



**WHISTLE BLOWING
POLICY
TT-FOA-30**

Standard Operating Policy – Finance,
Operations & Administration

Effective Date 24 August 2021



DOCUMENT CONTROL

Document Information

Property	Description
Document Title	Whistle Blowing Policy
Document No.	TT-FOA-30
Document Author	Tshiamiso Trust Board
Change Date	21 October 2021
Active Date	24 August 2021

Change Record

Date	Effective Date	Author	Version	Signature
31/07/ 2021	24 August 2021	K Sedupane	2	
21/10/2021	24 August 2021	T Mtshemla	3	

Approvals

The signatures below confirm that the reviewers agree with the content of the document and that this document is approved for implementation within Tshiamiso Trust.

Name	Position	Signature	Date
Prof. May Hermanus	Chairperson: Board of Trustees		
Kgomotso Molebatsi	Chairperson: HR, Remuneration and Governance Committee		
Daniel Kotton	Chief Executive Officer	<i>Daniel Kotton</i>	02/11/2021

Document Location

The original signed document is held by: The Trust
When printed this document is uncontrolled.

1. POLICY SCOPE

1.1 Purpose of the Policy

- 1.1.1 The purpose of this document is to outline the policy on Whistleblowing for the Tshiamiso Trust (the Trust).
- 1.1.2 The Tshiamiso Trust has a commitment to high legal, ethical, and moral standards, and is committed to the highest standards of openness, probity and accountability. An important aspect of accountability and transparency is a mechanism to enable employees, service providers, stakeholders and members of public to voice concerns in a responsible and effective manner without improper discrimination or prejudice of individual rights.
- 1.1.3 The Protected Disclosure Act, Act 26 of 2000 (PDA), as amended, aims to promote greater openness and transparency in the workplace and acknowledges the need to offer legal protection to whistle blowers. The PDA gives legal protection to employees against being dismissed or penalised by their employers as a result of disclosing certain serious concerns. The Trust has endorsed the provisions set out below so as to ensure that no members of staff should feel at a disadvantage in raising legitimate concerns.
- 1.1.4 This Policy is intended to provide direction and help to those who find themselves having to deal with suspected cases of theft, fraud, or corruption. This policy gives a guide for a response and advice as well as information on various aspects and implications of an investigation.

1.2 Objectives of the Policy

- 1.2.1 This policy is designed to enable employees, Eligible Claimants, service providers, stakeholders and members of the general public to raise concerns where they discover information which they believe shows serious maladministration or wrongdoing within the Trust. The objective of this Policy is to set guidelines for the reporting of fraud, corruption and other irregularities.
- 1.2.2 This policy establishes a general standard on conduct relating to suspected impropriety within the Trust and provides for a safe environment for disclosing or blowing the whistle on such misconduct. It provides avenues for all employees to raise concerns and receive appropriate feedback on any action taken; whilst ensuring that whistle-blowers will be protected from possible reprisals or victimisation.

1.2.3 This policy is intended to cover concerns which are in the public interest. These concerns could include, but is in no way meant to be limited to:

- financial maladministration or impropriety or fraud;
- violation of rules, legal obligation, regulation, statutes or legislation;
- substantial and specific dangers to health & safety or the environment;
- criminal activity;
- improper conduct or unethical behaviour;
- gross waste of funds;
- abuse of authority;
- incidences of bullying, harassment or discrimination;
- Unauthorised disclosure of confidential information; and
- attempts to conceal any of the above.

1.2.4 This policy is not designed to question financial, strategic or business decisions taken by the Trust, nor should it be used to reconsider any matters which have already been addressed under harassment, grievance, disciplinary or other procedures.

2. POLICY GOVERNANCE

2.1 Roles and Responsibilities

2.1.1 Board of Trustees (The Board)

The Board is responsible for ensuring that the requisite systems, practices and culture are in place to manage all risks to which the entity is exposed. It is their responsibility to oversee that the Trust complies with applicable laws, regulations, and supervisory requirements. These risk management/control responsibilities can be delegated to appointed individuals, committees, and functions, but the ultimate responsibility still vests with the Board.

2.1.2 Management

The Trust's Management is responsible for the prevention, detection and resolution of instances of unethical conduct and irregularities, as well as for the administration, revision, interpretation, implementation and monitoring of compliance of this Policy, and reporting thereon. The Finance Department shall maintain a confidential record of all concerns raised, as well as the outcome of all actions taken in compliance with the applicable legislative and Policy requirements.

2.1.3 Employees and Contractors



Employees are expected to comply with the Trust's obligations pertaining to the limiting of any instances of fraud and misconduct, as well as to report actual or suspected irregularities within the Trust.

2.1.4 Internal Audit

Internal Audit will conduct, as a minimum, annual reviews of the Trust's controls and will provide reports to the Trust. The internal audit function assesses the internal business management and control processes within the framework and progress with corrective actions and report thereon independently to the relevant audit committees. Internal audit will assess the effectiveness and adequacy of the compliance process and assist the compliance function generally with independent monitoring of compliance within the Trust.

2.2 Policy Review

The Policy will be reviewed on an annual basis, considering any changes and/or amendments to regulatory and the operational requirements.

2.3 Ownership of Policy

Ownership of the Policy will be vested in the CEO.

2.4 Related Policies and Legislation

The policy is supported by the following policies:

- Code of Conduct
- Fraud Prevention Policy
- Risk Management Policy
- Protected Disclosures Act of 2000

3. POLICY STATEMENT

3.1 The Trust shall put in place appropriate systems to facilitate disclosures of impropriety.

3.2 Whistle blowers are encouraged to make appropriate disclosures where there are reasonable grounds for believing that an impropriety has or is likely to take place.

3.3 The Trust shall ensure that a whistle blower who makes a bona fide disclosure is not penalised, victimised or suffers any adverse treatment as a result of the disclosure.

- 3.4 Where a whistle blower who has made a disclosure suffers victimisation, the Trust shall take appropriate action to ensure the immediate alleviation of the victimisation of the whistle blower.
- 3.5 Disclosures of impropriety shall, without undue delay, be considered and where appropriate, investigated and corrective action taken.
- 3.6 Whistle blower disclosures perpetuated by malice or made for the purposes of personal gain shall constitute misconduct and will be dealt with accordingly.

4. POLICY PRINCIPLES & GUIDELINES

4.1 MAKING DISCLOSURES/ THE WHISTLEBLOWING PROCESS

There are three avenues to report a concern at the Trust

4.1.1 *Internal reporting to Management*

4.1.1.1 Employees should, in the first instance, raise their concerns verbally or in writing with their line manager or a member of the executive team.

4.1.1.2 If any employee feels uncomfortable about reporting a matter to their line manager (due to the seriousness and/or sensitivity of the issue), or unless the line manager or member of the executive team is the suspected perpetrator of the alleged incident, then the matter should be reported to the line manager of the suspected perpetrator or the reporter they may consider using the reporting options provided below.

4.1.1.3 Any manager to whom a concern is reported must notify the Chief Financial Officer and Legal and Compliance Manager of the concern as soon as reasonably possible.

4.1.2 *Reporting directly to the responsible Department*

4.1.2.1 Employees, contractors and service providers can also report their concerns verbally or in writing to the following members of the Finance Department:

- a) Chief Financial Officer; or
- b) The Legal & Compliance Manager.

In extreme circumstances reports can also be directed to the Chairperson of the Finance, Risk and Audit Committee if the "whistle blower" has any reason to believe that his/her presentation to members of the Finance Team will not be satisfactorily resolved or that the Team will not be independent and objective with regard to the investigation or if the investigation were related to activities performed by Finance Team.



4.1.3 **Reporting through the Trust's Hotline**

Eligible Claimants, members of the Public and Other stakeholders are also encouraged to report concerns relating to actual or suspected irregularities through the Trust's Whistleblowing Platforms:

- South African Toll-Free Hotline Line: 0800 212 059
- International line: +27 31 100 2341
- E-mail: tshiamisotrust@whistleblowing.co.za

4.1.4 In making a disclosure using the above means, the Whistle blower is encouraged to provide as much information as possible relating to the matter such as:

- Who is involved?
- What have they been doing/ What has happened?
- How was it done?
- How often has it occurred?
- Where is it done?
- When was it observed?
- What sort of value(s) was involved?

A whistle blower is not expected to prove the truth of the allegation(s); however, they are required demonstrate that there are sufficient grounds for concern.

4.1.5 **Confidentiality**

The Trust shall endeavour at all times to protect a person's identity when they raise a concern and do not wish their identity to be disclosed.

It should be noted, however, that the investigation process may inadvertently locate the source of the information and that a statement by the employee, contractor, service provider or member of the public concerned may be required as part of the evidence. However, no person may be compelled to give evidence in terms of this Policy.

4.1.6 **Anonymous Reporting**

4.1.6.1 A report made anonymously and without contact details is difficult to investigate. To reduce the risk of malicious allegations the Trust encourages reporters to put their name on allegations made by them. Alternatively, a whistle blower may provide an anonymous email address or other details on which they may be contacted, without revealing their identity, should further information be required during the investigation.

4.1.6.2 Anonymous reports may be considered at the discretion of the Trust. In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

4.1.7 **Untrue and Malicious Reports**

4.1.7.1 Mischievous, intentionally false and malicious reporting, or reporting done for personal gain or otherwise, will be viewed as misconduct on the part of the reporter. The reporter will not be protected in terms of this policy and may be subject to disciplinary and/or legal action.

4.1.7.2 In terms of the Protected Disclosures Act, persons who made false and malicious allegations that have caused the affected party to suffer harm, may be criminally charged with an offence and may be liable, on conviction, to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

4.1.7.3 If a concern is reported in good faith, but due to the nature of the circumstances the concerns or allegations cannot be substantiated, or if they are proven to be incorrect, no action will be taken against the reporter.

4.1.7.4 The protection described in this policy is not available to a reporter who reports information relating to their own misconduct.

4.2 **PROTECTION FOR DISCLOSING INFORMATION**

4.2.1 Complaints submitted by whistle blowers qualify as protected disclosures, and the Trust is under an obligation to take all the necessary steps to protect a reporter from any occupational or other detriments, in as far as it is within the Trust's power to do so, if the complaint is submitted as follows:

- the complaint is reported on any of the available channels, including Whistle Blowing Hotline;
- the complaint is reported in good faith (without malicious intention); and
- the reporter was not involved in the actual or alleged irregularity that they are reporting.

4.2.2 Under no circumstances will the harassment, occupational detriment or victimisation of a reporter be tolerated and action will be initiated against any person guilty of such conduct.

4.2.3 An employee may not be subject to the following "occupational detriment" as a result of having made a protected disclosure/report :



- Subjected to any disciplinary action;
- Dismissed, suspended, demoted, harassed or intimidated;
- Transferred against his/her will;
- Refused transfer or promotion;
- Being subjected to a term or condition of employment or retirement which is altered or kept altered to his/her disadvantage;
- Refused a reference, or being provided with an adverse reference;
- Threatened with any of the actions referred to above; and
- Otherwise adversely affected in respect of his/her employment, profession which may include employment opportunities and work security.

This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted as a result of their whistle blowing.

4.2.4 Any acts of alleged harassment or victimisation arising from the submission of a protected disclosure should be reported to the Trust.

4.3 HANDLING OF DISCLOSURES AND THE INVESTIGATION OF REPORTS

4.3.1 The Trust will develop and publish Standard Operating Procedures for the handling of reports, the process and timelines of investigating reports as well as guidelines on the communication of outcomes.

4.4 AWARENESS AND TRAINING

Management of the Trust must ensure that appropriate controls and processes are in place to make all employees, contractors, service providers and members of the public are aware of:

- The existence of this policy; and
- The mechanisms available to report matters they consider to be appropriate.

Appendix A: Glossary of terms



“APPENDIX A”

GLOSSARY OF TERMS

TERMINOLOGY	DESCRIPTION
Conflict of interest	Exists when an employee’s private interests may interfere with the interests of any entity within the Trust. Such a conflict may result in divided loyalties, and when loyalties are divided, it is hard to be objective about a decision. An employee within the Trust should avoid any private interest that may influence his/her ability to act in the best interests of the Tshiamiso Trust, make it difficult to perform his/her work objectively and effectively, or compromise or have the appearance of compromising his/her judgement or integrity or other obligations as an employee within the Tshiamiso Trust.
Corruption	The giving of direct or indirect compensation to whom it is not due, for something they should not do or not doing something they should do.
Disclosure	Reporting of any information regarding the conduct of an employer or an employee of that employer, made by an employee who has reason to believe that the information concerned shows or tends to show one or more of the following is or has taken place: <ul style="list-style-type: none"> ○ Criminal offense has been committed; ○ That a person has failed to comply with any legal obligation to which that person is subject; ○ That a miscarriage of justice has occurred; ○ That the health or safety of an individual has been endangered ○ That the environment has been damaged; ○ Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000; or ○ That any matter referred to the above has been deliberately concealed.
Whistle blower	Anyone who has and reports inside knowledge of illegal activities occurring in an organisation. Whistle blowers can be employees, suppliers, contractors, clients, or any individual who somehow becomes aware of illegal activities taking place in an organisation either through witnessing the behaviour or by being told about it.