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# Whistle Blowing Policy

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2024-2025

ELUNDINI LOCAL MUNICIPALITY  
No. 01 Seller Street, MACLEAR, 5840

**Table of Contents**

Table of Contents..... 1

A. DOCUMENT REVISION HISTORY..... 2

B. DOCUMENT APPROVAL ..... 2

1. INTRODUCTION ..... 3

1 PURPOSE OF THE POLICY ..... 3

2 SCOPE OF THE POLICY ..... 3

3 WHO CAN RAISE A CONCERN?..... 4

4 CULTURE OF OPENNESS..... 4

5 MUNICIPALITY ASSURANCES TO WHISTLE-BLOWERS..... 5

6 FRAUD & CORRUPTION COMPLAINT HANDLING..... 5

7 HOW TO RAISE A CONCERN INTERNALLY ..... 8

8 HOW TO RAISE A CONCERN EXTERNALLY ..... 8

9 CREATING AWARENESS..... 9

10 ADMINISTRATION ..... 9

11 THE WHISTLEBLOWER SERVICE PROVIDER ..... 9

12 REVIEW AND APPROVAL OF THE POLICY ..... 9

**A. DOCUMENT REVISION HISTORY**

Date	Author	Revision	Signature
January 2009	Municipal Manager	First Preparation	
November 2010	Municipal Manager	First Revision	
November 2014	Municipal Manager	2 <sup>nd</sup> Revision	
April 2018	Municipal Manager	3 <sup>rd</sup> Revision	
September 2020	Senior Manager: Strategic Support Services	4 <sup>th</sup> Revision	
July 2022	Senior Manager: Strategic Support Services	5 <sup>th</sup> Revision	
June 2024	Senior Manager: Strategic Support Services	6 <sup>th</sup> Revision	

**B. DOCUMENT APPROVAL**

Policy Revision	Date	June 2024	Version	Version 6
Policy Owner	Municipal Manager			
Policy Consideration	Risk Management Committee		Date	
Signed-off by:	Accounting Officer		Date	
Approved by:	Council		Date:	

## **1. INTRODUCTION**

This policy is intended to make it clear that Elundini Local Municipality (hereafter referred to as “Elundini”) is committed to the fight against fraud and corruption whether the perpetrators are internal or external. The Whistle-blowing policy and procedures is part of the Municipality’s commitment to working towards a culture of openness and transparency. Anti-fraud and corruption policies; Code of conduct and ethics and integrity management strategy are an expression of its commitment in order to promote a high standard of honesty, openness, transparency and accountability. The management encourages staff to raise matters of concern responsibly through the procedures laid down in this policy documents. Confidentiality will be maintained, to the extent provided by the law, and nobody will be penalized for disclosing in good faith, information that might be in the Municipality’s interest.

The employees of Elundini Local Municipality and the public at large may suspect that something is wrong within their Municipality. Hence, they may not wish to express their concerns because they might feel by doing so would be being disloyal to their colleagues or to the Municipality. In lieu of this they might hold back in fear of harassment or even victimization. It is important to note that whistle-blowing if understood correctly, is not about informing in the negative anonymous sense, but rather about raising a concern about a malpractice within your municipality. The Protected Disclosure Act, Act 26 of 2000, provides protection to employees for disclosures made without malice and in good faith, in defined circumstances. In terms of the Protected Disclosure Act employees can blow the whistle on fraud and corruption in the working environment without fear of suffering an occupational detriment as defined by the Act. The Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004 provides for measure to prevent combat corruption and corrupt activities, investigative measures and penalties and related matters.

## **1 PURPOSE OF THE POLICY**

The purpose of this policy is to promote zero tolerance on criminal and other irregular conduct; encourage the reporting of matters that may cause financial or non-financial loss or damage to the municipality’s reputation; and provide appropriate systems and mechanism for reporting.

## **2 SCOPE OF THE POLICY**

This policy is designed to deal with concerns raised in relation to issues relating to fraud, corruption, misconduct and malpractice within Elundini. The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievance, discipline and misconduct. Details on these procedures are obtainable from department of Corporate Services. The policy covers all genuine concerns raised including:

- i. Financial misconduct
- ii. Health and safety risks
- iii. Environmental damage or Unfair discrimination.
- iv. Corruption and misconduct
- v. Attempts to suppress or conceal any information relating any of the above



If in the course of investigation of any concern raised in relation to the above matters it appears to the investigator that concerns raised relate more appropriately to grievance or discipline, those procedures will be evoked.

### **3 WHO CAN RAISE A CONCERN?**

- 3.1. Staff Members, councillors, third parties and community members can raise a concern.
- 3.2. Any member of staff who has a reasonable belief that there is corruption or misconduct relating to any of the matters specified above may raise a concern under the procedure detailed in this policy.
- 3.3. Concerns must be raised without malice, in good faith and not for personal gain and the individuals must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.
- 3.4. The issue raised may relate to a manager, another member of staff, a group of staff, the individual own section or different section of the municipality. The perpetrator can be an outsider, an employee, a manager, a customer or an ex-employee. You may even be aware of a system or procedure in use, which may cause Elundini to transgress legal obligations.
- 3.5. Elundini recognizes that it needs a channel through which suppliers, rate payers and other community members can report irregular activities, free from victimisation. The primary means of detecting fraud will always remain a sound system of internal control and regular internal audits.
- 3.6. These measures will be supplemented with a fraud-reporting channel where information regarding fraud, theft and corruption is collected, and decisive corrective and protective steps are taken to limit the municipality's exposure to further or future loss. Vital to this function is the assurance of anonymity, commitment to investigate all irregularities, protection of the whistle-blower and consistent application of the fraud policy, regardless of the seniority of the alleged offender.
- 3.7. Any suspected or actual fraud must be reported to the Tips-Offs Anonymous number or any of the other number listed on paragraphs 8.2 & 8.3 of this policy. All calls will be treated with the utmost confidentiality.

### **4 CULTURE OF OPENNESS**

- 4.1. Elundini commits itself to encouraging a culture that promotes openness and transparency by involving employees, listening to their concerns and encouraging the appropriate use of this policy/process on whistle blowing promoted by Senior Management.
- 4.2. This policy will be issued to all existing employees and to each new employee.
- 4.3. Employees will be educated and/or training explaining what constitute fraud, corruption and malpractice and its effect on Elundini.
- 4.4. Awareness of standards of appropriate and accepted employee conduct will be promoted and common understanding of what is acceptable will be established.
- 4.5. Unions will be encouraged to endorse and support this approach of having policy to combat fraud.
- 4.6. Annual reporting will be made to Council on the number of fraud/corruption matters reported and the outcomes.

## **5 MUNICIPALITY ASSURANCES TO WHISTLE-BLOWERS**

- 5.1. Elundini Local Municipality will ensure that any member of staff who makes disclosure in the above-mentioned circumstances will not be penalized or suffer any occupational detriment for doing so.
- 5.2. Occupational detriment as defined by Protected Disclosure Act includes being dismissed, suspended, demoted, transferred against your will, harassed or intimidated, refused a reference or being provided with an adverse reference, as a result of your disclosure.
- 5.3. If you raise a concern in good faith in terms of this policy, you will not be at risk of losing your job or suffering any form of retribution as a result.
- 5.4. This assurance is not extended to employees who maliciously raise matters they know to be untrue. A member of staff 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, may be subjected to disciplinary proceedings.
- 5.5. The identity of third parties that raise concerns regarding transgressions of law by municipal officials will not be revealed, except when required by law.
- 5.6. In the view of the protection offered to a member of staff raising a bona fide concern, it is preferable that the individual puts his/her name to the disclosure.
- 5.7. Elundini Local Municipality will not tolerate the harassment or victimization of anyone raising a genuine concern.
- 5.8. However, we recognise that you may nonetheless wish to raise a concern in confidence under this policy. Elundini will not disclose your identity without your concern and will do so when required by law. However, we do expect the same confidentiality regarding the matter from you.
- 5.9. If a situation arises where we are not able to resolve the concern without revealing your identity (for example where evidence is needed in court), we will discuss with you on whether and on how we can proceed.

## **6 FRAUD & CORRUPTION COMPLAINT HANDLING**

- 6.1. It is the responsibility of any recipient of a complaint to promptly report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to the attention of the Municipal Manager.
- 6.2. Where an employee is alleged to have committed an act of fraud, corruption, theft, or maladministration, the Municipal Manager must institute appropriate disciplinary proceedings in terms of the applicable disciplinary procedures Code. This should be done in accordance with the employees' right to a just administrative practice prescribed in the Constitution.
- 6.3. Where a councillor is alleged to have committed an act of fraud, corruption, or theft, the Speaker or Council must institute an investigation in terms of section 13 and 14 respectively, of the Code of Conduct for Councilors as contained in the Municipal Systems Act, read with the applicable regulations.
- 6.4. After finalization of disciplinary hearings pertaining to charges of fraud, corruption, theft, maladministration and other suspected irregularities of this nature, the outcome must be reported promptly to the Municipal Manager administratively and functionally to the Risk Management Committee.
- 6.5. The Municipality shall report all instances of prima facie criminal conduct to the appropriate authorities.
- 6.6. Consistent with section 32 of the MFMA, the Municipal Manager must inform the Executive Mayor, Council, the MEC for Local Government in the Province and the Auditor-General South Africa (AGSA), in writing of: -



- 6.6.1. any unauthorized, irregular, fruitless and wasteful expenditure incurred by the Municipality; and in terms of the Fraud and Corruption Policy, shall also include serious incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature;
- 6.6.2. Whether any person is responsible or under investigation for such unauthorized, irregular or fruitless and wasteful expenditure; and
- 6.6.3. The steps that have been taken-
  - a. To recover or rectify such expenditure; and
  - b. To prevent a recurrence of such expenditure.
- 6.7. The writing off of any unauthorized, irregular, fruitless and wasteful expenditure or any other expenditure incurred as a result of fraud, corruption, theft, maladministration and any other suspected irregularity as irrecoverable, does not prevent criminal or disciplinary proceedings being instituted against a person charged with an offence relating to such expenditure. All legal procedures regulating this type of reporting will be adhered to.
- 6.8. The Municipality may, in terms of this policy and section 176 (2) of the MFMA, recover such losses or damages incurred by the Municipality. Therefore, an employee or councillor, who due to deliberate or negligent unlawful actions, shall be held liable for the recovery of such financial loss,
- 6.9. In pursuance of section 4.7 of this policy, the Municipal Manager may utilize the amendments to the Pension Fund Act, which allows an employer, on registration of a criminal docket with the SAPS, to request the pension fund to freeze the employee's or the councillors' benefit payments who have been allegedly involved in financial misconduct, pending finalization of the criminal prosecution. Due process in this regard will have to be followed at all times.
- 6.10. If the employee or councillor is convicted, any losses caused by their fraudulent actions shall be deducted from the benefits due to them or shall be recovered from the assets owned by the person concerned.
- 6.11. Council, must take all reasonable steps to ensure that cases that are referred to in section 6.7 are reported to the SAPS if-
  - 6.11.1. the charge is against the Municipal Manager
  - 6.11.2. The Municipal Manager fails to comply with that section.
- 6.12. Consistent with section 171(4) of the MFMA, the Municipality shall institute an investigation regarding allegations of financial misconduct against the Municipal Manager, the CFO, any Senior Manager or other official of the Municipality, unless those allegations are frivolous, vexatious, speculative or obviously unfounded; and
- 6.13. If the investigation warrants such a step, Council shall institute disciplinary proceedings against the Municipal Manager, the CFO or any other Senior Manager in accordance with the Disciplinary Code and Procedures for Senior Managers (Notice 1568 of 2009) and Local Government: Municipal Finance Management Act 56 of 2003 (Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, Notice 37699 of 2014).
- 6.14. The Municipality shall also investigate allegations of financial misconduct involving any councillors; such allegations shall be dealt with in terms of the breaches of the Code of Conduct for Councillors as stipulated in schedule 1 of the Systems Act and the Municipality's Rules of Conduct for Councillors.
- 6.15. The Municipality will respond to all concerns and allegations. The investigation of concerns and allegations are not the same as either accepting or rejecting them.
- 6.16. In order to protect individuals and those accused of misdeeds or possible malpractices, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.
- 6.17. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, then this will be taken before any investigation is conducted.
- 6.18. Concerns may be raised verbally or in writing. Those who wish to make a written report are invited to use the following format:

- 6.18.1. the background and history of the compliant (giving relevant dates);
- 6.18.2. the reason why they are particularly concerned about the situation;
- 6.18.3. the extent to which they have personally witnessed or experienced the problem (provide documented evidence where possible).
- 6.19. The earlier they express the concern the easier it is to take action. Although employees are not expected to prove beyond reasonable doubt the truth of an allegation, they will need to demonstrate to the contacted person that there are reasonable grounds for their complaint.
- 6.20. Employees may wish to consider discussing their complaint with a colleague first and they may find it easier to raise the matter if there are two (or more) of them who have had the same experience or concerns. They may invite their trade union representative or a friend to be present during any meeting or interviews in connection with the concerns they have raised.



## 7 HOW TO RAISE A CONCERN INTERNALLY

Should employees and Councillors wish to report allegations, the following steps need to be taken:

STEPS	ACTIONS
<b>STEP 1:</b>	If you have a concern about malpractice, we hope you will feel free to raise it first with your manager/supervisor. This may be done verbally or in writing.
<b>STEP 2:</b>	If you feel unable to raise the matter with your manager/supervisor, for whatever reason, please raise the matter with the Risk Officer/Internal Auditor at 045 932 8182/045 932 8144. Please say if you wish to raise the matter in confidence so that appropriate arrangements can be made.
<b>STEP 3:</b>	If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact the Municipal Manager at 045-932-8106.
<b>STEP 4:</b>	If you feel that your concerns are still not heard, the matter can be referred to the mayor and/or the Speaker at 082 448 6081/082 305 0467
<b>STEP 5:</b>	Should you have exhausted these internal mechanisms or where you have substantial reason to believe that there would be a cover-up that evidence will be destroyed or that the matter might not be handled properly, you may raise the matter in good faith with the Chairperson of the Audit Committee at 083 624 2716.

**NB: All complaints implicating the Internal Audit Units should be reported to the Accounting Officer.**

## 8 HOW TO RAISE A CONCERN EXTERNALLY

- 8.1. While we hope this policy gives you the reassurance you need to raise matters internally, we recognize that there may be circumstances where you can properly report matters to outside bodies, such as regulators or the police. Open Democracy Advice Centre (“ODAC”) at 0800 525 352, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.
- 8.2. While we hope this policy gives you the reassurance you need to raise matters internally, you would rather raise a matter with appropriate regulator than not at all. Provided you are acting in good faith, you are encouraged to contact the following:

Tip-Offs Anonymous at **0800 117 844**

OR

Free Fax at 0800 007 788

OR

Email at [Elundini@tip-offs.com](mailto:Elundini@tip-offs.com)

OR

SMS 32840.

8.3. You may also contact the Public Protector OR the National Anti-Corruption Hotline number:

**Public Protector:**  
**0800 11 2040**  
**OR**  
**National Anti-Corruption Hotline:**  
**0800 701 701**

8.4. If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this policy. While we cannot guarantee that we will respond to all matters in the way that you might wish, we commit ourselves to handle the matter fairly and properly.

## **9 CREATING AWARENESS**

9.1. 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.

9.2. This policy should also be publicized following the process that is being followed by the municipality to ensure that community members are aware of it so that they can use it.

## **10 ADMINISTRATION**

10.1. The custodian of this policy is the Municipal Manager, who is supported in its implementation by the Council, all managers, and staff of Elundini Local Municipality.

10.2. The Municipal Manager is responsible for the administration, revision and interpretation of this policy.

## **11 THE WHISTLEBLOWER SERVICE PROVIDER**

11.1. The municipality shall appoint and maintain the services of a whistle blowing service provider who will manage and report on the whistleblowing channels of the municipality.

11.2. The following shall be the key responsibilities of the whistle blowing service provider:

11.3. To act with honesty and integrity in handling the municipal whistleblowing toll line.

11.4. To report on the whistle blowing activities to the Council or Audit Committee and Risk Management Committee on a quarterly basis.

11.5. To determine the matters for disclosure and/or reporting to the Council and/or to the Audit Committee and Risk Management Committee according to the guidance by the Ethic Institute of South Africa.

11.6. To assist the organisation in escalating and investigating all reported issues accordingly.

## **12 REVIEW AND APPROVAL OF THE POLICY**

12.1. The policy shall be reviewed annually to determine its adequacy and effectiveness for current circumstances and recommend to Council for approval.