



## **ETHICS AND INTEGRITY DEPARTMENT**

### **Whistle-Blower Protection Policy**

**☞SF/E&I/PD/06☞**

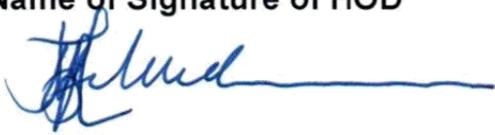
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**ISSUED BY: Management Representative**



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| TITLE OF DOCUMENT | WHISTLE BLOWER POLICY |  |
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**DOCUMENT APPROVAL PAGE**

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| <b>NATIONAL SOCIAL SECURITY FUND</b>                   |   |  |
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|  | Prepared by:  | <b>George Aming'a</b>   |
| TITLE:<br><b>NSSF Whistle Blower Protection Policy</b> | <b>Name of Signature of HOD</b><br><br>David Mwangangi<br><b>MANAGER, ETHICS &amp; INTEGRITY</b> | Date: <i>16/02/2021</i>   |
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## 1.0 POLICY STATEMENT

- 1.1. The National Social Security Fund requires the employees to observe highest standards of business and personal ethics in the performance of their duties and responsibilities 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 whistle-blowers and informers. This will encourage the whistle blower or informer to provide information that would otherwise have hindered the BOT in achieving its vision as the trusted social security provider.
- 1.3. In order to effectively prevent unethical and corrupt practices, it is a good practice for organizations in public, private and non-profit organizations to put in place a whistle-blower protection policy.
- 1.4. It is in the public interest to protect whistle blowers and informers so that they can speak out freely if they find malpractices 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 PURPOSE

- 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 Bribery Act, 2016, Access to Information Act, 2016, Witness Protection Act, 2010, Constitution of Kenya, 2010, Anti-Corruption & Economic Crimes Act (ACECA), 2003, United Nations 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 to avoid loss of funds, denting the image of the Fund, impacting negatively the performance of the organization and overall becoming unattractive provider for social security.

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

### **3.0 SCOPE**

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. The staff are therefore expected to report to the relevant authorities any activity or dealings that could lead to losses of Fund assets or damage its image.

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 the right position to come across cases of suspected fraud or corruption that might affect, cause financial loss or bad reputation to the Fund.

3.3.2. The BOT requires these stakeholders to support it in the prevention of unethical behaviour, fraud or corruption. They should also be fair and honest in their dealings with the Fund employees and report any fraud or corruption cases that come to light. Any help or information at their disposal should be shared with the relevant designated authorities in the Fund for speedy and effective investigations.

3.3.3. Some of the areas the above stakeholders have comparative advantage include coming across procurement frauds, insider trading, creditor payment fraud, misappropriation of funds and other corruption offences contrary to the Anti-Corruption & Economic Crimes Act, 2003, the Public Officer Ethics Act, 2003, Public Procurement and Asset Disposal Act, 2015, the Leadership and Integrity Act, 2012, Bribery Act, 2016 or any other relevant law or regulation aimed at enhancing integrity and preventing corruption.

3.3.4. Other key stakeholders such as public organisations and members of the public have a vital role to play in preventing and fighting malpractices. Where a stakeholder suspects a fraud or corruption, the Fund expects him/her to provide such information and support in investigations when launched.

3.3.5. Employees, employers, contributors, claimants, service providers and other stakeholders shall make an accurate record of the

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incident and promptly report the matter to the MT/CEO, Manager, Ethics and Integrity, and any other designated officers specified in section 5.5.

3.3.6. In addition, whistle blowers and informers can also report to any of the organisations listed in section 6 through the whistle blowing channels.

#### **4. DEFINITION OF WHISTLE BLOWING**

4.1. Whistle blowing is the act of reporting any suspected wrongdoing within an organization to a person of authority internally or externally. Such wrongdoing could include bribery, fraudulent payments, abuse of office, favoritism, 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. PRINCIPLE RESPONSIBILITY**

The Manager Ethics and Integrity shall be responsible for the overall implementation of this policy from the corporate level to all function areas

#### **6. PROCESS OF MAKING A COMPLAINT**

6.1. 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 promptly.

6.2. Whistle blowers and informers should provide the following information as accurately as possible while keeping the information confidential:-

6.2.1. The identity of the person/persons involved in the suspected corrupt practice;

6.2.2. A detailed outline of the suspected corrupt practice;

6.2.3. Names of any other persons/witnesses involved;

6.2.4. Time, date and place when the incident took place; and

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6.2.5. Details of what was said in the conversation/copies of any documents or probable evidence.

NB. Thorough and effective investigation will require the above information (5.2.1 to 5.2.5)

6.3. Any reported allegations shall be reviewed by the Manager, Ethics and Integrity or the relevant designated authorities listed in section 5.5 to ascertain if it requires investigations and the best course of action. The information shall also be shared with the Managing Trustee/CEO to provide the necessary support for thorough investigations.

6.4. Only the designated authorities shall investigate whereas the rest must neither investigate a matter by themselves nor convey their suspicions to anyone else as this may jeopardise future investigations.

6.5. Any Whistle-blowers or informers intending to report malpractices shall contact any of the following designated authorities in confidence:-

6.5.1. Supervisor

6.5.2. Head of Division/Department

6.5.3. Manager, Internal Audit & Risk

6.5.4. Manager, Ethics & Integrity

6.5.5. Managing Trustee/CEO

6.5.6. Chairman, Internal Audit & Risk Committee

6.6. Whistle-blowers and informers 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. All information provided shall be treated as top-secret and confidential and where documents are involved they shall be kept secure.

6.7. The designated officers shall take the oath of secrecy so as to protect the identity of the information and of the whistle-blower or informer.

## **7. AVENUES FOR WHISTLE BLOWING/REPORTING**

7.1. Corruption reporting boxes placed in strategic functional areas of the Fund, including head office, regions and branches.

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7.2. Telephone contacts for the Managing Trustee/CEO, Manager, Ethics & Integrity and the other designated authorities.

7.2.1. The Managing Trustee/CEO contacts are:-

Phone: + 254 020 283 2500/2006

Email: [MT@nssfkenya.co.ke](mailto:MT@nssfkenya.co.ke)

7.2.2. Manager, Ethics & Integrity contacts:-

Phone: + 254 020 283 2090,

Email: [nssfintegrity@gmail.com](mailto:nssfintegrity@gmail.com)

Any other special email address for the purpose of whistle blowing.

7.2.3. As need arises, the BOT shall provide other avenues for reporting including subcontracting the focal point for whistle-blowing to an independent agency. The agency shall review allegations and forward to NSSF cases that warrant further investigation.

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

7.2.5. In case the whistle blower or informer 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:-

7.2.5.1 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](mailto:report@integrity.go.ke)

EACC Reporting Centre and Whistleblower reporting system  
EACC Hotline numbers: 020-2717468. 0727-285663, 0733-520641  
Hot fax: (020) 2717473  
Email: [report@integrity.go.ke](mailto:report@integrity.go.ke)

7.2.5.2 The Commission on Administration of Justice/Ombudsman  
P O Box 20414, 00200, Nairobi  
Email: [complain@ombudisman.go.ke](mailto:complain@ombudisman.go.ke),  
Website: [www.ombudsman.go.ke](http://www.ombudsman.go.ke)

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7.2.5.3 Directorate of Criminal Investigations (DCI),  
Kenya Police Service. +254 20 512090/1;  
P.O. Box 30036 - 00100 Nairobi;  
[www.KenyaPolice.go.ke](http://www.KenyaPolice.go.ke).

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

7.2.5.5 Any relevant professional or regulatory body

## 8 PROCESS FOR DEALING WITH COMPLAINTS

- 8.1 All reports related to corruption and fraud will be dealt with expeditiously once received by the respective designated authorities.
- 8.2 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.
- 8.3 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 Directorate of Criminal Investigations (DCI), or subjected to an independent inquiry as shall be determined by the Board of Trustees (BOT)

## 9 FEEDBACK TO COMPLAINTS

- 9.1 The Managing Trustee/CEO, the Manager, Ethics and Integrity and the other respective designated whistle blower focal points shall acknowledge all the complaints received where possible within seven (7) days depending on the avenue used.
- 9.2 Feedback to the whistle blower or informer will indicate how NSSF intends to deal with the matter and the estimated time it will take to conclude the probe.
- 9.3 Feedback from an investigation may be limited especially if disclosing certain information in anyway may jeopardise the on-going investigation.

## 10 RECORDING COMPLAINTS

- 10.1 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

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Prevention Committee (FCPC) quarterly or other relevant agencies as appropriate.

10.2 The designated authority for allegations against the NSSF Senior Management and the Board of Trustees shall be the Chair, Internal Audit & Risk Committee or as shall be determined from time to time.

## **11 CONFIDENTIALITY AND ANONYMOUS ALLEGATIONS**

11.1 Whistle-blowers or informers' confidentiality shall always be respected. The identity of a whistle blower or informer 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.

11.2 All correspondence entered into the whistleblowing process are confidential, whether a person making the disclosure wishes to remain anonymous or not.

11.3 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.

## **12 PROTECTION OF WHISTLE-BLOWERS: ELIGIBILITY CRITERIA**

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

12.2 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 consultants etc) to apply any pressure, sanction, harassment or victimization on any whistle blower or informant.

12.3 All employees of the Fund and other stakeholders are eligible to make protected disclosures under this Policy. The protected disclosures may be in relation to matters concerning the Fund.

12.4 While under this Policy, genuine whistle-blowers or informants are accorded complete protection from any kind of unfair treatment, harassment, discrimination or victimization, as set out herein, any abuse of this protection

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will warrant disciplinary action for members of staff and as appropriate for other stakeholders.

12.5 Protection under this Policy does not confer protection from disciplinary action arising out of false or malicious allegations made by a whistle-blower knowing it to be false or with a malicious (*mala fide*) intent.

12.6 Whistle-blowers and informers, who make any protected disclosures, which have been subsequently found to be *mala fide* or malicious and whistle-blowers or informants who make three (3) or more protected disclosures, which have been subsequently found to be frivolous, baseless or reported otherwise than in good faith, will be disqualified from protection under this Policy.

12.7 A whistle blower or an informer is protected from victimization/threat/harm if he/she is:

12.7.1 A staff;

12.7.2 Customer, member, employer, service provider, or any other stakeholder;

12.7.3 Revealing information of the right type by making what is known as a 'qualifying disclosure; and

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

12.7.5 To be protected, one needs 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.

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

12.8.3 Make the disclosure in good faith;

12.8.4 Reasonably believe that the information is substantially true; and

12.8.5 Reasonably believe you are making the disclosure to the right 'prescribed person'.

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- 12.9 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.
- 12.10 The Fund shall not discharge, demote, suspend, threaten, harass, dismiss, reduce salary, delay or deny promotion, redress, punitive transfer (or to unfavourable location) 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 which may lead to damage of the organisation.
- 12.11 The Fund is committed to providing support to whistle blowers and informants in case their lives are threatened due to disclosures they have provided to the Fund.
- 12.12 Malicious allegations are forbidden and shall be punished by the Management to deter such behaviour.
- 12.13 Allegations made in good faith but not proven by investigation will not warrant disciplinary measure against the whistle blower or informant.
- 12.14 Where necessary, to protect the identity of the whistle blower, use of pseudonym names or serial number shall be used.
- 12.15 NSSF shall reward and or give letters of commendation to whistle blowers and informants as shall be found appropriate.
- 12.16 A strong room shall be available to store sensitive information and documents provided by the whistle blower.
- 12.17 Minimization of the number of persons who may come in contact with the whistle blower or informant shall be observed to protect the information and the identity of the whistle blower.
- 12.18 Where a whistle blower or informant is a witness in court and is threatened, the matter should be referred to the Kenya Witness Protection Agency (KWPA).

### **13 REVIEW OF THE POLICY**

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13.1 The Policy will be subjected to regular reviews to ensure it is relevant and speaks to the ever changing socio-economic environment in the Fund and in Kenya.

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

#### **14 ADOPTION OF THE POLICY**

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

#### **15 BUSINESS CONTINUITY**

In the event of a disruption of business activities, the Manager Ethics & Integrity Department, shall invoke the Business Continuity Plan (BCP) - SF/E&I/BCP/01 to ensure continuity of business operations.