



human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

WHISTLE-BLOWING POLICY

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POLICY OWNER(S) / IMPLEMENTOR(S)	
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1. INTRODUCTION

The National Department of Human Settlements acknowledges that employees are often the first to realise that a crime or malpractice could have been committed within the National Department of Human Settlements operational environment. However, they may not express their concerns for fear of being disloyal to their colleagues or because they fear harassment or victimization from management. In such circumstances, it is normally easier for such employee(s) to ignore the concern than to report what may be a suspicion of criminal activity or malpractice.

The National Department of Human Settlements hereby encourages its employees to report potential criminal and or unethical behavior through the following *toll free hotline number 080*

Every employer and employee has a responsibility to disclose criminal and or irregular conduct in the workplace that they may become aware of. The National Department of Human Settlements will ensure that the identity of all confidential disclosure is maintained which includes the protection of employees from any form reprisal as a result of such disclosure.

The National Department of Human Settlements is committed to establishing a culture of *accountability and transparency* purposed at achieving the highest ethical behavior amongst employees in line with the Fraud Policy statement (signed by the Director General).

2. PURPOSE AND SCOPE OF THIS POLICY

This policy applies to:-

- o Past, present and future potential criminal activity and malpractice,
- o Confidentiality clauses in Employees' contract and severance agreements are ineffective if in conflict with the Protected Disclosure Act

Failure to disclose criminal or irregular conduct could-

- o Result in disciplinary action being taken against such employee(s)
- o Could result in criminal action been taken against an employee in terms of the Prevention and Combating of Corrupt Activities Act.7 of 204

Baseless reporting-

- o Unfounded and or malicious accusations could result in disciplinary action been instituted against the such an employee

3. LEGISLATIVE FRAMEWORK

3.1 WHAT IS A PROTECTED DISCLOSURE

Protected Disclosures

Section 1 of the Act defines disclosure as -

"disclosure" means any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following -

- That a criminal offence has been committed, is being committed or is likely to be committed
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject
- That a miscarriage of justice has occurred or is likely to be endangered
- That the environment has been or is likely to be damaged
- That the health or safety of an individual's has been, is being or is likely to occur
- Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No.4 of 2000)
- That any matter referred to in the above paragraphs has been, is being or is likely to be deliberately concealed

3.2 HOW CAN A PROTECTED DISCLOSURE BE MADE

An employee of the National Department of Human Settlements should make a protected disclosure to the Toll free hotline.

A protected disclosure can be made in anonymity.

An employee can also make a disclosure without hiding his/her identity.

A protected disclosure can be made prior or after an incident takes place.

3.3 WHO CAN MAKE A PROTECTED DISCLOSURE

Any employee or person employed by National Department of Human Settlements on permanent, temporary, (fixed contract) on the following levels could make a protected disclosure –

- Employee (Any member of staff)
- Supervisor
- Management (All levels of management)

3.4 WHERE CAN YOU MAKE A PROTECTED DISCLOSURES

A protected disclosure can be made through the following:

National Toll Free Line: **0800 701 701**

The following are methods through which a protected disclosure can be made -

- Departmental Anti-Corruption Hotline 0800
- Email facilities (still to be provided)
- Fax line (012) 421 1425
- Walk into the office to make disclosure

4. GUIDELINES TO BE FOLLOWED WHEN MAKING A PROTECTED DISCLOSURE AND/OR TO BLOW A WHISTLE

- Report the incident or allegation through the methods outlined above.
- Obtain a reference number from the Hotline or where such disclosure is made
- Obtain feedback within seven days of the incident been reported
- Provide further information regarding the incident / allegation
- Matters outside the scope of fraud and corruption will be referred to the relevant offices.

5. APPLICATION OF THE PROTECTED DISCLOSURES

This Act applies to any protected disclosure made after the date on which this Act came into effect (being 16 February 2001) irrespective of whether or not the impropriety concerned has occurred before or after the date.

The National Department of Human Settlements commits itself to encouraging a culture that promotes openness. This will be done through the following:

- o Involving employees, listening to their concerns and encouraging the appropriate use of this policy/process on disclosure promoted by the Senior Management.
- o Issuing this policy to all existing employees and a copy to every new employee of the department.
- o Educating/training/informing/explaining to all employees what constitutes fraud, corruption and malpractice and its effect on the Department;
- o Promoting awareness of standards of appropriate and accepted employee conduct and establishing a common understanding of what is acceptable and what is unacceptable behavior;
- o Promote a policy to combat fraud and corruption;
- o Annual reporting to the staff on the number of fraud and corruption related cases and outcomes.

6. EXCLUSIONS FROM THE PROTECTED DISCLOSURES

Any provision in a contract of employment or other agreement between an employer and an employee is void in so far as it -

- o Purports to exclude any provision of the Act, including an agreement to refrain from instituting or continuing any proceeding under this Act or any proceeding for breach of contract
- o Purports to preclude the employee
- o Has the effect of discouraging the employee, from making a protected disclosure

7. WHAT ARE THE REQUIREMENTS FOR A PROTECTED DISCLOSURE?

The National Department of Human settlements will ensure that any member of staff who makes a disclosure in the above mentioned circumstances will not be penalized or suffer any occupational detriment as a result of such disclosure.

Occupational detriment as defined in the Act includes but not is not limited to dismissal, suspension, demotion, transfer against ones will, harassment or intimidation as a result of one's disclosure.

An employee making a protected disclosure must ensure that he/she is:

- o Acting in good faith
- o Reasonable believe that the allegations are substantially true
- o Complying with appropriate channels and procedures of this policy
- o No malicious reporting (false reporting)

8. WHAT IS A GENERAL EXTERNAL PROTECTED DISCLOSURE

General protected disclosure is a much wider disclosure when a Whistle Blower is not making an internal disclosure, but rather making a wider disclosure to the law enforcement agencies which include SAPS and SIU. When a whistle blower is experiencing victimization of any kind, the matter will be referred to the relevant law enforcement agency.

9. HOW TO MAKE AN EXTERNAL PROTECTED DISCLOSURE

General external protected disclosure can be made when:-

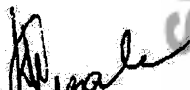
- o The disclosures was made to the hotline but was not properly addressed or
- o The disclosure was not made to the hotline because the whistle-blower reasonably believed he / she would be victimize
- o The disclosure was not made to the hotline because the whistle-blower reasonably believed that a cover up was likely
- o The disclosure was exceptionally serious
- o Providing the disclosure was made in good faith
- o The disclosure was not made for personal gain and the allegations are substantial true.

RESPONSIBILITIES


Responsibility	DG
Implementation	Director: Special Investigations
Compliance	EMT
Monitoring and evaluation	Chief Director: Internal Audit, Risk Management and Special Investigations
Development and / or review	Director: Special Investigations
Interpretation and advice	Risk Management Committee & Audit Committee

POLICY APPROVAL

Policy no	1
Approved / not approved	
Date approved	
Director General	Thabane Zulu
Signature	


KHUMOETSILE GAESALE
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RISK MANAGEMENT AND SPECIAL INVESTIGATIONS
DATE: 14/03/11

APPROVED BY:


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NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS
DATE: 15/03/2011