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Department:

Public Works and Roads

North West Provincial Government

Republic of South Africa

WHISTLE-BLOWING POLICY 2021-22

TITLE : WHISTLE-BLOWING POLICY
DEPARTMENT : PUBLIC WORKS AND ROADS

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1. PURPOSE OF POLICY

The purpose of this policy is to:

- 1.1 Encourage whistle blowing around suspected impropriety within the Department;
- 1.2 Protect those who have blown the whistle against any form of occupational Detriment and
- 1.3 Provide the procedures in which an employee can disclose information regarding improprieties within the workplace.

2. REGULATORY FRAMEWORK

This policy derives its mandate from the following legislation and prescripts:

- 2.1 The Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.2 Protected Disclosures Act, 2000 (Act No. 26 of 2000);
- 2.3 Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- 2.4 A guide for Public Sector Accountability implementing the protected Disclosures Act;
- 2.5 Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).

3. DEFINITIONS

In this policy, unless the context otherwise indicates:

"Accounting Officer" means Head of Department;

"Department" means the North West Department of Public Works and Roads;

"Employer" means a person:-

- a) who employs or provides work for any other person and undertakes to remunerate such person;
- b) who permits any person to assist in the carrying out of the department's mandate.

"Employee/ Official" means a person who:-

- a) Has been appointed permanently, notwithstanding that such appointment may be on probation, to a post contemplated in section 8 (1) (a) of the Public Service Act, and includes a person contemplated in section 8 (1) (b) or 8 (3) (c) of that act; or
- b) Has been appointed on contract in terms of section 8 (1) (c) (ii) of the Public Service Act.

"Occupational Detriment" in relation to the working environment of an employee, means being:-

- a) Subjected to any disciplinary action;
- b) Dismissed, suspended, demoted, harassed or intimidated;
- c) Transferred against one's will;
- d) Refused transfer or promotion;
- e) Refused, or provided with an adverse reference from one's employer;
- f) Threatened with any of the actions referred to above;
- g) Otherwise adversely affected in respect of one's employment, including employment opportunities and work security.

"Protected Disclosure" means a disclosure made in terms of this policy or the Act;

"Act" means the Protected Disclosure Act, 2000 (Act No. 26 of 2000);

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

"Ethics" means the standard of conduct which indicates how a person should behave based on moral duties and virtues arising from the principle of right and wrong.

4. SCOPE OF APPLICATION

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

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

4.3 The policy covers all forms of improprieties, including:-

- 4.3.1 Financial misconduct;
- 4.3.2 Failure to comply with a legal obligation;
- 4.3.3 Health and Safety risks;
- 4.3.4 Environmental damage;
- 4.3.5 Criminal offence;
- 4.3.6 Unfair discrimination;
- 4.3.7 Corruption and misconduct; or
- 4.3.8 Attempt to deliberately conceal any of the above matters.

5. RESPONSIBILITY OF THE EMPLOYER

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

- 5.1 Educating, training, informing employees about the events which constitute fraud, corruption and malpractice and the effect they have to the Department;
- 5.2 Involving employees, listening to their concerns and encouraging the appropriate use of the process of whistle blowing as outlined in this policy;
- 5.3 Conducting an investigation on any allegations of fraud and corruption;
- 5.4 Having a strategy to combat fraud;
- 5.5 To ensure strict and proper implementation of this policy.

6. Responsibilities of the Anti-Corruption & Forensic Management Unit (Office of the Premier)

The Anti-Corruption & Forensic Management Unit facilitates and monitors the implementation of the Minimum Information Security Standards (MISS) and Anti-Corruption initiatives. The Unit also investigate the Departmental Forensic and Fraud cases as and when requested.

7. PROTECTED DISCLOSURE

Who can raise a concern?

- 6.1 Any employee who has a reasonable belief that there is corruption, fraud or malpractice relating to any of the matters listed in clause 4.3 of this policy may make a disclosure in terms of the procedure outlined in this policy.
- 6.2 The employee who makes a disclosure as contemplated in clause 6.1 above, must not be driven by malice, bad faith or personal gain in making such a disclosure.
- 6.3 The disclosure referred to above may be made against any form of fraud, corruption, malpractice or likelihood of such, being committed by any manager, another official or group thereof, the employee's own section or different section in the Department.

6.4 A disclosure made in terms of this policy and the Act is a protected disclosure provided that it fully complies with the requirements of the Act.

8. PROCEDURE FOR DISCLOSURE

7.1 An employee must make a disclosure to any of the following:-

7.1.1 The Head of Department;

7.1.2 The MEC of the Department;

7.1.3 The Head of Internal Audit;

7.1.4 Supervisor of such employee;

7.1.5 A legal practitioner or a person whose occupation involves the giving of legal advice, as contemplated in section 5 (a) of the Act;

7.1.6 To the National hotline number **0800 701 701**;

7.1.7 Public Protector

7.1.8 Auditor General of South Africa (AGSA)

7.1.9 South African Police Service

7.1.8 Any other person contemplated in the Act.

7.2 The disclosure may be in writing using the attached Safe Reporting Form(Annexure B) or verbally.

7.3 The employee is entitled to choose any of the persons mentioned in clause 7.1 to whom the disclosure may be made.

7.4 Once a disclosure is received an internal inquiry or a more formal investigation may be undertaken.

7.5 The whistle blower must be informed of the progress made in the investigation as well as the final outcome of the case.

9. PROTECTION OF A WHISTLE-BLOWER

8.1 An employee who has made a disclosure in terms of this policy or the Act may not be subjected to any form of occupational detriment by his or her employer.

8.2 If the whistle blower so wishes, his or her identity must be kept confidential and will not be disclosed without the official's consent.

10.CONTRAVENTIONS

- 9.1 An employee who makes a disclosure in bad faith or who makes an allegation without having reasonable grounds for believing it to be true or who makes it maliciously may be subjected to disciplinary action.
- 9.2 Any person who subject an employee in any form of occupational detriment on account or partly on account of having made a protected disclosure, may be subjected to disciplinary action.
- 9.3 Any person who contravenes or fails to comply with any provision of this policy may be subjected to disciplinary action.

11.REVIEW OF POLICY

This policy will be reviewed annually, or whenever the need arises and any review thereof is the responsibility of the Senior Management of the Department.

12.EFFECTIVE DATE OF THE POLICY

This policy is effective from the date of approval by the Accounting Officer.

Recommended by the Risk Management Committee:

Signature:

Date:


17/03/2021

Approved by the Accounting Officer / Authority:

Signature:

Date:


24/04/2021

ANNEXURE A: WHISTLE BLOWING ACTION PLAN 2021-22

Planned Action	Detailed Actions	Outputs	Due date and responsible person	Progress
Awareness And Prevention				
Review the whistle blowing policy	Risk Management Committee (RMC) to review the policy and recommend to the Accounting Officer / Authority for approval.	Approved whistle blowing policy	Chief Risk Officer 31/03/2021	
All incumbents are aware, adhere and overtly act in accordance with Code of Conduct provisions. Demonstrate pride and commitment to service excellence.	Human Resources (HR) to include Code of Ethics awareness at induction.	Completed orientation for all officials on Code of Conduct and its provisions	Human Resource Management Unit Ongoing	
Conduct Fraud and Anti-corruption awareness workshops	Well informed officials on fraud & corruption	Completed orientation for all officials on whistle blowing	Chief Risk Officer 3 rd & 4 th Quarter	
Investigate cases of fraud and corruption.	Ensure that cases of fraud & corruption are dealt with speedily.	Ongoing management of hotline cases/reports.	Security Services Unit Ongoing	
Investigate cases of misconduct and promote and recognise cases of ethical leadership.	Ensure that cases of misconduct are dealt with speedily.	Annual reports accurately reflect cases of corruption and misconduct.	Security Services Unit Ongoing	
Information and case management system of all fraud and corruption cases. Inter-departmental and intersectional information sharing mechanism.	Ensure that a centralised database of all fraud and corruption cases is created.	Fraud and corruption trend analysis	Office of the Premier Chief Risk Officers Ongoing	

Annexure B

DEPARTMENTAL SAFE REPORTING FORM

Please provide the following details for any suspected serious misconduct or any breach or suspected breach of law or regulation that may adversely impact the department. Please note that you may be called upon to assist in the investigation, if required.

NB: Please follow the guide as provided in the Whistle-blowing Policy 2021/22

REPORTERS CONTACT INFORMATION		<i>NB!!(This Section may be left blank if the reporter wishes to remain anonymous)</i>
NAME		
DESIGNATION		
DEPARTMENT / AGENCY		
CONTACT NUMBER/S		
E-MAIL ADDRESS		
COMPLAINT: Briefly describe the misconduct/improper activity and how do you know about it? If there is more than one allegation, number each allegation and use as many pages as necessary. <i>(Separate blank page can be utilised and attached as an Annexure to this Form).</i>		
1. What misconduct / improper activity occurred?		
2. Who committed the misconduct / improper activity?		
3. When did it transpire or when did you notice it transpiring?		
4. Where did it transpire?		
5. Is there any evidence that you could provide to us to substantiate this?		
6. Are there any other parties involved other than the alleged suspect state above?		
7. Do you have any other comments to add?		
DATE OF COMPLAINT:		

