



Annexure G

MDDA WHISTLE BLOWING POLICY

FOR

2022/23 - 2024/25 FINANCIAL YEAR

A. POLICY APPROVAL

Document title	MDDA Whistle Blowing Policy		
Document author	Chief Executive Officer		
Document owner	Chief Risk Officer		
Document description	Protect and affords a whistle blower a chance to raise a concern about malpractice within an organisation and guides the whistle blower on the systematic approach followed to report and handle reported allegations.		
Final Version	VI		
Number of pages	11		
Acceptance Status by the Chief Executive Officer	Full acceptance	Partial acceptance	Conditional acceptance
Signature:			
Date:	30 April 2023		
Acceptance Status by the Audit and Risk Committee Chairperson	Full acceptance	Partial acceptance	Conditional acceptance
Signature:			
Date:			
Acceptance status by the Chairperson of the MDDA Board	Full approval	Partial approval	Conditional approval
Signature:			
Date:			

B. LOCATION OF THE MASTER FINAL VERSION OF THE POLICY

(AFTER SIGNATURE BY THE BOARD CHAIRPERSON) To facilitate future access and use the master final version of any Whistle Blowing Policy, the original signed policy will be archived on file in Registry; an Adobe Acrobat (pdf) copy will be placed on the intranet and SharePoint.

This policy and any amendments thereto becomes effective upon the approval by the MDDA Board Chairperson.

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1 INTRODUCTION

- 1.1 To fight against fraud and corruption and to promote the culture of transparency and accountability, the Agency has developed the Fraud Prevention Policy, Anti-Fraud and Corruption Strategy and Plan.
- 1.2 The Accounting Authority is committed to ensuring that there is an effective policy that encourages the reporting of malpractice, and that the whistle blower is protected in terms of Protected Disclosure Act, 2000 (Act No. 26 of 2000).
- 1.3 The Protected Disclosures Act, 2000 (Act No. 26 of 2000) provides procedures on how employees may disclose unlawful or irregular conduct by their employers or their colleagues. It further provides protection to employees who make such reports in terms of the Act. In terms of the Protected Disclosures Act employees can blow the whistle on fraud and corruption in the working environment without the fear of suffering an occupational detriment as defined by the Act. MDDA management encourages staff to raise matters of concern responsibly through the procedures laid down in this policy document.
- 1.4 PROTECTED DISCLOSURE ACT

Section 2 of The Protected Disclosure Act clearly defines the "Objectives of the Act" as follows:

- a) To protect an employee from being subjected to an occupational detriment on account of having made a protected disclosure;
- b) To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- c) To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his/her colleagues, other stakeholders and employer.

2 OBJECTIVES OF THE POLICY

- 2.1 To support and comply with the Act which makes provision for the protection of employees who make disclosures in good faith.
- 2.2 Any disclosure made in good faith and substantially in accordance with the reporting procedure prescribed by Agency is considered to be a protected disclosure. An employee making such disclosure is protected, *inter alia*, from being subjected to any occupational detriment as a result of the protected disclosure.

- 2.3 This policy is intended to encourage and enable employees to raise concerns within the organisation rather than overlooking a problem or blowing the whistle through inappropriate channels.
- 2.4 Furthermore, the policy aims to:
- 2.4.1 Provide avenues for employees to raise concerns and receive feedback on any action taken;
 - 2.4.2 Inform employees on how to take the matter further if they are dissatisfied with the response; and
 - 2.4.3 Reassure employees that they will be protected from reprisals or victimisation for whistle blowing in good faith.

3. THE SCOPE OF THE POLICY

- 3.1 There is an existing grievance procedure in place to enable employees in the MDDA to raise grievances relating to their employment. This procedure is intended to cover concerns that fall outside the scope of grievance procedures.

These concerns indicated in the Act are:

- 3.1.1 That a criminal offence has been committed, is being committed or is likely to be committed;
- 3.1.2 That a person has failed, or is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- 3.1.3 That a miscarriage of justice has occurred, or is occurring or is likely to occur;
- 3.1.4 That the health or safety of an individual has been, or is being or likely to be endangered;
- 3.1.5 That the environment has been, or is being or is likely to be damaged;
- 3.1.6 Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No.4 of 2000); or
- 3.1.7 That any matter referred to in paragraphs 3.1 above, has been or is being or likely to be deliberately concealed.

3.2 Underpinning of the procedure

This procedure stems from the MDDA recognition that –

- 3.2.1 Whistle-blowing (disclosure of information regarding unlawful or irregular conduct) is not to be looked upon as “informing in the negative, anonymous sense”, but rather as constituting a positive key tool for prompting individual responsibility and organisational openness, transparency and accountability;

3.2.2 Whistleblowing is an early warning system to avert possible risk to the Organisation enabling it to find out when something is going wrong in time to take the necessary and appropriate corrective action;

3.2.3 The fostering of a positive whistle-blowing culture is a critical element in the success of any risk management system and by promoting better risk management, the Organisation can also help its employees to prevent the need for more regulation and intervention by regulators and legislators;

3.2.4 By positively encouraging whistle-blowing, it stands a far better chance of demonstrating that it is properly run and managed;

The existence of a working whistle-blowing procedure can be pivotal in the legal cause, in determining legal liability and in setting the penalties, the courts may well take account of whether a whistle was blown and, if not, why not; and

Effective whistle-blowing can only be achieved by way of affording protection to *bona fide* whistle blowers, not penalising them on account of the *disclosures* made in *good faith* and maintaining the confidentiality of information so disclosed by them.

4. The Policy

4.1 This procedure is developed based on the principle objects of the Protected Disclosures Act, which encourages employees to disclose any acts of misconduct without fear of any recriminations or reprisals.

Harassment or Victimisation

4.3 The MDDA acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity. The entity will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith. Any act of harassment or victimisation should be reported to the Manager: Internal Audit Unit. 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.

4.3.1 MDDA employees will not be subjected to occupational detriment for reporting irregular conduct. This means that employees will not be:

4.3.1.1 Subjected to any disciplinary action;

4.3.1.2 Dismissed, suspended, demoted, harassed or intimidated,

4.3.1.3 transferred against his or her will;

- 4.3.1.4 refused transfer or promotion;
- 4.3.1.5 subjected to a term or condition of employment or retirement to which is altered or kept altered to his or her disadvantage;
- 4.3.1.6 refused reference or being provided with adverse reference from his or her employer; denied appointment to any employment, profession or office;
- 4.3.1.7 threatened with any of the actions referred to paragraphs 4.1.2.1 to 4.1.2.6 above;
or
- 4.3.1.8 adversely affected in respect of his or her employment, profession or office, including employment opportunities and work security for having reported an irregular activity.

4.4 Confidentiality

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

4.5 Anonymous Allegations

The organisation subscribes to the National Anti-Corruption Hotline (NACH) - 0800 701 701, which allows employees and service providers to report any allegation of fraud and/or corruption and remain anonymous. The NACH is the anonymous reporting hotline that was created to allow anyone who needs to report corruption that is taking place in the public sector. This hotline is managed by the Public Service Commission, on behalf of government.

It must be noted that concerns expressed anonymously are difficult to investigate as evidence may not be obtained from anonymous whistleblowing; nevertheless, they will be followed up at the discretion of organisation. This discretion will be applied by taking into account the following:

- a) the seriousness of the issue raised;
- b) the credibility of the concern; and
- c) the likelihood of confirming the allegation.

4.6 All cases reported or received from the NACH are registered and investigated and confirmed by an independent investigation. Anonymous reports may warrant a preliminary investigation before any decision to implement an independent investigation is taken.

4.7 Untrue allegations

Employees or other parties 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.

5. Reporting of Concerns

(A) INTERNAL WHISTLEBLOWING

You are acting as an internal whistle-blower when you report wrongdoing to entities within your organization. Some examples of internal authorities may include:

- Your immediate supervisor
- Your organization's human resource department
- Your organization's legal department

Most organizations have protocols for dealing with accusations internally. Your report and the misconduct described in it may not ever be reported to outside authorities.

(B) EXTERNAL WHISTLEBLOWING

You are acting as an external whistle-blower when you take the misconduct you have witnessed to an entity outside of your organization. Some examples of an outside entity include:

- A government agency that deals with fraud
- A public fraud hotline
- A media network
- Your personal attorney

Out of these options, it is wise to speak to your whistleblower attorney first, whose duty is to represent your interests. Your attorney may want to recommend the next step you take, including which outside entity should receive the report.

Typically, only external whistleblowing ends in court actions. If you choose to report misconduct to a hotline, government agency, or prosecutor, you may lose all control of how the report moves forward.

5.1 For some minor issues (e.g. personal use of the MDDA equipment etc), employees should normally raise the concerns with their immediate supervisor/manager. In general, however, the policy is for more serious and sensible issues (e.g. fraud and corruption).

5.2 The first step will be for the employee to approach his/her immediate supervisor/manager unless he/she or senior management is the subject of the complaint, in which case the Chief Audit Executive should be informed. Should the complainant be found by the manager to be substantiated, he/she will consult with the Internal Audit on whether the matter should be investigated internally or referred to the appropriate external body (e.g. The South African Police Services (SAPS)).

5.3 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 are uncomfortable to their concerns in writing can make a report anonymously; such a report may be made to the MDDA Hotline – mdda@whistleblowing.co.za; the National Anti-Corruption Hotline 0800 701 701 or the Office of the Public Service Commission, the Chairperson of the Audit Committee or to the Chairperson of the Board.

Disclosure may be made by using any of the following methods:

- Email: mdda@whistleblowing.co.za
- Telephone: 0800 701 701 NACH toll free number.
- Fax: 0800 204 965
- Website: publicservicecorruptionhotline.org.za.
- E-mail: Integrity@publicservicecorruptionhotline.org.za
- "Walk in disclosure" may be made at the Offices of the Public Service Commission.
- SMS facilities: 39772.
- Chairperson of the Audit and Risk Committee.
- The Chairperson of the Board.
- The Public Protector.
- Minister in the Presidency, if Board is allegedly involved.

Information about cases investigated and finalized by the organization may be required by other bodies, e.g.,

- The Public Service Commission
It is an independent and impartial body created by the Constitution to enhance excellence in governance within the public service by promoting a professional and ethical environment and adding value to a public administration that is accountable, equitable, efficient, corrupt-free and responsive to the needs of the people of South Africa.

- **Public Protector**
The Public Protector receive and investigate complaints from the public government. Some functions include but not limited to the power to investigate any conduct of government or administration that is seen as improper/prejudice. Their main objective is to defend democracy and its citizens.
- **DPSA**
It led and supported the development of the Public Service Anti-Corruption Strategy. It called for the establishment of a comprehensive system of professional ethics as well as greater participation of stakeholder and greater access for reporting on suspected cases of corruption by whistleblowers.
- **Auditor-General.**
They are an independent and impartial body created by the Constitution to provide independent and quality audit and related value added services in the management of resources, thereby enhancing good governance in the public sector.

5.4 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.

5.5 Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit.

5.6 Should the complaint be found by organisation to be substantiated, the reporting procedure which forms part of the Anti-Fraud and Corruption policy will apply.

5.7 Employees of the Agency can also use remedies as outlined by the Act to report concerns to a legal adviser, the Public Protector and/ or the Auditor- General of South Africa once they have exhausted all the internal reporting channels of organisation.

6. HOW THE COMPLAINT WILL BE DEALT WITH

6.1 The action taken by the organisation will depend on the nature of the concern. The possible actions to the matters raised may, among others be to:-

- a) Investigate internally by the Internal Audit Unit; and/or
- b) Refer to the South African Police Service (SAPS) or other relevant law enforcement agency.

6.2 In order to protect individuals and the organisation, 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.

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

- 6.4 The MDDA will write to the complainants who have identified themselves within seven (7) days of receiving the concern:-
- a) Acknowledging that the concern has been received;
 - b) Indicating how it proposes to deal with the matter and whether any initial enquiries have been made:
 - 6.4.1 Giving an estimate of how long it will take to provide a final response;
 - 6.4.2 Informing them whether further investigations will take place, and if not, why not; and
 - 6.4.3 Provide feedback to the whistle blower on the outcome of the investigation within the confines of the prevailing law.
- 6.5 The amount of contact between the body 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.
- 6.6 The MDDA 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.
- 6.7 The entity has developed a Procedure on Reporting Fraud and Corruption that must be implemented in conjunction with the anti-fraud and corruption policy.

7 PROMOTION AND AWARENESS AND EDUCATION

- 7.1 In order for the Policy to be sustainable, it must be supported by a structured education, communication and awareness programme.
- 7.2 It is the responsibility of all managers to ensure that all employees are made aware of and receive appropriate training and education with regard to this policy.

8 MEDIA

- 8.1 No person is authorised to supply any information with regard to allegations or incidents covered by this policy to the media without express permission of the Chief Executive Officer and or the Board. Failure to obtain necessary approval constitutes misconduct.

9 ADMINISTRATION

- 9.1 The Accounting Officer has overall responsibility for the maintenance and operation of this policy and will maintain a record of concerns raised and the outcomes (but in the form which does not endanger confidentiality).

10. ADOPTION OF THE POLICY

10.1 This policy is adopted in compliance to the Protected Disclosures Act, 2000 (Act No. 26 of 2000). Any amendments to the policy will be done subject to the amendments that may be reflected in the Act.

11. POLICY IMPLEMENTATION

11.1 The policy shall upon approval be communicated to all staff members through internal communications platforms and shall also be made available on the intranet and internal communications.

11.2 The Whistle Blowing Policy will be communicated to all incumbent officials and arrangements will be made to communicate the policy to all new recruits. The policy will be read in conjunction with the following documents:

11.1 Approved Fraud and Corruption Prevention Strategy.

11.2 Approved Fraud Prevention Policy and the procedure on how to report fraud and corruption.

12. POLICY AMENDMENTS

12.1 The policy shall be reviewed annually or as a need arises to reflect the current stance on risk management.

12.2 The Accounting Authority reserves the right to review the policy when there is necessity in order to ensure better and improved measures to implement the policy.