANCE OF RECORDS

- 8.1 The Department has overall responsibility for the maintenance and operation of this Policy through the ICRMU as well as Directorate: Legal Administration Support, in maintaining a record of concerns raised and the outcomes, but in the form which does not endanger the persons raising complaints.

Policy approved for immediate implementation on 03/02/2014 by



HEAD OF DEPARTMENT