



co-operative governance  
& traditional affairs

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**MPUMALANGA PROVINCE**  
**REPUBLIC OF SOUTH AFRICA**

## **POLICY ON WHISTLE BLOWING**

**2018/19**



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## 1. PURPOSE

The purpose of this policy is:

To encourage whistle blowing around suspected impropriety within the Department.

To protect those who have blown the whistle against any form of occupational detriment; and

To provide for procedures in which an employee can disclose information regarding improprieties in the workplace.

## 2. BACKGROUND

The Protect Disclosure Act, 26 of 2000, which became effective in February 2001, provides protection to employees for disclosures made without malice and in good faith, in defined circumstances.

## 3. SCOPE OF APPLICATION

3.1 This policy applies to all employees of the Department, including interns and learners.

3.2 The policy does not apply to personal grievances, which are dealt with in terms of the existing procedures on grievance, discipline and misconduct.

3.3 The policy covers all genuine concerns raised, but not limited to: -

3.3.1 Financial misconduct;

3.3.2 Failure to comply with a legal obligation;

3.3.3 Health and safety risks;

3.3.4 Environmental damage;

3.3.5 Criminal offence;

3.3.6 Unfair discrimination;

## 4. DEFINITIONS

In this policy unless the context otherwise indicates: -

**“Employee”** means any person-

- (a) Excluding an independent contractor, who works for another person or for the state and who receive, any remuneration; and

- (b) Other who in any manner assists in carrying on or conducting the business of an employer

**“Employer”** means -

- (a) Who employs or provides work for any other person who remunerates or expressly or tacitly undertakes to remunerate that other person; or
- (b) Who permits any person in any manner to assist in the carrying on or conducting of his, her or its business, including any person acting on behalf of or on the authority of such employer.

**“Protected disclosure”** or **“disclosure,”** means a disclosure made in terms of this policy or the Act;

**“The Act”** means the Protected Disclosure Act, 2000 (Act 26 of 2000);

**“Whistle blower”** means a person who has made a disclosure in terms of this policy or the Act;

**“Whistle blowing”** means the process of disclosing information relating to some kind of malpractice or mistreatment which members of the staff may have come across during the course of their work and which they feel would put the interest of the department at risk.

## 5. POLICY STATEMENT

The Mpumalanga Department of Co-operative Government and Traditional Affairs recognized that employees are often the first to realize that something 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 they fear harassment or victimization. In such circumstances, it is normally easier to ignore the concern than to report what may be just a suspicion of malpractice

The Department of Co-operative Government and Traditional Affairs is committed to achieving the highest possible standards of service, openness, accountability and the highest possible ethical standards in all its practices. In line with that commitment, it encourages staff to raise matters of concern responsibly through the procedures laid down in this policy document. The Department recognizes that certain cases will have to proceed on a confidential

basis. To endorse this commitment, the Department of Co-operative Government and Traditional Affairs has designed procedures for dealing with cases of whistle-blowing that protect the individual and ensure that the matter is fully and vigorously investigated.

**This policy has been widely circulated for discussion and input from Management.** The Department recognizes that an employee may wish to seek advice and be represented by his or her Union when using this policy and endorses the role which unions and their officers play in this process.

## **6. REGULATORY FRAMEWORK**

The policy derives its mandate from the following legislation or prescripts: -

- 6.1 Protected Disclosures Act, 2000 ( 26 of 2000);
- 6.2 Promotion of Access to Information Act, 2000 (Act 2 of 2000);
- 6.3 A guide for Public Sector Accountability implementing the protected Disclosures Act;
- 6.4 Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);
- 6.5 Public Finance Management Act, 1999 (Act No. 1 of 1999)

## **7 RESPONSIBILITY OF THE EMPLOYER**

The Department commits itself to a culture that promotes openness. This must be done by:

- 7.1 Educating, training, workshoping employees about the events which constitute fraud, corruption and malpractice and the effect they have to the Department;
- 7.2 Involving employees, listening to their concerns and encouraging the appropriate use of the process of whistle blowing as outlined in this policy;
- 7.3 Conducting an investigation on any allegations of fraud, corruption and mismanagement
- 7.4 Generally, to ensure strict and proper implementation of this policy.

## **8 ASSURANCES TO EMPLOYEES**

### **8.1 EMPLOYEE SAFETY**

- 8.1.1 The Department of Department of Co-operative Government and Traditional Affairs 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.
- 8.1.2 Occupational detriment as defined by the Act includes being dismissed, suspended, demoted, transferred against his/her will, harassed or intimidated, refused a reference or being provided with an adverse reference, as a result of his/her disclosure.
- 8.1.3 If a concern is raised in good faith in terms of this policy, an employee will not be at risk of losing his/her job or suffering any form of retribution as a result. This assurance is not extended to employees who maliciously raise matters they know to be untrue

### **8.2 EMPLOYEE CONFIDENCE**

- 8.2.1 The Department will not tolerate the harassment or victimization of anyone raising a genuine concern. However, an employee may nonetheless wish to raise a concern in confidence under this policy.
- 8.2.2 If he/she wishes that his/her identity must not be divulged, it will not be disclosed without consent. However, management expects the same confidentiality regarding the matter from employees.
- 8.2.3 If the situation arises where the matter could not be resolved without revealing an employee's identity (for example where his/her evidence is needed in court), it will be discussed with him/her on how and whether it can be proceeded with. Accordingly, while anonymous reports will be considered, this policy is not appropriate for concerns raised anonymously.

### **8.3 HOW THE MATTER WILL BE HANDLED**

- 8.3.1 A written allegation should set out the background and history of the concern (giving names, dates and places where possible) and the reason why the

employee is particularly concerned about the situation. It is preferable for that employee to record this in writing him-/herself. However, where the person to whom the concerns are voiced writes these down, a copy will be sent to the employee's home address or via his/her representative to give him/her an opportunity to agree to this as a correct record. Although it is not expected of the whistle-blower to prove the truth of an allegation, he/ she will need to demonstrate to the person contacted that there are sufficient grounds for concern.

- 8.3.2 This may be done verbally or in writing. It must be stated whether he/she wishes to raise the matter in confidence so that they can make appropriate arrangements
- 8.3.3 Once a concern is raised, it will be assessed to decide what action should be taken. This may involve an internal inquiry or a more formal investigation. The issue raised will be acknowledged within 7 working days.
- 8.3.4 If it is requested, an indication of how the matter will be dealt with and a likely time scale could be provided. If the decision is made not to investigate the matter, reasons will be given.
- 8.3.5 If the concern falls more properly within the Grievance Procedure, he/she will be informed accordingly.
- 8.3.6 Whistle-blowers will be given as much feedback as possible, full information may not always be given on the precise action taken where this could infringe a duty or confidence owed to someone else.

## **8.4 HOW TO RAISE CONCERNS**

Members of staff should feel free to contact and raise their concerns with any of the following;

- 8.4.1 A legal practitioner or a person whose occupation involves the giving of legal advice, as contemplated in section 5(a) of the Act;
- 8.4.2 The Head of Department;
- 8.4.3 The Senior Manager: Internal Audit;
- 8.4.4 The MEC for Finance;
- 8.4.5 The Public Protector.
- 8.4.6 To the National Anti-Corruption hotline number @ 0800 701 701

## 8.5 DISSATISFACTION WITH RESPONSE

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

## 9. REVIEW OF POLICY

This policy will be reviewed annually or as and the need arises and it should be in line with legislations and prescripts

## 10. CONTRAVENTIONS

Any person who contravenes or fails to comply with any provision of this policy may be subjected to disciplinary action.

**THUS DONE AND APPROVED BY THE ACCOUNTING OFFICER**

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



**MR T.P NYONI**

**HEAD: CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

**DATE:** 29/03/2018