



# WHISTLE BLOWING POLICY



APPROVED BY:

  
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MUNICIPAL MANAGER  
DATE: 23/06/2021

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## **1. PURPOSE OF POLICY**

The purpose of this policy is to provide a means by which employees are able to raise concerns with the appropriate line management, or specific appointed person within the department, where they have reasonable grounds for believing that there is fraud and corruption taking place or about to take place.

This is an overarching policy affecting and binding to all departments in the municipality. The policy is designed to deal or handle concerns raised in relation to issues of fraud, corruption, misconduct and malpractice within the Municipal department. The policy will not apply to personal grievances, which will be dealt with under existing procedures.

The policy covers all genuine concerns raised including:

- a) Financial misconduct (e.g. theft, fraud, breach of contract etc)
- b) Corruption and Misconduct
- c) Attempts to suppress or conceal any information relating any of the above.

If in the course of investigation any concerns raised in relation to the above matters, appears to the investigator to relate more appropriately to grievance or discipline, those procedures will be evoked.

## **2. OBJECTIVE OF POLICY**

The objective of this policy are:

- a) To protect an employee from being subjected to an occupational detriment on account having made a protected disclosure
- b) To provide for certain remedies in connection with any occupational detriment suffered on account of having made a protected disclosure, and
- c) To provide for platform or an environment which is conducive for an employee to, in a responsible manner, disclose information regarding improprieties by his or her employer or colleagues.

This Policy is applicable to any disclosure that is protected in terms of this policy and the Protected Disclosure Act 26 of 2000.

## **3. SCOPE**

This policy shall apply to all employees of the Mphashe Local Municipality provided that those employees are not receiving any housing scheme from the municipality, except for the following employees; Municipal Manager and Senior Managers of Departments, and all other employees whose conditions of service are not determined in terms of SALGBC collective agreement.

#### **4. POLICY DEFINITION**

The terminology used in this policy shall bear the original meaning unless otherwise stated

#### **5. LEGISLATIVE FRAMEWORK**

5.1 Constitution Act 108 of 1996

5.2 Basic Conditions of Employment Act

5.3 Labour Relations Act

#### **6. POLICY PROCEDURE**

##### **6.1 WHO IS A WHISTLE BLOWER?**

Any municipal official who has a reasonable belief that there is corruption or misconduct relating any of the matters specified above and raised an alarm to the authorities

##### **6.2 WHAT IS DISCLOSURE?**

The act defines "disclosure" and "protected disclosure" made by an employee to an employer as follows:

"Disclosure" any disclosure of information regarding any conduct of an employer or an employee of that employer, made by any employee who has reasons to believe

- a) That the information concerned shows or tend to show that one or more of the following:
- b) That a criminal offence has been committed, is being or is likely to be committed;
- c) That a person has failed, is failing to comply with any legal obligation to which that person subject;
- d) That the environment has been is being or likely to be damaged.
- e) Unfair discrimination as contemplated in the promotion of equity and

Prevention of unfair discrimination Act No (4 of 2000) or that any matter referred to paragraphs (a) to (f) has is being or is likely to be deliberately concealed.

As set out in the definition above, a further requirement is that the employee must have reasonable to believe that the information concerned shows or tend to show one or more of the matters in the definition.

"Protected Disclosure" means any disclosure that is not in conflict with releasing municipal information as stipulated in the code of conduct for Municipal Staff and has been made to:

- a) A legal advisor of the municipality
- b) A municipality manager

- c) A member of the MAYCO
- d) Any other person or body that will in turn make the employer aware of the disclosure.

### 6.3 CULTURE OF OPENNESS

The Municipality Administration commits itself to encouraging a culture that promotes openness.

This will be done by:

- a) Involving employees, listening to their concerns and encouraging the appropriate use of this policy/process on whistle-blowing promoted by senior Management
- b) This policy will be issued to all existing employees.
- c) Educating/ training/information/explaining to employees what constitutes fraud, corruption and malpractice and its effect on service delivery
- d) Promoting professional ethics, code of conduct and establishing a common understanding of what is acceptable and what is not. This training should be coordinated and promoted by the Municipal Manager's office.
- e) Encouraging unions to endorse and support this approach
- f) Having a policy to combat fraud.

### 6.4 MUNICIPALITY'S ASSURANCE TO EMPLOYEES

Mbhashe municipality is committed to this policy. The municipality will make sure that an employees who make sure that an employee who makes a disclosure in the above mentioned circumstances will not be publicized suffer any occupational detriment for doing so

### 6.5 EMPLOYEES CONFIDENCE

- a) In view of the protection offered to an employee raised bona fide concern, it is preferable that the individual puts his/her name to disclosure. The Municipality will not tolerate the harassment or victimization of anyone raising a genuine concern.
- b) However, an employee may nonetheless wish to raise a concern in confidence under this policy if he/she wishes that his/her identity must not be divulged,, it will not be disclosed without consent however, the municipality expects the same confidentiality regarding the matter from employee
- c) If the situation arises where the matter could not be resolved without revealing an employee's identity (for example where his /her evidence is needed in court) it will be discussed with him/her on how and whether it can be proceeded with.
- d) Accordingly, while anonymous report will be considered, this policy is not appropriate for conduct raised anonymous

### 6.6 HOW THE MATTER WILL BE HANDLED

- a) Once a concern is raised it will be assessed to decide what action should be taken. This may involve an internal inquiry or a more formal investigation
- b) The issue raised will be acknowledge within 7 working days. If it is requested, an indication of how the matter will be dealt with and likely scale could be provided. If the decision is made to investigate the matter, reasons will be given. The whistle – blower will be informed of who is handling the matter, how to contact him/her and whether further assistance may or will be needed.
- c) When a concern is raised, the whistle-blower may be asked how she/he thinks the matter might best be resolved. If the whistle blower has any personal interest in the matter, it should be made known from the outlet. If the concern falls more properly within the Grievance Procedure, he/she will be informed accordingly.
- d) While the purpose of this policy is to enable Departments to investigate possible malpractice and take appropriate steps to deal with it, whistle- blowers will be given much feedback as possible full information may not always be given on the precise action taken where this could infringe a duty or confidence owed to someone else

## **7. GENERAL POLICY PROVISIONS**




### **7.1 HOW TO RAISE A CONCERN INTERNALLY**

- a) If an employee has a concern about malpractice, it is hopes he/she will raise it first with his/her supervisor or manager or any member of Senior Management within Departments as well as Directors, Legal Advisor of the Municipality or the MAYCO Members/s:. This may be done verbally or in writing. It must be stated whether he/she wishes to raise the matter in confidence so that they can make appropriate arrangements.
- b) If these channels have been followed and the employee still has concerns, or feel that the matter is so serious that it cannot be handled by any of the above, the person may take the issue outside of the Municipality to other government agencies appointed: to handle such issue Members of staff should feel free to contact and raise their concerns with any of the following municipal officials

## 8. PROCEDURES FOR IMPLEMENTING POLICY

The policy shall be implemented as per the procedure outlined in section 6 above.

## 9. POLICY GOVERNANCE

<b>Policy Title</b>	<b>Whistle blowing policy</b>	
<b>Policy Version</b>		
<b><u>Role &amp; Process</u></b>	<b><u>Responsible Individual Name and/or Date</u></b>	<b><u>Responsibility Accepted Signature</u></b>
<b>Senior Manager Corporate Services</b>	Ms N. Mahlati- Nkuhlu	
Policy Custodian	Ms N. Mahlathi-Nkuhlu	
Policy Author		
LLF Consultation Date		
LLF Consultation Reference		
Council Approval Date	26/05/2024	
Council Approval Reference		
<b>(UNIT) eg. Manager Human Resources</b>	N. Hanise	
Policy Approved		
Policy Inception Date		
Review Start Date		
Review Completion Date		
Legislative References		
Policy Review "Triggers"		
<b>Comments</b>		