HARRY GWALA DEVELOPMENT AGENCY (PTY) LTD

[REG. No: 2011/001221/07]

POLICY: WHISTLEBLOWING

Administrative Responsibility:	Chief Executive Officer
Implementing Department / Departmental Unit	Internal Audit Unit

WHISTLEBLOWING

POLICY DOCUMENT CONTROL

POLICY NUMBER	HGDA
CUSTODIAN	Internal Audit Unit
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Summary of Amendments:

Version	Author	Date	Revised Date
V1	Internal Auditor	02 February 2024	11 April 2024
V2	Internal Auditor		10 November 2025

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1. INTRODUCTION

The employees of the Municipal Entity and the public at large may suspect that something is wrong within their Municipality .Hence they may not wish to express their concern because they might feel by doing so would be being disloyal to their colleague or to the Municipal Entity.

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, it is not about informing in the negative anonymous sense, but rather about raising a concern about a malpractice within your Municipal Entity.

Harry Gwala Development Agency is committed to its Fraud and Corruption Prevention Policy and Strategy .It is also committed to its code of Ethics on order to promote a high standard of honesty, openness, transparency and accountability.

2. DEFINITIONS

For the purpose of this policy, unless the context indicates otherwise:

2.1"**disclosure"** means any reporting of information regarding any conduct of the employer, or an employee, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following:

2.1.1 That a criminal offense has been committed, is being committed or is likely to be committed;

2.1.2 That the person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;

2.1.3 That a miscarriage of justice has occurred, is occurring or is likely to occur;

2.1.4 That the health and safety of an individual has been, is being or is likely to be endangered;

2.1.5 That the environment has been, is being or is likely to be damaged;

2.1.6 Unfair discrimination as contemplated in the Promotion of Equity and Prevention of unfair Discrimination Act 4 of 2000 or

2.1.7 That any matter referred to in sub-paragraph 2.11 to 2.1.6, which are protected in terms of the Protected Disclosures Act 26 of 2000, has been or is likely to be deliberately concealed.

2.2"**employees**" means officials of the Harry Gwala Development Agency.

2.3"**employer**" means the council of the Harry Gwala Development Agency, and the **Municipality Entity** has a corresponding meaning.

2.4 "**fraud**" means any practice that involves acts of deceit or dishonesty by which a benefit is obtained from the Municipal Entity, or where a benefit is obtained by virtue of one's duties or functions within the Municipal Entity, and **fraudulent** has a corresponding meaning.

2.5 "**hotline**" means an anonymous reporting channel through which officials, board members and members of the public can report fraudulent and other irregular activities, free from victimization or repercussions.

2.6 "**whistle-blower**" means a person who informs on someone engaged in a fraudulent or other illegal activity.

3. LEGISLATIVE MANDATE IN RESPECT OF PROTECTED DISCLOSURES

This policy is derived from and must be read in conjunction with the following relevant legislation and guidance, which is not repeated in detail here:

- The Constitution of the Republic of South Africa No. 108 of 1996:
- Municipal Systems Act No 32 of 2000
- Municipal Finance Management Act No, 56 of 2003
- The Protected Disclosures Act, Act No. 26 of 2000, as amended
- South African Criminal Procedure Act No. 51 of 1977
- And Prevention and Combating of corrupt Activities Act, Act No. 12 of 2004

The Protected Disclosure Act provides for the protection of employees who make disclosures in accordance with the procedures provided in the Act, against any reprisals as a result of such disclosure.

4. OBJECTIVES

The objectives of this policy are to:

- Promote zero tolerance on criminal and other irregular conduct within the Harry Gwala Development Agency ;
- Encourage the reporting of matters that may cause financial or non-financial loss to the Municipal Entity or damage to the Municipal Entity's reputation;
- Provide appropriate systems and mechanisms for reporting

5. SCOPE

This policy contains detailed procedures that need to be followed when Board Members, Harry Gwala Development Agency staff Members, Service Providers and Members of the public want to raise and report serious concerns within the Agency on a confidential basis without fear of reprisals.

This policy is not a grievance procedure document. There is an existing grievance procedure in place to enable employees to raise grievances relating to their employment. This whistle blowing policy will help to break the cycle of silence and inaction to minimize fraud and corruption in the agency.

6. REPORTING AND COMPLAINT PROCEDURES

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 Chief Executive Officer.

6.2 Where an employee is alleged to have committed an act of fraud, corruption, theft, or maladministration, the Chief Executive Officer should institute appropriate disciplinary proceedings in terms of the applicable disciplinary procedures Code. This must be done in accordance with the employees' right to a just administrative practice prescribed in the Municipal Systems Act, read with the applicable regulations.

6.3 Where a member is alleged to have committed an act of fraud, corruption, or theft, the Board must institute an investigation in terms of section 13 and 14 respectively, of the Code of Conduct for Board of Directors shall adhere to the Code of Ethics for Board Members and other legislative policies of the Agency

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 Chief Executive Officer administratively and functionally to the Risk Committee.

6.5 The Municipal entity shall report all instances of prima facie criminal conduct to the appropriate authorities.

6.6 Consistent with section 32 of the MFMA and in terms of the Fraud and Corruption Policy, the Chief Executive Officer must inform the Executive Mayor, Board, the MEC for Local Government in the Province and the Auditor-General South Africa (AGSA), in writing of-

a. Any unauthorized, irregular, fruitless and fruitless and wasteful expenditure incurred by the Agency; 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;

b. Whether any person is responsible or under investigation for such unauthorized, irregular or fruitless and wasteful expenditure; and

c. The steps that have been taken-
   i. To recover or rectify such expenditure; and
   ii. 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 offense relating to such expenditure. All legal procedures regulating this type of reporting will be adhered to.

6.8 The Municipal Entity may, in terms of this policy and section 176 (2) of the MFMA, recover such losses or damages incurred by the Municipal Entity. Therefore, an employee or councilor, 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 Chief Executive Officer 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 boards' benefit payment 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 an employee or board member 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 The Board must take all reasonable steps to ensure that cases that are referred to in section 6.7 are reported to the SAPS if-

I. The charge is against the Chief Executive Officer
II. The Chief Executive Officer fails to comply with that section.

6.12 Consistent with section 171(4) of the MFMA, the Agency shall institute an investigation regarding allegations of financial misconduct against the Chief Executive Officer, CFO, any Senior Manager or other official of the Agency, unless those allegations are frivolous, speculative or unfounded; and

6.13 If the investigation warrants such a step, the Board shall institute disciplinary proceedings against the CEO, 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 Financial Management Act, 2003 (Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, Notice 37699 of 2014)

6.14 The Municipal Entity shall also investigate allegations of financial misconduct involving any board members; such allegations shall be dealt with in the terms of the breaches of the Code of Conduct for as stipulated in schedule 1 of the System Act and the Agency's Rules of Conduct for Board members.

6.15 The Municipal Entity 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:

- The background and history of the complaint (with relevant dates)
- The reason why they are concerned about the situation
- 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.

6.21 Should members of the public, and employees wish to report allegations, they can contact the CEO or:

- HGDM Risk Manager: 039 834 5566
- National Anti-Corruption Hotline: 0800 701 701
- SIU email: siu@whistleblowing.co.za
- SIU Hotline: 0800 037 774
- Online Fraud Reporting Portal: www.whistleblowing.co.za
- SIU SMS: 33490

6.22 All complaints implicating Risk and Internal Audit Units should be reported to the Accounting Officer.

6.23 Members of the public, employees and the board can also contact the National Public Service Hotline number at 0800 701 701.

7. HOW THE COMPLAINT WILL BE DEALT WITH

7.1 The action taken by the Municipal Entity will depend on the nature of the concern. The possible actions may, among others be to:

7.1.1 Investigate by line management;

7.1.2 Investigate by official internal Investigations Department;

7.1.3 Investigate by outsource/co-source investigation to a consultant forensic firm

7.1.4 Refer the matter to matter to the SAPS or another relevant law enforcement agency.

7.2 In order In order to protect individuals and the Municipal Entity, 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.

7.3 Some concerns may be resolved without the need for an investigation.

7.4 The amount of contact between the body investigating the issues and the person raising the concern will depend on the nature of the matter raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from the individual.

7.5 The relevant Senior Manager, upon receiving a report of the alleged/ suspected fraud or corruption, will inform the complainant in writing:

7.5.1 Acknowledge that the concern has been received within five (05) working days.

7.5.2 Indicating how he/she proposes to deal with the matter and whether any initial enquiries have been made.

7.5.3 Giving an estimate of how long it will take to provide a final response.

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

7.6 The Municipal Entity 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.

7.7 A register containing the matters reported confidential will be kept at the Risk Management Unit.

8. PROTECTION OF WHISTLE BLOWERS

Harry Gwala Development Agency is committed to good practices/ high standards and want to be supportive of employees and members of the public. The Municipal Entity recognizes that the decision to report a complaint could be a difficult one to make.

Hence if what they are saying is true, they should have nothing to fear, because they will be doing their duty to their employer and those for whom they are providing a service, or as a citizen.

The policy contains several safeguards:

8.1 The Municipal Entity will not tolerate any harassment or victimization (including informal pressures) and will take appropriate action to protect anyone who raises concern in good faith

8.2 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect a member of staff.

8.3 The Municipal Entity will do its best to protect their identity if they raise a concern and do not want their name to be disclosed. However, it must be appreciated that the investigation process may reveal the source of information and a statement may be required as part of the evidence.

8.4 Allegations/ complaints can be made anonymously; however it should be noted that such cases can be more difficult to investigate. The likelihood of action will mainly depend on the seriousness of the issue and the credibility of the allegation/ complaint.

8.5 No action will be taken against whistle blowers if allegations are made in good faith.

8.6 The Protected Disclosure Act was promulgated to facilitate reporting by employees (whistle blowers) of fraud, corruption or other unlawful or irregular actions by their employers(s) or co-employees without fear of any discrimination or reprisal by their employers or co-employees.

8.7 The Municipal Entity recognizes that employes or councilors will be concerned about potential victimization, recrimination and even threats to their personal safety as a consequence of disclosing such fraudulent and/or corrupt activities. The Municipal Entity shall provide measures to protect the information and the identity of the person (when such protection is needed).

8.8 However, malicious and/or false allegations may result in disciplinary action and/or police investigation against such a whistle blower.

9. AWARENESS

The Accounting Officer and the Board recognize that the continuing success of the Whistle Blowing Policy, and its credibility, will depend largely on the effectiveness of staff in the organization and the public at large. In order to be sustainable, continuous awareness campaigns must be rolled Harry Gwala Development Agency.

10. REVIEW AND APPROVAL OF THE POLICY

The Risk Committee must review this policy annually, and determine its adequacy and effectiveness for current circumstances and recommend to the Board for approval

APPROVED BY:

NAME	SIGNATURE	DESIGNATION	DATE
Mr. Q Mnguni		Chief Executive Officer	30 JUNE 2026

APPENDIX A

STANDARD OPERATING PROCEDURES OR PROCEDURE MANUAL

1. INVESTIGATION PROCEDURE

SUSPECTED FRAUD, CORRUPTION, OR IRREGULARITY INVESTIGATION PROCURERS

This procedure is based on and is intended to be guided by, the principles of promptness, fairness and consistency.

- The Chief Executive Officer will appoint a manager to conduct or co-ordinate an investigation into the alleged fraudulent conduct. External consultants may be used for this purpose.
- The Manager assigned responsibility for conducting or coordinating the investigation is to submit a written report, containing details of the circumstance and recommendations to the Chief Executive Officer, Chairperson of the Audit Committee, and the relevant line Manager within 30 days, if the investigation is not concluded within 30 days a preliminary investigation report should be submitted.
- Once an investigation has begun, consideration needs to be to whether it would be appropriate in the circumstances to suspend the subject on full pay until the issue is resolved. Advise should be sought from the Entity Human Resource and the Legal Advisor.
- After consideration by the Chief Executive Officer, if so resolved, the investigator or the Chief Executive Officer (or his/her delegate) will refer the matter to the nearest Police Station for further investigation.
- Internal Audit shall maintain a register of all fraud, theft, and irregular losses reported.
- The Chief Financial Officer (in consultation with the Chief Executive Officer) will be responsible for recovering any funds owed to the Entity as a results of court orders or private treaties with persons found to have been involved infraudulent or corrupt conduct or negotiated settlements.
- An officer appointed by the Entity Manager will maintain files of all reported and working papers relating to investigation of fraud, corruption, or irregular practices.
- A report prepared by the Chairperson of the Audit Committee is to be submitted to the Committee outlining details of any fraud or suspected fraud in the past period.