



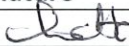


MANTSOPA LOCAL MUNICIPALITY WHISTLE BLOWING POLICY 2019/20

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INTRODUCTION

Mantsopa Local Municipality commits itself to the adoption of the whistle blowing policy; in accordance with The Public Service Code of Conduct, which states that public servants in the course of their official duties shall report to the appropriate authority fraud, corruption, nepotism, maladministration and any other act which constitutes an offence or which is prejudicial to the public interest. The municipality adopts this policy with the aim of enforcing this act in a safe and protected manner.

PREAMBLE

The Whistle-blowing Policy is part of Mantsopa Local Municipality's commitment to working towards a culture of openness and transparency thus that confidentiality will be maintained, and that nobody will be compromised for disclosing in good faith, information that might be in the Municipality's interest.

The aim of the policy is to deal with concerns raised in relation to issues of fraud, corruption, misconduct and malpractice within Mantsopa Local Municipality. The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievance, discipline and misconduct available from the Human Resource division. The whistle blowing policy also functions as part of risk management to protect the municipality's long-term wellbeing and reputation. The Municipality is therefore committed to prompt, impartial and independent handling of all allegations of any improper conduct.

DEFINITION

Whistle blowing may be defined as: raising a concern about any improper conduct or suspicion thereof within the municipality or through any associated third party. Improper conduct refers to any conduct or action that shows or raises suspicion:

- that a criminal offense has been or is at a probability of being committed
- that there's a failure or probability of failure to comply with prescribed legal obligations
- that there's a probability that the health or safety of an individual has been or is likely to be threatened
- that improper behavior (relating to fraud, bribery, corruption or unethical behavior) has or is likely to occur

- that the natural environment of an individual has been or is likely to be compromised
- that an employee has been or is treated unfairly or discriminated against
- that there is a concealment of any misconduct referred to above

STATEMENT

Mantsopa Local Municipality has committed itself to Protected Disclosures Act to all personnel, stakeholders and members of the public to report unlawful or irregular conduct by Political Office Bearers, Councillors, Management, Other Staff members, Service Providers and other Stakeholders. Mantsopa Local Municipality is committed to the fight against fraud and corruption whether the perpetrators are internal or external.

OBJECTIVE

The objective of this policy is to provide a means by which all personnel, stakeholders and members of the public are able to raise concerns within the appropriate reporting procedures in Mantsopa Local Municipality, where they have reasonable grounds to believe that there is fraud and corruption or the possibility thereof.

LEGAL FRAMEWORK

- Public Service Code of Conduct
- Protected Disclosures Act, Act 26 of 2000
- Prevention And Combating of Corrupt Activities Act
- Municipal Systems Act
- Municipal Finance Management Act
- Municipal Systems Act
- Municipal Structures Act
- Disciplinary code of conduct

CULTURE OF OPENESS AND TRANSPARENCY

The Protected Disclosures 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. 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 an occupational detriment as defined by the Act. Mantsopa Local Municipality encourages employees to raise matters of concern responsibly through the procedures laid down in this policy document.

In response to the Act, whistle blowing is meant to play a key role in the fight against corruption and mismanagement of public funds. Also to strengthen and facilitate openness, transparency & accountability within the institution and in liaising with the general public. Mantsopa Local Municipality prides itself in 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 Accounting Officer and 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's objectives;
- Promoting awareness of standards of appropriate and accepted employee 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; and
- Annual reporting to national and provincial treasuries on the number of fraud/corruption matters reported and the outcomes.

REPORTING RESPONSIBILITY

This Whistle blowing Policy is intended to encourage and enable employees and stakeholders to raise serious concerns internally so that Mantsopa Local Municipality can address and correct inappropriate conduct and actions. It is the responsibility of all employees and stakeholders to report concerns about violations of Mantsopa Local Municipality's code of ethics or suspected violations of law or regulations that govern Mantsopa Local Municipality in its entirety.

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 as detailed below.

REPORTING PROCEDURE

Mantsopa Local Municipality has an openness and transparency culture which suggests that employees may share their questions, concerns, suggestions or complaints. Below are steps which may be followed in an event where a concern needs to be raised:

INTERNAL REPORTING

In an event where a concern needs to be raised, the policy allows for an official to raise it with their manager or supervisor. The concern may be raised in writing or verbally.

If one is uncomfortable speaking with their manager/supervisor or is unsatisfied with their response, or any other reason, officials are encouraged to follow the process below:

Allegation against	Report to	Alternative
All staff members, excluding Executive Management	Director: Corporate Services	Internal Audit Manager
Executive Management	Accounting Officer	Chairperson: Audit Committee
Accounting Officer	Chairperson: Audit Committee	Mayor

One is at liberty to indicate if they wish to raise a matter in confidence and appropriate arrangements can be made. In an event where all internal mechanisms have been exhausted or there is substantial reason to believe that the matter may not be handled appropriately, one may raise the matter in good faith with a member of the Public Service Anti- Corruption line:

0800 701 701.

Independent advice

In a case of uncertainties, the policy allows one to seek independent advice. One may contact a personal legal advisor, labour organisation or independent legal advice centre ODAC (Open Democracy Advice Centre) on **0800 525 352** for free and confidential advice on how to raise a concern

1. External contacts

Option 1: In the hope that this policy gives assurance on how to raise concerns internally, recognition is made that there may be circumstances where concerns need to be raised externally. Mantsopa Local Municipality encourages the use of ODAC (Open Democracy Advice Centre) for advice on available options one may use to contact an outside body safely. ODAC is available on **0800 525 352** or helpdesk@odac.org.za

Option 2: In circumstances where it is necessary for concerns to be raised externally Mantsopa Local Municipality advises for concerns to be raised with the appropriate regulator.

The Public Protector; Free State Office: **051 448 6174**

The Auditor-General; Free State Office: **051 409 0100**

TYPES OF OFFENCES

The Prevention and Combating of Corrupt Activities Act criminalises the following specific corruption activities:

- Offences relating to sporting events
- Offences involving a public official
- Offences involving tenders
- Offences involving contracts
- Offences of conflict of interest
- Offences that involve judges, magistrates and witnesses

The issues raised may relate to a Councillor(s), Political Office Bearer, Member of Management, another member of staff, a group of staff, the individual's own section or a 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 the Municipality to transgress legal obligations.

ASSURANCE

NO RETALIATION

It is contrary to the values of Mantsopa Local Municipality for anyone to retaliate against any person who in good faith reports an improper conduct or raises a concern or suspicion thereof within the Municipality. Any employee who retaliates against someone who has reported an improper conduct or raised a concern in good faith is subject to discipline up to and including termination of employment. Mantsopa Local Municipality is therefore 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. Occupational detriment as defined by the Act includes being dismissed, suspended, demoted, transferred against their will, harassed or intimidated, refused a reference or being provided with an adverse reference, as a result of their disclosure. Mantsopa Local Municipality gives assurance that should one raise a concern in good faith in terms of this policy, they will not be at risk of losing their job or suffer 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 subject to disciplinary proceedings.

CONFIDENTIALITY

Concerns and suspicions thereof may be submitted on a confidential basis by the complainant. Reports of concerns will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. In view of the protection offered to a member of staff raising a bona fide concern, it is preferable that the individual puts their name on the disclosure. Municipality will not tolerate the harassment or victimisation of anyone raising a genuine concern.

The municipality recognise that one may nonetheless wish to raise a concern in confidence under this policy. If one may request identity protection in a form of confidentiality, the Municipality has a duty not to disclose the information without written consent. It should be noted that there may be instances where concerns may not be able to be resolved without revealing of identity, in such instances necessary measures and steps will be taken on how to best deal with the concern in proper consultations with the complainant. It is important to note that 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.

HANDLING OF REPORTED CONCERNS

Mantsopa Local Municipality will notify the person who submitted a complaint and acknowledge receipt of the reported concern. This policy undertakes to keep the whistle blower informed of the progress; depending on the legal limitations, the outcome of the investigation as well. Important to note is that blowing the whistle does not lessen the guilt or criminal liability of a whistle blower who is involved in wrongdoing, although this may be taken into account.

Once a complaint has been submitted, the Municipality will assess the appropriate or suitable action. Acknowledgement of the concern raised may be expected within 7 working days. An indication of how the Municipality proposes to deal with the concern and the envisaged time scale may be provided. In a situation where a decision is made not to investigate the raised concern reasons may be provided. A whistle blower will be notified if further assistance will be required from them.

All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation

REVIEW OF THE POLICY

The Risk Management Committee shall review the policy annually and recommended to the Accounting Officer for Approval. The Accounting Officer will then submit to council for adoption.