



human settlements

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REPUBLIC OF SOUTH AFRICA

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WHISTLE BLOWING POLICY

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POLICY MAKERS & IMPLEMENTOR(S)	
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1. INTRODUCTION

- 1.1 It is acknowledged that the employees of the Department of Human Settlements (the Department) are often the first to realise that a crime or malpractice is being or could have been committed within the Department's operational environment. However, the employees may not express their concerns for fear of being disloyal to their colleague(s) or because fear of harassment or victimization from management. In such circumstances, it is normally easier for such employee(s) to ignore the concern than to report what may be a suspicion of criminal activity or malpractice.
- 1.2 The Department encourages its employees to report potential criminal and/ or unethical behavior through the following *toll free hotline number 0800 146 873*.
- 1.3 Every employer and employee has a responsibility to disclose criminal and/ or irregular conduct in the workplace that they may become aware of. The Department will ensure that the identity of all employees/ parties reporting criminal and unethical conduct is protected against disclosure , which includes the protection of employees from any form of reprisal as a result of such reporting.
- 1.4 The Department is committed to establishing a culture of *accountability* and *transparency* aimed at achieving the highest ethical behavior amongst its employees in line with the Fraud Prevention Policy statement (signed by the Director-General).

2. PURPOSE AND SCOPE OF THIS POLICY

- 2.1 *This policy applies to:-*
- All present and future criminal activities,
 - Confidentiality clause in Employees' contract and severance agreements are ineffective if in conflict with the Protected Disclosure Act No. 6 of 2000
- 2.2 *Failure to disclose criminal or irregular conduct could -*
- Result in disciplinary action being taken against employee(s) who fail to disclose such conduct.

- Could result in criminal action been taken against an employee in terms of the Prevention and Combating of Corruption Activities Act No. 7 of 2004.

2.3 *Baseless reporting-*

Unfounded and/ or malicious accusations could result in disciplinary action been instituted against employee(s) who make baseless/ false reports.

3. LEGISLATIVE FRAMEWORK

3.1 WHAT IS PROTECTED DISCLOSURE?

Protected Disclosures

Section 1 of the Protected Disclosure Act (No. 26 of 2000) defines disclosure as -

“disclosure” means any disclosure of any information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following -

- a) That a criminal offence has been committed, is being committed or is likely to be committed;
- b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- c) That miscarriage of justice has occurred or is likely to occur;
- d) That the environment has been damaged or is likely to be damaged;
- e) That the health or safety of an individual(s) has been compromised, is being or is likely to be compromised;
- f) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000(Act No. 4 of 2000);
- g) That any matter referred to in the above paragraphs has been concealed, is being or is likely to be deliberately concealed

3.2 HOW CAN A PROTECTED DISCLOSURE BE MADE?

An employee of the National Department of Human Settlements should make a protected disclosure to the Toll free hotline.

A protected disclosure can be made in anonymity.

An employee can also make a disclosure without revealing his/ her identity.

A protected disclosure can also be made prior, during or after an incident has taken place.

A protected disclosure can be made in the following manner:

- a) personally;
- b) in writing (written complaint); and
- c) telephonically (verbally).

3.3 WHO CAN MAKE A PROTECTED DISCLOSURE?

Any employee or person employed by National Department of Human Settlements on permanent, temporary and/ or fixed contract basis can make a protected disclosure -

3.4 WHERE CAN YOU MAKE A PROTECTED DISCLOSURE?

A protected disclosure can be made through the following:

- Presidential Hotline: **17737**
- National Anti-Corruption Hotline: **0800 701 701**
- Department of Human Settlements Call Centre: **0800 146 873**
- Department of Human Settlements E-mail: **info@dhs.gov.za**
- Department of Human Settlements Fax Line: **(012) 421-1425**
- Walk-in Complaints DHS Offices): **Govan Mbeki House, 240 Justice Mohammed Street, Sunnyside, Pretoria, 0002**

4. GUIDELINES TO BE FOLLOWED WHEN MAKING A PROTECTED DISCLOSURE AND / OR TO “BLOW THE WHISTLE”

- Report the incident or allegation through the methods outlined above.
- Obtain a reference number from the Hotline or where such disclosure is made.
- Obtain feedback within seven days of the incident been reported.
- Provide further information regarding the incident/ allegation.
- Matters outside the scope of fraud and corruption unit will be referred to the relevant offices.

5. APPLICATION OF THE PROTECTED DISCLOSURES ACT

This Act applies to any protected disclosure made after the date on which this Act came into effect (being 16 February 2001) irrespective of whether or not the alleged offence concerned has occurred before or after the date.

The Department commits itself to encouraging a culture that promotes the zero tolerance approach towards fraud and/ or corruption, and an environment where employees who detect or suspect that fraud and/ or corruption is being conducted, or has occurred, will report such findings/ suspicions without hesitation and with confidence that their rights and integrity will be protected. . This will be done through the following:

- Involving employees, listening to their concerns and encouraging the appropriate use of this policy/ process on disclosure promoted by the Senior Management.
- Issuing this policy to all existing employees and a copy to every new employee of the Department.
- Educating/ training/ informing / explaining to all employees what constitutes fraud, corruption and malpractice and its effect on the Department.
- Promoting awareness of standards of appropriate and accepted employee conduct and establishing a common understanding of what is acceptable and what is unacceptable behavior;
- Promote a policy to combat fraud and corruption;
- Annual reporting to the staff on the number of fraud and corruption related cases and outcomes.

6. EMPLOYMENT CONTRACTUAL PROVISIONS

Any provision in a contract of employment or other agreement between an employer and an employee is void in so far as it -

- Purports to exclude any provision of the Act, including an agreement to refrain from instituting or continuing any proceedings under this Act or any proceedings for the breach of contract
- Purports to preclude the employee or has the effect of discouraging the employee, from making a protected disclosure

7. DEPARTMENT'S COMMITMENT TO DEALING WITH PROTECTED DISCLOSURES

7.1 The Department will ensure that any member of staff who makes a disclosure in the above mentioned circumstances will not be penalised or suffer any occupational detriment as a result of such disclosure.

7.2 Occupational detriment, as defined in the Act includes but is not limited to dismissal, suspension, demotion and transfer against one's will, harassment or intimidation as a result of one's disclosure.

8. WHAT ARE THE REQUIREMENTS FOR A PROTECTED DISCLOSURE?

An employee making a protected disclosure must ensure that he/ she is:

- Acting in good faith
- Reasonably believe that the allegations are substantially true
- Complying with appropriate channels and procedure of this policy
 - No malicious reporting (false reporting)

9. WHAT IS A GENERAL EXTERNAL PROTECTED DISCLOSURE?

A general external protected disclosure is a much wider disclosure when a whistle blower is not making an internal disclosure, but rather making a wider disclosure

to the law enforcement agencies which include SAPS and SIU. When a whistle blower is experiencing victimisation of any kind, the matter will be referred to the relevant law enforcement agency.

10. CIRCUMSTANCES UNDER WHICH A GENERAL EXTERNAL PROTECTED DISCLOSURE CAN BE MADE

General external protected disclosure can be made when:-

- The disclosure was made to the hotline but was not properly addressed or;
- The disclosure was not made to the hotline because the whistle-blower reasonably believed he/ she would be victimised;
- The disclosure was not made to the hotline because the whistle-blower reasonably believed that the cover up was likely to occur;
- The disclosure is not made for personal gain and allegations are reasonably believed to be true.

11. RIGHTS AND RESPONSIBILITIES OF PERSONS/ EMPLOYEES WHO ARE ACCUSED OF FRAUD AND CORRUPTION

11.1 A suspect or person accused of committing/ engaging in corrupt and/or fraudulent activities has the following rights:

- (i) The right be treated with dignity and respect;
- (ii) not to have his privacy invaded/violated;
- (iii) to be informed about the charges brought against him/ her;
- (iv) to legal representation or to be represented by a colleague/ labour union representative;
- (v) to be afforded reasonable time to respond to charges against him/ her; and
- (vi) to administrative action which is lawful, reasonably fair and procedurally fair.

11.2 A suspect or person accused of committing/engaging in corrupt and/or fraudulent activities, has the following responsibilities:

- (i) to co-operate with the person conducting the investigation;
- (ii) to respond to allegations made against him/ her, within the stipulated time/ period;
- (iii) to submit relevant information which will assist the investigation;
- (iv) to organise his/her representation (either legal or union);
- (v) not to interfere with the investigation process;

- (vi) not to interfere, victimise or threaten witnesses; and
- (vii) not to publicise the details of the investigation and outcome of the hearing.

12. RESPONSIBILITIES OF SUPERVISORS

- 12.1 All information relating to fraud and corruption that is received and investigated must be treated as confidential. The progression of investigations must be handled in a confidential manner and may not be disclosed or discussed with any person(s) other than those who have legitimate rights to such information. This is important in order to avoid harming the reputation of suspected persons who are subsequently found guilty/ innocent of wrongful conduct. The findings of the investigations will determine further cause of action, if any.
- 12.2 No person is authorised to supply any information with regard to allegations or incidents of fraud and/ or corruption to external sources without the express permission of the Director-General.
- 12.3 A supervisor of the Department has the following responsibilities in the handling of reported cases of fraud and corruption:
- a) Treat staff members reporting suspected or actual cases of fraud & corruption with respect;
 - b) Listen carefully and accept all cases that are reported to him/ her;
 - c) Treat every reported case with the seriousness, sensitivity and confidentiality it deserves;
 - d) Refer all reported cases of fraud and/ or corruption to the Director-General or Special Investigations Directorate;
 - e) Obtain as much information as possible regarding the alleged fraud/ corruption;
 - f) Reassure staff members that they will be protected and will not suffer any reprisal for having reported allegations made in good faith;
 - g) Prepare a report on any suspected or actual fraud case reported to them;

- h) Escalate or refer the reported case of fraud and corruption to the Chief Director: Internal Audit, Risk Management & Special Investigations and/ or Director: Special Investigations for handling.

12.4 Whilst a supervisor has numerous responsibilities towards the handling of suspected or actual cases of fraud and/ or corruption, they must not do the following:

- a) Attempt to conduct an investigation themselves;
- b) Question the suspect/s and witnesses;
- c) Ridicule the staff member who is reporting the suspected or actual case of fraud and corruption; and
- d) Discuss the case or spread a rumour about the suspect/s or any party allegedly involved in the commission of the suspected or actual fraud/ corruption.



13. RESPONSIBILITIES

Responsibility	Director-General
Implementation	Director: Special Investigations
Compliance	Executive Management Team
Monitoring and evaluation	Chief Director: Internal Audit, Risk Management and Special Investigations
Development and / or review	Director: Special Investigations
Interpretation and advice	Risk management Committee & Audit Committee

14. POLICY APPROVAL

Policy no	2: 2012/ 2013
Approved / not approved	
Date approved	
Director-General	Thabane Zulu
Signature	



THAPELO MASHABANE
ACTING CHIEF DIRECTOR: INTERNAL AUDIT, RISK MANAGEMENT AND SPECIAL INVESTIGATIONS

DATE:

APPROVED BY:

THABANE ZULU
DIRECTOR-GENERAL: NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS
DATE: