

EMAKHAZENI LOCAL MUNICIPALITY



WHISTLE BLOWING POLICY

2018/19 FINANCIAL YEAR

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1. INTRODUCTION

1.1. Emakhazeni Local Municipality (ELM) recognizes that employees are often the first people to witness fraud, corruption and unethical practices happening within business units. However, they may not come express their concerns for the fear of disloyal to their colleagues or because they fear harassment or victimization. In such circumstances, it is normally easier to ignore the concerns than to report what a suspicion may be of malpractice

1.2 The Municipality is committed to achieving the highest possible standard of service, openness, accountability and the highest possible ethical standards in all its practices.

1.3 In line with that commitment, the municipality encourages staff to raise matters of concern responsibility through the procedures laid down in this policy document.

1.4 To endorse this commitment, the municipality has designed procedures for dealing with cases of whistle- blowing that protect the individual and ensure that the reported matter is fully and vigorously investigated.

2. BACKGROUND

2.1. The Protected Disclosure Act, No26 of 2000, provides protection to employees for disclosures made without malice and in good faith, in defined circumstances.

In terms of the Protected Disclosure Act, No 26 of 2000 employees can blow the whistle on fraud and corruption in the working environment without fear of suffering an occupational detriment as defined by the Act. .

3. PURPOSE

3.1 The purpose of this policy is:

3.1.1 To encourage whistle blowing around suspected impropriety within Emakhazeni Local Municipality

3.1.2 To protect those who have blown the whistle against any form of occupational detriment; and

3.1.3 To provide for procedures in which an employee can disclose information regarding improprieties in the workplace.

3.1.4 Provide avenues for employees to raise concerns and receive feedback on any action taken

3.1.5 Inform employees on how to take the matter further if they are dissatisfied with the response.

4. DEFINITIONS

In this policy unless the context otherwise indicates: -

4.1 “Councillor “ means a member of municipal council

4.2 “Employee” means any person-

- (a) Excluding an independent service provider, who works for Emakhazeni Local Municipality and who receive, any remuneration; and
- (b) Other who in any manner assists in carrying on or conducting the business of an employer.

4.3“Employer” means -

- (a) Who employs or provides work for any other person who remunerates or expressly or tacitly undertakes to remunerate that other person; or
- (b) Who permits any person in any manner to assist in the carrying on or conducting of his, her or its business, including any person acting on behalf of or on the authority of such employer.

4.4“Protected disclosure” or **“disclosure,”** means a disclosure made in terms of this policy or the Act;

4.5“The Act” means the Protected Disclosure Act, 2000 (Act 26 of 2000);

4.6“Whistle blower” means a person who has made a disclosure in terms of this policy or the Act;

4.7“Whistle blowing” means the process of disclosing information relating to some kind of Malpractice or mistreatment which members of the staff may have come across during the course of their work and which they feel would put the interest of the Municipality at risk.

5. POLICY STATEMENT

5.1 Emakhazeni LocalMunicipality is committed to integrity and ethical behaviour by helping to foster and maintain an environment where employees, councilors and stakeholders can act appropriately, without fear of retaliation. To maintain these standards, Emakhazeni Local Municipality encourages its employees, councilors and stakeholders who have concerns about suspected serious misconduct or any breach or suspected breach of law or regulation that may adversely impact the municipality, to come forward and express these concerns without fear of punishment or unfair treatment.

5.2 Emakhazeni Local Municipality conducts business based on the principles of fairness, honesty, openness, decency, integrity and respect. It is the policy of Emakhazeni LocalMunicipality to support and encourage its employees, councilors, the community and other stake-holders to report and disclose improper or illegal activities, and for the Municipality to fully investigate such reports and disclosures.

5.3 It is also the policy of Emakhazeni Local Municipality to address any complaints that allege acts or attempted acts of interference, reprisal, retaliation, threats, coercion or intimidation against employees who report, disclose or investigate improper or illegal activities (the “Whistleblowers”) and to protect those who come forward to report such activities.

5.4 Emakhazeni Local Municipality assures that all reports will be treated strictly confidentially and promptly investigated and that reports can be made anonymously, if desired.

5.5 Emakhazeni Local Municipality is committed to the fight against fraud and corruption whether the perpetrators are internal or external. The Whistle-blowing policy and procedures is part of the Municipality’s commitment to working towards a culture of openness and transparency. It could be added that confidentiality will be maintained, and that nobody will be penalized for disclosing in good faith, information that might be in the Municipality’s interest.

6. SCOPE OF THE POLICY

6.1 This policy applies to all employees including interns and learners, councilors and stakeholders of Emakhazeni Local Municipality.

6.2 The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievance, discipline and misconduct. Details on these procedures are obtainable from Corporate Services Department.

6.3 The policy covers all genuine concerns raised including:

- i) conduct which is an offence or a breach of law;
- ii) disclosures related to miscarriages of justice;
- iii) healthy and safety risks, including risks to the public as well as other employees;
- iv) damage to the environment;
- v) the unauthorized use of public funds;
- vi) possible fraud and corruption;
- vii) other unethical conduct;
- viii) serious failure to comply with appropriate professional standards;
- ix) abuse of power, or use of Company powers and authority for any unauthorized use or personal gain;
- x) Deliberate breach of Council’s policy.

7. RESPONSIBILITY OF EMPLOYER

7.1 Emakhazeni LocalMunicipality commits itself to encouraging a culture that promotes openness. This will be done by:

- i) Involving employees, listening to their concerns and encouraging the appropriate use of this policy/process on whistle-blowing promoted by the Municipality.
- ii) Educating/training/informing/explaining to employees what constitute fraud, corruption and malpractice and its effect on the Municipality.
- iii) Promoting awareness of standards of appropriate and accepted employee conduct and establishing common understanding of what is acceptable and what is unacceptable behaviour.
- iv) Promoting the fraud hotline to employees and the community.
- v) Encouraging unions to endorse and support this approach.
- vi) Having policy to combat fraud.
- vii) Annual reporting to Council on the number of fraud/corruption matters reported and the outcomes.

8. ASSURANCE TO WHISTLEBLOWERS

8.1 Whistle blowers safety

8.1.1 The Municipality is committed to the enforcement of this policy by ensuring that any member of staff, councillors or stakeholders who makes disclosure in the above mentioned circumstances will not be penalized or suffer any occupational detriment for doing so.

8.1.2 Occupational detriment as defined by Protected Disclosure Act includes being dismissed, suspended, demoted, transferred against your will, harassed or intimidated, refused a reference or being provided with an adverse reference, as a result of your disclosure.

8.1.3 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.

8.1.4 This assurance is not extended to employees and councillors 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 subjected to disciplinary proceedings.

8.2 Whistle blowers confidence

8.2.1 In the view of the protection offered to a member of staff raising a bona fide concern, it is encouraged that the individual puts his/her name to the disclosure. Emakhazeni Local Municipality will not tolerate the harassment or victimization of anyone raising a genuine concern.

8.2.2 However, it is permissible 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.

9. POLICY DIRECTIVES AND PROCEDURES

9.1 Who can raise a concern

9.1.1 Any member of staff, councillor or community who has a reasonable belief that there is corruption or misconduct relating to any of the protected matters specified in this policy may raise a concern under the procedure detailed in 9.3.

9.1.2 Concerns must be raised without malice, in good faith and not for personal gain and the individuals must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.

9.1.3 The issue raised may relate to a manager, another member of staff, a group of staff, the individual own section or different section of the Municipality. The perpetrator can be an outsider, an employee, a manager, a customer or an ex-employee.

9.2 How to blow a whistle

Members of staff, councilors or community should feel free to contact and raise their concerns with any of the following;

9.2.1 Internal Disclosure

An employee or community member who has concern regarding improper conduct of the employer or other employee/s must – if the allegation is serious and it is / has been committed by member of senior management within the municipality. Such a person may contact

- Office of the Municipal Manager
- The Head of Department/Unit
- Internal Audit
- Executive Mayor

9.2.2 External Disclosure

- The Public Protector.
- Relevant Authority e.g. SAPS

- Corruption Watch
- National Anti-Corruption hotline number at **0800 701 701**

9.3 How the matter will be handled

- 9.3.1 A written allegation should set out the background and history of the concern (giving names, dates and places where possible) and the reason why the employee, councilor or member of community is particularly concerned about the situation. It is preferable for that employee, councilor or member of community to record this in writing him-/herself and can utilize the whistle blowing form in **Annexure A**.
- 9.3.2 Once a concern is raised, it the municipality will acknowledge the concerns raised within 7 days of the date of receipt to whistle blowers who have correctly identified themselves and provided the relevant contact details by informing them wheather further investigations will take place, and if not, why not. This may involve an internal inquiry or a more formal investigation. The issue raised will be acknowledged **within 7 working days**.
- 9.3.3 If it is requested, an indication of how the matter will be dealt with and a likely time scale could be provided. If the decision is made not to investigate the matter, reasons will be given.
- 9.3.4 If the concern falls more properly within the Grievance Procedure, he/she will be informed accordingly.
- 9.3.5 Whistle-blowers will 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.

9.4 Dissatisfaction with response

9.4.1 If an employee, councilor or member of community is at any stage unhappy with the response, he/she can go to the other levels and bodies detailed in this policy. While it cannot be guaranteed that the response will in all instances be the way that he/she might wish, the Council is committed to handle the matter fairly and properly. By using this policy, employees, councilor or member of will help to achieve this.

10. CONTRAVENTIONS

- 10.1 An employee who makes a disclosure in bad faith or who makes an allegation without having reasonable grounds for believing it to be true or who makes it maliciously or vexatiously may be subjected to disciplinary action.
- 10.2 Any person who subjects an employee in any form of occupational detriment on account or partly on account of having made a protected disclosure may be subjected to disciplinary action.
- 10.3 Any person who contravenes or fails to comply with any provision of this policy may be subjected to disciplinary action

11. PAYMENT OF WHISTLE BLOWER

An amount of R2 500.00 shall be payable by the Municipality to a Whistle Blower subject to the following:

- a. The municipality have entered into an agreement of payment with a defaulter for a certain period
- b. After, payment of the full amount and/or part thereof by the defaulter (consumer) responsible for the illegal connection, the municipality shall reconnect services provided that the current account is paid in full.
- c. The payment of whistle blowing is to be approved by the municipal manager.
- d. The whistle blower's name be kept confidential

12. CREATING AWARENESS

In order for the policy to be sustainable, it must be supported by a structured education, communication and awareness programme

13. POLICY REVIEW

This Policy shall be reviewed annually to review the implementation of the Policy and will be approved by the Council.

14. APPROVAL PROCESS

PREPARED BY:

Ms. NP Malibe
Risk Officer

Date

RECOMMENDED BY:

Chairperson: Risk Committee
Mr. L.T Gafane

Date

APPROVED BY:

Mrs. EK Tshabalala
Municipal Manager

Date

Council Resolution Number: _____

**ANNEXURE A:
ELM WHISTLE BLOWING REGISTRATION FORM**



**EMAKHAZENI LOCAL MUNICIPALITY
WHISTLE BLOWING REGISTRATION FORM**



**EMAKHAZENI LOCAL MUNICIPALITY
WHISTLE BLOWING FORM**

WHISTLE BLOWERS DETAILS

Name	
Contact Details	
PERSON TO WHOM THE INCIDENT IS REPORTED	
Name	
Position	
Method of reporting	

ALLEGATION/WHAT HAPPENED:

ADDITIONAL QUESTIONS

Who is involved?	
Where did it happen?	
When did it happen?	
Motive of alleged incident?	
Impact?	

**EMAKHAZENI LOCAL MUNICIPALITY
WHISTLE BLOWING FORM**

ADDITIONAL INFORMATION:

SIGNATURE OF WHISTLE BLOWER

DATE

SIGNATURE OF THE MANAGER

DATE