



**UTHUKELA DISTRICT  
MUNICIPALITY  
WHISTLE BLOWING POLICY  
2016/2017**

## TABLE OF CONTENTS

INDEX	PAGE
1. Purpose of this policy	3
2. Scope of the policy	4
3. Who can raise a concern	5
4. Culture of openness	5
5. Our assurance to you	5
6. How to raise a concern internally	7
7. Independent advice	7
8. External contacts	7
9. If you are dissatisfied	8
10. Annual review of the policy	9

## 1. PURPOSE OF THIS POLICY

- 1.1 The purpose of this policy is to provide a means by which staff are able to raise concerns with the appropriate line management, or specific appointed persons in the Municipality, where they have reasonable grounds for believing that there is fraud and corruption within the Municipality.
- 1.2 The Protected Disclosures Act, Act 26 of 2000, which became effective in February 2001, provides protection to employees for disclosures made without malice and in good faith, in defined circumstances.
- 1.3 Good faith means a reasonable, subjective belief in the truth of the suspicion. It does not mean that you as a potential whistle-blower must be able to prove the guilt of the object of the suspicion. When in doubt as to whether a suspicion is reasonable or not, it is advisable to rather report it.
- 1.4 Any disclosure made in good faith and substantially in accordance with any reporting procedure prescribed by the Municipality is considered to be a protected disclosure. An employee making such a protected disclosure is protected from being subjected to any occupationally detrimental victimisation of any kind as result of the protected disclosure.
- 1.5 Any employee or other stakeholder who suspects or reports suspected dishonest activity or such activity that he/she witnessed will be afforded the opportunity to remain anonymous should this be his/her wish.
- 1.6 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 occupational detriment as defined by the Act. This includes:
  - Being subjected to any disciplinary action
  - Being dismissed, suspended, demoted, harassed or intimidated
  - Being transferred against your will
  - Being refused transfer or promotion
  - Being subjected to a team or condition of employment or retirement which is altered or kept altered to your disadvantage
  - Being refused a reference or being provided with an adverse reference from your employer
  - Being denied appointment to any employment profession or office
  - Being threatened with any of the actions referred to above
  - Being otherwise adversely affected in respect of your employment, profession or office, including employment opportunities and work security.



- 1.7 Management encourages staff to raise concern responsibly through the process laid down in this policy.

## 2. SCOPE OF THE POLICY

- 2.1 The policy is designed to deal with concerns raised in relation issues relating to fraud, corruption, misconduct and malpractice within the Municipality. The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievance, discipline and misconduct. Details of these procedures are obtainable from the Corporate Services Department, Human Resources Section.
- 2.2 The policy covers all genuine concerns raised including:
- Financial misconduct
  - Health and safety risks
  - Environmental damage
  - Unfair discrimination
  - Corruption and misconduct
  - Attempts to suppress or conceal any information relating to any of the above.
- 2.3 If in the course of investigation any concern raised in relation to the above matters appears to the investigator to relate more appropriately to grievance or discipline, those procedures will be evoked.
- 2.4 As the employer – employee relationship includes the requirement of trust every employee has a common law duty to report to the employer knowledge of any fact that might have a negative impact on the employer's business. The Municipality expects employees, stakeholders, service providers and customers to report any reasonable suspicions, of whatever value, to the Municipality. The ultimate decision to pursue an investigation is the responsibility of the Municipality. The Municipality will weigh the evidence and decide on the appropriate action to be taken. Failure of an employee to comply with this requirement may result in disciplinary action.
- 2.5 It is the responsibility of every employee of the Municipality to report all incidents of fraud, corruption, theft and maladministration or any other dishonest activities of a similar nature to his / her manager.
- 2.6 It is important to understand that an employee does not have to be involved in the commission of a crime for the reporting duty to apply. Knowledge or suspicion of criminal conduct triggers a reporting duty. Furthermore, these triggers are not confined to a subjective belief – when somebody "ought to have known or suspected" a criminal action, the reporting duties also apply. Thus wilful blindness and negligence in failing to detect or report an obvious irregularity will also be punishable.

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

- 3.1 Any member of staff who has a reasonable belief that there is corruption or misconduct relating to any of the protected matters specified above may raise a concern under the procedure detailed.
- 3.1 Concerns must be raised without malice, in good faith and not for personal gain and the individual must reasonably believe that the information disclosed and any allegations contained in it are substantially true.
- 3.3 The issues raised may relate to a manager, another member of staff, a group of staff, your own section or a different department / 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 the Municipality to transgress legal obligations.

### **4. CULTURE OF OPENNESS**

- 4.1 The Municipality commits itself to encouraging a culture that promotes openness. This will be done by:
- Involving employees, listening to their concerns and encouraging the appropriate use of this policy on whistle-blowing promoted by Senior Management. This policy will be issued to all existing employees and to each new employee.
  - Educating / training / informing / explaining to employees what constitutes fraud, corruption and malpractice and its effect on the Municipality.
  - Promoting awareness of standards of appropriate and accepted employees conduct and establishing a common understanding of what is acceptable and what is unacceptable behaviour.
  - Encouraging unions to endorse and support this approach.
  - Having a policy to combat fraud.

### **5. OUR ASSURANCES TO YOU**

- 5.1 All information received via a protected disclosure "tip-off" relating to irregularities will be treated as highly confidential. The investigation will be handled in a confidential manner and no information will be disclosed or discussed with any person other than those who have a legitimate right to such information. This is to avoid damage to the reputation of a suspect who is subsequent to an investigation found innocent of wrongful conduct.
- 5.2 No information with regard to the issues covered within this policy may be shared with any external parties or the media without the express permission of the Municipal Manager.



- 5.3 Management is committed to this policy and will ensure that any member of staff who makes a disclosure in the above mentioned circumstances will not be penalised or suffer any occupational detriment for doing so.
- 5.4 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.
- 5.5 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 makes it maliciously may be subject to disciplinary proceedings.
- 5.6 In 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. UDM will not tolerate the harassment or victimisation of anyone raising a genuine concern.
- 5.7 However, we recognise that you may nonetheless wish to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent, however we do expect the same confidentiality regarding the matter from you.
- 5.8 If the situation arises where we are unable to resolve the concern without revealing your identify (for example where your evidence is needed in court), we will discuss with you whether and how we can proceed accordingly while we will consider anonymous reports, this policy is not appropriate for concerns raised anonymously.
- 5.9 Once you have told us of 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.
- 5.10 The issue you raise will be acknowledged within 7 working days. If it is requested an indication of how the organisation 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.
- 5.11 We will tell you who would 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 thin the matter might best be resolved.
- 5.12 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 the Grievance Procedure we will tell you.

- 5.13 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 take where this could infringe a duty of confidence owed by us to someone else.

## 6. HOW TO RAISE A CONCERN INTERNALLY

- 6.1 **Step One:** If you have a concern about malpractice we hope you will feel able to raise it first with your supervisor / manager. This may be done verbally or in writing.
- 6.2 **Step Two:** If you feel unable to raise the matter with your supervisor or manager for whatever reason, please raise the matter either with:
- Manager Legal: **072 5909 912**
  - Manager Internal Audit: **082 7864 921**

Please indicate if you wish to raise the matter in confidence so that they can make appropriate arrangements.

- 6.3 **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:
- Uthukela District Anti-Fraud Hotline: **0800 03 36 60**

## 7. INDEPENDENT ADVICE

- 7.1 If you are unsure whether to use this procedure or you want independent advice at any stage you may contact your personal legal adviser or your labour organisation or the independent legal advice centre ODAC on its **toll free helpline on 0800 525 352**. They are legally trained staff who can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

## 8. EXTERNAL CONTACTS

- 8.1 **Option 1:** While we hope this policy gives you the reassurance you need to raise such matters internally, we recognise that there may be circumstances where you can properly report matters to outside bodies. Such as regulators

or the police. ODAC 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.

**Option 2:** While we hope this policy gives you the reassurance you need to raise such matters internally, we would rather you raise a matter with the appropriate regulator than not at all. Provided you are acting in good faith you can also contact:

- The Public Protector: **0800 11 20 40**
- The Auditor General: **033 2647 400**

## **9. IF YOU ARE DISSATISFIED**

9.1 If you are unhappy with our response remember you can go to the other levels and bodies detailed in this policy. Which 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.

9.2 By using this policy you will help us to achieve this.

9.3 The Municipality will also use:

- National Anti-Fraud Hotline: **0800 701 701**

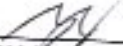


## 10. REVIEW OF POLICY

The compliance policy and charter shall be reviewed annually to reflect the current stance on compliance and risk management.

Compiled by :   
A DOMUN  
RISK OFFICER

Date : 30/06/2016

Reviewed by :   
BH KHOZA  
CHAIRPERSON: RISK, COMPLIANCE & FRAUD PREVENTION

Date : 30/06/2016

Recommended by :   
SN KUNENE  
MUNICIPAL MANAGER

Date : 30/06/2016

Approved by Council

Date Approved : 30/06/2016

Item Number : A36/06/2016

Resolution : 1. Council adopted the Whistle Blowing Policy  
2. A workshop be conducted to Council  
3. Conduct awareness to all employees