



# **WHISTLE BLOWING POLICY**

**1 JULY 2015 – 30 JUNE 2016**

**MSUKALIGWA**

**LOCAL MUNICIPALITY**

**(MP 302)**

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## **1. PREAMBLE**

This policy is intended to make it clear that Msukaligwa Local Municipality is committed to the fight against fraud and corruption whether the perpetrators are internal or external. The Whistle-blowing policy and procedures is part of the Municipality's commitment to working towards a culture of openness and transparency. Confidentiality will be maintained, to the extent provided by the law, and nobody will be penalized for disclosing in good faith, information that might be in the Municipality's interest.

## **2. PURPOSE**

The purpose of this policy is to provide a means by which staff is able to raise concerns with the appropriate line management or specific appointed person in the Municipality, where they have reasonable grounds for believing that there is fraud and corruption within the Municipality. The Protected Disclosure Act, Act 26 of 2000, provides protection to employees for disclosures made without malice and in good faith, in defined circumstances. In terms of the Protected Disclosure Act employees can blow the whistle on fraud and corruption in the working environment without fear of suffering an occupational detriment as defined by the Act. Msukaligwa Local Municipality's management encourages staff to raise matters of concern responsibly through the procedures laid down in this policy documents. The Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004 provides for measure to prevent combat corruption and corrupt activities, investigative measures and penalties and related matters.

### **2.1 Effective Date**

The Record Management Policy and Procedure Manual will come into effect from \_\_\_\_\_ as per Council resolution \_\_\_\_\_.

**2.2 Amendment History**

No	Amendment reference	Effective date	Section	Page Number	Paragraph	Short description

### **2.3 Scope**

This policy is designed to deal with concerns raised in relation to issues relating to fraud, corruption, misconduct and malpractice within Msukaligwa Local Municipality. The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievance, discipline and misconduct. Details on these procedures are obtainable from department of Corporate Services.

The policy covers all genuine concerns raised including:

- a) Financial misconduct;
- b) Health and safety risks;
- c) Environmental damage;
- d) Unfair discrimination;
- e) Corruption and misconduct.

If in the course of investigation of any concern raised in relation to the above matters it appears to the investigator that concerns raised relate more appropriately to grievance or discipline, those procedures will be evoked.

### **2.4 Legal Framework**

This policy is based on the following acts:-

- a) The Protected Disclosure Act, Act 26 of 2000;
- b) The Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004.

## **3. WHO CAN RAISE A CONCERN?**

### **3.1 Staff Members**

Any member of staff who has a reasonable belief that there is corruption or misconduct relating to any of the matters specified above may raise a concern under the procedure detailed in this policy. Concerns must be raised without malice, in good faith and not for personal gain and the individuals must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.

The issue raised may relate to a manager, another member of staff, a group of staff, the individual own section or different section of the municipality. The perpetrator can be an outsider, an employee, a manager, a customer or an ex-employee. You may even be aware of a system or procedure in use, which may cause Msukaligwa Local Municipality to transgress legal obligations.

### **3.2 Third parties and community members**

Msukaligwa Local Municipality recognizes that it needs a channel through which suppliers, rate payers and other community members can report irregular activities, free from victimisation. The primary means of detecting fraud will always remain a sound system of internal control and regular internal audits.

These measures will be supplemented with a fraud-reporting channel where information regarding fraud, theft and corruption is collected, and decisive corrective and protective steps are taken to limit the municipality's exposure to further or future loss. Vital to this function is the assurance of anonymity, commitment to investigate all irregularities, protection of the whistleblower and consistent application of the fraud policy, regardless of the seniority of the alleged offender.

Any suspected or actual fraud must be reported to the Tips-Offs Anonymous number or any of the other number listed on paragraphs 7.4 & 7.5 of this policy. All calls will be treated with the utmost confidentiality.

## **4. CULTURE OF OPENNESS**

Msukaligwa Local Municipality commits itself to encouraging a culture that promotes openness and transparency.

This will be done by:

- a) Involving employees, listening to their concerns and encouraging the appropriate use of this policy/process on whistle blowing promoted by Senior Management;

- b) This policy will be issued to all existing employees and to each new employee;
- c) Educating/training/informing/explaining to employees what constitute fraud, corruption and malpractice and its effect on Msukaligwa Local Municipality;
- d) Promoting awareness of standards of appropriate and accepted employee conduct and establishing common understanding of what is acceptable and what is unacceptable behavior;
- e) Encouraging unions to endorse and support this approach;
- f) Having a policy to combat fraud;
- g) Annual reporting to Council on the number of fraud/corruption matters reported and the outcomes.

## **5. ASSURANCES TO YOU**

### **5.1 Your safety**

Management is committed to this policy. Msukaligwa Local Municipality will ensure that any member of staff who makes disclosure in the above mentioned circumstances will not be penalized or suffer any occupational detriment for doing so.

Occupational detriment as defined by Protected Disclosure 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 results of your disclosure.

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. 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, may be subjected to disciplinary proceedings. The identity of third parties that raise concerns regarding transgressions of law by municipal officials will not be revealed, except when required by law.

### **5.2 Your confidence**

In the view of the protection offered to a member of staff raising a bona fide concern, it is preferable that the individual puts his/her name to the disclosure. Msukaligwa Local Municipality will not tolerate the harassment or victimization of anyone raising a genuine concern. We however recognise that you may nonetheless wish to raise a concern in confidence under this policy. The Municipality will not disclose your identity without your concern and will do so when required by law. However we do expect the same confidentiality regarding the matter from you.

If a situation arises where we are not able to resolve the concern without revealing your identity (for example where evidence is needed in court), we will discuss with you on whether and on how we can proceed.

### **5.3 How we will handle the matter**

Once you have told us your concern, we will look into it to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation. The issue you raised will be acknowledged within 7 working days. If it is requested, an indication of how the Municipality proposes to deal with the matter and a likely time scale could be provided. If the decision is made not to investigate the matter reasons will be given. We will tell you who will be handling the matter, how you can contact him/her and whether your further assistance may or will be needed.

When you raise a concern, you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, we do ask that you tell us at the outset. If your concern falls more properly within grievance procedure we will tell you.

While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can.

If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we will take where this could infringe a duty of confidence owed by us to someone else.

### **5.4 How to raise a concern internally**

- a) **Step one:** If you have a concern about malpractice, we hope you will feel free to raise it first with your manager/supervisor. This may be done verbally or in writing;
- b) **Step two:** If you feel unable to raise the matter with your manager/supervisor, for whatever reason, please raise the matter

with the Internal Auditors. Please say if you wish to raise the matter in confidence so that appropriate arrangements can be made;

- c) **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 above, please contact the Municipal Manager;
- d) **Step four:** If you feel that your concerns are still not heard, the matter can be referred to the mayor and/or the Speaker;
- e) **Step five:** Should you have exhausted these internal mechanisms or where you have substantial reason to believe that there would be a cover-up that evidence will be destroyed or that the matter might not be handled properly, you may raise the matter in good faith with the Chairperson of the Audit Committee.

### **5.5 How to raise a concern externally**

While we hope this policy gives you the reassurance you need to raise matters internally, we recognize that there may be circumstances where you can properly report matters to outside bodies, such as regulators or the police.

Open Democracy Advice Centre ("ODAC") at 0800 525 352, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely. While we hope this policy gives you the reassurance you need to raise matters internally, you would rather raise a matter with appropriate regulator than not at all. Provided you are acting in good faith, you are encouraged to contact the Public Protector on 0800 11 2040.

### **5.6 If you are dissatisfied**

If you are dissatisfied with our response, remember you can go to the 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.

## **6. CREATING AWARENESS**

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.

This policy should also be publicized following the process that is being followed by the Municipality to ensure that community members are aware of it so that they can use it.

## **7. ADMINISTRATION**

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.

This policy should also be publicized following the process that is being followed by the Municipality to ensure that community members are aware of it so that they can use it.

The custodian of this policy is the Municipal Manager, who is supported in its implementation by the Council and all managers and staff of Msukaligwa Local Municipality. The Municipal Manager is responsible for the administration, revision and interpretation of this policy.