

West Coast District Municipality

Whistle Blowing Policy



2018/2019

WHISTLE BLOWING POLICY

1. Introduction

The West Coast District Municipality (hereinafter referred to as WCDM) requires all employees and other stakeholders to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Employees and representatives of the municipality must practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws and regulations.

WCDM is committed to its Anti-Fraud and Corruption Strategy and Policy, the Code of Ethics and to promote a high standard of honesty, openness and accountability.

2. Objectives of this policy

The objectives of this policy are to:

- promote zero tolerance on criminal and other irregular conduct within the WCDM;
- to create a culture which will facilitate the disclosure of information by employees relating to criminal and other irregular conduct in the workplace in a responsible manner by providing clear guidelines for the disclosure of such information and protection against reprisals as a result of such disclosure;
- to encourage the reporting of matters that may cause financial or non-financial loss to the municipality, or damage to the municipality's reputation; and
- to provide for the appropriate infrastructure including alternative mechanisms for reporting.

3. Purpose of this policy

To encourage the reporting of suspected fraud, corruption, misconduct, irregular conduct or criminal conduct as soon as possible in the knowledge that concerns will be taken seriously and investigated as appropriate and confidentiality will be respected.

To provide guidance in terms of the process for reporting suspected fraud, corruption, misconduct, irregular conduct or criminal conduct.

4. Scope of the Policy

This policy contains the procedures to be followed when Councillors, employees, service providers and members of the public need to raise and report suspected fraud, corruption, misconduct, irregular conduct or criminal conduct within the WCDM on a confidential basis and without fear of reprisal.

The Whistle Blowing Policy is not a replacement of the existing grievance procedure and therefore grievances should not be reported in terms of this policy.

5. Reporting responsibility

Any member of the public or any employee who has reasonable belief that there is fraud, corruption or misconduct may raise a concern under the procedure detailed below.

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Incidents, suspicions and allegations must be raised without malice, in good faith and not for personal gain and with reasonable belief that the information disclosed, and any allegations contained in it, are substantially true.

The issues raised may relate to the immediate line manager, another employee, group of employees or any other stakeholder.

6. Reporting and Investigating Procedures

Reporting and Investigating procedures are detailed in paragraph 7 of the approved Anti-Fraud and Corruption Strategy and Policy as follows:

6.1 Reporting Procedures

(a) Employees

6.1.1 Employees who have knowledge of an occurrence of fraud, corruption, misconduct, irregular conduct and/or criminal conduct, or who have good reason to suspect that a fraudulent or corrupt act has occurred, have a duty to promptly report any reasonable suspicions to their immediate line manager.

6.1.2 Should employees be concerned that their immediate line manager may be implicated or should employees wish to report incidents, suspicions and/or allegations anonymously, they may contact:

- (i) the Municipal Manager;
- (ii) the Internal Audit Manager;
- (iii) the Chairperson of the Audit and Audit Performance Committee;
- (iv) the outsourced risk service provider; or
- (v) directly report the matter to the National Fraud Hotline.

6.1.3 All line managers are responsible for the detection, prevention and investigation of fraud, corruption, misconduct, irregular conduct and/or criminal conduct and must accordingly report all incidents, suspicions and allegations.

(b) The Public

6.1.4 Should a member of the public suspect or become aware of fraud, corruption, misconduct, irregular conduct and/or criminal conduct, they are encouraged to contact any of the parties listed in 6.1.2 above.

6.2 Investigation Procedures

6.2.1 A process will be undertaken to conduct a preliminary investigation of the reported matter. The course of action to be taken will depend on the outcome of the preliminary investigation which may lead to the initiation of a full investigation as appropriate. The investigation may be undertaken internally or by utilising an independent external service provider.

6.2.2 The report on conclusion of the investigation will be issued, depending on the level of the incident occurring and when considered necessary and on a "need to know basis" to:

- (i) The Municipal Manager and/or
- (ii) The Fraud and Risk Committee and/or
- (iii) The Audit and Audit Performance Committee and/or
- (iv) Council and/or
- (v) The General public.

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- 6.2.3 Any fraud, corruption, misconduct, irregular conduct and/or criminal conduct committed by an employee or any other person must be pursued by thorough investigation and to the full extent of the law, including (where appropriate) consideration of:
- (i) in the case of employees, taking disciplinary action within a reasonable period of time after the incident;
 - (ii) instituting civil action to recover losses; and
 - (iii) initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency.
- 6.2.4 Managers are required to ensure that losses or damages suffered by the WCDM as a result of all founded acts of fraud, corruption, misconduct, irregular conduct and/or criminal conduct are recovered from the applicable employee if he/she is found to be liable for such losses.
- 6.2.5 The person reporting suspected fraud, corruption, misconduct, irregular conduct and/or criminal conduct will remain anonymous unless clearly expressed in writing to the Municipal Manager that he may be quoted by name or when required by law. The identity of reporting persons will be protected and no person will suffer any penalty or retribution for good faith reporting. Managers should discourage employees or other parties from making allegations which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations will be subjected to firm disciplinary or other appropriate actions.
- 6.2.6 The Municipal Manager will, where possible, write to the person reporting suspected fraud, corruption, misconduct, irregular conduct and/or criminal conduct in order to acknowledge that the concern was received, to communicate the process to deal with the matter, to provide an estimate of how long the process will take to conclude and to inform them of whether any further investigations will be taking place.

Any whistleblower who believes he/she is being retaliated against must inform Human Resources immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

Anyone who retaliates against the whistleblower (who reported an event in good faith) will be subject to discipline.

If the investigation of a report, that was done in good faith and investigated by internal personnel, is not to the whistleblower's satisfaction, then he/she may report accordingly to the appropriate legal or investigative agency.

Disclosure of the details of the allegations and/or the investigation to individuals not involved in the investigation will be viewed as a serious disciplinary offense.

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7. False or malicious allegations

A whistle-blower who makes a report that is not done in good faith is subject to discipline, including termination, or other legal means. Whistleblowers should therefore guard against deliberately making allegations which are false and made with malicious intent. Whistleblowers making such reports will not have the protection offered by the Protected Disclosures Amendment Act, Act 5 of 2017.

8. Creating awareness

The Council recognises that the continuing success of this policy, and its credibility, will depend largely on the effectiveness of the implementation thereof by employees throughout the municipality and the public. In order to be sustainable, continuous awareness campaigns must be rolled out throughout the WCDM.

It is the responsibility of all directors and managers at WCDM to ensure that all employees are made aware of and receive appropriate training and education with regard to this policy.

9. Review of the policy

The Fraud and Risk Committee shall annually review this policy and determine its adequacy and effectiveness for current circumstances and recommend to Council the approval of any amendments as appropriate.

10. Glossary of terms

Fraud - wrongful or criminal deception intended to result in financial or personal gain.
Corruption - is a form of dishonesty undertaken by a person entrusted with a position of authority, often to acquire personal benefit.

Stakeholder - any person, group, or organisation that has an interest in the municipality and can either affect or be affected by the actions or operations of the municipality.
Representatives – any person, group or organisation performing work on behalf of the municipality.

Misconduct - unacceptable or improper behaviour.
Irregular conduct - not being or acting in accord with laws, rules, or established custom.