




ETHICS AND INTEGRITY DEPARTMENT

Whistle Blower Policy **☞SF/E&I/PD/03☞**


ISSUE NO. 01

ISSUED BY: Management Representative

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1.0 POLICY STATEMENT

- 1.1 The National Social Security Fund (NSSF) requires the employees to observe highest standards of business and personal ethics in the performance of their duties and responsibilities and in their interaction with employers, claimants, service providers and other members of the public.
- 1.2 The Board of Trustees (BOT) and the management are committed to enhancing ethics and integrity through whistle blowing and protecting the whistle blowers. This will encourage the whistle blower to provide information that would otherwise have hindered the BOT in achieving its vision of a trusted centre of excellence in the provision social security.
- 1.3 In order to prevent unethical and corrupt practices, it is a good practice for organizations in public and private and non-profit organizations to put in place a whistle blower policy.
- 1.4 It is in the public interest to protect whistle blowers so that they can speak out if they find malpractice in NSSF. Anybody blowing the whistle should know that they are protected from losing their job and/or being victimized or being harmed/threatened as a result of what they have uncovered and made public.

2.0 AIMS AND OBJECTIVES OF THE POLICY

- 2.1 The Policy is intended to encourage employees, employers, claimants, service providers and other stakeholders to report suspected/actual occurrence of unethical, inappropriate or illegal practices without retribution.
- 2.2 The Policy outlines how responsible employees and stakeholders can raise genuine concerns and also be protected in line with the Witness Protection Act 2010, Constitution of Kenya, 2010, Anti-Corruption & Economic Crimes Act (ACECA) 2003, Section 65 on protection of informers, United National Convention Against Corruption (UNCAC) 2003 and International Labour Organization (ILO).
- 2.3 The NSSF Act 2013, has expanded the mandate of NSSF to provide social security and also opened the Fund for competition. This requires that the Fund observes the highest standards of governance and that any suspected malpractices are discovered in good time and dealt with

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to avoid loss of funds and denting the image of the Fund. This impacts negatively the performance of the organization and overall making the Fund unattractive provider for social security.

- 2.4 The Fund will therefore investigate all frauds and/or corruption reported to full conclusion. Malicious allegations will be dealt severely by the Management.

3.0 **POLICY COVERAGE**

- 3.1 The Policy covers, Board of Trustees (BOT), employees of the Fund, employers, contributors, claimants, service providers and other key stakeholders (public, private and non-governmental organisations).

- 3.2 The safe custody of the Fund assets is in the hands of employees who have the highest probability of coming across unethical behaviour, fraud and corruption taking place than other stakeholders. Though it can be difficult to voice a concern about colleagues at the workplace.


- 3.3 The Fund works closely with employers, contributors and service providers such as contractors, suppliers, fund managers and fund administrators.

- 3.3.1 These stakeholders are in a right position to identify cases of suspected fraud or corruption that might affect and cause financial loss or bad reputation to the Fund.

- 3.3.2 The BOT requires these stakeholders to support it in the prevention of fraud and corruption in the Fund. They should also be fair and honest in their dealings with the Fund employees and report any fraud or corruption cases they come. Any help or supportive information required at their disposal should be shared with the relevant designated authorities in the Fund.

- 3.3.3 Some of the areas the above stakeholders have comparative advantage include coming across procurement frauds, insider trading, creditor payments fraud, misappropriation of funds and other corruption offences contrary to the Anticorruption & Economic Crimes Act 2003, The Public Officer Ethics Act, 2003, Public Procurement and Disposal Act 2005 and the Leadership and Integrity Act 2012 or any other relevant law or regulation aimed at enhancing integrity and preventing corruption.

- 3.4 Other key stakeholders such as public organisations, members of the public have a vital role to play in preventing and fighting malpractices.

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Where a stakeholder suspects fraud or corruption, the Fund expects him/her to provide such information and support investigations when launched.


- 3.5 Employees, employers, contributors, claimants, service providers and other stakeholders shall make an accurate record of the incident and promptly report the matter to the M,E&I, the Managing Trustee and any other designated officers specified in section 5.5.
- 3.6 In addition, whistle blowers can also report to any of the organisations listed in section 6 through the whistle blowing channels.

4.0 DEFINITION OF WHISTLE BLOWING

- 4.1 Whistle blowing is the act of reporting any suspected wrongdoing within an organization to person of authority internally or externally. Such wrong doing could include bribery, fraudulent payments, abuse of office, favourism, manipulation of records, wastage of public resources, disclosure of illegal, unethical or harmful practices in the work place, failure to comply with any law or applicable procedures and guidelines relating to procurement and sale of NSSF property among others.
- 4.2 Whistle blowing is also known as *“making a disclosure in the public interest”*.

5.0 PROCESS OF MAKING A COMPLAINT

- 5.1 In order to deal with any unethical behaviour, malpractice, fraud, and corruption effectively, the BOT requests that suspicion be expressed quickly for action to be taken fast.
- 5.2 Whistle blowers should provide the following information as accurately as possible while keeping the information confidential:
 - 5.2.1 The identity of the person/persons involved in the suspected corrupt practice;
 - 5.2.2 A detailed outline of the suspected corrupt practice;
 - 5.2.3 Names of any other persons/witnesses involved;
 - 5.2.4 Time, date and place when the incident took place; and
 - 5.2.5 Details of what was said in the conversation/copies of any documents or probable evidence.


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5.3 Thorough investigation will require this information:-

- 5.3.1 Any reported allegations shall be reviewed by the Manager, Ethics and Integrity or the relevant designated authorities listed in section 5.3.3 to ascertain if it requires investigations and the best course of action to take. The information shall also be shared with the CEO/Managing Trustee to provide the necessary support for thorough investigations.
- 5.3.2 Only the designated authorities shall investigate and therefore the rest must neither investigate a matter by themselves nor convey their suspicions to anyone else as this may jeopardise future investigations.
- 5.3.3 Any Whistle blowers intending to report malpractices shall contact any of the following designated authorities in confidence:
- 5.3.3(i) Supervisor
 - 5.3.3(ii) Head of Division/Department
 - 5.3.3(iii) Manager, Internal Audit & Risk
 - 5.3.3(iv) Manager, Ethics & Integrity
 - 5.3.3(v) CEO/Managing Trustee
 - 5.3.3(vi) Chairman, Internal Audit & Risk Committee
- 5.3.4 Whistle blowers can approach any of the above with the first call being the supervisor or head of department/division. In case, the whistle blower does not have faith in one level, he/she can move to the next one.
- 5.3.5 All information provided shall be treated as top-secret and confidential and where documents are involved they shall be kept secure.
- 5.3.6 The designated officers shall take the oath of secrecy so as to protect the identity of the information and that of the whistle blower.

6.0 AVENUES FOR WHISTLE BLOWING/REPORTING

- 6.1 Corruption reporting boxes placed in strategic functional areas of the Fund, including head office, regions and branches;
- 6.2 Telephone contacts for the CEO/Managing Trustee, Manager, Ethics & Integrity and the other designated authorities.

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6.2.1 The CEO/Managing Trustee contacts are:-

6.2.1(i) Phone: + 254 020 283 2500/2006

6.2.1(ii) Email: MT@nssfkenya.co.ke

6.2.2 Manager, Ethics & Integrity contacts:

6.2.2(i) Phone: + 254 020 283 2176, + 254 020 272-7882

6.2.2(ii) Email: nssfintegrity@gmail.com

6.2.2(iii) Any other special email address for the purpose of whistle blowing.

6.2.3 As need arises, the BOT shall provide other avenues for reporting including subcontracting to independent agencies.

6.2.4 The same avenues shall also be used by external publics to whistle blow.

6.2.5 In case the whistle blower is not comfortable or satisfied with the way a certain information was treated, he/she may report the suspicion or incident to the Ethics & Anti-Corruption Commission (EACC) and other agencies detailed here:

6.2.5(i) The Director/Chief Executive
Ethics & Anti-Corruption Commission
Integrity Centre
Milimani Road/Valley Road Junction
P. O. Box 61130-00200 Nairobi
Tel: (020)2717318, 310722, 2100312/3
Mobile: 0729 88881/2/3
Email: report@integrity.go.ke


EACC Reporting Centre and Whistle blower reporting system

EACC Hotline numbers: 020-2717468. 0727-285663, 0733-520641

Hot fax: (020) 2717473

Email: report@integrity.go.ke

6.2.5(ii) The Commission on Administration of Justice/
Ombudsman,
P. O. Box 20414-00200 Nairobi

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Email: complain@ombudisman.go.ke,
www.ombudsman.go.ke

6.2.5(iii) Criminal Investigation Department (CID), Kenya Police. +254 20 512090/1; P.O. Box 30036 - 00100 Nairobi; www.KenyaPolice.go.ke.

6.2.5(iv) Inspectorate of State Corporations P.O. Box 54457-00200, Nairobi, Kenya, Tel: +254-20-2227411, Fax, +254-20-316801.

7.0 PROCESS FOR DEALING WITH COMPLAINTS


- 7.1 All reports related to corruption and fraud will be dealt with expeditiously once received by the respective designated authorities.
- 7.2 The action to be taken will depend on the nature of the allegation. The matter will first be investigated and appropriate action taken to establish the facts.
- 7.3 Fraud and corruption cases may as well be forwarded to the Ethics and Anti-Corruption Commission (EACC) as the agency responsible for anti-corruption, referred to the Criminal Investigation Department, or subjected to an independent inquiry as shall be determined by the Board of Trustees (BOT).

8.0 FEEDBACK TO COMPLAINTS

- 8.1 The CEO/Managing Trustee, the Manager, Ethics and Integrity and the other respective designated whistle blower focal points shall acknowledge all the complaints received where possible within seven days depending on the avenue used.
- 8.2 Feedback from an investigation may be limited especially if disclosing certain information in anyway may jeopardise the on-going investigation.

9.0 RECORDING COMPLAINTS

- 9.1 The Manager, Ethics and Integrity shall be the focal point for all the allegations concerning employees and shall maintain a register of all complaints. The reports shall be reported formally to the Fund Corruption Prevention Committee (FCPC), the Ethics and Anti-Corruption Commission (EACC) and other relevant state agencies quarterly.

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9.2 The designated authority for allegations against the NSSF Senior Management and the Board Members shall be the Chair, Internal Audit & Risk Committee.

10.0 CONFIDENTIALITY AND ANONYMOUS ALLEGATIONS

10.1 Whistle blowers confidentiality shall always be respected. The identity of a whistle blower shall not be disclosed without their consent. However, for the purposes of investigation, sometime, it may be necessary to disclose the source of the data or information as the process of investigation continues. This will however be discussed with the whistle blower and the procedure of disclosure.

10.2 Anonymous allegations received shall be probed though it is much more difficult to investigate such a matter as information supplied may not be sufficient and may not be possible to go back for clarifications.

11.0 PROTECTION OF WHISTLE BLOWERS

11.1 Timely and effective whistle blowing and corruption reporting in NSSF is supported by a strong policy on protection of whistle blowers.

11.2 The Fund shall protect identity of persons making corruption disclosures. Information that may identify persons disclosing corrupt activities shall not be made public. However, if it becomes necessary, the same shall be discussed with the person making the disclosures. The BOT shall not tolerate any attempt on the part of an employee, stakeholder or contractor (suppliers, external consultant's e.t.c) to apply any pressure, sanction, harassment or victimization on any whistle blower.


11.3 A whistle blower is protected from victimization/threat/harm if he is:

11.3.1 A Worker

11.3.2 Revealing information of the right type by making what is known as a 'qualifying disclosure'.

11.3.3 Revealing it to the right person, in the right way and making it 'protected disclosure'.

11.4 To be protected, one need to reasonably believe that a malpractice in the work place is happening, has happened or will happen. One needs also to make a disclosure in the right way. One may not be protected if they break another law in blowing the whistle.

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11.5 In order for a disclosure to a 'prescribed person' to be protected, you must fulfill the following requirements:

- 11.5.1 Make the disclosure in good faith;
- 11.5.2 Reasonably believe that the information is substantially true; and
- 11.5.3 Reasonably believe you are making the disclosure to the right 'prescribed person'.

11.6 The Fund shall not allow any retaliation or discrimination of any kind from its employees against any employee and stakeholders who has submitted a complaint in good faith and has reasonable grounds for believing a malpractice has taken place.

11.7 The Fund shall not discharge, demote, suspend, threaten, harass, dismiss, reduce salary, delay or deny promotion, redress, punitive transfer or in any other manner discriminate or retaliate against an employee or stakeholder (supplier, consultant) who lawfully provides information to the authorities regarding any conduct which the employee reasonably believes constitutes a malpractice in NSSF or violation of the laws of Kenya.

11.8 The Fund is committed to providing support to whistle blowers in case their lives are threatened due to disclosures they have provided to the Fund.

11.9 Malicious allegations are forbidden and shall be punished by the Management to deter such behaviour.


11.10 Allegations made in good faith but not proven by investigation will not warrant disciplinary measure against the whistle blower or complainant.

11.11 Where necessary, to protect the identity of the whistle blower, use of pseudonym names or serial numbers shall be used.

11.12 NSSF shall reward and or give letters of commendation to whistle blowers as shall be found appropriate.

11.13 A strong room shall be available to store sensitive information and documents provided by the whistle blower.

11.14 Minimization of the number of persons who may come in contact with the whistle blower shall be observed to protect the information and the identity of the whistle blower.

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11.15 Where a whistle blower is a witness in court and is threatened, the matter should be referred to the Kenya Witness Protection Agency (KWPA).

12.0 Review of the Policy

12.1 The Policy will be subjected to annual review to ensure it is relevant and speaks to the ever changing socio-economic environment in the Fund and in Kenya.

12.2 The responsibility for review of the Policy rests with the Manager, Ethics & Integrity in consultation with the CEO/Managing Trustee.

13.0 ADOPTION OF THE POLICY

13.1 The policy is effective from the date of approval by the Board of Trustees and signed by the Chairman and CEO/Managing Trustee.