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PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF SAFETY, SECURITY & LIAISON

WHISTLE BLOWING POLICY

1. INTRODUCTION

1.1. This policy has been developed to enforce the Protected Disclosure Act no. 26 of 2000, which came into operation on the 16th February 2001. The policy is designed to empower, enable and encourage the Department of Safety and Security (DSSL) employees to disclose information regarding corruption, unlawful or irregular behaviour that occurs within the workplace.

2. PURPOSE

2.1. To encourage the employees to disclose information regarding improprieties, malpractice, mal-administration, mismanagement or any corrupt behaviour by the employer or other employees.

2.2. The policy will assist the Department in creating a workplace culture, that facilitates disclosure by the employees in a responsible manner. The employees are protected from victimization and occupational detriments which may occur as a result of their disclosures.

3. SCOPE

The policy applies to all DSSL employees.

4. LEGAL MANDATES

- Protected Disclosure Act, 26 of 2000
- Public Finance Management Act, 1999
- Prevention and Combating of Corruption Activities Act, 2004 (Act no.12 of 2004)
- Public Service Act, 1994
- Provincial Fraud Prevention Plan
- Labour Relations Act,

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5. PROTECTED DISCLOSURE

- 5.1. Employees are encouraged to disclose information on any Impropriety that takes place within the Department.
- 5.2. Such disclosure will be protected in terms of the Protected Disclosure Act.
- 5.3. The employees will enjoy protection of the Act only if the disclosure is on one of the following improprieties:-
 - (a) Misuse of state property
 - (b) Mismanagement of state funds
 - (c) Abuse of power
 - (d) Wrongful use of the state property.
 - (e) Intentionally or negligently damages and or causes loss of state property.
 - (f) Theft, bribery or fraud.
 - (g) Accepts any compensation in each or otherwise from a member of the public or another employee for performing her or his duties without written approval from the department.
 - (h) Acts of misconduct (as long as they constitute corruption).
 - (i) Contravention of any prescribed Code of Act regulating the public service.
 - (j) Corruption
 - (k) That a miscarriage of justice has occurred is occurring or is likely to occur.
 - (l) That the health and safety of an individual has been, is being or is likely to be endangered;
 - (m) That the environment has been is being or is likely to be damaged

6. REQUIREMENTS OF PROTECTED DISCLOSURE

- 6.1. The disclosure must be made in good faith.
- 6.2. The information disclosed and any allegation contained in it, must be substantially true.
- 6.3. The disclosure must not be for personal gain.
- 6.4. The disclosure must be on one of the improprieties mentioned under item 3, above.
- 6.5. The impropriety must be of an exceptionally serious nature.

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7. PROTECTION AGAINST OCCUPATIONAL DETRIMENT

7.1 No employee may be subjected to any occupational detriment by the Department on account, of having made a protected disclosure.

8. REMEDIES

8.1. An employee who has been subjected or is subjected or may be subjected to an occupational detriment in breach of paragraph 4, above, may:

8.1.1. Report the matter to the higher level, i.e. inform the Head of Branch or the HOD depending on who subjected the employee to an occupational detriment, or

8.1.2 Report the matter to Risk Management, Security Management or Labour Relations.

8.1.3 Lodge a formal grievance

8.1.4 Pursue any other dispute resolution mechanism as prescribed by the Public Service Co-ordinating Bargaining Council (PSCBC).

8.2. Any employee who has made a protected disclosure and who reasonably believes that he or she may be adversely affected on account of having made that disclosure, may request to be transferred another position, at same level, in another division or any other department, as he or she may so wish.

9 DISCLOSURE TO EMPLOYER

9.1 Any disclosure made in good faith to any of the following:

- accounting officer Risk and
- Compliance Manager,
- Security Manager or
- Labour Relations
- Presidential Hotline
- National Hotline,

is protected in terms of the Act.

10 DISCLOSURE TO THE EXECUTING AUTHORITY

10.1. Any disclosure made in good faith to the Executing Authority as the political head of the Department is a protected disclosure.

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11 DISCLOSURE TO STATUTORY PERSONS OR BODIES

- 11.1.1 Disclosure to a statutory body may be made where the employee who makes the disclosure has reason to believe that he or she will be subjected to an occupational detriment if he or she makes a disclosure to his or her employer, including the Executing Authority.
- 11.1.2 Disclosure on any improprieties as mentioned in paragraph 3, above, must first be made internally, before it could be made to any external body or person, such as:-
- a) Public Protector;
 - b) The Auditor General or
 - c) Any person or body in respect of which the employee concerned reasonably believes that:
 - (i) The relevant impropriety falls within any description of matters which, in the ordinary course are dealt with by such person or body, and
 - (ii) the information disclosed, and any allegations contained in it, are substantially true, is a protected disclosure.

12 CONFIDENTIALITY

- 12.1 Any disclosure made by an employee must be treated in the strictest confidence in line with the Provincial Information Security Policy.

13 NON-COMPLIANCE TO THE POLICY

- 13.1 Any disclosure made not in accordance with the procedure as prescribed in this policy will not be regarded as protected disclosure as a result the employee concerned might be committing an act of misconduct.
- 13.2. Any employee or official who subject or attempt or threaten to subject an employee who made a protected disclosure to occupational detriment shall be committing an act of misconduct.

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13.3. The above mentioned misconduct should be dealt with in line with Resolution no.2 of 1999, as amended (Disciplinary Code and Procedure for the Public Service

14 DEFINITIONS

- ↓ **Act** means the protected disclosure Act. Of 2000.
- ↓ **MEC** means the political head appointed in terms of the constitution.
- ↓ **Accounting officer** means the Head of the Department.
- ↓ **Employer** means the Department of Safety, Security and Liaison.
- ↓ **Department** means the Department of Safety, Security and Liaison as employer.
- ↓ **Disclosure** means to alert or report on information regarding any conduct of an employee of the Department made by any employee who reasonable believe that information concerned shows or tends to show one or more of the following:
 - a. That a criminal offence has been committed is being committed likely to be committed.
 - b. That a person has failed is failing or is likely to fail to comply any legal obligation to which that person is subject.
- ↓ **Employee:** any person appointed permanently, temporarily interns and contract workers by the Department of Safety, Security and Liaison.
- ↓ **Occupational detriment;** in relation to the working environment of an employee means:
 - a. Being subjected to any disciplinary action;
 - b. Being dismissed, suspended, demoted, harassed or intimidated;
 - c. Being transferred against his or her will;
 - d. Being refused transfer or promotion;
 - e. Being subjected to a term or condition of employment or retirement which is altered or kept altered to his or her disadvantage;
 - f. Being refused a reference, or being provided with an adverse reference, from his or her employer;
 - g. Being denied appointment to any employment, profession or office;
 - h. Being threatened with any actions referred to paragraph (a) to (g) above ;
 - i. Being otherwise adversely affected in respect of his or her employment profession or office , including employment opportunities and work security;

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↓ Protected disclosure means a disclosure made to:

- a. An employer in accordance with paragraph 7.
- b. The MEC in accordance with paragraph 8.
- c. A person or body in accordance with paragraph 9

↓ Good faith means acting within the highest ethical order in the interest of the department with no intention of personal gain.

15. POLICY INCEPTION

The contents of this policy will take effect from the date of approval by the Executing Authority.


16. POLICY REVIEW

This Policy shall be reviewed annually or when necessary.


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Ms M Mtemula-Mphande
HEAD OF DEPARTMENT

2010/05/20
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DATE

APPROVED / NOT APPROVED


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MEC: HON. D.P. MAGADZI
EXECUTING AUTHORITY

2010/06/04
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DATE