



**Department of Public Works, Roads and
Transport
Mpumalanga Provincial Government**

WHISTLE BLOWING POLICY

Issue: 06/12/2023.11
Responsible Section: Risk Management
Date of Approval:

[Handwritten mark]

TABLE OF CONTENTS

| Item/Topic | Page |
|----------------------------|-------|
| Definitions | 2 - 4 |
| Introduction | 5 |
| Objectives | 5 |
| Regulatory Framework | 5 |
| Scope of Application | 6 |
| Policy Statement | 6 - 8 |
| Roles and Responsibilities | 8 |
| Monitoring and Evaluation | 8 |
| Policy Review | 9 |
| Deviation | 9 |
| Implementation Date | 9 |
| Approval | 9 |

DEFINITIONS

| | | |
|----------------------------|-------|---|
| Accounting Officer | means | a person mentioned in Section 36 of the Public Finance Management Act, 1999 (Act No.1 of 1999) and includes any person acting as the Accounting Officer; |
| Confidentiality | means | it is a set of rules or a promise that limits access or place restrictions on certain types of information; |
| Department | means | Department of Public Works, Roads and Transport; |
| Designated Officer | means | an officer in the Risk Management Sub-Directorate designated by the Accounting Authority or Accounting Officer of the Mpumalanga Department of Public Works, Roads and Transport; |
| Disclosure | means | 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; |
| Employee | means | a person working for the Department of Public Works, Roads and Transport; or Any other person who in any manner assists in carrying on or conducting the business of the employer; |
| Employer | means | the Mpumalanga Department of Public Works, Roads and Transport; |
| Executing Authority | means | Member of Executive Council responsible for the Department of Public Works, Roads and Transport; |
| Harassment | means | intentional behaviour which is found threatening or disturbing; |

| | | |
|-------------------------------|-------|---|
| Improper Conduct | means | <p>any conduct which falls within any of the following categories:</p> <ul style="list-style-type: none"> • A criminal offence has been committed, is being committed or is likely to be committed; • A person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject; • A miscarriage of justice has occurred, is occurring or is likely to occur; • The health or safety of an individual has been, is being or is likely to be endangered; • The environment has been, is being or is likely to be damaged; and • Unfair discrimination as contemplated in the Promotion of Equity and Prevention of Unfair Discrimination Act, 2000 (Act No.4 of 2000); or <p>Any matter referred to in the above has been, is being or is likely to be deliberately concealed; or what?</p> |
| Occupational Detriment | means | <p>in relation to the working environment of an employee means being: –</p> <ul style="list-style-type: none"> • Subjected to any disciplinary action; • Dismissed, suspended, demoted, harassed or intimidated; • Transferred against his or her will; • Refused transfer or promotion; • Subjected to a term or condition of employment or retirement which is altered to an disadvantage; • Refused a reference, or being provided with an adverse reference, from the employer; • Denied appointment to any employment, profession or office; • Threatened with any actions referred to the above; or (of what)? <p>Otherwise adversely affected in respect of the employment profession or office, including</p> |



| | | |
|-----------------------------|-------|--|
| | | employment opportunities and work security; |
| Risk Management Unit | means | a Sub-Directorate 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; |
| Victimised | means | at is seen as situations where people are targeted with abuse, suffer detriment to their employment conditions or are dismissed as a result of bringing a claim for another form of discrimination; |
| Whistle Blower | means | 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 the co-employees; and |
| Whistle Blowing | means | an employee's rising of a concern about, or the disclosing of information regarding, unlawful or irregular conduct by the Department of Public Works, Roads and Transport or any of the co-employees. |

MB

1 INTRODUCTION

- (a) The department recognizes that there is a need for procedures in terms of which employees may, without fear of reprisal as included in the Protected Disclosure Act, 2000 (Act No.26 of 2000) disclose information relating to suspected or alleged criminal or other irregular conduct affecting the Department regarding disclosure of improper conduct of the employer or other employees.
- (b) The Department 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.
- (c) The policy provides procedures in terms of which an employee can disclose information regarding improper conduct.

2 OBJECTIVES

The objectives are to:

- 2.1 Encourage employees to disclose information concerning improper conduct of the employer or other employee(s); and
- 2.2 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 REGULATORY FRAMEWORK

- 3.1. Labour Relations Act, 1995 (Act No.66 of 1995).
- 3.2. National Public Service Anti-Corruption Strategy adopted by cabinet in 2002.
- 3.3. Prevention and Combating of Corrupt Activities Act, 2004 (Act No.12 of 2004).
- 3.4. Protected Disclosure Act, 2000 (Act No. 26 of 2000).
- 3.5. Protected Disclosure Amendment Act, 2017 (Act No 5 of 2017).
- 3.6. Public Finance Management Act, 1999 (Act No. 1 of 1999) and Treasury Regulations issued in terms thereof.
- 3.7. Public Service Act, 1994 (Act No.103 of 1994) and Regulations made in terms thereof.
- 3.8. Whistle-blowing Guide for Public Sector Managers provided by the Department of Public Service Administration.



3.9. The Constitution of the Republic of South Africa, 1996.

4. SCOPE OF APPLICATION

This policy shall be applicable to all employees and clients of the Department.

5. POLICY STATEMENT

- (a) The Policy shall be developed based on the principle objects of the Protected Disclosures Act, 2000 (Act No. 26 of 2000), which encourages employees to disclose any acts or misconduct without fear of any recriminations or reprisals.
- (b) The Department shall be 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 employees to raise matters of concerns responsibly as laid out in this policy.
- (c) The policy covers all concerns about and/or disclosures regarding the Department that are raised or made in good faith and without malice. If a concern is raised in good faith in terms of this policy, an employee shall not be at risk of losing the job or suffering any form of retribution as a result.
- (d) This assurance shall not be extended to employees who maliciously raise matters they know to be untrue.

5.1 HARASSMENT OR VICTIMIZATION

Any act of harassment or victimization shall be reported to the Accounting Officer, alternatively to the Risk Management Sub-Directorate.

5.2 CONFIDENTIALITY

An employee can raise a concern in confidence under this policy. If an employee wishes that the identity should not be divulged, it shall not be disclosed without consent. However, Management expects the same confidentiality regarding the matter from employees.



5.3 REPORTING OF CONCERNS

- (a) The whistle blowing procedure shall be expected to be used for potentially more serious and sensitive issues (for example fraud and corruption). Ideally, concerns should be raised in writing.
- (b) Those who are uncomfortable to put their concern in writing can telephone the National Anti-Corruption Hotline on 0800 701 701.
- (c) The earlier the concern is reported, the easier it shall be to take action and initiate the necessary action to be taken.

5.4 FALSE ALLEGATIONS

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

5.5 DEALING WITH A COMPLIANT

- 5.5.1 For issues raised by employees or members of the public, the action taken by the Department should depend on the nature of the concern. The matters raised may be investigated internally or referred to the South African Police Service.
- 5.5.2 Any fraud committed by an employee of the Department shall not be tolerated and shall be pursued by thorough investigation and to the full extent of the law, including consideration of:

10

- (a) Taking disciplinary action within a reasonable period of time after the incident.
- (b) Instituting civil action to recover losses.
- (c) Initiating criminal prosecution by reporting the matter to South African Police Service or any other relevant law enforcement Agency.
- (d) Any other appropriate and legal remedy available.

5.5 CREATING AWARENESS

The policy shall be sustainable through supported structured education, communication and awareness programmes.

6. ROLES AND RESPONSIBILITIES

6.1 THE ACCOUNTING OFFICER

The Accounting Officer is responsible for the effective and efficient implementation of this policy as part of the internal control measures within the department.

6.2 DESIGNATED OFFICER

The designated officer should:

- 6.2.1 Act as a neutral person on matters of disclosure and must assist employees to make a disclosure.
- 6.2.2 Provide advice to employees who are considering making a disclosure.
- 6.2.3 Receive, record and review the disclosures of improper conduct from employees.
- 6.2.4 Ensure that procedures are in place to manage instances of improper conduct.
- 6.2.5 Make recommendations to the Accounting Officer on how to address or correct the disclosure.
- 6.2.6 Monitor the type and disposition of disclosures.
- 6.2.7 Prepare an annual report for the Accounting Officer on all disclosures made in terms of this policy.
- 6.2.8 Create awareness on Fraud, Corruption and Ethics related matters.

102

6.3 WHISTLEBLOWERS

The whistle blower should:

- 6.3.1 Make a good faith disclosure.
- 6.3.2 Report improper conduct either in writing or if the whistle blower wants to remain anonymous the toll free number should be contacted.
- 6.3.3 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.

7. MONITORING AND EVALUATION

The Risk Management Section shall monitor and evaluate the implementation of the policy.

8. POLICY TERMINATION AND REVIEW

- 8.1 The policy shall be reviewed every three years or as when there are changes in legal frameworks, organizational development, political and economic trends.
- 8.2 When there are changes on the envisaged outputs by the Medium Term Expenditure Framework as well as outcomes of monitoring and evaluation.

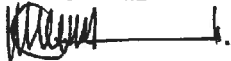
9. DEVIATION

Any deviation from this policy shall be subject to the approval by the Accounting Officer.

10. INCEPTION DATE

This policy shall come into effect from the date of approval by the Accounting Officer.

APPROVAL



MC MOROLO

HEAD: PUBLIC WORKS, ROADS AND TRANSPORT

DATE: 06/12/2023