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LIMPOPO

PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF PUBLIC WORKS

HOD SUPPORT

**WHISTLE BLOWING POLICY AND
PROCEDURES**

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FOREWORD BY THE MEC FOR PUBLIC WORKS

1. It is agreed that White Collar Crime is rife in South Africa, placing both the private and public institutions under serious mounting pressure. Fraud and Corruption threaten the relationships of trust between the citizens and government, businesses and customers as well as employers and employees.
2. I would like to confirm to you that the Department Public Works is committed to the eradication of fraud and corruption. This commitment has been confirmed by the signatures of the members of the executive management committee of the Department as well as representatives of labour organisations in the Fraud Prevention Management Plan. Our commitment is to deal with fraud and corruption whether it is perpetrated by individuals within or outside the Department of Public Works irrespective of the rank or stature of the person.
3. This Whistle Blowing Policy and Procedure is part of the Department's commitment in achieving its strategic thrusts that are sustainable and cost effective by reducing fraud, corruption, and maladministration through a culture of openness and transparency.
4. Having said this, we acknowledge that we will never be able to effectively reduce the levels of fraud or corruption without your active support. This support involves two issues. **First**, do not participate in the commission of fraud or corruption. **Secondly**, report any commission or suspected commission of fraud or corruption and support the investigation and prosecution of the perpetrators.
5. Should you support this initiative confidentiality will be maintained, and nobody will be penalized for disclosing in good faith, information that might be in the Department of Public Work's interest.
6. I believe that by reducing fraud and corruption much more of our people will be able to receive all the services they deserve.

.....

**MOHLALA THABITHA
MEC PUBLIC WORKS
LIMPOPO PROVINCIAL GOVERNMENT**

.....
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THE PURPOSE OF THIS POLICY

1. The purpose of this policy is to provide a means by which staff and members of the public are able to raise concerns with the appropriate line management, or specifically appointed person in the Department of Public Works, where they have reasonable grounds for believing that there is fraud or corruption within the Department of Public Works.
2. These policy and procedures are an extension of the integrated fraud and corruption management strategy and plan of the Department. They are also in line with the Protected Disclosures Act, Act 26 of 2000, which became effective in February 2001, and provides protection to employees for disclosures made without malice and in good faith, in defined circumstances.

LEGAL MANDATE

Protected Disclosures Act (26 of 2000)

3. The principal objects of the Act are to make provision for procedures in terms of which employees in both the private and public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers, and to provide for the protection of employees who make disclosures which are protected in terms of the Act.

The Protected Disclosure Act provides state-of-the-art protection to whistle blowers in a workplace, but it requires guidelines on policy and procedure for implementation to be effective.

The National Public Service Anti-Corruption Strategy adopted by cabinet in 2002

4. Whistle blowing is crucial to the detection of fraud and corruption. Internal and external audits are not intended to detect or prevent corruption and fraud. For a whistle blowing mechanism to be effective, there must be effective protection of the identity of whistle blower and there must be effective follow-up of all bona fide disclosures.

Labour Relations Act (Act 66 of 1995)

5. A dismissal or other occupational deficit which takes place because the employee made a protected disclosure is automatically an unfair labour practice in terms of the Labour Relations Act.

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SCOPE OF THE POLICY

5. The policy is designed to deal with concerns raised in relation to issues relating to fraud, corruption, misconduct and malpractices within Public Works Department.
6. The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievances, discipline and misconduct. Details of these procedures are obtainable from the Labour Relations Directorate.
7. The policy covers all genuine concerns raised including:
 - *Financial Misconduct*
 - *Occupational, Health and Safety risks*
 - *Environmental damage*
 - *Unfair discrimination*
 - *Fraud, corruption and misconduct*
 - *Attempts to suppress or conceal any information relating to any of the above.*
8. If in the course of investigation any concern raised in relation to the above matters appears to the investigators to relate more appropriately to grievances or discipline, those procedures will be evoked.

WHO CAN RAISE A CONCERN?

9. Any member of staff or of the public who has reasonable belief that there is corruption or misconduct relating to any of the protected matters specified above may raise a concern under the procedure detailed.
10. Concerns must be raised without malice, in good faith and not for personal gain and the individual must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.
11. The issues raised may relate to a manager, another member of staff, a group of staff, the individual's own section or a different section/division of the Department Public Works. The perpetrators can be an outsider, an employee, a manager, a customer or an ex-employee. You may even be aware of a system or procedure in use, which may cause the Department of Public Works to transgress legal obligations.

CULTURE OF OPENNESS

12. The Department of Public Works commits itself to encouraging a culture that promotes openness. This will be done by among other things:
 - a. Involving employees and members of the public, listening to their concerns and encouraging the appropriate use of this policy/ process on whistle blowing promoted by Senior Management. This policy will be issued to all existing employees and to each new employee.

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- b. Educating / training/informing/ explaining to employees what constitutes fraud, corruption and malpractice and its effects on Public Works. Promoting awareness of standards of appropriate and acceptable and what is unacceptable behaviour.
- c. Encouraging unions to endorse and support this approach.
- d. Having a policy to combat fraud and corruption.
- e. Annual reporting on the number of fraud or corruption matters reported and the outcome.

OUR ASSURANCES TO YOU

13. **Your safety.** The management of the Department is aware of the risk that reporting an incident may sometimes carry and thus assures you the following:

- a. Any member of staff who makes a disclosure in the above mentioned circumstances would not be penalized or allowed to suffer any occupational detriment for doing so. Occupational detriment as defined by the Act includes being dismissed, suspended, demoted, transferred against your will, harassed or intimidated, refused a reference or being provided with an adverse reference, as a result of your disclosure.
- b. If you raise a concern in good faith in terms of this policy, you will not be at risk of losing your job or suffering any form of retribution as a result.
- c. This assurance is not extended to employees who maliciously raise matters they know to be untrue. An employee who does not act in good faith or who makes an allegation without having reasonable grounds for believing it to be substantially true, or who makes it maliciously, may be subject to disciplinary proceedings.

14. **Your confidence.** In view of the protection offered to a member of staff raising a bona fide concern, it is preferable that the individual puts his/her name to the disclosure. The Department of Public Works will not tolerate the harassment or victimization of anyone raising a genuine concern. However, the department recognizes that you may nonetheless wish to raise a concern in confidence under this policy.

- a. If you ask employer to protect your identity by keeping your confidence, the employer will not disclose it without your consent. However, the employer does expect the same confidentiality regarding the matter from you.
- b. If the situation arises where the employer is not able to resolve the concern without revealing your identity (for example where your evidence is needed in court), this will be discussed with you on how we should proceed with the matter.
- c. Accordingly, while the employer will consider anonymous reports, the protection offered by the Protected Disclosures Act, Act 26 of 2000 is not appropriate for concerns raised anonymously.

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HOW WE WILL HANDLE THE MATTER.

15. Once you have told the employer of your concern, the employer will look into the concern and assess initially what action should be taken. The concern may require or involve an internal inquiry or a more formal investigation.
16. The issue raised will be acknowledged within **7 (seven) working days**. If it is requested, an indication of how the department proposes to deal with the matter and a likely time scale could be provided. If the decision is made not to investigate the matter reasons will be given. The department/employer will inform the complainant who would be handling the matter, how you can contact him or her and whether your further assistance may or will be needed.
17. When you raise a concern, you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, the employer would ask you to disclose your personal interest at the outset. If your concern falls more properly within the Grievance Procedure the department will inform you.
18. While the purpose of this policy is to enable department to investigate possible malpractice and take appropriated steps to deal with it, the department will give you as much feedback as it properly can. If requested, the department will confirm the response to you in writing. Please note, however, that the department may not be able to tell you the precise action taken where this could fringe a duty of confidence owed by the department to someone else.

HOW TO RAISE A CONCERN INTERNALLY

19. Step one

If you have a concern about misconduct or malpractice, the employer hope you will feel able to raise it first with your **line manager or supervisor**; this may be done verbally or in writing.

20. Step two

- a. If you feel unable to raise the matter with your manager, for whatever reason, please raise the matter with Risk Management Directorate Unit in the Department:

Contact Details (Senior Manager Risk Management Directorate)

- **Telephone: 015 284 7139**
- **Fax: 015 284 7037**
- **E-mail: kutamad@dpw.limpopo.gov.za**

- b. Please say if you wish to raise the matter in confidence so that the department can make appropriate arrangements.

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21. Step three

- a. If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact the Head of Department:

Contact Details:

- **Telephone: 015 284 7000**
- **Fax: 015 284 7039**
- **E-mail: chaamanom@dpw.limpopo.gov.za**

- b. Should you have exhausted these internal mechanisms or whether you have substantial reason to believe that there would be a cover up or that evidence will be destroyed or that the matter might not be handled properly, you may raise the matter in good faith with the Member of the Executive Council (MEC) responsible for Public Works in this province:

Contact Details:

- **Telephone: 015 284 7000**
- **Fax: 015 284 7040**
- **E-mail: mulaudzig@dpw.limpopo.gov.za**

HOW TO RAISE A CONCERN EXTERNALLY

22. While the department hope this policy will give you the reassurance you need to raise such matters internally, the department recognize that there may be circumstances where you can properly report matters to outside bodies, such as the regulators or the police. The independent legal advice centre Open Democracy Advice Centre (ODAC) will be able to advise you on such an option on the circumstances in which you may be able to contact an outside body safely. The department would rather prefer or encourage you to raise a matter with the appropriate regulator than not to raise it at all. Provided you are acting in good faith, you can contact any of the following:

- a. **The Public Protector**. The mandate of the Public Protector is to investigate and to make recommendations to state departments on any conduct that may have resulted in prejudice to citizens. It is independent and accountable to Parliament.

Contact Details:

- **Telephone: 012 322 2915**
- **Fax: 012 325 8319**

- b. **The Auditor General**. Is independent and objective which has to audit and report on the accounts, financial statements and financial management of all public sector agencies. It has a forensic auditing division that supports other agencies with the investigation of alleged corruption.

Contact Details: Auditor General Limpopo

- **Telephone: 015 295 5724 (Polokwane)**
- **Fax: 015 299 4765**

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Contact Details: Auditor General Head Office

- **Telephone: 012 426 8000 (Pretoria)**
- **Fax: 012 426 8333**

- c. **The National Prosecuting Authority, Directorate of Special Operations (The Scorpions)**. This directorate uses the principles of intelligence, investigations, and prosecutions to fight national priority crimes including corruption.

Contact Details:

- **Telephone: 012 317 5000**
- **Fax: 012 321 0968**

- d. **The Public Service Commission**. The commission's main role is that of oversight and monitoring of the public service. In terms of a memorandum of understanding between the Public Service Commission and the Public Protector, the Public Protector will investigate complaints emanating from a member of the public and the Public Service Commission those reported by members of the public service appointed in terms of the Public Service Act.

Contact Details Regional Office Limpopo:

- **Telephone: 015 297 6276**
- **Fax: 015 297 6284**

Contact Details Pretoria:

- **Telephone: 012 325 1204/5**
- **Fax: 012 325 8319**

National Anti-Corruption Hotline: 0800 701 701

- e. **South African Police Services (SAPS)**. You may also report any incident of fraud or corruption to any South African Police Service station. If it is necessary, a Police Service Station may refer the matter you have raised to the Commercial Crime Unit, which investigates corruption among other things.

Contact Details Commercial Crime Unit Limpopo:

- **Telephone: 015 297 6276**
- **Fax: 015 297 6284**

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RAISING UNFOUNDED OR MALICIOUS ALLEGATIONS

23. Staff members who knowingly make malicious or vexatious allegations in respect of fraud and corruption may bring the department into disrepute and will be subject to full investigation and appropriate disciplinary action may be taken by the department, but if an allegation is made in good faith, but it is not confirmed by an investigation, no action will be taken against the individual responsible for making the allegation.

INDEPENDENT ADVICE

24. If you are unsure whether to use the above procedure or you want independent advice at any stage, you may contact your personal legal advisor, or your labour organization, or the independent legal advice centre Open Democracy Advice Centre (ODAC) on its toll free help line on **0800 525 352 (0800 LALELA)**. Their legally trained staff can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.


IF YOU ARE DISSATISFIED

25. If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this policy. While the department cannot guarantee that it will respond to all matters in the way that you might wish, the department commit itself to handle the matter fairly and properly.

REVIEW OF THE POLICY

26. This policy will be reviewed annually or earlier if due to procedural or legislative changes. Staff members wishing to receive clarification on this policy and/or suggest improvements should contact the head of Fraud and Corruption Management Unit Mr Ngoben M.J at Tel: 015-284 7141 or Cell Number: 082 562 1433 or e-mail ngobenim@dpw.limpopo.gov.za.

This policy has been approved by the Member of the Executive Council for the Department of Public Works Limpopo Provincial Government.


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MOHLALA THABITHA
MEC FOR PUBLIC WORKS
Limpopo Provincial Government


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DATE