



FETAKGOMO TUBATSE
LOCAL MUNICIPALITY

**FETAKGOMO TUBATSE LOCAL MUNICIPALITY
WHISTLE BLOWING POLICY
2023/24**

TABLE OF CONTENTS

1. INTRODUCTION..... 3

2. DEFINITIONS..... 3

3. OBJECTIVES OF THE POLICY. 3

4. APPLICATION OF THE POLICY..... 4

5. LEGISLATIVE FRAMEWORK. 4

6. WHO CAN REPORT?..... 5

7. HARASSMENT OR VICTIMISATION 5

8. GUARANTEES AND PROTECTION. 5

9. FALSE AND MALICIOUS ALLEGATION..... 6

10. REPORTING PROCEDURE. 6

11. HOW THE MUNICIPALITY WILL RESPOND..... 7

12. CREATING AWARENESS. 7

13. REVIEW AND UPDATING THE ANTI-FRAUD AND CORRUPTION POLICY.... 7

14. POLICY APPROVAL. 7

1. INTRODUCTION.

Fetakgomo Tubatse Local Municipality recognises the fact that Criminal and other irregular conduct within Fetakgomo Tubatse Local Municipality is detrimental to good, effective, accountable, and transparent governance within Fetakgomo Tubatse Local Municipality and can endanger the economic stability of the municipality and have the potential to cause social damage. There is a need for procedures in terms of which employees may, without fear of reprisals, disclose information relating to suspected or alleged criminal or other irregular conduct affecting them and/ or the municipality.

Every employer and employee have a responsibility to disclose criminal and any other irregular conduct in the workplace and every employer has a responsibility to take all necessary steps to ensure that employees who disclose information regarding criminal and any other irregular conduct in the workplace are protected from any reprisals because of such disclosure.

2. DEFINITIONS.

Occupational detriment as defined by the Protected Disclosures Act includes being subjected to disciplinary action, dismissed, suspended, demoted, transferred against your will, harassed, denied promotion, subjected to terms and condition of employment or retirement which are altered or kept altered, intimidated, refused a reference, or being provided with an adverse reference, because of your disclosure.

3. OBJECTIVES OF THE POLICY.

3.1 In order to remain in compliance with the Protected Disclosures Act, which came into effect on 16 February 2000, Fetakgomo Tubatse Local Municipality undertakes to:

3.1.1 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

3.1.2 Promote the eradication of criminal and other irregular conduct within Fetakgomo Tubatse Local Municipality.

3.2 The policy is intended to encourage and enable staff to report suspected fraud and corruption activities within Fetakgomo Tubatse Local rather than overlooking a problem or blowing the whistle via inappropriate channels.

4. APPLICATION OF THE POLICY.

There are existing grievance procedures in place within the organisation enabling employees of Fetakgomo Tubatse Local Municipality to raise grievances relating to their employment. This policy is intended to cover concerns that fall outside the scope of grievance procedures.

These concerns in accordance with the Protected Disclosures Act are the following:

- 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 or 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 (PEPUDA) No.4 of 2000 is taking place or is likely to take place.
- g) That any matter referred to in paragraphs (a) to (f) has been being or is likely to be deliberately concealed.

5. LEGISLATIVE FRAMEWORK.

5.1. PROTECTED DISCLOSURES ACT

This policy 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.

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

5.1.1 To protect an employee from being subjected to an *occupational detriment* on account of having made a protected disclosure.

5.1.2 To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure.

5.1.3 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.

6. WHO CAN REPORT?

Any member of staff who has a reasonable belief that there is fraud or corruption or misconduct relating to any of the protected matters specified in Section 4 of this Policy, may report under the procedure as set out in this Policy. Concerns must be raised without malice, in good faith and not for personal gain and the individual must reasonably believe that the information disclosed, and any allegations contained in it are substantially true.

7. HARASSMENT OR VICTIMISATION

7.1 Fetakgomo Tubatse Local Municipality acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisals from those responsible for the irregularity.

7.2 Fetakgomo Tubatse Local Municipality will not tolerate harassment or victimisation and will take action to protect employees against such conduct when they report in good faith.

7.3 Any act of harassment or victimisation should be reported to the Accounting Officer or alternatively, to the Chief Risk Officer.

7.4 Where an employee is already or stands to be the subject of disciplinary or other action, reporting of the nature stipulated in the Protect Disclosure Act, shall not mean that t action will automatically be ceased because of their whistle blowing.

8. GUARANTEES AND PROTECTION.

8.1 Confidentiality regarding the identity of the person reporting under this Policy will be always maintained, and nobody acting in good faith will be penalized for making such disclosure regarding information that might be in the interest of Fetakgomo Tubatse Local Municipality. Every effort will be made not to reveal the identity of the whistle blower unless he/she permit/allow.

8.2 Notwithstanding clause 7.4 above; Fetakgomo Tubatse Local Municipality as employer shall ensure that any employee who makes a disclosure in terms of the Protected Disclosures Act and in circumstances as herein discussed, will not be penalized, or suffer any occupational detriment for doing so.

8.3 Any employee who raises a concern in good faith in terms of the Protected Disclosures Act, will not be at risk of losing their job or suffering any form of retribution as a result. Fetakgomo Tubatse Local Municipality will not tolerate the harassment or victimization of anyone raising a genuine concern.

8.4 A guarantee and protection/assurance regarding occupational detriment can however not be extended to employees who maliciously raise matters they know to be untrue, and action will be taken against such employees.

9. FALSE AND MALICIOUS ALLEGATION.

9.1 Persons intending to report a matter under the Protected Disclosures Act shall guard against making allegations which are false and made with malicious intent.

9.2 In instances where persons do make such false and malicious reports, such persons will not enjoy the protection offered by the Protected Disclosure Act and where cost implications arise due to investigations done and resources allocated based on false allegations, such costs shall be claimed as damages suffered by the Municipality from the person who made the false or malicious allegation.

9.3 An employee who does not act in good faith or who makes an allegation without having reasonable grounds for believing it to be substantially true, or who makes it maliciously, shall be subjected to disciplinary proceedings.

10. REPORTING PROCEDURE.

10.1 Reports of possible fraud or corruption from any internal or external source can be submitted internally to:

- 10.1.1 Line management;
- 10.1.2 Directors;
- 10.1.3 Municipal Manager; or
- 10.1.4 Risk Management Unit.

10.2 Where a person has reported his/her concern through any of the channels described in sub-paragraphs 10.1 above and have substantial reason to believe that there may be a cover-up or that evidence may be destroyed or that the matter might not be handled properly, that person may raise his/her concern in good faith with a Member of the Mayoral Committee of the Municipality.

10.3 Employees and members of the public not wishing to report a matter internally may make reports or Public Interest Disclosures to the following investigating authorities:

- 10.3.1 South African Police Services;
- 10.3.2 Public Protector;
- 10.3.3 Auditor-General; or
- 10.3.4 Any other relevant authority

10.3.5. Audit Committee Chairperson

10.3.6. Risk Management Committee Chairperson

11. HOW THE MUNICIPALITY WILL RESPOND.

11.1 The action taken by the Municipality will depend on the nature of the allegation reported. The possible routes of action open to the Municipality are to:

11.1.1 Investigate internally; and /or refer the matter to South African Police Service or other relevant law enforcement agency, where applicable.

11.1.2 Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form the investigation should take. Allegations raised may not necessarily require an investigation to be resolved.

11.1.3 The frequency of contact between the investigating officer and the person reporting (where not anonymous) will depend on the nature of the allegations raised and the investigations which may be required to be performed. If required and where possible, further information may be sought from the person who made the report.

11.1.4 All investigations will be handled confidentially and will not be discussed with any persons other than those who legitimately have the right to such information.

12. CREATING AWARENESS.

12.1 In order for this Policy to be sustainable, it must be supported by a structured education, communication, and awareness programme.

12.2 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.

12.3 For purposes of reporting by members of the public the Municipal Manager must ensure that this Policy is available on the Municipal website.

13. REVIEW AND UPDATING THE ANTI-FRAUD AND CORRUPTION POLICY.

The policy will be reviewed annually or as and when required to incorporate changes in the legislative framework within Local Government.

14. POLICY APPROVAL.

Number SC08/2023

Council Resolution Number

Date



FETAKGOMO TUBATSE LOCAL MUNICIPALITY

FTLM RESOLUTIONS		FILE NO.															
TOWN	MEET NR	S C M	0	3	2023	TAKEN ON	0	4	0	9	2	0	2	3	ITEM	SC08	2023
JOB DISPOSAL		FOR INFORMATION															
		MUNICIPAL MANAGER															
		DIRECTOR : BUDGET AND TREASURY															
		DIRECTOR : CORPORATE SERVICES															
		DIRECTOR : INFRASTRUCTURE DEVELOPMENT AND TECHNICAL SERVICES															
		DIRECTOR : COMMUNITY SERVICES															
		DIRECTOR : DEVELOPMENT & PLANNING															
		DIRECTOR : LOCAL ECONOMIC DEVELOPMENT & TOURISM															
SUBJECT																	
NR : SC08/2023		Resolution : Request for Approval of Risk, Anti-Fraud and Corruption as well as Compliance Policies and Frameworks															
Resolved																	
<p>1. that Council approved the following Policies and Frameworks :</p> <ul style="list-style-type: none"> a. Anti-Fraud and Corruption Strategy b. Anti-Fraud and Corruption Policy c. Whistle Blowing Policy d. Risk Management Strategy e. Risk Management Framework f. Risk Management Policy g. Risk Management Committee Charter h. Business Continuity Management Summary i. Compliance Management Policy and Framework 																	

Date 04/09/2023

Chairperson of the Municipal Council