




**mictseta**

MEDIA, ADVERTISING, INFORMATION AND COMMUNICATION TECHNOLOGIES  
SECTOR EDUCATION TRAINING AUTHORITY

Accelerating quality skills towards an information savvy society

## WHISTLE BLOWING POLICY

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Recommended by Audit Committee (Resolution)	
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## **1. PURPOSE**

The purpose of this document is to promote whistle-blowing culture and guidance on how to report alleged corruption, fraud and maladministration.

## **2. SCOPE**

This policy applies to the activities of the Isett Seta in all the regions.

## **3. REFERENCE**

Public Finance Management Act, Act 1 of 1999  
Protected Disclosure Act, 26 of 2000  
A guide for Public Sector Manager  
Corruption Act, Act 94 of 1992  
Public Finance Management Act, Act 1 of 1999  
Treasury Regulations  
Isett Seta's Supply Chain Policy  
Isett Seta's Fraud Management Policy

## **4. DEFINITIONS**

"CEO" means the Chief Executive Officer of the Isett Seta  
"CFO" means the Chief Financial Officer of the Isett Seta  
"ACCOUNTING AUTHORITY" means the Board of the Isett Seta  
"FM" means the Financial Manager of the Isett Seta  
"SM" means a Senior Manager of the Isett Seta  
"RM" means the Regional Manager of the Isett Seta

## **5. BACKGROUND**

Whistle-blowing is important because it can be seen as serving as an early warning system to avert possible risks to the organization. An effective policy to encourage whistle-blowing enables employers to find out when something is going wrong in time to take the necessary corrective action.

Whistle-blowing has been promoted by the Public Service Commission and has been recognized as an important corruption prevention tool by a number of Public Sector Departments.

In South Africa the Protected Disclosure Act (no 26 of 2000) makes provision for procedures in terms of which employees in both the Public Sector and Private Sector who disclose information of unlawful or corrupt conduct by their employers or fellow employees are protected from occupational detriment. This law is to encourage honest employees to raise concerns and report wrong doing within the workplace without fear.

### **The Protected Disclosure Act 2000**

The Protected Disclosure Act sets out a clear and simple framework to promote responsible whistle-blowing by:

- Reassuring workers that silence is not the only safe option,
- Providing strong protection for workers who raise concerns (internally)
- Reinforcing and protecting the right to report concerns to the public protection agencies such as the Public Protector and Auditor General,
- Protecting more general disclosures provided that there is a valid reason for going wider and the particular disclosure is a reasonable one.

At its core, the Protected Disclosures Act contains simple principles that it is in the common interest of both the employer and the responsible potential whistle-blower (employee) to blow the whistle internally within the Department rather than to the media.

### **Protected Disclosures**

A disclosure is a “protected disclosure” under the Protected Disclosure Act if:

- The disclosure contains information about “impropriety” and
- The disclosure has been made, according to the scheme established by the Act “The Four Doors to Legal Protection”

### **Potential cost to employers**

If a disclosure is protected it means that any ‘occupational detriment’ that the employee who made the disclosure subsequently suffers as a result of the disclosure will attract a legal remedy. “Occupational detriment is very widely defined by the Protected Disclosures Act and includes harassment, dismissal, transfer against the will of the employee, non promotion, a denial of appointment, or otherwise adversely affected”.

### **Impropriety**

The Protected Disclosure Act applies to people at work raising concerns about:

- Crime

- Failure to comply with any legal duty (including negligence, breach of contract, breach administrative law),
- miscarriage of justice,
- danger to health and safety,
- damage to the environment,
- discrimination and deliberate cover-up of any of these.

It applies to concerns about past, present and future malpractice.

### **The Four Doors to Legal Protection**

- Legal Advice
- An Internal disclosure
- Regulatory disclosures
- Wider disclosures

### **Corruption Act, 94 of 1992**

Definition of Fraud and Corruption

Fraud is defined as the unlawful making, with intent to defraud, a misrepresentation, which causes actual or which is potentially prejudicial to another.

In layman's definition, corruption is defined as the giving of direct or indirect compensation; to whom it is not due; for something he should not do; or not doing something he should do.

### **The Many Faces of Fraud and Corruption**

The principal categories of fraud or white-collar crime are:

#### **1. Concealment of Material facts**

This is a situation where the victim relies and acts on information that does not include material facts. An action for a fraud may be based on the concealment of material facts, but only if the defendant had a duty in the circumstances to disclose.

Those people who occupy a special relationship of trust, such as the officers or directors of a corporation, an attorney, accountant, trustee, stockbroker or other agent, may be found to have a duty to fully and completely disclose material facts to the parties who rely upon them.

#### **2. Bribery**

Bribery is defined as the:

Giving or receiving...

A thing of value....

To influence an official act.

The thing of value isn't limited to cash or money. Courts have held that such things as lavish gifts and entertainment. Payment of travel and lodging expenses, payment of credit card bills, "loans", promises of future employment, and interests in business can be bribes if they were given or received with the intent to influence or be influenced.

#### **3. Conflict of Interest**

Conflict of interest is a situation where an official intentionally participates in a transaction in which he has a personal interest or his close friend or relatives have an interest. This results in a profit being made from insider knowledge.

#### **4. Theft of money or property**

- This occurs where employees:
- Take office supplies and equipment e.g. printing paper, writing pens, pencils, lap tops for private use.
- Stealing company funds
- Taking credit for work not done
- Lying to a boss or co-worker
- Taking unauthorised leave.
- Destroys, removes or abuses records and equipment.
- 

#### **5. Theft of trade secrets or intellectual property**

This occurs when employees or competitors steal customer mailing lists and marketing strategies. It also involves stealing of product formulas and pricing policy.

#### **6. Breach of fiduciary duty**

This occurs when employees in position of trust like Company Directors and Executive Management act for their self interest than the interest of the organisation. It also includes disclosing confidential or proprietary information to outside parties for financial or other advantage.

### **Conditions That Make Fraud and Corruption Possible**

#### **1. Motive**

The following are listed as nine motivators that make people commit fraud:

- Living beyond means
- Overwhelming desire for personal gain and wealth
- High personal debt
- Close association with customers
- Pay not commensurate with job
- Strong challenge to beat the system
- Excessive gambling
- Family and peer pressure
- Extra marital relationships

#### **2. Opportunity**

This is a situation where the fraudster violates a trust by taking advantage of an absence or lapse of control in an organisation.

Here are some examples of opportunities:

- Nobody counts the inventory, so losses are not known
- The petty cash box is often left unattended.
- Another employee was caught and fired, but not prosecuted
- Senior management drafted statement of ethics but decided not to publish it.
- Frequent emergency jobs leave a lot of excess material just lying around.
- Poor internal control system.
- Poor staff vetting.

- No early warning recognition.
- Low chance of detection/disciplinary action.

### 3. Integrity

Unimpeachable integrity is the ability to act in accordance with the highest moral and ethical values all the time. People who lack integrity will normally rationalise their deeds like:

- I am borrowing the money and will pay it back
- The company is big enough to afford it
- Nobody will get hurt
- Everybody is doing it

These three are also known as the fraud triangle. If motive and opportunity increases and integrity reduces fraud will be committed and vice versa.

### Characteristics of People Who Commit Fraud and Corruption

There are certain characteristics which accompany people who commit fraud. The following are just a few of the so many identified:

- They are very respectable in society
- They attend church
- They are likely to be married
- Most of them are graduates
- They are trusted employees
- They are the first to arrive at work and they are the last to leave the office.
- They do not normally go on leave
- Even when they are overloaded with work they are unwilling to delegate lest somebody will discover what they do.

### Red Flags or Indicators of Fraud

- Lavish entertainment with friends and colleagues.
- Luxury cars
- Drink too much
- Lose sleep
- Can not look people in the eye
- Work alone, work late
- Changed life style without justifiable source of income
- Holidays to expensive destinations
- Children attending an expensive school without justifiable source of income.
- Autocratic rule
- Easily upset and defensive
- Giving an explanation without being asked to do so.
- Agitated when auditors have arrived
- Giving auditors unreasonable deadlines to complete their work.

### Isett Seta's code of conduct

Isett Seta's Code of Conduct acts as a guideline to employees of Isett Seta as to what is expected of them from an ethical point of view, both in their individual conduct and in their relationship with other people. Compliance with the Code of Conduct will enhance professionalism and help to ensure public and employer confidence in the dealings and purposes of Isett Seta.

Any infringement of the Isett Seta's Code of Conduct shall render an employee liable to be charged with misconduct according to Isett Seta's Disciplinary Code and Procedure.

The primary purposes of the Code of Conduct are to:

- 1.1 indicate the spirit in which employees should perform their duties; and
- 1.2 promotes exemplary conduct by employees in public and private life.

**2. An employee shall:**

- 2.1 respect and protect every person's dignity and rights as contained in the Constitution of the Republic of South Africa, 1996;
- 2.2 acknowledge the cultural and ethnic diversity within Isett Seta and promote a culture of mutual tolerance;
- 2.3 comply with the conditions of service as contained in all the directives of Isett Seta;
- 2.4 Perform to the best of his/her abilities all duties and functions reasonably assigned to him/her by or on behalf of Isett Seta and which are in accordance with his/her duty sheet; provided these are not contrary to the provisions of the Constitution of the Republic of South Africa, 1996 and/or any other statutory labour prescripts e.g. Labour Relations Act, 1995, Basic Conditions of Employment Act, 1998 etc.
- 2.5. adhere to the Disciplinary Code and Procedures of Isett Seta;
- 2.6 obey all lawful and reasonable orders or directions of Isett Seta or any person on its behalf, as delegated;
- 2.7 respect other employees' right of association (right to join any trade union or political party of his/her own choice);
- 2.8 use any assets of Isett Seta entrusted to him/her with the utmost care;
- 2.9 devote his/her time and attention during Isett Seta's normal business hours to the activities and affairs of Isett Seta;
- 2.10 use his/her utmost endeavour's to protect and promote the activities, interests and the public image of Isett Seta and to preserve its reputation and goodwill;
- 2.11 be true and faithful to Isett Seta in all dealings and transactions relating to its activities and interests;
- 2.12 disclose to Isett Seta all acts and omissions which may constitute a breach by any employee or his/her obligations to Isett Seta from whatsoever cause may arise;
- 2.13 work at Isett Seta premises or such other place as mutually agreed;
- 2.14 submit such information, software, hardware, designs and reports as may be required of him/her in connection with the performance of his/her duties and the work of Isett Seta;



- 2.15 on termination of his/her service, return all documents or paper-work (including but not limited to reports, manuals, financial statements, budgets, research papers, letters or similar documents and all capital equipment) which were created, compiled or devised or brought into being by the employee or came into his/her possession during his/her employment by Isett Seta and all copies thereof;
- 2.16 recognise the public's right of access to information, excluding information that is specifically protected by law;
- 2.17 refrain from favouring relatives and friends and never abuse his/her authority or influence another employee or be influenced to abuse his/her authority;
- 2.18 use the appropriate channels to air his/her grievances or to direct representations;
- 2.19 be committed to the optimal development. Motivation and utilisation of his/her staff and the promotion of sound labour and interpersonal relations;
- 2.20 refrain from party political activities and discussions;
- 2.21 accept the responsibility to avail him/her of on-going training and self-development throughout his/her career;
- 2.22 promote sound, efficient, effective, transparent and accountable administration;
- 2.23 be punctual in the execution of his/her duties (meeting deadlines);
- 2.24 execute his/her duties, dress and behave in a manner that enhances the reputation of Isett Seta; and
- 2.25 act within the boundaries of Isett Seta policies;

### **3. An employee shall not:**

- 3.1 commit an act which will infringe any constitutional rights of any other employee or member of the public;
- 3.2 unfairly discriminate against any other employee member of the public on account race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language;
- 3.3 abuse his/her position in Isett Seta to promote or prejudice the interest of any political party or interest group;
- 3.4 during the course of his/her employment or thereafter use to his/her own benefit or the benefit of any other person or divulge or communicate to any unauthorised person or persons any of Isett Seta's secrets or any other information which he/she may receive or obtain in relation to the affairs of Isett Seta, its clients and service providers;

- 3.5 conduct himself in a disgraceful, improper, discourteous or unbecoming manner towards any employee of Isett Seta or any other person while on duty or on the premises of Isett Seta;
- 3.6 willfully make an incorrect or false statement in order to obtain any advantage to which he is not entitled to or which may detrimentally affect the reputation of Isett Seta;
- 3.7 absent himself/herself from work his/her workplace without the permission of his/her supervisor;
- 3.8 display insubordination, whether by word or conduct;
- 3.9 use vulgar or insulting language towards any other employee or member of the public in the course of his/her work;
- 3.10 intimidate or act violently against any other employee or member of the public;
- 3.11 use the property of Isett Seta for his/her own benefit;
- 3.12 engage in criminal activity or refuse or neglect to comply with the security requirements of Isett Seta;
- 3.13 willfully damage or improperly use Isett Seta's property;
- 3.14 engage in indecent, disorderly or disruptive conduct;
- 3.15 attend work while under the influence of liquor or stupefying drugs;
- 3.16 be in possession of illegal drugs or liquor whilst on the premises of Isett Seta;
- 3.17 misappropriate any property of Isett Seta or illegally or improperly uses such property even under circumstances that do not constitute a criminal offence;
- 3.18 insult or ridicule any other employee or member of the public or make verbal statements of a sexual nature (which include degrading comments on a person's gender) with reference to any other employee;
- 3.19 indulge in lewd, suggestive or over-familiar behaviour with any other employee, such behaviour includes sexually motivated physical contact or graphic remarks about an employee's body or clothing, sexual propositions and the display or circulation of indecent objects, sexually suggestive objects or pictures;
- 3.20 make explicit or implicit threats or insinuations that sexual favours or the lack thereof may affect an employee's career development;
- 3.21 disregard the prescribed hours of attendance without prior approval;
- 3.22 by conduct published writing or verbal statements harm the reputation of Isett Seta;
- 3.23 defraud Isett Seta or embezzle any property of Isett Seta;

- 3.24 fail to adhere to prescribed safety standards and procedures; or
- 3.25 fail to adhere to prescribed electronic and information systems' security measures and procedures; or
- 3.26 without prior approval undertake any remunerative work outside his/her official duties or use of Isett Seta's equipment for such work.

## **6. AVOIDING ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

The CEO must take all reasonable steps to prevent abuse of the SCM system, and investigate any allegations against an official or other role player of corruption, improper conduct or failure to comply with the SCM.

When justified, the CEO must:

- Take steps against such official or other role player and inform the National Treasury, The Minister of Labour and the Auditor General of such steps and report any conduct that may constitute an offence to the South African Police Service;
- Reject any bid from a supplier who fails to provide written proof from SARS that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;
- Reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or
- Cancel a contract awarded to a supplier of goods or services:
  - If the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or
  - If any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.

The CEO may disregard the bid of any bidder if that bidder or any of its directors has:

- Abused Isett Seta's SCM system;
- Committed fraud or any other improper conduct in relation to the SCM system; or
- Failed to perform on any previous contract.

## **7. POLICY**

As its policy, Isett Seta will adopt the simple whistle-blowing framework as set out in the Protected Disclosure Act. Isett Seta is encouraging whistle-blowing; as a positive whistle-blowing culture can be a critical element in the success of any risk management system. An organization that positively encourages whistle-blowing stands a far better chance of demonstrating that it is properly run and managed.

The code of conduct has been included in the whistle-blowing policy for the simple reason that employees of Isett Seta should be clear which cases are to be reported through the hotline and which ones are to be reported through internal structures. All cases that arise from non-compliance to the code of conduct other

than those resulting or will result into fraud and corruption will be reported through the internal structures whereby internal disciplinary policy will be applied.

All other cases are to be reported through the Fraud hotline as per the description and characteristics described in the Protected Disclosure Act, Anti Corruption Act, abuse of supply chain management system and those that resulted due non compliance to code of conduct and disclosure relates to fraud and corruption.

### **Reporting facilities**

The disclosure can be made by telephone, fax, e-mail or web-enabled system.

The case management centre will:

- Provide accurate information that enable stakeholders to make informed decisions;
- Maintain the integrity of the database;
- Ensure that clients receive cases timeously and provide feedback within reasonable time frame.
- Provide a trend analysis on corruption

Reporting will be done via the Director General of the Department of Labour to Isett Seta. The reports will also be copied to Isett Seta internal auditors who will evaluate the information to make recommendations to the Isett Seta on the action to be taken.

All cases reported whether having been investigated by internal auditors or not, will be reported to Isett Seta's Audit committee.

### **Availability of Service and Language**

The service will be available 24 hours and callers can make use of any language to make disclosure

### **Anonymity of Whistle-blower and confidentiality of Information**

The details of the caller will be kept confidential. Strict confidentiality of all information will be maintained and all calls will be accepted without favour or prejudice.

### **Employee victimization**

Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee's employer for reporting is considered a protected disclosure under the Act. An employee making a protected disclosure is protected from victimization on the basis of the disclosure.

### **Reporting False Information**

The Protected Disclosure Act, 2000 does not protect false disclosure.

### **Timelines for reporting corrupt behavior**

The disclosure must be made as soon as it is discovered and it applies to concerns about past, present and future malpractice.

## **8. AMENDMENT HISTORY TABLE**

<b>AMENDMENT HISTORY</b>			
<b>Policy Number</b>	<b>Version Number</b>	<b>Description</b>	<b>Revision Date</b>
POL-CORP-WB-01	1.0	Original document	2007-08-23