

# **SWELLEN DAM MUNICIPALITY**



## **REPORTING PROCEDURES FOR ALLEGATIONS OF DISHONEST ACTIVITIES**

**APPROVED BY COUNCIL ON 02 DECEMBER**

**2021 ITEM A160**

**IMPLEMENTATION ON APPROVAL BY COUNCIL**

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## **1. INTERPRETATION**

In this policy dishonest activities refer to any of the following alleged activities:

- financial misconduct;
- financial offences;
- fraud;
- corruption; and
- maladministration or
- any other dishonest activities of a similar nature.

## **2. LEGISLATIVE REQUIREMENTS**

- (a) In terms of regulation 17 (1) of the Regulations for Financial Misconduct and Offences, 2014 a municipality must establish reporting procedures for persons to report allegations of financial misconduct and financial offences on a confidential basis and make public the reporting procedures in accordance with section 21(1)(a) and (b) of the Municipal Systems Act;
- (b) When establishing reporting procedures in terms of regulation 17 (1), a municipality or municipal must take into account its financial and administrative capacity;
- (c) The Municipality's Fraud and Corruption Policy;
- (d) The Municipality's Code of Ethics.

## **3. POLICY STATEMENT**

- (a) The Swellendam Municipality will not tolerate any dishonest activities.
- (b) Dishonest activities will be investigated and actions will be instituted against those found responsible. Such actions may include the laying of criminal charges, civil and administrative/ disciplinary actions and the municipality for recoveries where applicable.
- (c) Prevention, detection, response and investigative strategies will be designed and implemented. These will include any existing controls (system controls and manual internal controls) and those currently prescribed in existing policies, procedures and other relevant prescripts to the activities of the Municipality.
- (d) It is the responsibility of all employees and Councillors to report any alleged dishonest activities that may come to his / her attention, to his / her supervisor. Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing mechanisms e.g. fraud hotline, unanimous letter or informing the Municipal Manager or Executive Mayor or Speaker or the provincial or national treasury as the case may be.
- (e) Any member of the public may report any alleged dishonest activities to the Municipal Manager, or the Executive Mayor, or any other Councillor or official. Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing

mechanisms e.g. fraud hotline, unanimous letter or informing the Municipal Manager or Executive Mayor or Speaker or the provincial or national treasury as the case may be.

- (f) All reports received will be treated with the requisite confidentiality and will not be disclosed or discussed with parties other than those charged with investigation into such reports.
- (g) All Managers are responsible for the detection, and prevention of fraud and corruption, within their areas of responsibility.
- (h) All reports received will be treated with the requisite confidentiality.

#### **4. REPORTING ALLEGED DISHONEST ACTIVITIES**

4.1 Any person must report an allegation of dishonest activities against-

- (a) the accounting officer, a senior manager or the chief financial officer of a municipality, to the municipal council of the municipality, the provincial treasury and the national treasury;
- (b) an official of a municipality other than its accounting officer, to that accounting officer;

4.2 The mayor or the accounting officer, as the case maybe, must table an allegation of financial misconduct before the municipal council, not later than seven days after receipt thereof or at the next sitting of the council.

4.3 The person to whom an allegation of dishonest activities has been reported must ensure that the report is treated in a confidential manner.

4.4 An official against whom an allegation of dishonest activities is made must be given an opportunity to make written representation to the municipality as to why he or she should not be suspended, within seven days of being notified of the allegation.

4.5 Any person making allegations must refrain from making allegations which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations must be subjected to firm disciplinary, or other appropriate action, which action will be without prejudice of the accused person's rights.

#### **5. WHISTLE BLOWERS AND PROTECTION**

5.1 Whistleblowing is recognised as an effective mechanism for detecting discrimination or dishonest activities.

5.2 A whistle-blower who reports suspected fraud and/or corruption may remain anonymous should he/she so desire. Concerns expressed anonymously are difficult to investigate; nevertheless they will be followed up at the discretion of the Accounting Officer. This discretion will be applied by taking into account the following: the seriousness of the issue raised; the credibility of the concern; and the likelihood of confirming the allegation.

5.3 Should staff members or councillors or members of the public wish to report allegations of dishonest activities anonymously, they can also contact or write to any member of management, the Municipal Manager, Executive Mayor, the Speaker or Internal Audit or uses the national fraud hotline – 0800 701 701.

5.4 The Protected Disclosures Act, 2000, (Act 26 of 2000), (hereinafter referred to as the Protected Disclosures Act), offer protection to employees who disclose information relating to an offence or a malpractice in the workplace by his or her employer or fellow employees; and protection for an employee, who has made a disclosure in accordance with the procedures provided for by the Protected Disclosures Act, against any reprisals as a result of such a

disclosure.

5.5 Section 8 of the Protected Disclosures Act, provides that a protected disclosure may be made by an employee or worker to the Public Protector, the South African Human Rights Commission, the Commission for Gender Equality, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Public Service Commission, the Auditor-General or a person or body prescribed by regulation for purposes of section 8 of the Protected Disclosures Act.

5.6 In addition, the Protected disclosures Act Regulations, 2018 (GN 949 of 14 September 2018) allows disclosures to be made to Speakers (Chairpersons of Municipal Councils) in respect of any alleged irregular or improper conduct or impropriety which has a bearing on a Municipal Council.

#### **5.7 Whistle blowers will be protected as follows:**

- a. A whistle blower may remain anonymous should he / she so desire.
- b. No person will suffer any penalty or retribution for reporting in good faith any alleged or actual incident of fraud and corruption which may have occurred within the Municipality.
- c. The Municipality 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.
- d. No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within Swellendam Municipality. This may include: *Harassment or victimisation*. The Municipality acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of revenge from those responsible for the irregularity.
- e. The municipality will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith. 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.

#### **8. REWARD**

Members of the public who report dishonest activities can claim a reward in terms of the council's resolution on rewards. Such reward will only be paid where relevant reported cases are successfully prosecuted either by disciplinary action or legal proceedings.

#### **9. CONFIDENTIALITY**

The municipality 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 whistle-blower may be required as part of the evidence.