



**WHISTLE BLOWING POLICY FOR  
THE NELSON MANDELA METROPOLITAN  
MUNICIPALITY**



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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 similar expressions shall bear corresponding meanings):

"Metro"	The Nelson Mandela Metropolitan Municipality
"Council"	The Council of the Nelson Mandela Metropolitan Municipality
"IA"	Internal Audit Services
"Policy"	The Whistle Blowing Policy for the Metro
"SAPS"	South African Police Services



**1 INTRODUCTION**

**1.1 The Metro recognises the fact that –**

- Criminal and other irregular conduct within the Metro is detrimental to good, effective, accountable and transparent governance within the Metro and can endanger the economic stability of the Metro 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 criminal or other irregular conduct affecting the Metro;
- Every employer, employee or any other party has a responsibility to disclose criminal and any other irregular conduct 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, Act 26 of 2000 came into effect on 16 February 2001. In order to remain in compliance with the Act, the Metro will –**

- Strive to create a culture which will facilitate the disclosure of information by employees relating to criminal and other irregular conduct 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 criminal and other irregular conduct within the Metro.

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

**2.3 Furthermore the Policy aims to –**

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



### 3 SCOPE OF THE POLICY

3.1 There are existing grievance procedures in place to enable employees of the Metro 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 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, No. 4 of 2000; or*
- (g) *That any matter referred to in paragraphs (a) to (f) has been, is being or likely to be deliberately concealed.*

### 4 THE POLICY

#### HARASSMENT OR VICTIMISATION

4.1 The Metro 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 Metro will not tolerate harassment or victimisation 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 Metro 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 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 Metro 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 Metro. 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

- 5.1 For some minor issues (e.g. personal use of Metro stationery 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).
- 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 Municipal Manager should be informed. Should the complaint be found by the manager to be substantiated, he/she will consult with the Municipal Manager 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. Employees or other parties who do not feel able to put their concern in writing can telephone the Metro's dedicated Anti - Fraud Hotline number (to be advertised). The earlier the concern is reported, the easier it is to take action.
- 5.4 Employees or other parties 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 Manager: IA or the Business Unit Manager: Human Resources.

#### 6 HOW THE COMPLAINT (ALLEGATIONS) WILL BE DEALT WITH

- 6.1 The action taken by the Metro will depend on the nature of the concern. The matters raised may, among other possible actions
- Be investigated internally; or
  - Be investigated by external forensic consultants; or
  - Be referred to the SAPS or other relevant law enforcement agency; and/or
  - Be referred to the Audit Committee.



## Whistle Blowing Policy

- 6.2 In order to protect individuals and the Metro, 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 Manager: IA, upon receiving a report of the alleged/suspected fraud or corruption, will inform the complainant in writing or through the Anti-Fraud Hotline service provider:
- Acknowledging that the concern has been received;
  - Indicating how he/she 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 person(s) 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 Metro accepts that employees or other parties 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 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 the Whistle Blowing Policy.
- 8 ADMINISTRATION**
- 8.1 The Municipal Manager has overall responsibility for the maintenance and operation of this policy. He will be supported by IA and Human Resources in maintaining a record of concerns raised and the outcomes (but in the form which does not endanger confidentiality).



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**9 ADOPTION OF THE POLICY**

Adopted by:

18 June 2004

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Municipal Manager  
**NELSON MANDELA METROPOLITAN MUNICIPALITY**

\_\_\_\_\_  
Date

24 June 2004

\_\_\_\_\_  
Executive Mayor  
**NELSON MANDELA METROPOLITAN MUNICIPALITY**

\_\_\_\_\_  
Date