

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

WHISTLE BLOWING POLICY

June 2016

Table of Contents:

FOREWORD -3
PREAMBLE – 4
DEFINITION OF TERMS – **Error! Bookmark not defined.**
INTRODUCTION: 6
SCOPE OF THE POLICY: 6
RESPONSIBILITIES: 7
SAFEGUARDS: 9
ANONYMOUS ALLEGATIONS: 10
FALSE ALLEGATIONS: 10
WHISTLE BLOWING PROCEDURES: 11
THE AUTHORITY’S RESPONSE: 12
RESPONSE TO THE WHISTLE BLOWER: 13
WHISTLEBLOWER’S RECOURSE: 13
IMPLEMENTATION: 14

FOREWORD

The Authority is committed to ensuring a clean and healthy environment hence needs to set up high standards of integrity during its service delivery. It is important for the Authority to develop a whistle blowing policy and procedures to protect staff who acting in good faith disclose information about the Authority and its activities or those of any of its staff or officers which might be considered fraudulent or of corrupt behaviour. The development of this whistle blowing policy demonstrates the Authority's commitment to recognize and take action in respect of malpractice, illegal acts or omissions by its employees.

In line with this commitment this policy aims to provide an open communication avenue for employees to raise concerns and reassurance that they will be protected from reprisals or victimization for whistle blowing. Whistle blowers provide invaluable service to the organization and the general public and are vital in saving millions of shillings in loses and damage to the corporate image. The Authority assures whistle blowers utmost confidentiality in line with Witness Protection Act, (Cap 79)

Management shall ensure that this policy and procedures developed shall support and encourage staff to bring genuine concerns to the attention of the Authority's Corruption Prevention Committee (CPC)

Chairman

NATIONAL ENVIRONMENT

MANAGEMENT AUTHORITY

ACKNOWLEDGEMENT

Whistle Blowing is a noble action which is essential in highlighting malpractices occurring in an organisation. To protect and preserve the integrity of the Authority it became prudent to come up with a policy whose aim is to encourage openness and transparency as well as protect the whistle blowers.

It is for this reason that I am pleased to present this Whistle Blowing Policy to NEMA staff in line with the Constitution of Kenya and The Leadership and Integrity Act (2012). It is my hope that it will streamline and enhance operations of the Authority.

I take this opportunity to appreciate the contribution by the following in the development of this policy: The Board of Management for providing policy direction, NEMA Management and staff for their invaluable inputs as well as the Integrity Assurance Officers for steering the process through technical inputs and finalization of the policy.

I call upon all employees to internalize and embrace this Policy and comply with its various provisions to ensure that the Authority is not at risk of malpractices

Prof. Geoffrey Wahungu
Director General

DEFINITION OF TERMS

Authority:

Corruption Prevention Committee (CPC): This is an Institutional committee consisting of heads of departments whose main responsibility is to keep constant check organisational operations and procedures to ensure that there are no opportunities for corruption in the organisation.

Integrity Assurance Officer (IAO): This is an officer within an organisation selected, trained and assigned the duties to offer technical expertise on the implementation of corruption prevention activities.

Whistle Blowing: is an act of an employee who exposes the corporate misconduct for the good of the organisation and fellow employees. This is motivated by an employee value system and an open culture within the organisation that encourages the same

Whistle Blower: An employee who discovers corporate misconduct and chooses to bring it to the attention of others. One who chooses to bring it to the attention of the supervisor or manager and takes it through appropriate channels within the organisation is referred to as an internal whistle blower. If an employee on the other hand chooses to

INTRODUCTION:

The Authority is committed to ensuring the highest possible standards of care and the highest possible ethical standards in delivering the services it provides. To this end, this policy demonstrates the Authority's commitment to recognize and take action in respect of malpractice, illegal acts or omissions by its employees. It is the responsibility of all staff to ensure that if they become aware that actions of other staff or officers of the Authority might compromise this objective, they will be expected to report the matter in the safe knowledge that this will be treated seriously and sensitively.

- 1.2 The Witnesses Protection Act protects whistle blowers who acting in good faith disclose information about the Authority and its activities or those of any of its staff or officers who might be considered as fraudulent or corrupt. This policy and procedures have been developed to support and assist staff in bringing genuine concerns to the attention of the Corruption Prevention Committee (CPC) who can initiate an investigation into matters raised. It is the role of the management to ensure that this policy is implemented so that the Authority does not suffer from malpractices.

SCOPE OF THE POLICY:

2.1 The policy applies to the Authority's Board members staff, suppliers and clients.

The provisions of the Witness Protection Act, Public Officers' Ethics Act (cap 183) and the Witness Protection policy of EACC shall form part of this Policy

- 2.2 Situations may arise when it is not appropriate or staff feels unable to report incidents through the usual management channels.

These may include, *inter alia* among others:

- a) Suspected fraud or corruption.
- b) A criminal offence is, has or is likely to be committed.
- c) Disregard for legislation e.g. Public Officers ethics Act.
- d) A breach of code of conduct.
- e) Damage to the environment
- f) Breach of the standing financial rules and regulations.
- g) Showing undue favour over a contractual matter or to a job applicant.
- h) Where evidence may be concealed or destroyed.
- i) Where there has been a previous disclosure of the same information.
- j) When the Authority through a decision will cause serious harm to the public and Environment

2.3 For cases arising from external stakeholders, the Authority shall institute resolutions of public complaints procedures as stipulated in the Commission for Administration of Justice (CAJ)

RESPONSIBILITIES:

3.1 All staff have a responsibility to ensure that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct. Staff are advised to:

- a) Report to the Director General, Integrity Assurance Officers, Corruption Reporting Box or through a hotline number that shall be provided that something is happening which might compromise the rules contained in the code of conduct.
- b) Raise concerns in good faith with the true belief that a malpractice has occurred.
- c) Not raise concerns with any malicious intent or vexatious nature.
- d) Raise concerns with an appropriate officer as outlined in the Corruption Prevention Policy.

NB: If the staff member prefers to remain anonymous, then, she/he can report through the confidential reporting hotline (to be established).

3.2 The Corruption Prevention Committee members who receive the information have a duty to:

- a. Treat concerns in a confidential manner.
- b. Take staff concerns seriously.
- c. Consider them carefully and undertake an investigation.
- d. Understand the difficult position a member of staff may be in.
- e. Seek appropriate advice.
- f. Take appropriate action to resolve the concern or refer it on to an appropriate institution
- g. Keep the member of staff informed of the progress.

h. Monitor and review the situation.

i. Ensure that individuals who genuinely report concerns are not penalized in any way.

SAFEGUARDS:

4.1 The Authority is committed to good practice and high standards and wants to be supportive of employees. The Authority recognizes the difficulty staff may face in voicing concerns and assures them of support and confidentiality during the investigation process. It will not tolerate any harassment or victimization and will protect any staff who raises a concern in good faith. It may be necessary to take action against the complainant under the Authority's disciplinary procedures, where it concludes that false or malicious allegation have been made

4.2 The Authority will not retaliate and will not allow any retaliation or discrimination by its employees of any kind against any employee who submitted a complaint in good faith. Specifically, the Authority will not discharge, demote, suspend, threaten, harass or in any other manner discriminate or retaliate against any employee who lawfully provides information to the authorities regarding any conduct which the employee reasonably believes constitutes a violation.

CONFIDENTIALITY:

5.1 The substance of an investigation including the identities of the parties to it will remain confidential and may only be disclosed with the consent of the complainant

5.2 The Authority will protect the confidentiality of all matters raised by concerned employees. In case of any breach of confidentiality by any of the officers named in 3.1, the employee raising concern can take the appropriate action under the Authority's Human Resource Policies and procedures.

ANONYMOUS ALLEGATIONS:

6.1 This policy encourages all complaints to provide as much information as possible including contact information whenever possible for future reference. To the extent possible, any complaint should be factual rather than speculative or conclusory, and should contain as much information as possible to allow for proper assessment. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Authority. In exercising this discretion, the factors to be taken into account would include:

- a) The seriousness of the issues raised
- b) The credibility of the concern and
- c) The likelihood of confirming the allegation from attributable source.

FALSE ALLEGATIONS:

7.1 If a staff member makes an allegation in good faith but it is not confirmed by the investigation, no action will be taken against him/her. If however, an employee makes the allegation frivolously, maliciously or for personal gain, disciplinary action will be taken against him/her as per the Human Resource policies and procedures.

WHISTLE BLOWING PROCEDURES:

- 8.1 A concern may be raised orally, (i.e. face to face or via the phone) or in writing to the responsible officers as referred to in 3.1(a). If in writing, the envelope should be marked 'personal, private and confidential' and if the concern is of a serious nature, the envelope should be hand delivered to the appropriate person.. If an employee wishes to discuss the matter orally, he or she should indicate this in the submission and include a telephone number at which he/she might be contacted if the CPC, IAO or DG deems it appropriate.
- 8.2 Whichever way the complainant chooses, he/she should provide adequate information. The complainant should identify or provide evidence of the following to the extent that this detail is known or available to the complainant:
- a) Why he/she is concerned and the background information
 - b) Any other procedures which he/she may have already used and what happened.
 - c) The section or location of the alleged behaviour.
 - d) Key personnel involved in the alleged behaviour.
 - e) The nature of the alleged incident.
 - f) The time period over which the alleged incident has occurred.
 - g) An estimate of the monetary value, if applicable, associated with the alleged incident.

- h) Documentary evidence in support of the alleged incident, where possible.
- i) Names and positions of other employees who may support the complainant's concern where necessary.

The responsible person (s) receiving the concerns will be required to undertake thorough investigations on the matter reported. The whistle blower will receive an initial response within ten working days, including details of any further action to be taken and full written response within seven working days of the completion of the investigation where appropriate. These time scales may be extended if necessary.

8.3 The whistle blower will need to demonstrate that there is a reasonable ground of concern though he/she will not be expected to prove beyond reasonable doubt the truth of an allegation.

8.4 The whistle blower may invite a colleague or another person to be present during any meetings or interviews in connection with the concern raised. In this case, he/she may remain anonymous when the concern is first raised but may have to be involved personally if the matter goes further.

THE AUTHORITY'S RESPONSE:

9.1 Based on the Investigation Report received from the Corruption Prevention Committee (CPC), the Director General may decide to do any of the following:

1. Recommend to Director, Finance & Administration for applicable internal policies and procedures;
2. Recommend to the External Auditors;
3. Recommend to the Police (Investigation and Enforcement Department);
4. Recommend the subject of an independent inquiry.

The whistle blower may be interviewed by the person investigating the matter. In order to protect individuals accused of a possible malpractice, enquiries will be made to decide whether an investigation is appropriate.

RESPONSE TO THE WHISTLE BLOWER:

10.1 The whistleblower will be contacted within 10 working days detailing the following:

- a) Acknowledge that the concern has been received.
- b) Indicate how the Authority intends to deal with the matter.
- c) Give an estimate of how long it will take to provide a final response.
- d) Provide feedback of the findings and decision.
- e)

WHISTLEBLOWER'S RECOURSE:

11.1 This procedure is meant to give a whistleblower an alternative justice mechanism if they are not satisfied with the Authority's decision. These include:

- a) Office of the Auditor General (OAG)
- b) A relevant professional or regulatory body.
- c) A relevant voluntary organization.
- d) Efficiency Monitoring Unit (EMU)

e) Ethics and Anti-Corruption Commission (EACC)

f) Criminal Investigation Department (CID)

IMPLEMENTATION:

12.1 The Management shall oversee the implementation of the policy on behalf of the Authority.

12.2 A Whistle blowing/Investigations file shall be maintained for purposes of storing all Investigation Reports. This shall be stored in a secure place.

12.3 This procedure is subject to monitoring and shall be reviewed after every three (3) years.

Signed on this.....day of.....2016

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**DIRECTOR GENERAL
NATIONAL ENVIRONMENT
MANAGEMENT AUTHORITY**

**CHAIRMAN
NATIONAL ENVIRONMENT
MANAGEMENT AUTHORITY**

