



uMGUNGUNDLOVU
U M A S I P A L A W E S I F U N D A
D I S T R I C T M U N I C I P A L I T Y
D I S T R I K M U N I S I P A L I T E I T

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1. INTRODUCTION

- 1.1 The uMgungundlovu District Municipality is committed to the highest standards of openness, ethical behaviour, integrity and accountability. The Municipality aims to promote a culture where employees feel able to raise genuine and valid concerns without fear of victimisation, discrimination, or disadvantage. Members of the public and service providers are also encouraged to raise or report any fraudulent activities concerning the municipality to enable appropriate actions being taken against perpetrators.
- 1.2 The uMgungundlovu District Municipality therefore recognises that:
- Criminal and other irregular conduct within the Municipality is detrimental to good, effective, accountable and transparent governance.
 - There is a need for procedures in terms of which employees should, without fear of reprisals, disclose information relating to suspected or alleged criminal or other irregular conduct.
 - Every employee has a responsibility to disclose criminal and any other irregular conduct in the workplace; and
 - Employees who disclose such information must be protected from any reprisals because of such disclosure.

2. OBJECTIVES OF THE POLICY

- 2.1 The Protected Disclosures Act came into effect on 16 February 2001. To remain in compliance with the Act, and its duty as a public body in terms of the Constitution of the Republic of South Africa to promote good governance, the Municipality will:
- Strive 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 because of such disclosure; and
 - Promote the eradication of criminal and other irregular conduct within the Municipality.
- 2.2 The Policy is intended to encourage and enable staff to raise concerns rather than overlooking a problem or blowing the whistle to inappropriate channels.
- 2.3 Furthermore, the policy aims to:
- Provide avenues for staff to raise concerns and
 - Reassure staff that they will be protected from reprisals or victimisation for whistle blowing in good faith.

3. SCOPE OF THE POLICY

3.1 There are existing grievance procedures in place to enable employees to raise grievances relating to their employment. This Policy is intended to cover concerns that fall outside the scope of grievance procedures. These concerns indicated in the Act, are the following:

- That a criminal offence has been committed, is being committed or is likely to be committed.
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject.
- That a miscarriage of justice has occurred, is occurring or is likely to occur.
- That the health or safety of an individual has been, is being or is likely to be endangered.
- That the environment has been, is being or is likely to be damaged.
- Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, Act 4 of 2000.
- That the Codes of Conduct or the Codes of Ethics are not adhered to;
- That there is a conflict of interest that is not reported.
- That there is improper or illegal use of authority.
- That fraud, waste, or misuse of municipal property, resources, or time are occurring; or
- That any matter referred to in paragraphs (a) to (j) has been, is being or is likely to be deliberately concealed.

3.2 The following prohibited activities must also be reported:

- Intentional falsification of records (including failure to disclose material facts or making false or misleading entries or statements with the intent to deceive on any Municipality document or other official document, report, or form, including but not limited to, Municipality financial records and environmental regulatory reporting), or the wilful and unauthorised destruction and/or mutilation of any Municipality document or other official document, report, or form, including Municipality financial records, other than in accordance with the Municipality's record retention policy and/or applicable law.
- Intentionally submitting false claims for payment or reimbursement.
- Knowingly submitting and/or signing a timesheet that contains false information.
- Forgery or intentional unauthorized alteration of a Municipality document or other official document, application, report, or form, including but not limited to Municipality financial documents.
- Improprieties in the handling or reporting of financial transactions for the Municipality.
- Authorising or receiving payment by the Municipality for goods not received or services not performed.
- Computer related activity involving unauthorized alteration, destruction of data, forgery, or manipulation of data or misappropriation of Municipality-owned software.
- Signing of documents without proper delegation.

4. THE POLICY

4.1 Protected Disclosures Act

4.1.1 Section 2 of The Protected Disclosures Act defines the "Objects of the Act" as follows:

- To protect an employee from being subjected to an occupational detriment on account of having made a protected disclosure.
- Occupational detriment includes being subjected to any disciplinary action, being dismissed, suspended, demoted, harassed, intimidated, transferred against one's will, refused transfer or promotion, having a term or condition of one's employment or retirement altered to one's disadvantage, being refused a reference, or being provided with an adverse reference from the Municipality, being denied appointment to any employment, profession or office, being threatened with any of the above or being otherwise adversely affected in one's employment with the Municipality, including employment opportunities and work security;
- To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her colleagues, other stakeholders and employer.

4.1.2 This Policy is developed based on the principle objects of the Protected Disclosures Act, which encourages and places a duty on employees to disclose any acts of misconduct without fear of any recriminations or reprisals.

4.2 Harassment or Victimisation

The Municipality will not tolerate harassment or victimisation and will act to protect employees when they raise a concern in good faith. "Harassment or victimisation" includes any acts falling under the definition of 'occupational detriment', referred to above. This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted because of their whistle blowing.

4.3 Confidentiality

The Municipality will do its best to protect an individual's identity when he/she raises a concern and will ensure that their identity will not be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information that may be required as *part* of the evidence.

4.4 False Allegations - Allegations not made in Good Faith

- Employees or other parties must understand that they need to make the allegations in good faith. "Good faith" means that the employee must believe that the allegations are true. This does not mean that the employee has to prove that the allegations are correct. It simply requires that the employee believes them to be correct and that this is likely given the circumstances surrounding the allegations.

- Accordingly, employees must guard against reporting “rumours” or “hunches”, or suspicions that they “smell a rat” without information conforming such rumours or hunches. Most importantly, employees must guard against deliberately making allegations which the employee knows or suspects to be false and/or which are made with malicious intent.

5. REPORTING OF CONCERNS

- In order to protect municipal officials, councillors and members of the public, whistleblowers are encouraged to make disclosure anonymously via the following platforms.
- **National Anti- Fraud and Corruption Hotline – 0800 701 701**
- **Facsimile – 0800 204 965**
- **Email – intergrity@publicservicecorruptionhotline.org.za .**

6. HOW COMPLAINT WILL BE DEALT WITH

- All disclosures made via the National Hotline / fax or email are referred to the provincial local government of traditional affairs, who then refers the matter/ allegations to the relevant Municipality.
- Upon receipt, the Municipal Manager must initiate investigation on the particular matter.
- The Municipal Manager is required to communicate and report on progress of the investigation to the Municipal Council, and Municipal Risk Management Committee and other relevant council structures.
- The 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.

7. CREATING AWARENESS

- It is Management responsibility to ensure that all employees are made aware of and receive appropriate training and education regarding the Municipality’s whistle blower policy.

8. REVIEW AND APPROVAL

- The Risk Management Committee shall review this policy on an annual basis and recommend for approval by Municipal Council.
- This policy shall come into effect immediately after council's approval.

