

GEORGE MUNICIPALITY

WHISTLEBLOWER POLICY

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1. INTRODUCTION

- 1.1 The George Municipality (Municipality) is committed to the highest standards of openness, ethical behaviour, integrity and accountability. The Municipality aims to promote a culture in which 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 concerns about our activities so that we can investigate and take appropriate action.
- 1.2 The George Municipality therefore recognises the fact that:
 - 1.2.1 Criminal and other irregular conduct within the Municipality is detrimental to good, effective, accountable and transparent governance;
 - 1.2.2 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;
 - 1.2.3 Every employee has a responsibility to disclose criminal and any other irregular conduct in the workplace; and
 - 1.2.4 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:
 - 2.1.1 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
 - 2.1.2 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:
 - 2.3.1 Provide avenues for staff to raise concerns;
 - 2.3.2 Inform staff on how to take the matter further if they are dissatisfied with the response; and
 - 2.3.3 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:
- 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, 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, is occurring or is likely to occur;
 - 3.1.4 That the health or safety of an individual has been, is being or is likely to be endangered;
 - 3.1.5 That the environment has been, 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, Act 4 of 2000;
 - 3.1.7 That the Codes of Conduct or the Codes of Ethics are not adhered to;
 - 3.1.8 That there is a conflict of interest that is not reported;
 - 3.1.9 That there is improper or illegal use of authority;
 - 3.1.10 That fraud, waste, or misuse of municipal property, resources, or time are occurring; or
 - 3.1.11 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:
- 3.2.1 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 willful 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.
 - 3.2.2 Intentionally submitting false claims for payment or reimbursement.
 - 3.2.3 Knowingly submitting and/or signing a timesheet that contains false information.
 - 3.2.4 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.
 - 3.2.5 Improprieties in the handling or reporting of financial transactions for the Municipality.
 - 3.2.6 Authorising or receiving payment by the Municipality for goods not received or services not performed.
 - 3.2.7 Computer related activity involving unauthorized alteration, destruction of data, forgery, or manipulation of data or misappropriation of Municipality-owned software.
 - 3.2.8 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:

- 4.1.1.1 To protect an employee from being subjected to an occupational detriment on account of having made a protected disclosure;
- 4.1.1.2 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;
- 4.1.1.3 To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- 4.1.1.4 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

4.2.1 The Municipality will not tolerate harassment or victimisation and will act to protect employees when they raise a concern in good faith. *Any* act of harassment or victimisation should be reported to the Municipal Manager. "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

4.3.1 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 and a statement by the employee may be required as *part* of the evidence. It is, furthermore, a possibility that the employee may be required in due course to provide evidence at a hearing or trial.

4.4 Anonymous Allegations

4.4.1 The Municipality encourages employees to put their names to allegations. Concerns expressed anonymously are difficult to investigate; nevertheless, they will be followed up at the discretion of the Municipality. This discretion will be applied by considering the following:

- 4.4.1.1 seriousness of the issue raised;
- 4.4.1.2 credibility of the concern;
- 4.4.1.3 likelihood of confirming the allegation; and
- 4.4.1.4 sufficiency of information provided.

4.4.2 Employees who do utilize the hotline also need to be aware of the fact that it will not be possible for the employee to be advised of the steps taken by the Municipality arising from the allegation.

4.5 False Allegations - Allegations not made in Good Faith

4.5.1 Employees or other parties must understand that they need to make the allegations in good faith.

4.5.2 "Good faith" means that the employee must believe that the allegations are true.

4.5.3 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.

4.5.4 Accordingly, employees must guard against reporting "rumours" or "hunches", or suspicions that they "smell a rat" without information conforming such rumours or hunches.

4.5.5 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. Such allegations prevent the employee from benefiting from the protection of the Public Disclosures Act.

5. REPORTING OF CONCERNS

5.1 For minor issues, employees should normally raise the concerns with their immediate supervisor/manager. In general, however, the whistle blowing procedure is expected to be used for potentially more serious and sensitive 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 Municipal Manager should be informed. Should the complaint be found by the line manager to be substantiated, he/she will consult with the Municipal Manager on whether the matter should be investigated internally or referred to the appropriate external body (e.g. the SAPS).

5.3 Concerns are better raised in writing. Refer to Annexure A: Whistle Blowing Complaint form. Follow the procedure in 5.2 above.

5.4 The form will also be available on the municipal website and at all secretaries, Internal Audit Department, Risk Management Department and the Legal Section.

- 5.5 The background and history of the concern, giving names, dates and places where possible should be stated and the reason why the individual is particularly concerned about the situation.
- 5.6 Those who are uncomfortable to put their concern in writing can telephone the **George Municipality's Fraud Hotline number 0860 044 044.**
- 5.7 Those who wish to put their concern in email can email the fraud hotline email address: **fraud@george.gov.za**.
- 5.8 The earlier the concern is reported, the easier it is to act and initiate recovery procedures where necessary.
- 5.9 Employees are not expected to prove the truth of an allegation, however, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- 5.10 Advice and guidance on how matters of concern may be pursued can be obtained from Human Resources, alternatively the Senior Manager: Legal and Compliance Services.

6. HOW THE COMPLAINT WILL BE DEALT WITH

- 6.1 The action taken by the Municipality will depend on the nature of the concern. The possible actions may, among others be to:
 - 6.1.1 investigate by line management;
 - 6.1.2 investigate by official internal Investigations Department;
 - 6.1.3 investigate by outsource/co-source investigation to a consultant forensic firm and/or
 - 6.1.4 refer the matter to the SAPS or another relevant law enforcement agency.
- 6.2 In order to protect Individuals and the Municipality, 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 without the need for an investigation.
- 6.4 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.
- 6.5 The relevant Senior Manager, upon receiving a report of the alleged / suspected fraud or corruption, will inform the complainant in writing:
 - 6.5.1 Acknowledging that the concern has been received.
 - 6.5.2 Indicating how he/she proposes to deal with the matter and whether any initial enquiries have been made.
 - 6.5.3 Giving an estimate of how long it will take to provide a final response.

6.5.4 Informing him/her whether further investigations will take place, and if not, why not.

- 6.6 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.
- 6.7 A register containing the matters reported confidential will be kept at the Risk Management Department.

7. CREATING AWARENESS

- 7.1 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 directors and managers to ensure that all employees are made aware of and receive appropriate training and education regarding the Whistle Blowing Policy.

8. VERSION

Version	Date
Revised and amendments approved	30 June 2022

9. APPROVAL

As approved by Council at the Ordinary Council Meeting which was held on 30 June 2022.

Municipal Manager: Dr M Gratz

WHISTLEBLOWER COMPLAINT FORM

(Optional) Name: _____

(Optional) Address: _____

(Optional) Work Phone: _____

(Optional) Home/Cell Phone: _____

Are you an employee of George Municipality? Yes ___ No ___

If yes, what is your position or relationship to the Municipality? _____

1. Identify the person or persons against whom your allegations are made.
2. Describe the nature of your complaint, the incident(s) or event(s), date(s), time(s), and place(s). Attach additional pages to this complaint if necessary.
3. Identify others who may have observed or witnessed the incident(s) that you described.
4. Do you have any documents that support your allegation? (Please list and attach copies).

FOR ALL COMPLAINTS NOT INVOLVING THE MUNICIPAL MANAGER

You may submit this report to fraud@george.gov.za, Internal Audit, the Chief Risk Officer, the Internal Investigator, the Director or Municipal Manager.

FOR ALL COMPLAINTS INVOLVING THE MUNICIPAL MANAGER:

You may submit this report to fraud@george.gov.za, Internal Audit, the Chief Risk Officer, the Internal Investigator or the Executive Mayor.