

PROVINCE OF THE EASTERN CAPE



**DEPARTMENT
OF
RURAL DEVELOPMENT AND AGRARIAN REFORM**

Fraud Prevention and Anti-Corruption Policy

Foreword

It is estimated that in each year the Department is losing significant amounts of money as a result of fraud and corruption committed not only by individuals defrauding the system but also from organized gangs operating within and outside the Department. In order to deal with these challenges, continuous learning, development and the sharing of good practice will result in highly skilled Anti-Fraud Officers working in a professional framework to the highest standards of performance and integrity.

L.L Ngada

Head of Department: DRDAR

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Definitions

Fraud: is defined as an unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another. The attempted fraud is treated as seriously as accomplished fraud.

Corruption: in terms of section 3 of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 is committed by any person who directly or indirectly:-

- a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
- b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner-
 - (i) that amounts to the
 - (aa) illegal, dishonest, unauthorized, incomplete, or biased; or
 - (bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;
 - (ii) that amounts to-
 - (aa) the abuse of a position of authority
 - (bb) a breach of trust; or
 - (cc) the violation of a legal duty or a set of rules;
 - (iii) designed to achieve an unjustified result; or
 - (iv) that amounts to any other unauthorized or improper inducement to do or not to do anything.
- c) **“Whistle-blowing”** :is generally used to describe the process of disclosing information relating to some kind of malpractice or mistreatment which members of staff may have come across during the course of their work and which they feel would put the interests of the public, department at risk
- d) **Whistle-Blower:** Is 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 procedures as detailed.
- e) **An employee or member of staff is someone who is:**

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- Employed on a permanent basis;
 - On a fixed term or temporary contract of employment;
 - On secondment to the Department.
- f) **Disclosure:** The Act, in its definition for “disclosure” and “protected disclosure” in section 1, read with section 6 sets out what disclosures, made by an employee to an employer, are protected in terms of the Act. “Disclosure” is therefore defined as “any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reasons to believe that the information concerned shows or tend to show one or more of the following:

That a criminal offence has been committed or is being committed or is likely to be committed;

- (i) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- (ii) that a miscarriage of justice has occurred or is likely to be endangered;
- (iii) that the environment has been, is likely to be damaged;
- (iv) that the environment has been, is being or is likely to be damaged;
- (v) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No.4 of 2000); or
- (vi) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed”.

1. Introduction

The Department like any other organizations in the public and private sector continue to be exposed to fraud and corruption activities committed by its employees, those who render services to the Department and criminals or criminal syndicates. Also as mandated by the Public Finance Management Act, Act No.1 of 1999 (PFMA), as amended the Department has to secure transparency, accountability and management of revenue, assets and liabilities of the institutions within a spirit of good governance, to which the Act applies.

The Department has a clear commitment to minimizing the possibility of fraud, corruption or any other dishonest activities of a similar nature. It pledges not only to prevent fraud and corruption or any other dishonest activities of a similar nature but to take all action necessary to identify such and pursue the recovery of losses and the punishment of those responsible. The Departmental employees are expected to have the highest standards of conduct and to be vigilant in combating fraud and corruption or any other dishonest activities of a similar nature in all its guises.

The Department has embarked on implementing a clear network of systems and procedures to assist in the fight against fraud and corruption or any other dishonest activities of a similar nature. The Anti-Fraud and Corruption Prevention Plan and awareness campaigns keep pace with any future developments, in both preventative and detection techniques regarding fraudulent or corrupt activities or any other dishonest activities of a similar nature that may affect its operations.

This policy lays a foundation or a guide for successful prevention of fraud and corruption. It further ensures proper investigation of reported cases, referral of criminal cases to relevant authorities and successful conviction of the perpetrators. The relevant stakeholders of the Department have been extensively made aware of this policy. This policy ensures a uniform approach when dealing with cases of fraud and corruption committed against the Department by its employees, service providers and criminals or criminal syndicates.

2. Objectives

- 2.1. To promote an anti-fraud and corruption free culture amongst staff and stakeholders of the Department and provide a clear statement forbidding any illegal activity;
- 2.2. To operationalize policies, systems and develop partnerships with other agencies to minimize and fight against fraud and corruption or any other dishonest activities of a similar nature.

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- 2.3. To ensure that DRDAR management take responsibility for identifying exposures to fraudulent and corrupt activities or any other dishonest activities of a similar nature and further establish controls and procedures for preventing or detecting such activities when they occur.
- 2.4. To provide guidance to employees and members of the public as to what action should be taken when suspecting any fraudulent and or corrupt activities;
- 2.5. To provide assurances that any reasonable suspicion of fraudulent and or corrupt activities is fully investigated; and
- 2.6. To create conducive environment for employees to report any suspected activity that may concern corrupt, criminal, and improper conduct.

3. Regulatory framework

- 3.1. The Constitution of the Republic of South Africa Act, No of 1996
- 3.2. Public Finance Management Act, No.1 of 1999 (PFMA), as amended
- 3.3. Prevention and combating of corrupt activities, Act No. 12 of 2004
- 3.4. Labour Relations Act, No. 66 of 1995
- 3.5. Public Service Act, No. of 1994
- 3.6. Public Service Regulations of 2001
- 3.7. Criminal procedure Act, No.
- 3.8. Basic Conditions of Employment Act, No. 75 of 1997
- 3.9. Code of Ethics for Eastern Cape Public Service, 2008
- 3.10. DRDAR Fraud Prevention plan 2011
- 3.11. Provincial Anti-corruption Action Plan, 2005
- 3.12. The Protected Disclosures Act of 2000

4. Principles, Values & Philosophy

- 4.1. **Mutual respect:** We value each other's contribution as we seek to realise the vision and goals of the Department.
- 4.2. **Honesty & Integrity:** Commitment to be transparent with all stakeholders.
- 4.3. **Accountability and transparency**
- 4.4. Zero tolerance of fraud and corrupt activities

5. Scope of applicability

This policy is applicable to all employees of the Department regardless of rank, service providers and our stakeholders.

6. Actions Constituting Fraud and Corruption include, but not limited to:

- 6.1. Use of the Department's information technology systems and equipment to commit fraud.

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- 6.2. Abuse of authority or official power for private enrichment at the expense of the Department.
- 6.3. Creation of fictitious vendors.
- 6.4. Deliberate omitting to report any acts of dishonesty.
- 6.5. Deliberate withholding of any information which could assist in investigating any irregularity.
- 6.6. Disclosing confidential or proprietary information to outside parties for financial gain or other reason.
- 6.7. Improper disclosure to other persons of security measures or activities engaged in or contemplated by the Department.
- 6.8. Unlawful payment or receipt of double salary payments.
- 6.9. Duplicate payments for invoices.
- 6.10. Extortion involving departmental employees in the performance of their duties.
- 6.11. Failure to put into place internal controls thus causing financial loss to Department.
- 6.12. Issuing of false/inflated invoices.
- 6.13. Making misrepresentations regarding sick leave, overtime or educational qualifications.
- 6.14. Forgery or alteration of any document or account including cheque, bank draft, stock records or any other financial document relating to transactions with the Department.
- 6.15. Creation of and/or making payments to ghost employees.
- 6.16. Illegal or irregular sale of Departmental property.
- 6.17. Irregular destruction, removal or inappropriate use of records, documents, furniture, fixtures, material and equipment.
- 6.18. Misappropriation or theft of funds, securities, supplies or other assets.
- 6.19. Committing any fraudulent act with regard to and at any stage of the supply chain management process.
- 6.20. Using the Departmental funds to purchase items for personal use.
- 6.21. Any dishonest, fraudulent or corrupt act or other similar or related inappropriate conduct.

7. IMPLEMENTATION PROCEDURES

7.1. RESOLUTION OF REPORTED FRAUD AND CORRUPTION INCIDENTS

- 7.1.1. Allegations of fraud and corruption or any other dishonest activities of a similar nature that are reported by members of the public or employees must be investigated and/or referred to the relevant agencies, depending on the nature of the incident.

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- 7.1.2.** Members of the Fraud Prevention & Anti-corruption unit must have free and unrestricted access to all departmental records and premises, whether owned or rented;
- 7.1.3.** Fraud Prevention & Anti-corruption unit must have the authority to examine, copy, and/or remove all or any portion of the content of files, desks, cabinets, computers and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items when it is within the scope of their investigation.
- 7.1.4.** All employees must promptly co-operate and comply with requests from Fraud Prevention & Anti-corruption unit with regards to information required to assist investigation.
- 7.1.5.** Where an investigation has revealed that an employee has committed fraud, corruption or any other related incidents, the following may be recommended.
- (a) Taking disciplinary action;
 - (b) Instituting recovery of financial losses;
 - (c) Initiating criminal investigation process by reporting the matter to the appropriate law enforcement agencies;
 - (d) Identifying internal controls to be improved;
 - (e) Any other appropriate action available.
- 7.1.6.** The Head of the Unit/Directorate, upon receiving the report from the Fraud Prevention & Anticorruption Unit must acknowledge such and inform the Unit of their intentions with respect to the recommendations of the report within 10 working days.
- 7.1.7.** In respect of all reported incidents of fraud, corruption, or any other related incidents, the managers of respective Units/Directorate must review and improve the effectiveness of internal controls which have been breached within a reasonable period in order to prevent similar irregularities from occurring in the future.
- 7.1.8.** The Heads of Units/Directorates and their respective managers must ensure that losses or damages suffered by the Department as a result of all reported acts of fraud or corruption or any other dishonest activities of a similar nature committed by an employee or any other person in their own units/directorates, are recovered from such an employee or other person if he/she is found to be liable.

8. WHISTLE BLOWING

In respect of whistleblowing issues raised may relate to unacceptable conduct of a manager, another member of staff, and a group within staff, the employee's own section or a different section/division within the Department, outsider and an ex-employee.

This may include awareness of a system or procedures in use, which may cause the Department to transgress legal obligations.

8.1. Culture of openness

The Department commits itself to encouraging a culture that promotes openness.

This will be done by:

- 8.1.1.** Involving employees, listening to their concerns and encouraging the appropriate use of this policy/process on whistle-blowing promoted by Senior Management.
- 8.1.2.** This policy is issued to all existing employees and to each new employee.
- 8.1.3.** Educating/training/informing/explaining to employees what constitutes fraud, corruption and malpractice and its effect on service delivery.
- 8.1.4.** Promoting professional ethics, code of conduct and establishing a common understanding of what is acceptable and what is unacceptable behaviour.
- 8.1.5.** Encouraging unions to endorse and support this approach.
- 8.1.6.** Having a policy to combat fraud.

8.2. Employee Safety

The Department is committed to this policy.

- 8.2.1.** The Administration must ensure that an employee who makes a whistleblowing as stated in the above circumstances must not be penalised or suffer any occupational detriment for doing so.
- 8.2.2.** Occupational detriment as defined by the Act includes being dismissed, suspended, demoted, transferred against his/her will, harassed or intimidated, refused a reference or being provided with an adverse reference, as a result of his/her whistleblowing.
- 8.2.3.** If a concern is raised in good faith in terms of this policy, an employee must not be at risk of losing his/her job or suffering any form of retribution as a result.
- 8.2.4.** This assurance is not extended to employees who maliciously raise matters they know to be untrue.
- 8.2.5.** 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 or veraciously, must be subjected to disciplinary proceedings.

8.3. Employee confidence

- 8.3.1.** In view of the protection offered to an employee raising a bona fide concern, it is preferable that the individual puts one's name to the whistleblowing disclosure form.
- 8.3.2.** The Department prohibits any harassment or victimisation of anyone for raising a genuine concern.
- 8.3.3.** However, an employee who wishes to raise a concern confidentially under this policy, his/her identity must not be divulged without his/her consent.
- 8.3.4.** The employee is expected to ensure the same confidentiality regarding divulging the matter concerned.
- 8.3.5.** In an event where the matter cannot be resolved without revealing an employee's identity (for example where his/her evidence is required in court), it must be discussed with him/her on how and whether it can be proceeded with.
- 8.3.6.** Anonymous reports shall not be considered in terms of this policy except in exceptional circumstances.

8.4. How the Matter is handled

- 8.4.1.** Once a concern is raised, it must be assessed to decide what action should be taken.
- 8.4.2.** This must involve an internal inquiry or a more formal investigation.
- 8.4.3.** The issue raised must be acknowledged within 7 working days.
- 8.4.4.** If it is requested, an indication of how the matter must be dealt with and a likely time scale could be provided. If the decision is made not to investigate the matter, reasons must be given.
- 8.4.5.** The whistle-blower must be informed of who will be handling the matter, how to contact him/her and whether further assistance may or will be needed.
- 8.4.6.** When a concern is raised, the whistle-blower must be asked how he/she thinks the matter might best be resolved.
- 8.4.7.** If the whistle-blower has any personal interest in the matter, it must be made known from the outset.
- 8.4.8.** If the concern falls more properly within the Grievance Procedure, he/she must be informed accordingly.
- 8.4.9.** While the purpose of this policy is to enable Departments to investigate possible malpractice and take appropriate steps to deal with it, whistle-blowers must be given as much feedback as possible, full information may not always be given on the precise action taken where this could infringe a duty or confidence owed to someone else.

8.5. How to Raise a Concern Internally

- 8.5.1.** If an employee has a concern about malpractice, he/she must raise it first with his/her supervisor/manager. It could also be raised with any member of Senior Management within Department as well as Fraud and Anti-Corruption unit in the course of their investigations into fraud and corruption.
- 8.5.2.** This must be done verbally or in writing.
- 8.5.3.** If he/she wishes to raise the matter confidentially appropriate arrangements must be made.

9. Investigations

- 9.1. All investigations must be mandated by Head of Department.
- 9.2. Employees must release information requested by outside agencies upon receipt of authorization or mandate from the Head of Department.
- 9.3. All information must be released to the outside agencies, via the office of Fraud Prevention and Anti-Corruption Unit.
- 9.4. Fraud Prevention & Anti-corruption unit must treat all information that it collects or receives in confidence except where it is necessary for a thorough investigation and resolution of the complaint and/or as required by law or a standard of ethical conduct.
- 9.5. People must be made aware of the issue and the investigation only on a limited need-to-know basis.
- 9.6. In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, the results of investigations must not be disclosed or discussed by anyone other than those who have a legitimate need to know.
- 9.7. Fraud Prevention & Anti-corruption unit must investigate all complaints of fraud and corruption with the assistance of different Units/Directorates and individuals.
- 9.8. The Human Resources Unit must provide adequately qualified prosecutor (initiator) and presiding officers to deal with disciplinary enquiries relating to serious misconduct.
- 9.9. Any investigation required must be conducted without regard to the suspected wrongdoer's length of service, position/title, seniority or relationship to the Department.

10. ROLES AND RESPONSIBILITIES

10.1. MANAGEMENT

10.1.1 It is the responsibility of all SMS Members of the Department to ensure that all employees are made aware of and receive appropriate education and training in Anti-Fraud and Corruption Policy and Code of Ethics/Conduct.

10.2. FRAUD PREVENTION & ANTI-CORRUPTION UNIT

10.2.1 The Fraud Prevention and Anti-corruption unit must coordinate and conduct related training to empower and enable employees to understand and deal with fraud and corruption.

10.2.2 Provide training in the Code of Ethics as a preventive measure on fraud and corruption.

10.2.3 The Unit with the assistance of the Communications Directorate and Policy development unit must be responsible for implementing and communicating this policy to departmental employees as well as our stakeholders.

10.3. HEAD OF THE DEPARTMENT

10.3.1 Must establish a Corruption and Fraud Prevention Committee, which must be responsible for the ongoing maintenance and review of fraud plan/strategy.

10.3.2 The scope of this committee must include but not limited to:

- (a) The evaluation of reports of fraud and corruption and highlighting of areas of risks within the Department;
- (b) The consideration of fraud and corruption threats to the Department and make recommendations to appropriate structures;
- (c) Monitoring of actions taken to implement recommendations relating to incidents of fraud and corruption or other similar or related inappropriate conduct;
- (d) Keeping of Integrity Personnel Data for all disciplined employees and External Stakeholders.
- (e) Reviewing and making of appropriate amendments to the anti-fraud and corruption policy and fraud plan should they be required and
- (f) Ensuring that ongoing implementation strategies are developed and carried out.

11. BREACH OF POLICY

11.1. Breach of any provisions of this policy by any departmental employee or any person having dealings with the Department amounts to misconduct and must lead to disciplinary action and/or laying of criminal charges with dismissal consequences.

12. PUBLICATION OF SANCTION

- 12.1. A brief and anonymous summary of the sanctions must be published in order to send a deterrent message to other employees.
- 12.2. The Accounting Officer or Information Officer must decide whether it is just for any information relating to corrective actions taken or sanctions imposed regarding incidences of fraud, corruption or any other dishonest activities of a similar nature, should be brought to the direct attention of any person or made public through any means.
- 12.3. All Anti- Fraud and Corruption activities, including the adoption of this policy, will be publicized to make employees and the public aware of the department's commitment to taking action on fraud and corruption, when it occurs.

13. RESOURCE IMPLICATIONS

The Department must provide resources and support for the implementation of this policy.

14. MONITORING OF THE POLICY

Fraud Prevention & Anticorruption Unit must ensure implementation, Monitoring and Evaluation of this policy.

15. POLICY REVIEW

The policy must be reviewed and updated after 3 years from the date of approval or when the need arises before that time.

16. RECOMMENDATION AND APPROVAL



CHIEF OPERATIONS OFFICER

28/03/2018

DATE:

APPROVED / ~~NOT APPROVED~~

Comments: _____



HEAD OF DEPARTMENT: DRDAR

28/03/2018

DATE: