



LIMPOPO  
PROVINCIAL GOVERNMENT  
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF  
AGRICULTURE AND RURAL DEVELOPMENT


**WHISTLE BLOWING POLICY**

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Recommended by:



2017-03-17

HOD

Date

(Maisela, RJ)

Approved by:



27/03/2017

MEC for Agriculture and Rural Development

Date

Mapula Mokaba-Phukwana (MPL)

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## **1. Acronyms and abbreviations**

CFO	Chief Financial Officer
HoD	Head of Department
IB	Information Book
LDARD	Limpopo Department of Agriculture and Rural Development
MEC	Member of Executive Council
PFMA	Public Finance Management Act
SAPS	South African Police Service

## **2. Executive summary**

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

This policy addresses all matters regarding the handling of fraudulent situations. It includes matters such as reporting procedures, steps taken in the process, protection of whistle blowers, confidentiality, and publication of sanctions and application of prevention controls.

All terminology used in this policy is described precisely under the relevant heading for definitions and ensures resultantly that there is exact clarity at all times.

## **3. Introduction**

The LDARD recognizes the fact that :

- a) Unethical conduct, fraud and corruption within the LDARD is detrimental to good, effective, accountable and transparent governance within the LDARD and can endanger the economic stability of the LDARD and have the potential to cause social damage;
- b) 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 LDARD;
- c) Every employer and employee has a responsibility to disclose unethical conduct, fraud and corruption in the workplace; and
- d) 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.

## **4. Purpose and objectives**

The Protected Disclosures Act 26 of 2000 came into effect on 16 February 2001.

The objects of this Act are-

- (a) to protect an employee, whether in the private or the public sector, from being subjected to an occupational detriment on account of 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 procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her employer.



In order to remain in compliance with the Act, the LDARD will –

- i) Strive to create a culture which will facilitate the disclosure of information by employees relating to unethical conduct, fraud and corruption 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
- ii) Promote the eradication of unethical conduct, fraud and corruption within the LDARD.

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

Furthermore the policy aims to :

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

**Harassment or victimisation:** The LDARD acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity. The LDARD will not tolerate harassment or victimization 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.

**Confidentiality:** The LDARD 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. However, the LDARD do expect the same confidentiality regarding the matter from the whistle blower. 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.

**Safety of the whistle blower:** The management of the LDARD and the Head of the LDARD in particular will ensure that any member of the staff who makes a disclosure in terms of the policy will not be penalized or suffer any occupational detriment for doing so. If a concern is raised in good faith in terms of this policy an employee will not be at risk of losing his/her job or suffering any form of retribution as a result.

**Anonymous allegations:** The LDARD 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 LDARD. This discretion will be applied by taking into account the following:

- i) the seriousness of the issue raised;

“Policy”	Fraud Policy
“Plan”	Fraud Prevention Plan
“Whistle Blowing”	Reporting of misconduct by an employee

“Fraud and corruption” includes, but are not limited, to the following:

1) The following legal definitions:

- i.) *Fraud*, i.e the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another;
- ii.) *Theft*, i.e. the unlawful and intentional misappropriation of another’s property or property which is in his/her lawful possession, with the intention to deprive the owner of its rights permanently;
- iii.) *Offences in respect of corrupt activities* as defined in the Prevention and Combatting of Corrupt Activities Act, 2004, i.e.:

**(A) The general offence of corruption** which could be summarized as directly or indirectly accepting or agreeing to accept any gratification from another person; giving or agreeing to give any other person any gratification in order to influence that person directly to exercise his powers, duties or legal obligations in a manner which is/amounts to:

- a) Illegal, dishonest, unauthorised, incomplete, or biased;
- b) Misuse or selling of information or material acquired;
- c) Abuse of position of authority;
- d) Breach of trust;
- e) Violation of a legal duty or set of rules;
- f) Designed to achieve an unjustified result; and
- g) Any other unauthorised or improper inducement to do or not to do anything;

**(B) Corrupt activities** in relation to:

- a) Public officials;
- b) Foreign public officials;
- c) Agents;
- d) Judicial officers;
- e) Members of the prosecuting authority;
- f) Unauthorized gratification received or offered by or to a party to an employment relationship;
- g) Witness and evidential material during certain proceedings;
- h) Contracts;
- i) Procuring and withdrawal of tenders;
- j) Auctions;
- k) Sporting events; and
- l) Gambling games or games of chance;

**(C) Conflicts of interest** and other unacceptable conduct, e.g.:

- a) Acquisition of private interests in contract, agreement in or investment in public body;
- b) Unacceptable conduct relating to witnesses; and

- c) Intentional interference with, hindering or obstruction of investigation of offence;

**(D) Other offences** relating to corrupt activities, viz:

- a) Accessory to or after an offence;
- b) Attempt, conspiracy and inducing another person to commit offence; and
- c) Failure to report corrupt transactions

2) Fraudulent and corrupt acts may include:

**(A) Systems issues:** where a process or system exists which is prone to abuse by employees, the public or other stakeholders, e.g.:

- (i) Irregular collusion in the awarding of tenders or orders for goods and/or services;
- (ii) Deliberate non-compliance with tender and procurement policy and procedures;
- (iii) Inadequate verification of supplier credentials;
- (iv) Deliberate non-compliance to recruitment policy and procedures;
- (v) Abuse of time management systems;
- (vi) Ghost employees;
- (vii) Non-disclosure of personal interests;
- (viii) Fraudulent allocation of Poverty Alleviation packages; and
- (ix) Disclosing confidential or proprietary information to outside parties.

**(B) Financial Issues:** i.e. where individuals or companies have fraudulently obtained money from LDARD, e.g:

- (i) Unauthorized sale of assets;
- (ii) Revenue collectors not banking all revenue collected;
- (iii) Fraudulent mileage claims; and
- (iv) Payments made to contractors without the required site inspections.

**(C) Equipment and resource issues:** i.e. where LDARD's equipment is utilized for personal benefit or stolen, e.g.:

- (i) Theft of assets, e.g. electrical cables, wiring on farms, IT equipment, etc;
- (ii) Personal use of resources, e.g. telephone, internet, e-mail; and
- (iii) Irregular destruction, removal, or abuse of records (including intellectual property).

**(D) Other issues:** i.e. activities undertaken by employees of LDARD, which may be against policies or fall below established ethical standards, e.g.:

- (i) Soliciting gifts or favours from applicants, consultants or other suppliers, e.g. acceptance of "kick-backs";
- (ii) Pursuing private business interests without permission;
- (iii) Nepotism;
- (iv) Fronting;
- (v) Bribery; and
- (vi) Favouritism.



## **9. Policy Pronouncements**

### **9.1 . The Policy**

The policy of the LDARD is Zero Tolerance to fraud. In addition all fraud will be investigated and followed up by application of all remedies available within the full extent of the law as well as the application of appropriate prevention and protection controls. These prevention controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies, procedures, rules and regulations of the LDARD.

The efficient application of Treasury Regulations issued in terms of the Public Finance Management Act (PFMA), instructions contained in the policies and procedures of the LDARD, circulars and manuals of the LDARD, as well as other prescripts of the public service, in general, is one of the most important duties to be applied by every employee in the execution of their daily tasks and under no circumstances may there be a relaxation of the prescribed controls.

### **9.2 Reporting procedures and resolution of reported incidents**

#### **9.2.1 Reporting of concern**

For some minor issues (e.g. personal use of LDARD equipment etc.), employees should normally raise the concerns with their immediate line manager. In general, however, the whistle blowing procedure is expected to be used for potentially more serious and sensitive issues (e.g. fraud and corruption).

The first step will be for the employee to approach their immediate line manager unless he/she or senior management is the subject of the complaint, in which case the HOD, Director: Risk Management or Chairperson of the Risk Management should be informed. Should the complaint be found by the HOD to be substantiated, he/she will consult with senior management of the LDARD on referring it to the appropriate body (e.g. the SAPS).

Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible should be set out and the reason why the individual is particularly concerned about the situation. Those who do not feel able to put their concern in writing can telephone the Fraud Hotline (0800 701 701) that is administered through the Office of the Public Service Commission. The earlier the concern is reported, the easier it is to take action.

Employees are not expected to prove the truth of an allegation; they will need to demonstrate to the person contacted that there are sufficient grounds for concern.

Advice and guidance on how matters of concern may be pursued can be obtained from the HOD.

## 9.2.2 How the compliant will be dealt with

The action taken by the LDARD will depend on the nature of the concern. The matters raised may, among other possible actions also:

- i) be investigated internally
- ii) be referred to the SAPS or other relevant law enforcement agency

In order to protect individuals and the LDARD, 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.

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

The LDARD will write to the complainant:

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

The amount of contact between the body 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.

The LDARD 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.

If the whistle blower is unhappy with the way the matter was handled, he/she can go to other levels and bodies like the Public Protector and Auditor General. While the whistle blower might not always be agreeing with the decision of the LDARD the LDARD commit to handle the matter fairly and properly.

## 9.2.3 Reporting procedures

### 9.2.3.1 What should an employee do if they suspect fraud?



- A. Ideally, it is the responsibility of all employees to immediately report all allegations or incidents of fraud to their immediate line manager or, if the employee has reason to believe that his/her immediate line manager is involved, to the next level of management.
- B. All line managers are responsible for the detection, prevention and investigation of fraud and must report all incidents and allegations of fraud to the Director: Risk Management. The Director: Risk Management initiate an investigation into the matter, and consult with Senior Management with regard to steps to follow to resolve the matter. Where appropriate, the matter will be discussed with the Director: Legal Services.
- C. Should employees wish to report allegations of fraud anonymously, they can contact any member of management, the Head: Risk Management or alternatively report it directly to the National Hotline number (0800 701 701). The hotline, receives the information, screens it and supplies it to the LDARD.

#### **9.2.3.2 What should a member of the public do if they suspect fraud?**

The LDARD encourages members of the public who suspect fraud to contact the hotline.

Tel: 0800701701.

#### **9.2.3.3. How will the LDARD deal with allegations of fraud?**

1. **For issues raised by employees or members of the public**, the action taken by the LDARD will depend on the nature of the concern. The matters raised, may:
  - i) Be investigated internally; or
  - ii) Referred to the South African Police (SAPS).
2. Any **fraud committed by an employee of the LDARD** will not be tolerated and will be pursued by thorough investigation and to the full extent of the law, including consideration of:
  - a) Taking disciplinary action within a reasonable period of time after the incident;
  - b) Instituting civil action to recover losses;
  - c) Initiating criminal prosecution by reporting the matter to SAPS or any other relevant law enforcement agency;
  - d) Any other appropriate and legal remedy available.
3. In the event of **the LDARD's property being lost or stolen** the responsible line/divisional manager or his/her authorised representative should ensure that the following steps are taken to report the incident:
  - a) Report to SAPS:
    - The theft/loss must be reported within 24 hours to SAPS, in the judicial area where the theft/loss occurred.
  - b) Statement/Affidavit to SAPS comprising:
    - i) A report in the form of a Sworn Affidavit or Affirmed Statement, made by the official discovering the theft/loss;
    - ii) Full names and identity number of the deponent;

- iii) Full residential and business address, including telephone numbers of the deponent;
  - iv) The day, date and time when the incident took place or was discovered;
  - v) Full particulars of the circumstances surrounding the theft/loss and the place where it occurred;
  - vi) A full detailed description of the property stolen/lost i.e. the type, brand name, model, serial number and any distinguishing features of the property, (which may identify it as LDARD property when found) must be given to SAPS for identification and circulation purposes;
  - vii) A full description(s) of the suspect(s) must be given to SAPS;
  - viii) Details (full names and addresses) of any witness, who could possibly supply any information of the incident/suspect, etc. who may have been present at the time of the incident must be given to SAPS; and
  - ix) An official SAPS “case register” number and an Information Book (IB) number used for normal reports must be obtained from SAPS.
- c) Report to the LDARD’s Security Manager:
- 1) The incident must be reported to the LDARD’s Security Manager as soon as possible after the theft/loss has been discovered. A copy of the sworn affidavit or affirmed statement made to SAPS, must accompany the completed report.
  - 2) In the event of any sensitive/classified documentation or information being stolen/lost this must immediately be reported to the LDARD’s Head of Security, who in turn will report the matter to the National Intelligence Agency for further investigation.
- d) Report to the Head: Risk Management:
- The LDARD’s Security Manager will forward all the relevant and necessary documentation to the Head: Risk Management to register the theft/loss and for further investigation and action. The theft/loss will then be reported to the relevant Authority as per Treasury Instructions.
4. The following response steps can serve as an **additional guideline to line managers** when faced with a report of fraud. These should be considered in consultation with the Director – Legal Services.

**Step 1:**

- a) Evaluate the information or allegation;
- b) Identify the issues and their implications;
- c) Consider all possibilities and their implications.

**Step 2:**

- a) Secure the assets at risk by, for example, notifying banks and other parties holding assets or relevant documentary records;
- b) Where appropriate, illuminate the immediate threat by suspension or removal of the suspected person from a position of authority by following the applicable process;
- c) Ensure that all accounting records are secured and back-ups of computer data have been made;
- d) Secure the contents of offices where the suspect was employed, such as files and computer data that is the property of the LDARD.

**Step 3:**

- a) Start tracing and securing the documentation that was under the control of the suspect;
- b) Initiate the investigation process of the alleged fraud.

**Step 4:**

- a) Start the procedure of recovering of LDARD's assets;
  - b) Where appropriate contact the SAPS or other appropriate organisation, and
  - c) Audit current accounting procedures and correct any flaws.
5. Managers are also required to ensure that **losses or damages** suffered by the LDARD as a result of all reported acts committed or omitted by an employee or any other person are **recovered** from such an employee or other person if he or she is to be found liable.
6. Where **an employee** is alleged to have **committed financial misconduct** the line manager, in consultation with the Director: Labour Relations must ensure that disciplinary proceedings are carried out, within a reasonable period, in terms of the disciplinary code and procedure of LDARD.
- The divisional manager and the CFO, with the assistance of any other official, as prescribed in the official delegation of authority, must also ensure that the following steps are taken with regard to financial misconduct in line with the provisions of the Treasury Regulations to the PFMA:
- a) Ensuring that disciplinary proceedings are carried out in accordance with the relevant prescripts and agreements if an employee is alleged to have committed financial misconduct;
  - b) Ensuring that disciplinary proceedings are instituted within 30 days from the date of discovery of the alleged financial misconduct;
  - c) Advising the Executive Authority, Treasury and the Auditor-General of any criminal charges laid in respect of the alleged financial misconduct;
  - d) Advising the Executive Authority, the LDARD, Public Service and Administration and the Public Service Commission on the outcome of disciplinary proceedings and/or the outcome of any criminal proceedings;



- e) Annually submitting to the Provincial Treasury, National Treasury and Auditor-General a schedule of:
  - i. The outcome of any disciplinary hearings and/or criminal charges;
  - ii. The names and ranks of officials involved;
  - iii. The sanctions and any further actions taken against these officials;
- f) Take the following into account when determining the appropriateness of disciplinary steps against an official in terms of section 38 (1) (h) of the PFMA:
  - i. The circumstances of the transgression;
  - ii. The extent of the expenditure involved;
  - iii. The nature and seriousness of the transgression.
- g) Reporting losses to SAPS, the HOD and the CFO.

### **9.3 Confidentiality**

All information relating to fraud that is received and investigated will be treated confidentially. The progression of investigations will be handled in a confidential manner and will not be discussed with any person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputations of suspected persons who are subsequently found innocent of wrongful conduct.

No person is authorised to supply any information with regard to allegations or incidents of fraud to the media without the express permission of the HOD.

### **9.4 Publication of sanctions**

The HOD will decide, in consultation with appropriate line managers, whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud should be brought to the direct attention of any person or made public through any other means.

### **9.5 Protection of whistle blowers**

An employee who suspects or reports suspected dishonest activity or any such activity that he/she has witnessed may remain anonymous should he/she require that.

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud.

All line managers should discourage employees or other parties from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations should be subjected to firm disciplinary or other appropriate action.

## **9.6 Application of prevention controls and detection mechanisms**

In respect of all reported incidents of fraud, line managers are required to immediately review, and where possible, improve the effectiveness of the controls, which have been breached in order to prevent similar irregularities from taking place in future.

## **9.7 Creating awareness**

In order for the Whistle Blowing Policy to be sustainable, it must be supported by a structured education, communication and awareness programme.

The Anti- Fraud and Corruption Division will continuously conduct education and awareness campaigns on fraud and corruption.

It is the responsibility of all managers to ensure that all employees, are made aware of, and are released for appropriate training and education with regard to this policy.

## **9.8 Administration**

The HOD has overall responsibility to oversee the maintenance and operation of this policy.

## **10 Default**

There should be adhered to this policy at all times. Under no circumstances may this policy be violated.

## **11 Inception date**

The date of inception is the date of approval of the policy.

## **12 Termination and review**

The policy shall be reviewed every 2 years after approval or as and when a need arise.

## **13. Enquiries**

All enquiries regarding this Whistle Blowing Policy, should be directed towards:

Director, Risk Management

Limpopo Department of Agriculture and Rural Development



PO Box X948  
POLOKWANE  
0070  
(Tel. 015 294 3000)

**Recommended:**

  
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**Maisela, RJ**  
**(Head of Department)**

2017-03-17  
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**Date**

**Approved:**

  
.....

**Honourable Member of Executive Council**  
**Mokaba-Phukwana M (MPL)**

27/03/2017  
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**Date**