MUSINA LOCAL MUNICIPALITY

WHISTLE BLOWING POLICY

2021/22

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1. INTRODUCTION

Musina Local Municipality intends to make it clear that it is committed to fight against fraud and corruption whether the perpetrators are external or internal. The whistle blowing policy is part of the municipality's commitment to working towards a culture of accountability, transparency, excellence, respect and efficiency and is aligned to **MLM Anti-Fraud and Corruption Policy 2021/22.**

Musina Local Municipality recognises the fact that –

- Criminal and other irregular conduct within the municipality is detrimental to good, effective, accountable and transparent governance and can endanger the economic stability of Musina and 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 Musina Local Municipality;
- Every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace; and
- Every employer has a responsibility to take all necessary steps to ensure that employees who disclose such information are protected from any reprisals as a result of such disclosure.

2. OBJECTIVES OF THE POLICY

The Protected Disclosures Act, Act 26 of 2000 provides protection to employees for disclosures made without malice and in good faith. In order to comply with the Act, Musina Local Municipality has developed a whistle blowing policy that:

- Strives to create a culture which facilitate for 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; and
- Promote the eradication of criminal and other irregular conduct within the municipality.

The Policy is intended to encourage and enable staff to raise concerns within Musina Local Municipality rather than overlooking a problem or blowing the whistle to inappropriate channels.

Furthermore the policy aims to –

- Provide avenues for staff to raise concerns and receive feedback on any action taken;
- Inform staff on how to take the matter further if they are dissatisfied with the response; and
- Reassure staff that they will be protected from reprisals or victimisation for whistle blowing in good faith.

3. SCOPE OF THE POLICY

This policy contains the detailed procedures that should be followed when councillors, municipal staff, service providers and members of the public want to raise and report serious concerns raised in relation to issues pertaining to fraud, corruption, misconduct and malpractice within Musina Local Municipality on a confidential basis and without fear of reprisals.

This policy is not a grievance procedure document. There is an existing grievance procedure in place to enable employees to raise grievances relating to their employment. This Whistle Blowing Policy will help Musina Local Municipality to break the cycle of silence and inaction and prevent fraud and corruption in the municipality.

The concerns indicated in the 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, is being or 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, No. 4 of 2000; or
g) That any matter referred to in paragraphs (a) to (f) has been, is being or likely to be deliberately concealed.

If, in the course of investigations, any concern raised in relation to the above matters appears to the investigator to relate more appropriately to labour grievance or discipline, those procedures will be evoked.

4. POLICY STATEMENTS

4.1 HARASSMENT OR VICTIMISATION

Musina Local Municipality acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for any fraudulent or corrupt conduct or irregularity.

Musina Local Municipality shall not tolerate harassment or victimization and shall take action to protect employees or councillors when they report an irregularity in good faith.

Any act of harassment or victimization should be reported, in line with the reporting protocol of the Municipality. This does not mean that if an employee is already the subject of a disciplinary process, that action will be halted as a result of making a 'protected disclosure' in terms of the Protected Disclosure Act.

4.2 CONFIDENTIALITY

Information relating to fraudulent, corrupt or dishonest acts that is received and reported to any supervisor, manager or a Director and/ or the Accounting Officer shall be treated with the utmost confidentiality.

The progression of the investigation will be handled in a confidential manner and will not be disclosed or discussed with any other person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputations of the suspected person(s) who may be subsequently found innocent of any wrongful conduct.

4.3 ANONYMOUS ALLEGATIONS

The Municipality encourages employees or councillors to put their names when reporting allegations of acts of corruption and/or fraud for efficient and effective investigations. Nevertheless all allegations reported will be followed up at the discretion of the Municipality. This discretion will be applied by taking into account the following:

- the seriousness of the issue raised;
- the credibility of the concern; and
- the likelihood of confirming such an allegation

Should members of the public wish to report allegations of fraud anonymously, they can contact the Mayor, any councillor, the Accounting Officer , any member of senior management, or even the anti-fraud and corruption hotline at, **0800 66 85 38.** The complaints can also be addressed to: -

(Accounting Officer, Private Bag X611, 0900) or phone 015 534 6100.

4.4 FALSE ALLEGATIONS

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 deserves investigation.

Employees or councillors must understand the implications (resources and costs) of undertaking investigations and should therefore guard against making allegations, which are false and made with malicious intent.

If in the course of the investigation it should be found that the allegations were made with malicious intent, such allegations shall be treated in a very serious light. The employee concerned must be subjected to a disciplinary enquiry or other appropriate action in the case of external parties.

5. REPORTING PROCEDURES

Any employee or councillor of Musina Local Municipality who has reasonable belief that there is corruption or misconduct relating to any of the protected matters specified above may raise a concern under the procedure detailed below.

The first step will be for the employee to approach their immediate manager/ supervisor unless he/she or senior management is the subject of the complaint, in which case the Accounting Officer should be informed. Should the complaint be found by the manager to be substantiated, he/she will consult with the Accounting Officer on referring it to the appropriate body (e.g. the SAPS).

Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible should be set out and the reason why the individual is particularly concerned about the situation. Those who do not feel able to put their concern in writing can call the anti-fraud and corruption hotline at, **0800 66 85 38.** The complaints can also be addressed to: -

Post: Accounting Officer
Private Bag X611
0900

Telephone: 015 534 6100

Limpopo Premier's Hotline: 0800 86 47 29

The earlier the concern is reported, the easier it is to take action.

Employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for concern. Advice and guidance on how matters of concern may be pursued can be obtained from the Risk Management Unit.

6. HOW THE COMPLAINT (ALLEGATIONS) WILL BE DEALT WITH

The action taken by municipality will depend on the nature of the concern reported. The matters raised may, among other possible actions

- be investigated internally in line with the investigation procedure;
- be referred to the SAPS or other relevant law enforcement agency; and/or
- be referred to the Audit Committee.

In order to protect individuals and the municipality, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of other procedures, will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation.

Musina Local Municipality will write to the complainant:

- Acknowledging that the concern has been received;
- Indicating how it proposes to deal with the matter and whether any initial enquiries have been made;
- Giving an estimate of how long it will take to provide a final response; and
- Informing them whether further investigations will take place, and if not, why not.

The amount of contact between the authority investigating the issues and the persons raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.

Musina Local Municipality accepts that employees need to be assured that the matter has been properly addressed. However, the progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any persons other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of suspected persons who are subsequently found innocent of wrongful conduct.

7. CREATING AWARENESS

It is the responsibility of the Accounting Officer to ensure that all employees and councillors receive appropriate training and education with regard to this policy.

The Accounting Officer will ensure that this policy is widely publicised to all relevant stakeholders (internal and external), and is made available on the municipality's website.

The HOD of each department should ensure that all employees have copies of:

- Anti-Fraud and Corruption Policy
- Whistle Blowing Policy

8. POLICY ADMINISTRATION

The Accounting Officer has overall responsibility for the maintenance and operation of this policy. The Accounting Officer will be supported by the Risk Management Unit in maintaining a record of concerns raised and outcomes.

This policy shall be reviewed annually and the amendments will be sent to the Risk Management Committee for recommendation and to Council for approval.

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MLM
REVIEW DATE: MAY 2021

COMPILED BY:

..... 31/05/2021

MR. KE RAMUTHIVHELI DATE
MANAGER
RISK MANAGEMENT AND SECURITY SERVICES

ENDORSED AND SIGNED FOR & ON BEHALF OF THE COMMITTEE BY:

..... 31/05/2021

MR. FO NDOU DATE
CHAIRPERSON: RISK MANAGEMENT COMMITTEE

THE ACCOUNTING OFFICER HAS REVIEWED AND APPROVED THIS POLICY:

..... 31/05/2021

MR. TN TSHIWANAMMBI DATE
ACCOUNTING OFFICER

COUNCIL'S APPROVAL

....

COUNCIL RESOLUTION NUMBER DATE
MUSINA LOCAL MUNICIPALITY
(RESOLUTION ATTACHED)

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