



agriculture & rural development

Department of
Agriculture and Rural Development
FREE STATE PROVINCE

WHISTLE-BLOWING POLICY

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1. INTRODUCTION

- 1.1. Whistle blowing is a fundamental means in guarding against management override of internal controls and forms part of the Department of Agriculture and Rural Development's fraud prevention and detection strategy.
- 1.2. The Department of Agriculture and Rural Development recognises the fact that unethical conduct, fraud and corruption within the department is detrimental to good, effective, accountable and transparent governance within the department and can endanger the economic stability of the department and have the potential to cause social damage. And there is a need for procedures in terms of which employees may, without fear of reprisals, disclose information relating to suspected or alleged unethical conduct, fraud and corruption affecting the department.
- 1.3. By remaining silent about corruption, offences or other malpractices taking place in the workplace, an employee contributes to, and becomes part of, a culture of fostering such improprieties which will undermine his or her own career as well as be detrimental to the legitimate interests of the South African society in general.
- 1.4. The Whistle Blowing Policy further outlines that every employer and employee has a responsibility to disclose unethical conduct, fraud and corruption in the workplace; and every employer 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.
- 1.5. With the Department not immune from any criminal activity and unethical conduct, the department acknowledges the existence of the Public Service Anti-Corruption Strategy as a means of dealing with unscrupulous individuals who might connive to defraud the department or tarnish its image. This policy document provides guidelines to managers and responsible officials who deal with investigations and those who have knowledge of cases of fraud and corruption on how to deal with cases under protected disclosure.

2. POLICY STATEMENT

- 2.1. The Department of Agriculture and Rural Development recognises that employees are often the first to realize that something seriously wrong may be happening within departments. However, they may not express their concerns for fear of being disloyal to their colleagues or because they fear harassment or victimization. Members of the public are at the receiving end of the service delivery. In such circumstances, it is normally easier to ignore the concern than to report what may be just a suspicion of malpractice.
- 2.2. The Department is committed to achieving the highest possible standard of service, openness, accountability and the highest possible ethical standards in all its practices.
- 2.3. In line with that commitment, it encourages staff to raise matters of concern responsibly through the procedures laid down in this policy document. The department recognizes that certain cases will have to proceed on a confidential basis.
- 2.4. To endorse this commitment, the department has designed procedures for dealing with cases of whistle-blowing that protect the individual and ensure that the matter is fully and vigorously investigated.
- 2.5. All department employees are required to adhere to this policy in order to have quality/reasonable information enabling the employer to take corrective actions in the pursuit of clean administration, fraud-free, cultured and controlled environment as well as guarding against/pro-activeness of potential risks which may have adverse impact on the overall achievement of the departmental goals and objectives.

3. OBJECTIVES AND SCOPE

3.1. OBJECTIVES OF THE POLICY

3.1.1 The Protected Disclosures Act 26 of 2000 came into effect on 16 February 2001. In order to comply with the Act, the department will –

- Strive to create a culture which will facilitate the disclosure of information by employees relating to criminal and other irregular conduct in the workplace in a responsible manner by providing clear guidelines for the disclosure of such information and protection against reprisals as a result of such disclosure; and
- Promote the eradication of criminal and other irregular conduct within Department of Rural Development.

3.1.2. The Policy is intended to encourage and enable employees to raise concerns within the department rather than overlooking a problem or blowing the whistle to inappropriate channels.

3.1.3. Furthermore the policy aims to –

- Provide avenues for employees to raise concerns and receive feedback on any action taken;
- Inform employees on how to take the matter further if they are dissatisfied with the response; and
- Reassure employees that they will be protected from reprisals or victimisation for whistle blowing in good faith.

3.2. SCOPE OF THE POLICY

3.2.1. There are existing grievance procedures in place within the Department of Agriculture and Rural Development to enable employees to raise grievances relating to their employment. This Policy is intended to cover concerns that fall outside the scope of grievance procedures. The concerns indicated in the Protected Disclosure Act 26 of 200, are the following:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;

- That the health or safety of an individual has been, is being or likely to be endangered;
- That the environment has been, is being or is likely to be damaged;
- Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000; or
- That any matter referred to in paragraphs (a) to (f) has been, is being or likely to be deliberately concealed.

4. LEGISLATIVE MANDATE

4.1 The Whistle-Blowing Policy is predicated upon the Protected Disclosure Act No. 26 of 2000 which is embedded in the following legislations:

- Section 8 of the Bill of rights as contained in the Constitution of the Republic of South Africa 1996.
- Section 34 of the Prevention and Combating of Corrupt Activities Act (PCCAA), Act No. 12 of 2004, which obliges any person who holds a position of authority and who knows or ought to have known suspected that any other person has committed- (a) an offence under Part 1, 2, 3 or 4, or section 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of that Act.
- The department's Code of Conduct for employees.
- The Common Law in terms of the derivative misconduct, the employees who refuses to divulge information that might help the employer to identify the perpetrators of some other misconduct might be implicated as constituting misconduct.

5. THE POLICY

5.1 Harassment or victimisation

The Department of Agriculture and Rural Development acknowledges the fact the decision to report a concern can be a difficult one to make, not least because of fear of reprisals from those responsible for the irregularity. The department will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith. This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted as a result of their whistle blowing.

5.2 Confidentiality

The Department will do its best to protect an individual's identity when he/she raises a concern and does not want their identity to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the employee may be required as part of the evidence.

5.3 Anonymous allegations

The Department encourages employees to put their names to allegations. Concerns expressed anonymously are difficult to investigate; nevertheless they will be followed up at the discretion of the department. This discretion will be applied by taking into account the following:

- the seriousness of the issue raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation.

5.4 Untrue allegations

The Department of Rural Development discourages employees or other parties from making allegations, which are false and made with malicious intentions. Where such malicious, vexatious, or false allegations are discovered, the person who made the allegations will be subjected to firm disciplinary action, or other appropriate action in the case of external parties.

6. MAKING A DISCLOSURE

6.1 WHAT IS WHISTLE-BLOWING?

The term whistle-blowing is generally used to describe the process of disclosing information relating to some kind of malpractice or mistreatment which members of staff may have come across during the course of their work and which they feel would put (expose) the interests of the public, departments, Entities and any stakeholders doing business with the department.

6.2 WHO IS A WHISTLE-BLOWER?

Any member of staff, public or service provider who has a reasonable belief that there is corruption, fraud or misconduct relating to any activities within the Department of Rural Development may raise a concern under the procedures as detailed.

6.3 HOW TO MAKE A DISCLOSURE

Protected disclosures can be made in the following manners:

- Telephonically, by using the unique, free National Fraud Hotline on **0800 701 701** or the Provincial Anti-Corruption Hotline on **0800 535 554**.
- In writing (anonymously or not) to the Head of Department, by submitting their disclosures at the departmental postal or physical address:
Physical Address: Office 121, 1st Floor Chemistry Building, 1 Gielie Joubert Street, Glen
- For employees, personally or anonymously in writing, to the Head of Department of the department or to their immediate supervisors or managers.

6.4 HOW THE COMPLAINT WILL BE DEALT WITH

6.4.1 The action taken by Department of Agriculture and Rural Development will depend on the nature of the concern. The matters raised may, among other possible actions

- be investigated internally;
- be referred to the SAPS or other relevant law enforcement agencies; and/or
- be referred to the Audit and Performance Committee.

6.4.2 In order to protect individuals and the department, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or

allegations, which fall within the scope of other procedures, will normally be referred for consideration under those procedures.

6.4.3 Some concerns may be resolved by agreed action without the need for investigation.

6.4.4 The Department will write to the complainant:

- Acknowledging that the concern has been received;
- Indicating how it proposes to deal with the matter and whether any initial enquiries have been made;
- Giving an estimate of how long it will take to provide a final response; and
- Informing the complainant whether further investigations will take place, and if not, why not.

6.4.5 The amount of contact between the authority investigating the issues and the persons raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.

6.4.6 The Department of Agriculture and Rural Development accepts that employees need to be assured that the matter has been properly addressed. However, the progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any persons other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of suspected persons who are subsequently found innocent of wrongful conduct.

6.5 PROTECTED DISCLOSURE COORDINATOR

The protected disclosure coordinator is responsible for:

- receiving all disclosures
- receiving all phone calls, e-mails and correspondence from members of the public making a disclosure and impartially assessing whether they are protected disclosures
- impartially assessing disclosures to determine whether they are public interest disclosures
- appointing an investigator and overseeing, coordinating and informing the whistle blower of the progress of the investigation;
- appointing a welfare manager for the whistle blower;

- ensuring confidentiality, including establishing a confidential filing system for disclosures;
and
- Liaising with the Accounting Officer and collating and publishing statistics regarding disclosures

- 7.1** All case reported will be administered by the Accounting Officer who will appoint an appropriate investigator.
- 7.2** The Risk Management and Internal Audit units will continuously monitor and evaluate the processes and procedures of the Department against external and internal trends and standards and recommend modifications when necessary.

- 8.1** In order for the Policy to be sustainable, it must be supported by a structured education, communication and awareness programme.
- 8.2** It is the responsibility of all managers to ensure that all employees, are made aware of, and receive appropriate training and education with regards to the Whistle-Blowing Policy.

9.1 MANAGEMENT OF THE POLICY

The custodian of this policy is the Head of Department who should be supported in its implementation by all management of the Department. The Chief Risk Officer is further responsible for the administration, revision and interpretation of this policy.


9.2. REVIEW OF THE POLICY

This policy will be reviewed when the need arises or when legislation, systems or procedures have changed to such an extent that a review and amendments to this document will be necessary. The amendments will, as soon as reasonably possible, be submitted to the Accounting Officer for approval and brought to the attention of all officials for its implementation.

It is hereby recommended that approval for the Whistle-Blowing Policy be granted to ensure best practices of anti-corruption and the approach to implement anti-corruption strategies in the department.

REVIEWED BY:**Ms. T CRISP****CHIEF RISK OFFICER**DATE: 26/03/2018

THE RISK MANAGEMENT COMMITTEE HAS REVIEWED AND RECOMMENDS THE APPROVAL OF THIS WHISTLE-BLOWING POLICY:



Mr. D NKAISENG**CHAIRPERSON**DATE: 27/03/18

THE HEAD OF DEPARTMENT HAS REVIEWED AND APPROVES THIS WHISTLE-BLOWING POLICY:



Mr. MP THABETHE**HEAD OF DEPARTMENT**DATE: 29/03/2018