



**LIMPOPO**

**PROVINCIAL GOVERNMENT**

REPUBLIC OF SOUTH AFRICA

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**DEPARTMENT OF AGRICULTURE**

**WHISTLE BLOWING POLICY  
(Annexure B of the Fraud Prevention Plan)**

**REF: 4/1/P  
EFFECTIVE DATE: 01 APRIL 2009**

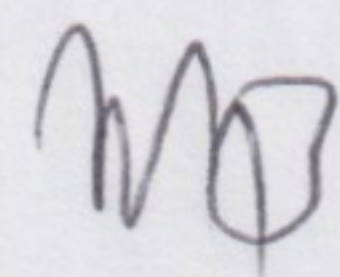


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**April 2009**

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## GLOSSARY OF TERMS

Throughout this document, unless otherwise stated, the words in the first column below have the meanings stated opposite them in the second column (and cognate expressions shall bear corresponding meanings):

"Act"	Protected Disclosures Act, Act 26 of 2000
"LDA"	Limpopo Department of Agriculture
"Fraud and corruption"	Includes, but is not limited to, the following: <ul style="list-style-type: none"><li>(a) The following legal definitions:<ul style="list-style-type: none"><li>(i) <i>Fraud</i>, i.e. the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another;</li><li>(ii) <i>Theft</i>, 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;</li><li>(iii) Offences in respect of <i>corrupt activities</i> as defined in the Prevention and Combating of Corrupt Activities Act, 2004, i.e.:<ul style="list-style-type: none"><li>▪ The general offence of <i>corruption</i> 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 or indirectly to exercise his powers, duties or legal obligations in a manner which is/amounts to:<ul style="list-style-type: none"><li>○ Illegal, dishonest, unauthorized, incomplete, or biased;</li><li>○ Misuse or selling of information or material acquired;</li><li>○ Abuse of position of authority;</li><li>○ Breach of trust;</li><li>○ Violation of a legal duty or set of rules;</li><li>○ Designed to achieve an unjustified result; and</li><li>○ Any other unauthorized or improper inducement to do or not to do anything;</li></ul></li><li>▪ Corrupt activities in relation to:<ul style="list-style-type: none"><li>○ Public officials;</li><li>○ Foreign public officials;</li><li>○ Agents;</li></ul></li></ul></li></ul></li></ul>

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- Judicial officers;
- Members of the prosecuting authority;
- Unauthorized gratification received or offered by or to a party to an employment relationship;
- Witnesses and evidential material during certain proceedings;
- Contracts;
- Procuring and withdrawal of tenders;
- Auctions;
- Sporting events; and
- Gambling games or games of chance;
- Conflicts of interests and other unacceptable conduct, e.g.:
  - Acquisition of private interests in contract, agreement in or investment in public body;
  - Unacceptable conduct relating to witnesses; and
  - Intentional interference with, hindering or obstruction of investigation of offence;
- Other offences relating to corrupt activities, viz:
  - Accessory to or after an offence;
  - Attempt, conspiracy and inducing another person to commit offence; and
- Failure to report corrupt transactions;

(b) Fraudulent and corrupt acts may include:

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

- Irregular collusion in the awarding of tenders or orders for goods and/or services;
- Deliberate non-compliance with tender and procurement policy and procedures;
- Inadequate verification of supplier credentials;
- Deliberate non-compliance to recruitment policy and procedures;
- Abuse of time management systems;
- Ghost employees;
- Non-disclosure of personal interests;

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- Fraudulent allocation of Poverty Alleviation Packages; and
- Disclosing confidential or proprietary information to outside parties.

*Financial issues:* i.e. where individuals or companies have fraudulently obtained money from LDA, e.g.:

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

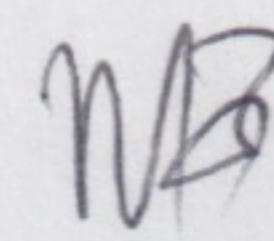
*Equipment and resource issues:* i.e. where LDA's equipment is utilized for personal benefit or stolen, e.g.:

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

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

- Soliciting gifts or favours from applicants, consultants or other suppliers, e.g. acceptance of "kick-backs";
- Pursuing private business interests without permission;
- Nepotism;
- Fronting;
- Bribery; and
- Favouritism.

"HoD"	Head of Department: Limpopo Department of Agriculture
"MEC"	Member of Executive Council
"Policy"	Fraud Policy
"Plan"	Fraud Prevention Plan
"PFMA"	Public Finance Management Act





## **1. INTRODUCTION**

### **1.1 The LDA recognizes the fact that –**

- Unethical conduct, fraud and corruption within the LDA is detrimental to good, effective, accountable and transparent governance within the LDA and can endanger the economic stability of the LDA and have the potential to cause social damage;
- 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 LDA;
- 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.

## **2. OBJECTIVES OF THE POLICY**

### **2.1 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.



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

- 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
- Promote the eradication of unethical conduct, fraud and corruption within the LDA.

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

2.3 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 victimization for whistle blowing in good faith.

### **3. SCOPE OF THE POLICY**

3.1 There are grievance procedures in place to enable employees of the LDA to raise grievances relating to their employment. This Policy is intended to cover concerns that fall outside the scope of grievance procedures. These concerns indicated in the Act, are the following:

(a) That a criminal offence has been committed, is being committed or is

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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 a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) That the health or safety of an individual has been, is being or likely to be endangered;
- (e) That the environment has been, is being or is likely to be damaged;
- (f) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000; or
- (g) That any matter referred to in paragraphs 3.1 (a) to (f) has been, is being or likely to be deliberately concealed.

#### **4. THE POLICY**

##### **Harassment or victimisation**

- 4.1 The LDA 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 LDA 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**

- 4.2 The LDA 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

National hotline: 0800 701 701  
You can remain anonymous

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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.

### **Anonymous allegations**

- 4.3 The LDA 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 LDA. 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.

### **Untrue allegations**

- 4.4 All managers should discourage 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.

## **5. REPORTING OF CONCERN**

- 5.1 For some minor issues (e.g. personal use of LDA equipment etc.), employees should normally raise the concerns with their immediate 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).

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- 5.2 The first step will be for the employee to approach their immediate manager unless he/she or senior management is the subject of the complaint, in which case the HOD, Senior Manager: 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 LDA on referring it to the appropriate body (e.g. the SAPS).
- 5.3 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.
- 5.4 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.
- 5.5 Advice and guidance on how matters of concern may be pursued can be obtained from the HOD.

**6. HOW THE COMPLAINT WILL BE DEALT WITH**

- 6.1 The action taken by the LDA 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 agency; and/or
  - be referred to the Audit Committee for the Office of the Premier.

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- 6.2 In order to protect individuals and the LDA, 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.
- 6.3 Some concerns may be resolved by agreed action without the need for investigation.
- 6.4 The LDA 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 them whether further investigations will take place, and if not, why not.
- 6.5 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.
- 6.6 The LDA 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.

## 7. CREATING AWARENESS

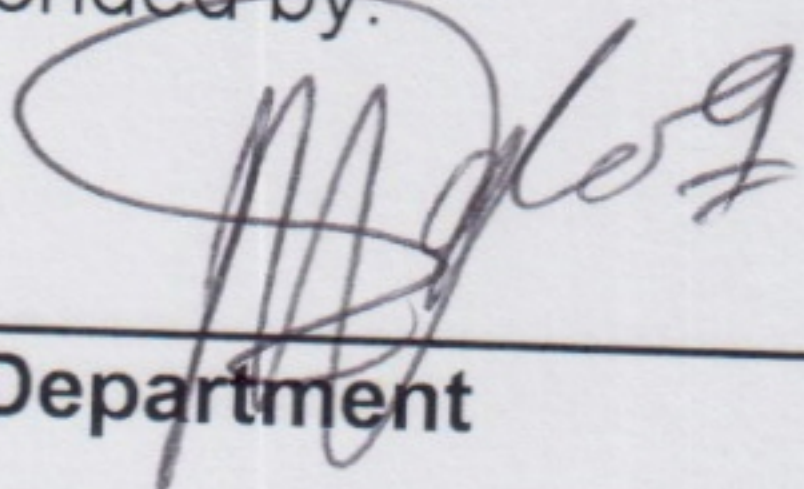
- 7.1 In order for the Policy to be sustainable, it must be supported by a structured education, communication and awareness programme.
- 7.2 The Anti- Fraud and Corruption Division will continuously conduct education and awareness campaigns on fraud and corruption.
- 7.3 It is the responsibility of all managers to ensure that all employees, are made aware of, and receive appropriate training and education with regard to this policy.

## 8. ADMINISTRATION

- 8.1 The HOD has overall responsibility for the maintenance and operation of this policy. He will maintain a record of concerns raised and the outcomes (but in the form which does not endanger confidentiality).

## 9. ADOPTION OF THE POLICY

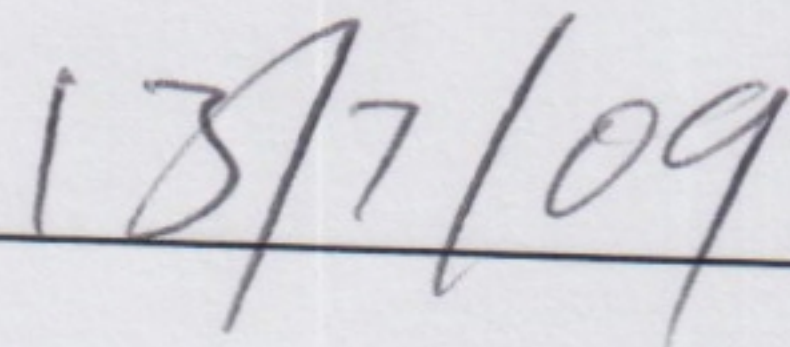
Recommended by:



Head of Department

Limpopo Department of Agriculture

Date:





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Adopted by:

Debate

Member of the executive council

Limpopo Department of Agriculture

Date: 02/09/2009