



Province of the  
**EASTERN CAPE**  
COOPERATIVE GOVERNANCE  
& TRADITIONAL AFFAIRS

SECURITY MANAGEMENT & ANTI CORRUPTION  
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## **SECURITY MANAGEMENT AND ANTI CORRUPTION SERVICES**

# **WHISTLE BLOWING POLICY**

## WHISTLE BLOWING POLICY

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<b>Document Number</b>	<b>1</b>
<b>Document Name</b>	<b>Whistle Blowing Policy</b>
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<b>Related Policies</b>	<b>Anti-Corruption Policy</b>

## WHISTLE BLOWING POLICY


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# WHISTLE BLOWING POLICY

## APPROVAL

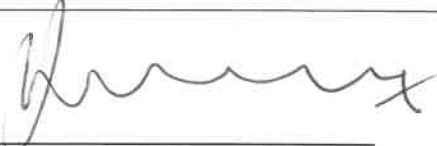
### 1. Certification by Head of Department

I am satisfied and concur with the content of this Policy.

<b>SIGNED:</b>	 _____ <b>MR. A.A. FANI</b>
<b>DESIGNATION:</b>	<b>HEAD OF THE DEPARTMENT</b>
<b>DATE:</b>	14/06/2022

### 2. Certification by Member of Executive Council

I am satisfied and concur with the content of this Policy.

<b>SIGNED:</b>	 _____ <b>X.E. NQATHA</b>
<b>DESIGNATION:</b>	<b>MEMBER OF THE EXECUTIVE COUNCIL</b>
<b>EFFECTIVE DATE:</b>	24/06/2022

## WHISTLE BLOWING POLICY

### WHISTLE BLOWING POLICY OF THE DEPARTMENT OF LOCAL GOVERNMENT AND TRADITIONAL AFFAIRS

#### 1. INTRODUCTION

Commercial crime and other criminal activities and any other irregular conduct, (collectively defined in the Protected Disclosures Act and this document as "impropriety"), within Cooperative Governance and Traditional Affairs (COGTA): Eastern Cape is detrimental to good, effective, accountable and transparent governance within COGTA.

In addition to defeating the rules of governance within COGTA, such activities may not easily be detected by internal control systems, may hamper service delivery and bring COGTA into disrepute.

Employees must be able to disclose information relating to suspected or alleged impropriety affecting COGTA, without fear of reprisals;

Each employer and employee has a responsibility to disclose impropriety 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. LEGAL BACKGROUND

Section 3 of the Protected Disclosures Act (Act 26 of 2000) ("the Act") states:

*"No employee may be subjected to any occupational detriment by his or her employer on account, or partly on account, of having made a protected disclosure"*

The Act defines disclosure as:

"disclosure" means any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following:

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

Section 6 of the Act defines protected disclosure as:

(1) Any *disclosure* made in good faith -

- a) and substantially in accordance with any procedure *prescribed*, or authorised by the *employee's employer* for reporting or otherwise remedying the *impropriety* concerned; or
- b) to the *employer* of the *employee*, where there is no procedure as contemplated in paragraph (a), is *protected disclosure*.

2) Any *employee* who, in accordance with a procedure authorised by his or her *employer*, makes a disclosure to a person other than his or her *employer*, is deemed, for the purposes of *this Act*, to be making the *disclosure* to his or her *employer*.

### 3. OBJECTIVES OF THIS POLICY

The objectives of this policy are to:

- Encourage an environment where disclosure of impropriety is recognised as being in the best interest of COGTA as a whole;
- Provide opportunities for staff to disclose impropriety within COGTA;

## WHISTLE BLOWING POLICY

- Promote the eradication of impropriety within Cooperative Governance and Traditional Affairs (COGTA): Eastern Cape;
- Provide for feedback to the employee following a protected disclosure;
- Provide assurance that employees will not be subjected to any occupational detriment following a protected disclosure;
- Present means for redress if an employee is dissatisfied with the response of COGTA to a protected disclosure.

### 4. SCOPE OF THIS POLICY

This policy applies to all persons employed on a permanent or temporary basis by the COGTA;

This policy includes any of the instances set out in the Act, as follows

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

This policy does not apply to disclosures made while knowing them to be false.

### 5. STATEMENT OF THIS POLICY

Cooperative Governance and Traditional Affairs: Eastern Cape will:

1. Make facilities available to enable any employee of COGTA to make a protected disclosure.

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2. Ensure that no employee is subjected to any occupational detriment by his or her employer on account, or partly on account, of having made a protected disclosure.
3. Protect the identity of the person making the protected disclosure. A person making a protected disclosure may be required to provide a formal statement to a person investigating the disclosure.

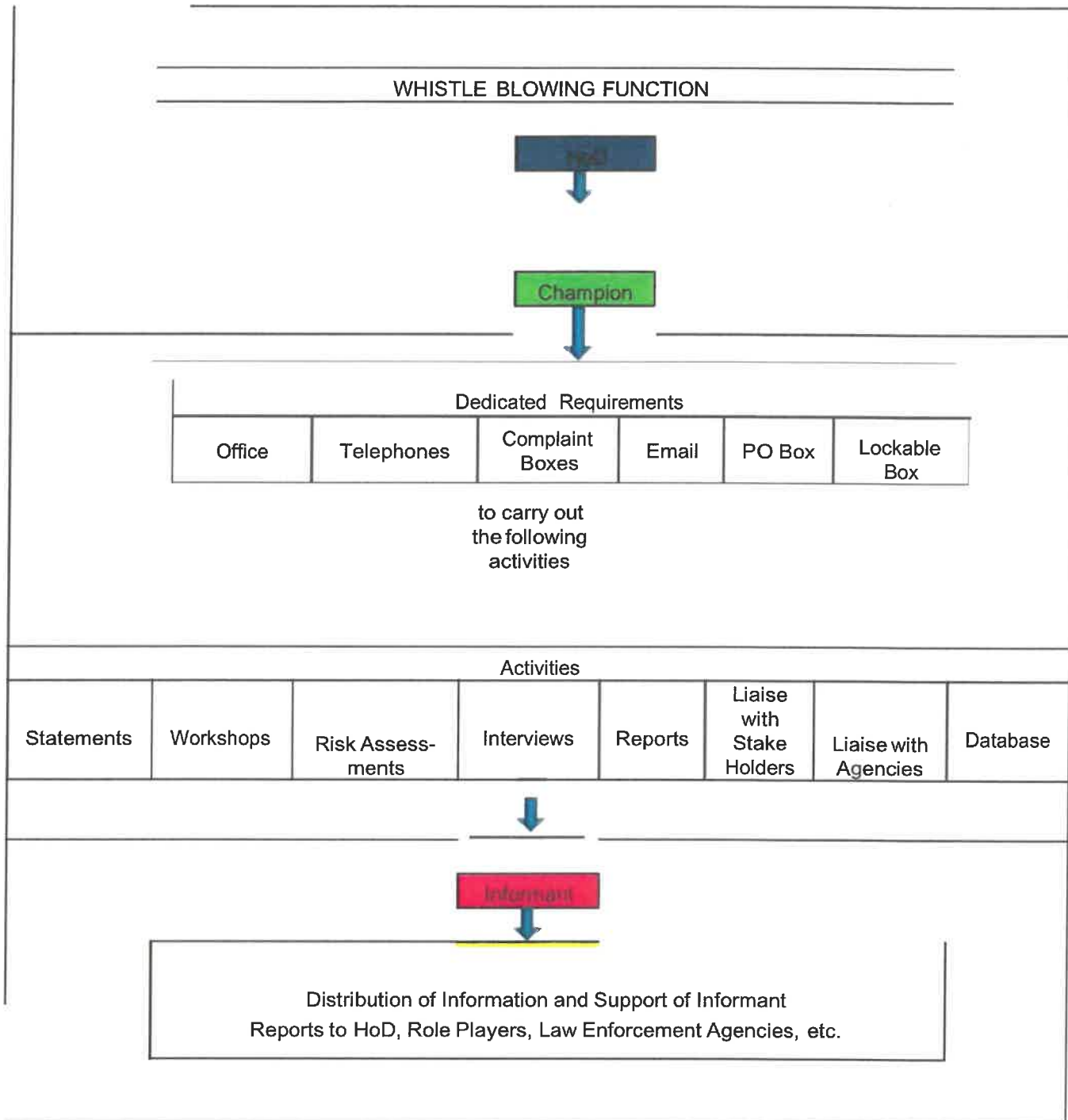
### 6. WHISTLE BLOWING POLICY IMPLEMENTATION PLAN

1. To introduce a Policy one has to develop a user-friendly Implementation Plan that the employees can identify with and also place their trust in.
2. The Department will have to select an official to lead the process and thereby become the "Champion" whom the people "trust" and can "rely" on.
3. The Champion has to have total control of the information received and in that way restrict access to the identity of the Whistle Blowers. This means compliance with the Protected Disclosure Act (PDA) as well as other legislation such as the Prevention of Corrupt activities Act (PRECCA), just to mention a few.
4. The information gathered must be recorded in a Register and Reported directly to the HoD and only the HoD. HoD is to give a directive for each matter reported.
5. The Champion must be dedicated to the work and have stand-alone resources because this activity must be segregated from all other responsibilities on a "confidential" basis. Everything possible must be done to protect the information gathered in this manner.



# WHISTLE BLOWING POLICY

6. See below proposed Structure in the next page:



*Annexure A: Interpretation of Policy*

## WHISTLE BLOWING POLICY

### 1. HOW TO MAKE A PROTECTED DISCLOSURE

Any person wishing to make a protected disclosure may do so in writing to the:

- Member of the Executive Council
- Head of Department
- General Manager: HoD Support

The disclosure should include the nature of the impropriety and include, where possible, details of names, dates and places where events or actions occurred.

### 2. HOW COGTA WILL RESPOND TO PROTECTED DISCLOSURE

COGTA shall:

1. Review the protected disclosure to determine the nature of further investigation;
2. Obtain any evidence that may corroborate or dispute the protected disclosure;
3. Determine whether the matter should be investigated and, if so, whether the matter should be investigated internally, through the Internal Audit Directorate, the South African Police Services or Security Management & Anti-Corruption Services
4. Formally communicate to the person making the protected disclosure of the action that COGTA intends to take. Where COGTA does not intend to take further action, this fact will be stated and alternative remedies as laid down in the Act will be presented.
5. Initiate such action as it deems necessary to draw conclusions on the protected disclosure.

## WHISTLE BLOWING POLICY

### **3. HOW COGTA WILL ENSURE THAT THE RIGHTS OF A PERSON MAKING A PROTECTED DISCLOSURE ARE PROTECTED**

COGTA shall:

1. Not disclose the name of a person making a protected disclosure, except when it is absolutely necessary for initiating disciplinary or criminal proceedings;
2. Not disclose the fact that any investigation is in progress;
3. Record the disclosure in a register but safeguard the register and files associated with the register to prevent unauthorised access or loss.
4. Encourage any person who has made a protected disclosure and who believes that they have been subjected to any occupational detriment (section 3 of the Act) to seek remedy from the Head of Department or Member of the Executive Council.
5. Ensure that any decision of the Head of Department or Member of the Executive Council is compiled within COGTA.

### **4. HOW THE DEPARTMENT WILL CREATE AWARENESS OF THE OPPORTUNITY TO MAKE PROTECTED DISCLOSURE**

COGTA shall:

1. Circulate this policy and interpretation to all members of COGTA at the date of signing and conduct awareness sessions in relation to this matter;
2. Require that all new employees receive a copy of this policy on induction;
3. Take such additional steps as it considers necessary to promote a crime-free environment and awareness of the ability to make a protected disclosure