REPUBLIC OF KENYA

NATIONAL RESEARCH FUND

WHISTLEBLOWER POLICY

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EXECUTIVE SUMMARY

Whistle-blower protection is a critical component of any organization's risk management strategy. The ability of employees to report wrongdoing without fear of retaliation promotes transparency, accountability, and ethical conduct. Many employees risk retaliation when reporting misconduct, as they may face discrimination and exclusion in the workplace. The National Research Fund (NRF) Whistle-blower Protection Policy is developed to protect employees who report wrongdoing while ensuring the confidentiality and security of their disclosures.

The policy outlines the Fund's commitment to promoting ethical conduct, protecting employees who report wrongdoing, and complying with all relevant laws and regulations. The policy covers several areas, including reporting channels, confidentiality, protection against retaliation and investigation procedures.

This policy is designed to comply with all applicable laws and regulations related to whistle-blower protection, including the Employment Act. The policy also aligns with the Fund's values of integrity, responsibility, and respect, and it demonstrates the Fund's commitment to creating a culture of transparency and accountability.

The Whistle-blower Protection Policy is a critical component of the Fund’s commitment to ethical conduct and risk management, and approval of this policy demonstrates the Board’s commitment to promoting transparency and accountability and protecting employees who report wrongdoing, including people with disabilities who may face more significant risks of retaliation.

Prof Dickson Andala
Chief Executive Officer

1.0 INTRODUCTION

Whistleblowing is reporting any suspected wrongdoing within an organization to a person of authority, internally or externally. Such misconduct could include bribery, fraudulent payments, abuse of office, favouritism, manipulation of records, wastage of public resources, illegal, unethical, or harmful practices in the workplace, failure to comply with any law or applicable procedures and guidelines relating to procurement and sale of NRF assets among others. Whistleblowing is also known as "'*disclosing the public interest*".

2.0 POLICY STATEMENT

2.1. The National Research Fund requires the employees to observe the highest standards of business and personal ethics in performing their duties and responsibilities in interacting with employers, claimants, service providers and other public members.

2.2. The Board of Trustees (BOT) and the management are committed to enhancing ethics and integrity through whistleblowing 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 a trusted social security provider.

2.4. It is in the public interest to protect whistle-blowers and informers so they can speak out freely if they find malpractice in NRF. Anybody blowing the whistle should know that they are protected from losing their job and being victimized or being harmed/threatened as a result of what they have uncovered and made public.

3.0 PURPOSE

3.1 The Policy is intended to encourage employees, employers, claimants, service providers and other stakeholders to report suspected/actual occurrences of unethical, inappropriate, or illegal practices without retribution.

3.2 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).

3.3 The Fund will, therefore, effectively investigate all allegations of fraud and corruption reported to a full conclusion. Malicious allegations will be dealt with severely by the Management.

4.0 SCOPE

4.1 The Policy covers the Board of Trustees (BOT), employees of the Fund, employers, contributors, claimants, service providers and other key stakeholders.

4.2 The safe custody of the Fund assets is in the hands of employees with the highest probability of encountering unethical behaviour, fraud and corruption compared to other stakeholders. The staff are, therefore, expected to report to the relevant authorities any activity or dealings that could lead to the loss of the Fund's assets or damage to its image.

4.3 The Fund works closely with employers, contributors, and service providers such as contractors, suppliers, fund managers and administrators in corruption prevention and whistleblower protection.

4.3.1. These stakeholders are in the correct position to come across cases of suspected fraud or corruption that might affect or cause financial loss or a bad reputation for the Fund.

4.3.2. The BOT requires these stakeholders to support it in preventing 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.

4.3.3. Some of the areas the above stakeholders have comparative advantage, include the detection of procurement fraud, insider trading, creditor payment fraud, misappropriation of funds and other corruption offences that occur 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.

4.3.4. Public organisations and members of the public have a vital role in preventing and fighting malpractices. When stakeholders suspect fraud or corruption, the Fund expects them to provide such information and support in launched investigations.

4.3.5. Employees, employers, contributors, claimants, service providers and other stakeholders shall accurately record the incident and promptly report the matter to the CEO or designated officers.

4.3.6. Also, whistle-blowers and informers can report to any organisations listed in section 6 through the whistle-blowing channels.

5.0 PRINCIPAL RESPONSIBILITY

The CEO shall be responsible for the overall implementation of this policy from the corporate level to all function areas.

6.0 PROCESS OF MAKING A COMPLAINT

6.1. To deal with unethical behaviour, malpractice, fraud, and corruption effectively, suspicion should be reported quickly for action to be taken promptly.

6.2. Whistleblowers 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;

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

6.3. The CEO or the relevant designated authorities shall review any reported allegations to ascertain if they require investigations and the best course of action. The information shall also be shared with the relevant authorities to provide the necessary support for thorough investigations.

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

6.5. Any Whistle-blowers or informers intending to report malpractices shall contact any of the following designated authorities in confidence: -
Supervisor, Head of Division/Department, Ethics & Integrity Committee, Chief Executive Officer, 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 the department/division. If the whistle-blower does not have faith in one level, they can move to the next one. All information provided shall be treated as confidential, and where documents are involved, they shall be kept secure.

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

7.0 AVENUES FOR WHISTLEBLOWING/REPORTING

7.1. Corruption reporting boxes placed in strategic functional areas of the Fund.

7.2. Telephone contacts for the CEO, Ethics & Integrity committee and other designated authorities are on the NRF website.

7.3. As the need arises, the BOT shall provide other avenues for reporting, including subcontracting the focal point for whistleblowing to an independent agency. The agency shall review allegations and forward NRF cases warranting further investigation.

7.4 In case the whistleblower or informer is not comfortable or satisfied with the way certain information was treated, they may report the suspicion or incident to the Ethics & Anti-Corruption Commission (EACC) and other agencies detailed here: -

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 Whistleblower reporting system EACC Hotline numbers: 020-2717468. 0727285663, 0733-520641
Hot fax: (020) 2717473
Email: report@integrity.go.ke

The Commission on Administration of Justice/Ombudsman
P O Box 20414, 00200, Nairobi
Email: complain@ombudisman.go.ke,
Website: www.ombudsman.go.ke

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

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

Any relevant professional or regulatory body

8.0 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 will be 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)

9.0 FEEDBACK TO COMPLAINTS

9.1 The CEO, Ethics and Integrity committee and the other designated whistle-blower focal points shall acknowledge all the complaints received within seven (7) days, depending on the avenue used.

9.2 Feedback to the whistle-blower or informer will indicate how NRF intends to deal with the matter and the estimated time to conclude the probe.

9.3 Feedback from an investigation may be limited, exceptionally if disclosing certain information may jeopardize the ongoing investigation.

10.0 RECORDING COMPLAINTS

10.1 The Ethics and Integrity Committee chair shall be the focal point for all the allegations concerning employees and maintain a register of all complaints. The reports shall be reported formally to the Fund Corruption Prevention Committee quarterly or to other relevant agencies as appropriate.

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

11.0 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, it may be necessary to disclose the source of the data or information as the investigation process continues. This will, however, be discussed with the whistleblower and the procedure of disclosure.

11.2 All correspondence entered the whistleblowing process is confidential, whether a person making the disclosure wishes to remain anonymous.

11.3 Anonymous allegations received shall be probed, though it is much more difficult to investigate such a matter as the information supplied may not be sufficient, and it may not be possible to seek further clarifications.

12.0 PROTECTION OF WHISTLE-BLOWERS: ELIGIBILITY CRITERIA

12.1 A firm policy on whistle-blowers and informants' protection supports timely and effective whistleblowing and corruption reporting in NRF.

12.2 The Fund shall protect the identity of the whistleblower. Information that may identify persons disclosing corrupt activities shall not be made public. However, the same shall be discussed with the person making the disclosures if necessary. The BOT shall not tolerate any attempt by 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 about matters concerning the Fund.

12.4 While under this Policy, genuine whistle-blowers or informants are accorded complete protection from any unfair treatment, harassment, discrimination, or victimization, as set out herein, any abuse of this protection will warrant disciplinary action for staff members and as appropriate for other stakeholders.

12.5 Protection under this Policy does not confer protection from disciplinary action arising from false or malicious allegations made by a whistle-blower, knowing it to be inaccurate 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 whistleblowers 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 whistleblower or an informer is protected from victimization/threat/harm if they are:

` 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 believe that malpractice in the workplace is happening reasonably, has happened or will happen. One also needs to disclose in the right way. One may not be protected if they break another law by blowing the whistle.

12.8 For a disclosure to a 'prescribed person' to be protected, you must fulfil the following requirements: -

12.8.3 Disclose in good faith;

12.8.4 Reasonably believe that the information is substantially accurate; and;

12.8.5 Reasonably believe you are disclosing the right 'prescribed person'.

12.9 The Fund shall not allow any retaliation or discrimination from its employees against any employee and stakeholder who has submitted a complaint in good faith and has reasonable grounds for believing a malpractice has occurred.

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 malpractice in NRF or violation of the laws of Kenya which may lead to damage of the organization.

12.11 The Fund is committed to supporting 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 measures against the whistle-blower or informant.

12.14 To protect the whistleblower's identity, pseudonym names or serial numbers shall be used.

12.15 NRF shall reward and give letters of commendation to whistle-blowers and informants as appropriate.

12.16 Responsible NRF authorities will safely secure sensitive information and documents the whistle-blower provides.

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 whistle-blower's identity.

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).

13.0 REVIEW OF THE POLICY

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 Kenya.

13.2 The responsibility for reviewing the Policy rests with the Chair Ethics and integrity in consultation with the CEO.

14.0 ADOPTION OF THE POLICY

14.1 The Policy is effective from the date of approval by the Board of Trustees and signed by the Chair BOT and CEO.

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