



ELIAS MOTSOLEDI LOCAL MUNICIPALITY

WHISTLE BLOWING POLICY 2024/2025

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1. INTRODUCTION

Where employees of Elias Motsoaledi Local Municipality suspect criminal or other irregular activity taking place within the Municipality, they must be able to raise their reasonable suspicions to people in authority within the structures of the municipality without the fear of victimisation and in a manner that allows employees to remain anonymous where they choose to be anonymous.

Elias Motsoaledi Local Municipality recognises that Criminal and other irregular conduct within Elias Motsoaledi Local Municipality threatens good, effective, accountable and transparent governance within Elias Motsoaledi Local Municipality and can endanger the economic stability of the municipality, leading to 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 them and/ or the municipality. Every employee has a responsibility to disclose criminal, and any other irregular conduct in the workplace. Every employer has a responsibility to take all necessary steps to ensure that employees who disclose information regarding criminal and any other irregular conduct in the workplace are protected from any reprisals as a result of such disclosure.

2. DEFINITIONS

“Occupational detriment” as defined by the Protected Disclosures Act includes being subjected to disciplinary action, dismissed, suspended, demoted, transferred against your will, harassed, denied promotion, subjected to terms and condition of employment or retirement which are altered or kept altered, intimidated, refused a reference, or being provided with an adverse reference, as a result of your disclosure.

“Whistle blowing” is the act of revealing information about activities which are deemed to be illegal within the municipality.

“Protected disclosure” is a disclosure of information to authorities in which an employee on reasonable grounds believes that there is corruption or fraudulent activities taking place in the workplace. It ensures that they are not discriminated against or victimised for making such a disclosure.

“Victimisation” is when an employee is punished or discriminated against unfairly. Victimisation is not provisioned for in the Labour Relations Act 56 of 1995, however it is covered under the umbrella of unfair practices such as unfair discrimination, unfair dismissals and forced resignations.

“Discrimination” means any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly:

- a) imposes burdens, obligations or disadvantages on; or
- b) withholds benefits, opportunities or advantages from any person on one or more of the prohibited grounds

3. OBJECTIVES OF THE POLICY

3.1 To encourage employees of Elias Motsoaledi Local Municipality to report matters that may cause financial and non-financial damage to the Municipality or damage the Municipality's reputation.

3.2 To promote zero tolerance on criminal and irregular conduct within Elias Motsoaledi Local Municipality

3.3 To provide employees of Elias Motsoaledi Local Municipality with appropriate systems for reporting.

3.4 To encourage all employees of Elias Motsoaledi Local Municipality to raise suspected misconduct internally within the Municipality rather than overlooking a matter or whistle blowing outside of appropriate channels.

3.5 To inform employees of Elias Motsoaledi Local Municipality on the steps to be taken in the instance where they are dissatisfied with any response given.

3.6 To reassure the employees of Elias Motsoaledi Local Municipality that they will be protected from reprisals or victimization for whistle blowing in good faith.

3.7 To create a culture which will facilitate the disclosure of information by employees of Elias Motsoaledi Local Municipality relating to criminal and other irregular conduct within the Municipality in a responsible manner by providing clear guidelines for disclosing of such information and the protection against victimization as a result of making such disclosure.

3.8 To ensure that the Elias Motsoaledi Local Municipality remains in compliance with the Protected Disclosures Act 26 of 2000

4. APPLICATION OF THE POLICY

There are existing grievance procedures in place within the organisation enabling employees of Elias Motsoaledi Local Municipality to raise grievances relating to their employment. This policy is intended to cover concerns that fall outside the scope of grievance procedures. These concerns in accordance with the Protected Disclosures 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 or is being or is 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 (PEPUDA) No.4 of 2000 is taking place or is likely to take place.
- g) That any matter referred to in paragraphs (a) to (f) has been being or is likely to be deliberately concealed.

5. LEGISLATIVE FRAMEWORK

5.1. PROTECTED DISCLOSURES ACT

This policy is developed based on the principal objects of The Protected Disclosures Act, which encourages employees to disclose any acts of misconduct without fear of any recriminations or reprisals.

Section 2 of The Protected Disclosures Act clearly defines the “*Objectives of the Act*” as follows:

- 5.1.1 To protect an employee from being subjected to an *occupational detriment* on account of having made a protected disclosure.
- 5.1.2 To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure.
- 5.1.3 To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her colleagues, other stakeholders and employer.

6. WHO CAN MAKE A DISCLOSURE?

Any member of staff who has a reasonable belief that there is fraud or corruption or misconduct relating to any of the protected matters specified in Section 4 of this Policy, may report under the procedure as set out in this Policy. 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.

7. HARASSMENT OR VICTIMISATION

- 7.1 Elias Motsoaledi Local Municipality acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisals from those responsible for the irregularity.
- 7.2 Elias Motsoaledi Local Municipality will not tolerate harassment or victimisation and will take action to protect employees against such conduct when they report in good faith.
- 7.3 Section 19 of the Enterprise and Regulatory Reform Act 2013 makes employers vicariously liable for acts of other employees in relation to protected disclosures. To put it another way, your employer must take steps to prevent you from being treated badly by other members of staff if you have blown the whistle.
- 7.3 Any act of harassment or victimisation should be reported to the Accounting Officer or alternatively, to the Manager: Risk Management.
- 7.4 Where an employee is already or stands to be the subject of disciplinary or other action, reporting of the nature stipulated in the Protect Disclosure Act, shall not mean that action will automatically be ceased because of their whistle blowing.

8. GUARANTEES AND PROTECTION

- 8.1 Confidentiality regarding the identity of the person reporting under this Policy will be always maintained, and nobody acting in good faith will be penalized for making such disclosure regarding information that might be in the interest of the Sekhukhune District Municipality. Every effort will be made not to reveal the identity of the whistle blower unless he/she permit/allow.
- 8.2 Notwithstanding clause 7.4 above; Elias Motsoaledi Local Municipality as employer shall ensure that any employee who makes a disclosure in terms of the

Protected Disclosures Act and in circumstances as herein discussed, will not be penalized, or suffer any occupational detriment for doing so.

- 8.3 Any employee who raises a concern in good faith in terms of the Protected Disclosures Act, will **not** be at risk of losing their job or suffering any form of retribution as a result. Elias Motsoaledi Local Municipality will not tolerate the harassment or victimization of anyone raising a genuine concern.
- 8.4 A guarantee and protection/assurance regarding occupational detriment can however not be extended to employees who maliciously raise matters they know to be untrue, and action will be taken against such employees.

9. FALSE AND MALICIOUS ALLEGATIONS

- 9.1 Persons intending to report a matter under the Protected Disclosures Act shall guard against making allegations which are false and made with malicious intent.
- 9.2 In instances where persons do make such false and malicious reports, such persons will not enjoy the protection offered by the Protected Disclosure Act and where cost implications arise due to investigations done and resources allocated on the basis of false allegations, such costs shall be claimed as damages suffered by the Municipality from the person who made the false or malicious allegation.
- 9.3 An employee 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, shall be subjected to disciplinary proceedings.

10. HOW TO REPORT

10.1 All internal disclosures must be made to the office of the Speaker or the office of the Municipal Manager.

10.2 All internal disclosure wherein the Municipal Manager is implicated, such disclosures must be made to the office of the mayor. Alternatively, such disclosure can be lodged through a complaints box placed in the municipality.

10.3 All external disclosures must be made to the following hotlines:

a) The Office of the Limpopo Premier	0800 864729
b) The Office of the Public Protector (Limpopo Division)	015 295 5712
c) Human Rights' Commission Office	015 291 3500

10.2 All disclosures filed shall follow the below mentioned format and contain the following information:

(a) background or history of alleged or suspected impropriety;

(b) Where possible names of the alleged parties involved;

(b) The date(s) of the alleged impropriety;

(c) The place(s) of relevant impropriety;

(d) The reason(s) why the whistleblower believes the alleged conduct in question constitutes or is likely to constitute an impropriety; and

(e) Any proof or evidence in support of the disclosure made, should there be any.

- 10.4 Employees and members of the public that do not want to report a matter internally may make reports or Public Interest Disclosures to the following investigating authorities:

Investigating Authority	Contact
1. South African Police Services	08600 10 111
2. Office of the Public Protector (Limpopo Division)	015 295 5712
3. Office of the Auditor General of South Africa (Limpopo Division)	015 283 9300
4. Any other relevant authority	
5. Audit Committee Chairperson	
6. Risk Management Committee Chairperson	083 975 3542

11. HOW THE MUNICIPALITY WILL RESPOND

11.1 The action taken by the Municipality will depend on the nature of the allegation reported. The possible routes of action open to the Municipality are to:

11.1.1 Investigate internally; and /or refer the matter to South African Police Service or other relevant law enforcement agency, where applicable.

11.1.2 Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form the investigation should take. Allegations raised may not necessarily require an investigation to be resolved.

11.1.3 The frequency of contact between the investigating officer and the person reporting (where not anonymous) will depend on the nature of the allegations raised and the investigations which may be required to be performed. If required and where possible, further information may be sought from the person who made the report.

11.1.4 All investigations will be handled confidentially and will not be discussed with any persons other than those who legitimately have the right to such information.

12. CREATING AWARENESS

12.1 In order for this Policy to be sustainable, it must be supported by a structured education, communication, and awareness programme.

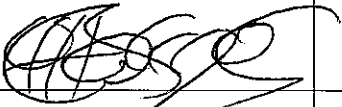

12.2 It is the responsibility of all Directors and Managers to ensure that all employees, are made aware of, and receive appropriate training and education regarding the whistle blowing policy.

12.3 For purposes of reporting by members of the public; the Municipal Manager must ensure that this Policy is available on the Municipal website.

13. REVIEW AND UPDATING THE ANTI-FRAUD AND CORRUPTION POLICY.

The policy will be reviewed every 2 years or as and when required to incorporate changes in the legislative framework within Local Government.

Review Approval

DESIGNATION	SIGNATURE	DATE
Recommended By:		02/03/2024
Accounting Officer		
Reviewed by:		
Risk Management Committee		
Council	M23/24-60	