



KenGen Staff Retirement Benefits Scheme

Whistle Blowing Policy

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PREAMBLE

1.1 Employees are often the first to realize that there may be something seriously wrong within the Scheme. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Scheme. They may fear harassment or victimization. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

1.2 The Scheme is committed to the highest possible standards of openness, probity and accountability. In line with the commitment we expect employees and others that the Scheme deals with, who have serious concerns about any aspect of the Scheme's work to come forward and voice those concerns. It is recognized that most cases will have to proceed on a confidential basis.

1.3 This policy document makes it clear that employees can do so without fear of victimization, subsequent discrimination or disadvantage. This policy is intended to encourage and enable employees to raise serious concerns within the Scheme rather than overlooking a problem or blowing the whistle outside.

1.4 The policy applies to all employees and those contractors working for the Scheme. It also covers suppliers and those providing services under a contract with the Scheme in their own premises.

1.5 These procedures are in addition to the Scheme's code of conduct, grievance procedures and other statutory reporting procedures.

1.6 Where this policy is in conflict with an Act enacted by the Parliament of Kenya, then the Act will take precedence over this policy.

1.7 Responsibility for ensuring compliance with the policy rests with the Trust Secretary. The Trust Secretary is responsible for keeping the policy up to date, defining the extent to which powers and duties vested in him/her may be exercised and performed by officers under him/her and giving direction to ensure the proper exercise of the powers and performance of the duties

1.0 INTRODUCTION

1.1 The Scheme is committed to ensuring the highest possible standards of care and the highest possible ethical standards in delivering the services it provides. To this end, this policy demonstrates the Scheme's commitment to recognize and take action in respect of malpractice, illegal acts or omissions by its employees or ex- employees. It is the responsibility of all staff to ensure that if they become aware that actions of other staff or officers of the Scheme might compromise this objective, they will be expected to report the matter in the safe knowledge that this will be treated seriously and sensitively.

1.2 Even though, there exists the Witnesses Protection Bill that protects whistle blowers, it is important for the Scheme to develop a whistle blowing policy and procedures to protect staff who acting in good faith disclose information about the Scheme and its activities or those of any of its staff or officers which might be considered as fraudulent or corrupt behavior. Management shall ensure that the policy is in tandem with the Witnesses Protection Bill. This policy and procedures has been developed to support and assist staff in bringing genuine concerns to the attention of appropriate people within the Scheme who can initiate an investigation into matters raised.

2.0 SCOPE OF THE POLICY

2.1 This policy applies to all staff and officers of the Scheme, including permanent and temporary staff.

2.2 Situations may arise when it is not appropriate or staff feel unable to report incidents through the usual management channels.

This may include, inter alia:

- a) Suspected fraud or corruption.
- b) A criminal offence is, has or is likely to be committed.
- c) Disregard for legislation e.g. Public Officers Ethics Act.
- d) A breach of code of conduct.
- e) Damage to the environment
- f) Breach of the standing financial rules and regulations.
- g) Showing undue favor over a contractual matter or to a job applicant.
- h) Where evidence may be concealed or destroyed.
- i) Where there has been a previous disclosure of the same

3.0 RESPONSIBILITIES

3.1 All staff have a responsibility to ensure that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct. Staff are advised to:

- a) Report to an appropriate staff member as outlined in this procedure, any concerns that something is happening which might compromise the rules contained in the code of conduct.
- b) Raise concerns in good faith with the true belief that a malpractice has occurred.
- c) Not raise concerns with any malicious intent or vexatious nature.
- d) Raise concerns with an appropriate officer as outlined in the Anti-Fraud and Corruption Policy.

3.2 Staff members may report suspected cases of fraud and corruption to any of the following:

- a) Trust Secretary
- b) Board of Trustees

3.3 Heads of Departments or whoever receives the information have a duty to:

- a. Treat concerns in a confidential manner.
- b. Take staff concerns seriously
- c. Consider them carefully and undertake an investigation.
- d. Understand the difficult position a member of staff may be
- e. Seek appropriate advice
- f. Take appropriate action to resolve the concern or refer it on to an appropriate person.
- g. Keep the member of staff informed of the progress.
- h. Monitor and review the situation
- i. Inform their seniors
- j. Ensure that individuals who genuinely report concerns are not penalized in any way.

4.0 SAFEGUARDS

4.1 The Scheme is committed to good practice and high standards and wants to be supportive of employees. The Scheme recognizes the difficulty staff may face in voicing concerns and assures them of support and confidentiality during the investigation process. It will not tolerate any harassment or victimization and will protect you if you raised concern in good faith. Where the Scheme concludes that false or malicious allegations have been made it may be necessary to take action under the Scheme's disciplinary procedures against the complainant.

4.2 The Scheme will not retaliate and will not allow any retaliation or discrimination by its employees of any kind against any employee who submitted a complaint in good faith. Specifically, the Scheme will not discharge, demote, suspend, threaten, harass or in any other manner discriminate or retaliate against any employee who lawfully provides information to the authorities regarding any conduct which the employee reasonably believes constitutes a violation of Anti-Fraud Laws or participates in or otherwise assists with a proceeding relating to such potential violations by the Scheme or employees.

5.0 CONFIDENTIALITY

5.1 The Scheme will protect the confidentiality of all matters raised by concerned employees. In case of any breach of confidentiality by any of the officers named in 3.2, the employee raising concern can take the appropriate action under the Scheme's grievances procedures.

6.0 ANONYMOUS ALLEGATIONS

6.1 This policy encourages you to put your name to your allegations whenever possible. To the extent possible, any complaint should be factual rather than speculative or conclusory, and should contain as much information as possible to allow for proper assessment. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Scheme. In exercising this discretion, the factors to be taken into account would include:

- a) The seriousness of the issues raised
- b) The credibility of the concern and
- c) The likelihood of confirming the allegation from attributable source.

7.0 UNTRUE ALLEGATIONS

7.1 If a staff member makes an allegation in good faith but it is not confirmed by the investigation, no action will be taken against him/her. If however, as an employee you make the allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against him/her.

8.0 PROCEDURES

8.1 RAISING A CONCERN

8.2 You can raise your concern orally, (i.e. face to face or over the phone) or in writing. If you write, mark the envelope 'personal, private and confidential' and if the concern is of a serious nature, hand deliver the envelope to the person you wish to report the matter to. If an employee wishes to discuss the matter orally, he or she should indicate this in the submission and include a telephone number at which she might be contacted if the Board of Trustees or Trust Secretary deems it appropriate.

8.3 Whichever way you choose, please give as much information as you can. The complainant should identify or provide evidence of the following to the extent that this detail is known or available to the complainant:

- a) Why you are concerned and the background information
- b) Any other procedures which you have already used and what happened.
- c) The section or location of the alleged behavior.
- d) Key personnel involved in the alleged behavior.
- e) The nature of the alleged incident.
- f) The time period over which the alleged incident has occurred.
 - g) An estimate of the monetary value, if appropriate, associated with the alleged incident.
- h) Documentary evidence in support of the alleged incident.
- i) Names and jobs of other employees who may support your concern.

8.4 The person (s) receiving the concerns will be required to investigate the allegations thoroughly. The staff member will receive an initial response within ten working days, including details of any further action to be taken and full written response within seven working days of the completion of the investigation where appropriate. These time scales may be extended, if necessary, by mutual agreement.

8.5 The earlier you express your concern, the easier it will be to take action.

8.6 Although you will not be expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate that there is a reasonable ground of the concern.

8.7 You may find it easier to raise the matter jointly if there is another employee that has the same concern and will support your allegations.

8.8 You would be advised to invite a colleague or another person to be present during any meetings or interviews in connection with the concern raised. In this case, you can remain anonymous when the concern is first raised but you may have to be involved personally if the matter goes further

9.0 HOW THE SCHEME WILL RESPOND

9.1 One of those named in 3.2 will first decide whether to carry out an investigation and determine which procedures are appropriate to use.

9.2 If it is decided that the matter should be taken further under these procedures the concern will be:

1. Investigated by the Trust Secretary,
2. Referred to the Police (Investigation and Enforcement Department)
3. Referred to the External Auditor.
4. The subject of an independent inquiry.

You may be interviewed by the person investigating the matter.

9.3 In order to protect individuals accused of a possible malpractice, enquiries will be made to decide whether an investigation is appropriate. Some concerns may be resolved by agreed action without need for an investigation. If urgent action is required, this will take place before an investigation is undertaken.

WHAT YOU WILL BE TOLD

9.4 The person to whom you have raised your concern will contact you in writing within 10 working days detailing the following:

- a) Acknowledge that the concern has been received.
- b) Indicate how the Scheme intends to deal with the matter.
- c) Give an estimate of how long it will take to provide a final response.
- d) Provide any feedback to the whistleblower
- e) Inform you whether further investigation will take place and if not, why not.

9.5 The amount of contact you have with the people considering the matter will depend on the type of concern, the potential difficulties of the investigation and availability of information. Wherever possible, you will be told of the final outcome of any investigation.

9.6 The Scheme will take steps to minimize any difficulties you may experience as a result of raising a concern. For example, if required to give evidence in a criminal or disciplinary proceedings, the SCHEME will arrange for you to receive advice about the procedure.

10.0 IF YOU ARE NOT SATISFIED WITH THE SCHEME'S RESPONSE.

10.1 This procedure is meant to give everyone an effective way to raise a concern within the Scheme (if possible resolve it internally). However, if you are still unhappy after using the procedure (and getting a final written response) you are entitled to consider taking your concern elsewhere. If you do this, these are some of the contacts that are available:

- a) Pricewaterhousecoopers (PwC)
- b) A relevant professional or regulatory body.
- c) A relevant voluntary organization
- d) Kenya Anti-Corruption Commission (KACC)
- e) Criminal Investigation Department (CID)

11.0 THE RESPONSIBLE OFFICER

11.1 The Scheme's Board of Trustees Chairperson shall nominate the "Contact Person" for the purposes of maintenance and operation of this policy.

11.2 Records of (all written statements along with the results) any investigations relating thereto shall be kept on a separate secured file in the Head of Internal Affairs office for seven years. It is illegal and against the Scheme's Policy to destroy any audit records that may be subject to or related to an investigation by the Scheme.

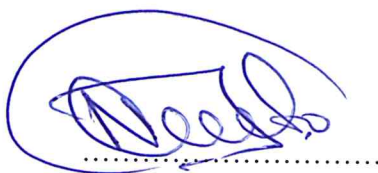
This procedure is subject to monitoring and shall be reviewed by the Trust Secretary.

11.3 This policy has been approved by the Trust Secretary and the Board of Trustees.

Signature

Date

Trust Secretary



Approved on:

1/9/2016

Implementation date:

1/9/2016