

MPUMALANGA PROVINCIAL GOVERNMENT



DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT

WHISTLE-BLOWING POLICY

Revision Date : None
Issue : 1.0
Responsible Section : Risk Management
Approval Date : None

8

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Table of Contents

INDEX	PAGES
Definitions	2
Introduction	3
Objectives	3
Regulatory Framework	3
Scope of Application	3
Policy Statement	4
Roles and Responsibilities	6
Monitoring and Evaluation	6
Policy Review	7

1. DEFINITIONS

Throughout this document, unless otherwise stated, the words in the first column below have the meanings stated opposite them in the second column (and cognate expressions shall bear corresponding meanings):

<i>"Department"</i>	:	Department of Public Works, Roads and Transport
<i>"Accounting Officer"</i>	:	Head of Department
<i>"Designated officer"</i>	:	An officer in the Risk Management Unit designated by the Executive Authority or Accounting Officer of the Department.
<i>"Disclosure"</i>	:	Any revelation of information regarding any conduct of an employer or an employee of that employer, made by any employee who has a reason to believe that information concerned shows any improper conduct.
<i>"Employee"</i>	:	A person working for the Department or Any other person who in any manner assists in carrying on or conducting the business of the employer.
<i>"Employer"</i>	:	The Mpumalanga Department of Public Works, Roads and Transport
<i>"Executing Authority"</i>	:	Member of Executive Council responsible for the Department
<i>"Risk Management Unit"</i>	:	A unit established within the Department of Public Works, Roads and Transport responsible for the detection of fraud and corruption and the implementation of anti-corruption strategies contained in relevant and applicable legislation, policies and guidelines
<i>"Whistle blowing"</i>	:	An employee's raising of a concern about, or the disclosing of information regarding, unlawful or irregular conduct by the Department or any of his or her co-employees.
<i>"whistle blower"</i>	:	The employee raising the concern about or disclosing of information regarding, unlawful or irregular conduct by the Department of Public Works, Roads and Transport or any of his or her co-employees.

2. INTRODUCTION

The Protected Disclosures Act, 2000 (Act no.26 of 2000) provides for the protection of employees for disclosures made in good faith without malice and in terms of this policy. This Act provides that employees shall be protected when disclosing any improper conduct of the employer or other employees without fear of suffering an occupational detriment.

3. POLICY OBJECTIVE

The policy aims to:

- 3.1. Encourage employees to disclose information concerning improper conduct of the employee and to ensure that disclosing employees are treated fairly and are protected from occupational detriment when they disclose the information in a manner consistent with this policy.
- 3.2. Provide procedures in terms of which an employee can disclose information regarding improper conduct.

4. REGULATORY FRAMEWORK

- 4.1. Protected Disclosures Act, 2000 (Act No. 26 of 2000);
- 4.2. Practical Guidelines for Employees issued in terms of section 10 of the Protected Disclosures Act, 2000 (Act No. 26 of 2000);
- 4.3. Whistle-blowing Guide for Public Sector Managers provided by the Department of Public Service Administration;
- 4.4. Public Service Act, 1994 (Proclamation No. 103 of 1994) and Regulations made in terms thereof;
- 4.5. Public Service Bargaining Council Resolution 14 of 2002;
- 4.6. Public Service Bargaining Council Resolution 1 of 2003;
- 4.7. Public Finance Management Act, 1999 (Act No. 1 of 1999) and Treasury Regulations issued in terms thereof
- 4.8. The National Public Service Anti-Corruption Strategy adopted by cabinet in 2002;
- 4.9. Labour Relations Act, 1995 (Act No.66 of 1995); and
- 4.10. Prevention and Combating of Corrupt Activities Act, 2004 (Act No.12 of 2004).

5. SCOPE OF APPLICATION

The policy shall apply to:

- 5.1. All employees and clients of the Department regarding disclosures by employees of improper conduct of the employer or other employees.

6. POLICY STATEMENT

The Policy shall be developed based on the principle objects of the Protected Disclosures Act, which encourages employees to disclose any acts or misconduct without fear of any recriminations or reprisals.

6.1. Protected Disclosures Act

Section 26.1 of The Protected Disclosures Act clearly defines the "Objects of the Act" as follows:

- 6.1.1. To protect an employee from being subjected to an occupational detriment on account of having made a protected disclosure;
- 6.1.2. To provide remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- 6.1.3. To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improper conduct of employee's, other stakeholders and employer.

6.2. Harassment or Victimization

- 6.2.1. 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.
- 6.2.2. The Department shall not tolerate harassment or victimization and shall take action to protect employees when they raise a concern in good faith.
- 6.2.3. Any act of harassment or victimization shall be reported to the Head of Department, alternatively to the Risk Management section.
- 6.2.4. This does not mean that if an employee is already subject to a disciplinary or other action, that action shall be halted as a result of the whistle blowing.

6.3. Confidentiality

- 6.3.1. The Department shall do its best to protect the employee's identity when a concern is raised and the employee does not want their identity to be disclosed.
- 6.3.2. It must however, be warned, that the investigation process may reveal the source of information and when a statement by the employee may be required as part of the evidence.

6.4. Anonymous Allegations

- 6.4.1. The Department encourages employees to put their names to allegations. Concerns expressed anonymously are difficult to

4

investigate; nevertheless they shall be followed up at the discretion of the Department, in consultation with the Risk Management section. The discretion shall be applied by taking into account the following:

- 6.4.1.1. Seriousness of the issue raised;
- 6.4.1.2. Credibility of the concern; and
- 6.4.1.3. Likelihood of confirming the allegation.

6.5. False Allegations

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

6.6. Reporting of Concerns

- 6.6.1. For some minor issues (for example the personal use of Departmental equipment and assets) employees shall normally raise the concerns with their immediate supervisor / manager.
- 6.6.2. In general, however, the whistle blowing procedure shall be expected to be used for potentially more serious and sensitive issues (for example fraud and corruption).
- 6.6.3. The first step shall be for the employee to report this matter to his/her immediate supervisor / manager unless the supervisor / manager or senior management is the subject of the complaint, in which case Risk Management section shall be informed.
- 6.6.4. Should the complaint be found by the manager to be substantiated, the Risk Management section shall be consulted on whether the matter should be investigated internally or referred to the appropriate external stake holder (for example the South African Police Service).
- 6.6.5. Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible shall be set out and the reason why the individual is particularly concerned about the situation.
- 6.6.6. The earlier the concern is reported, the easier it shall be to take action and initiate recovery procedures where necessary.
- 6.6.7. The employee shall not be expected to prove the truth of an allegation; they will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- 6.6.8. Advice and guidance on how matters of concern may be pursued shall be obtained from the Senior Manager: Risk Management
- 6.6.9. Concerns must be raised without malice, in good faith and not for personal gain excluding any reward in terms of any law (for example by the South African Police Service).

7. ROLES AND RESPONSIBILITIES

7.1. Designated Officer

The designated officer shall:

- 7.1.1. Act as a neutral person on matters of disclosure and must assist employees;
- 7.1.2. Provide advice to employees who are considering making a disclosure;
- 7.1.3. Receive, record and review the disclosures of improper conduct from employees;
- 7.1.4. Ensure that procedures are in place to manage instances of improper conduct;
- 7.1.5. Make recommendations to the Accounting Officer on how to address or correct the disclosure;
- 7.1.6. Monitor the type and disposition of disclosures; and
- 7.1.7. Prepare an annual report for the Accounting Officer on all disclosures made in terms of this policy.

7.2. Whistleblowers

The whistle blower shall:

- 7.2.1. Make a good faith disclosure;
- 7.2.2. Report improper conduct either in writing or if the whistle blower wants to remain anonymous the toll free number should be contacted;
- 7.2.3. 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.

8. MONITORING AND EVALUATION

The Risk Management section shall monitor the implementation of the policy and shall report any deviations to the Head of the Department in writing.



9. POLICY REVIEW

The policy shall be reviewed to factor in changes in legal frameworks, organisational development, political and economic trends, and envisaged outputs by the Medium Term Expenditure Framework as well as outcomes of monitoring and evaluation.

10. APPROVAL

APPROVED



KM MOHLESEDI
HEAD OF DEPARTMENT

DATE

2020/11/12