

# Whistle-blowing Policy



**correctional services**

Department:  
Correctional Services  
**REPUBLIC OF SOUTH AFRICA**

## **WHISTLEBLOWING POLICY FOR THE DEPARTMENT OF CORRECTIONAL SERVICES**

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### **FOREWORD BY THE COMMISSIONER**

This is once more a concerted effort by the DCS to root out corruption and fraudulent elements in our midst. This policy will create a viable environment enabling the achievement of effective rehabilitation of our inmates. The DCS's commitment to the fight against corruption and fraud is beyond reproach. We will ensure that all those who are implicated are dealt with properly and fairly.

The culture of good governance cannot be hampered by a few individuals who, solely for selfish gain, put their own interest ahead of those of the DCS.

The whistle blowing policy and procedure is part of the DCS's commitment to work towards a culture of openness and transparency. Confidentiality will be maintained. The DCS will not penalize any one for disclosing in good faith, information that might be in the interest of the Department. We endeavor to give our full support and appreciation to those who are committed to expose corrupt elements and malpractice within the DCS.

It is appropriate to extend our appreciation to the UNODC; the DPSA and the Public Service Commission for the contribution they have made in this regard.

I endorse the adoption of this whistle blowing policy as a powerful tool to enable the DCS to effectively prevent, combat and eradicate corruption and maladministration.

Dated..... at PRETORIA

**Mr. L M MTI**

**COMMISSIONER: DEPARTMENT OF CORRECTIONAL SERVICES**

# **WHISTLEBLOWING POLICY FOR THE DEPARTMENT OF CORRECTIONAL SERVICES**

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## **1. Executive summary**

The DCS, in line with its strategic objectives, has adopted a whistle blowing policy as a tool to give effect to the DCS anti corruption strategy. It will enable staff, inmates, and members of the Public to report fraud, corruption and malpractice within the DCS.

The policy outlines the types of cases which can be reported; the bounds within which such referrals can be made and the criteria to be followed. The protection of whistleblowers forms the integral part of this policy in order to allay the fears which people may have as a result of past experience of victimization and intimidation.

Furthermore the policy provides whistleblowers with an option to refer corruption cases to other agencies in the event of dissatisfaction regarding the manner in which a case was handled or if they deem it fit to refer such matters to external agencies due to suspicion or fear of cover up by internal structures. The policy enables whistleblowers whose identity has been disclosed confidentially to be given feedback on the cases they reported.

The whistle blowing policy plays a pivotal role regarding the implementation of the anti corruption strategy.

## **2. Definition of terms**

- 2.1. Policy means the whistle blowing policy.
- 2.2. Whistle-blower refers to any one who raises a genuine concern about corruption, fraud and serious malpractice.
- 2.3. Corruption refers to a willing act of dishonesty in relation to the powers/ duties of a person in official capacity in return of money or personal gain.
- 2.4. Fraud is the unlawful misrepresentation of facts with the intention to deceive, which misrepresentation causes prejudice or is potentially prejudicial.

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2.5. Serious malpractice refers to conduct which displays non adherence to policies and regulations as a result of which the administration of a state department suffer prejudice.

2.6. DCS means the Department of Correctional Services.

2.7. DIU refers to Departmental Investigation Unit.

2.8. SIU means Special Investigating Unit.

2.9. SAPS means South African Police Services.

2.10. DSO means Directorate of Special Operations.

2.11. DPISA means the Department of Public and administration

2.12. UNODC stands for the United Nations Office on Drugs and Crime.

### **3. Background**

The Parliamentary Committee required all the state departments to establish on their structures, a minimum anti corruption capacity in a bid to root out corruption within the Public sector.

The DCS engaged the UNODC; the DPISA and Consultants to conduct an assessment of the level and extent of corruption within the DCS. Upon conclusion of such assessment, the anti-corruption strategy was developed for the DCS from which emerged the establishment of the Whistle blowing policy as one of the action steps for the implementation of that strategy.

The DCS was in the past characterized by heinous acts of intimidation and victimization of those who reported corruption at their work places. As a result employees were reluctant, if not afraid to make use of the available reporting mechanism which was in place. This policy will make the process of reporting corruption safer, accessible and user friendly.



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### **4. Policy mandate**

The Protected Disclosures Act 26 of 2000, which became effective in February 2001, authorizes employees to blow the whistle on fraud and corruption in the working environment.

### **5. POLICY STATEMENT**

The Zero tolerance approach adopted by the DCS required an enabling mechanism whereby people will report corrupt practices without fear of exposing their life or limb to any harm whatsoever.

### **6. Policy objectives**

This policy is designed to provide means by which staff, inmates and members of the public are able to report fraud; corruption and malpractice or raise genuine concerns with the DIU or authorized agencies, where they have reasonable grounds for believing that there is fraud; corruption and serious malpractice within any component of the DCS.

In terms of the Protected Disclosures Act, employees can blow the whistle on fraud and corruption in the working environment without the fear of suffering an occupational detriment as defined by the Act.

The DCS encourages staff to raise matters of concern responsibly through the procedures laid down in this policy document.

### **7. THE POLICY PRINCIPLES**

#### **7.1. Scope of the policy**

The policy is designed to deal with concerns raised in relation to matters pertaining to corruption, fraud and malpractice taking place within the DCS. The policy does not apply to personal grievances, which will be dealt with under the existing procedures on grievance, discipline and misconduct. The policy covers all genuine concerns raised including:

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- (a) Corruption
- (b) Fraud
- (c) Theft of state property
- (d) Serious malpractice including abuse of authority
- (e) Financial misconduct
- (f) Sexual harassment
- (g) Any conduct that impact adversely on the image and integrity of the DCS.
- (h) Threats and intimidation directed at whistle blowers
- (i) Attempts to suppress or conceal any information relating to any of the above.

If in the course of investigation any concern raised in relation to any of the concerns appears to the investigator to relate more appropriately to grievance or discipline, those procedures will be evoked. Should it appear to the investigator that the matter can be investigated at regional or local level; such matter will be referred to the region concerned for investigation and feedback.

### **7.2. Who can raise a concern?**

7.2.1. Any member of staff, inmates or public who has reasonable belief that there is corruption or misconduct relating to any of the matters specified above may raise the concern under the procedure detailed herein.

7.2.2. Concerns must be raised without malice, in good faith and not for personal gain. The individual must reasonably believe that the information disclosed and any allegation contained in it, are substantially true.

The issues raised may relate to a manager, another member of staff, a group of staff members, own section or a different section of the DCS. The perpetrator can be an outsider, an employee, a customer, an inmate or an ex employee.

### **7.3. The culture of openness**

The DCS commits itself to encouraging a culture that promotes openness. This will be done by:

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7.3.1. Involving employees, listening to their concerns and encouraging the appropriate use of this policy on whistle blowing promoted by senior management.

7.3.2. Educating/ training/ informing/ explaining to employees what constitutes fraud, corruption and malpractice and what effect they have on the DCS.

7.3.3. Promoting standards of appropriate and accepted employee conduct and establishing a common understanding of what is acceptable and what is unacceptable behavior.

7.3.4. Encouraging unions to endorse and support this approach.

7.3.5. Implementing a strategy to combat and prevent corruption, fraud and malpractice.

7.3.6. Reporting progress to the National Anti Corruption Forum on the number of matters reported and the outcome your Safety

7.4. If you raise a concern in good faith in terms of this policy, you will not be at risk of losing your job or suffering any form of retribution as a result thereof. This assurance is not extended to employees who maliciously raise matters they know to be untrue. A member of staff who does not act in good faith or who makes an allegation without having reasonable grounds for believing it to be substantially true, or who makes it maliciously or vexatiously, may be subjected to disciplinary proceedings.

### **7.5. Your Confidence**

In view of the protection referred to the whistle blower, it is preferable that the individual puts his/ her name to the disclosures. The DCS views threats, intimidation; harassment or victimization of any one raising a genuine concern in a serious light and will respond in a manner befitting the situation, including instigation of disciplinary action against those who are responsible for any of the afore stated conduct.



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We recognize that you may wish to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, DCS will not disclose it. However, the department does expect the same confidentiality regarding the matter from you.

7.5.1. If the situation arises where we are not able to resolve the concern without revealing your identity, we will discuss with you whether and how to proceed. Accordingly, while the department will consider anonymous reports, this policy is not appropriate for concerns raised anonymously.

7.6. How the department will handle the matter

7.6.1. Upon receiving the information furnished, the DIU will capture it on the system and immediately do an assessment to determine what action should be taken.

7.6.2. The issues you raised will be acknowledged either telephonically or in writing, depending on the circumstances, within 7 (seven) working days.

7.6.3. The DIU will give an indication of how the matter will be dealt with and a likely time scale for finalization. If the decision is made not to investigate the matter, reasons will be furnished.

7.6.4. While the purpose of this policy is to enable the Department to investigate possible corruption and malpractice and take appropriate steps to deal with it, we will give much feedback as we can. However, we may not be able to tell you the precise action we take where this could infringe a duty of confidence owed by us to someone else.

7.7. How to raise a concern

### **Step One**

- If you have a concern about corruption, fraud and malpractice, first raise it with your manager/ supervisor.



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### Step Two

- If, for whatever reason, you feel unable to raise it with your manager, or you feel that the matter is so serious that you cannot discuss it with any one at your office, approach the following: the Director or Deputy Director and/or Assistant Director: Investigations at the contacts below:

The Departmental Investigation Unit;

National Head Office of the DCS

Private Bag X 136

Pretoria

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- Hotline: (012) 307- 2275. Mobile:0827722273; 0828082860
- Fax: (012) 323- 8784
- Where a concern relates to a very sensitive issue or high profile such that it cannot be reported telephonically or by fax, for security reasons, call any of the numbers stated above and the necessary arrangements will be done.

### Step Three

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the the Directorate, please contact:

- The DC Legal and Special Operations at (012) 307 2883 or the CDC Central Services at (012) 307 2502.

You can raise your concern in writing, telephonically or verbally.

Structure it as follows:

- ◆ Introduction- state your particulars and contact details for feedback and follow up purposes. Indicate whether you want your identity to remain in confidence.
- ◆ Background- outline the nature of the corruption/ misconduct/ malpractice.
- ◆ Location- indicate the place/ area of occurrence

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- ◆ Duration- for how long
- ◆ Perpetrator/ s - names of all the people involved
- ◆ Modus operandi- outline the mode of operation used by perpetrators
- ◆ Input- suggest how the matter can be resolved
- ◆ Personal interest- state if you have personal interest in the matter

Should you have exhausted these internal mechanisms or where you have substantial reason to believe that there would be a cover up or that evidence will be destroyed or that matter might not be handled properly, you may raise the matter in good faith with the Commissioner.

### 7.7. Independent advice

If you are unsure whether to use this procedure you may contact your personal legal advisor, your labor organization or the independent legal advice centre Open Democracy Advice Centre on its toll free help line on 0800 525 352.

### 7.8. External contacts

While we hope this policy gives you the reassurance you need to raise such matters internally, we recognize that there may be such circumstances where you can properly report matters to outside bodies such as, to name the least, the SAPS; SIU; DSO; the Public Protector; the Auditor General; DPSA and the Public Service Commission.

### 7.9. The SIU Mandate

The SIU has been authorized to conduct investigations on activities relating to fraud; corruption and malpractice within the entire DCS, covering the period from January 1996 up to and including the 31<sup>st</sup> of July 2003. The SIU can be contacted at (043) 726- 9705.

The DSO investigates, inter alia, organized crime, which includes corruption taking place in state departments. In any event, advice will be provided. The DSO can be contacted at (012) 845-6421/ 2.

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### **7.10. The South African Police Services.**

The SAPS has authority to investigate all allegations relating to criminal activity of whatever nature in the RSA. SAPS can be contacted at 0860010111.

### **7.11. If you are unhappy**

If you are unhappy with our response, remember, you can go to other levels and bodies detailed in this policy. While we cannot guarantee that we will respond to all matters in the way that you might wish, we commit ourselves to handle the matter fairly and properly.

### **Policy implementation**

The DIU will ensure that any person who makes a disclosure in the above mentioned circumstances will not be penalized or suffer any occupational detriment for doing so. Occupational detriment as defined by the Act includes being dismissed; suspended; demoted; transferred against your will; harassed or intimidated; refused a reference or being provided with an adverse reference as a result of your disclosures.

### **Policy monitoring**

The DIU shall monitor the implementation of this policy and keep records and statistics of all the cases reported in accordance with the guide lines provided.

### **Policy review**

This policy shall be reviewed annually.

THIS IS TO CERTIFY  
THAT THE MINISTER OF  
CORRECTIONAL SERVICES HAS APPROVED  
THE POLICY.

**MINISTER OF CORRECTIONAL SERVICES**

**Date:**

**BMN BALFOUR (MP)**