



## **WHISTLE-BLOWING POLICY**

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## **GLOSSARY OF TERMS AND LIST OF ABBREVIATIONS**

The terms in subsequent sub-paragraphs shall have meanings specifically assigned to them as follows: -

<b>Appointing Authority</b>	Means office responsible for appointment of the Board and Appointed officer
<b>Appointed Officer</b>	Means authorised person(s) appointed to receive reports on Whistleblowing matters.
<b>Authority</b>	Konza Technopolis Development Authority
<b>Board</b>	Konza Technopolis Development Authority Board of Directors
<b>CEO</b>	KoTDA Chief Executive Officer
<b>Confidential Information</b>	Includes information about the identity, occupation, residential address, work address or whereabouts of: a Whistle-blower and person against whom a Whistle-blower has made a disclosure of improper conduct. It also includes Information disclosed by a Whistle-blower; and information that, if disclosed, may cause detriment to any person.
<b>Detrimental Action</b>	Includes action causing injury, loss or damage, intimidation or harassment, interference with the lawful employment or livelihood of any person; or threat to take any of the aforementioned actions.
<b>Disciplinary Action</b>	Means any action or omission which constitutes a breach as provided by law or the Authority's code of conduct and ethics, policies or a contract of employment.
<b>Improper Conduct</b>	Means any conduct which if proved, constitutes a breach of integrity
<b>Investigative Officer</b>	Means a person assigned to conduct an investigation of an Improper Conduct

**Whistle-blower**

Means a person who discloses information of improper conduct in accordance with this Policy

**Whistleblowing**

Means the disclosure based on one's reasonable belief that any person has engaged, is engaging or preparing to engage in improper conduct.

## **1 Introduction**

- 1.1 The Konza Technopolis Development Authority (KOTDA) is a State Corporation established under Legal Notice No. 23 of 2012. The mandate of KoTDA's is to develop the Konza Technopolis (Konza Techno City), a vision 2030 flagship project.
- 1.2 From time to time, a member of staff, Board or a third party might discover information which he or she believes shows wrongdoing or malpractice within the Authority. On such occasions, it must be made possible for the information to be disclosed without fear of reprisal to appropriate persons within the Authority.
- 1.3 In line with the above, this Policy is intended to provide various channels for reporting actual or suspected wrong-doings committed by any staff, supplier, service provider, contractor or other stakeholders dealing with the Authority for investigation and appropriate action as well as assurance that where a staff member is making the report ("Whistle-blower") will be protected from reprisals, retaliation or any adverse treatment.
- 1.4 The Policy is meant to make the workplace healthier and more conducive, where problems are handled expeditiously and professionally as and when they are detected in their early stages.

## **2 Policy Statement**

- 2.1 An important aspect of accountability and transparency is a mechanism to enable staff, stakeholders of the Authority and the general public to voice genuine concerns in a responsible and appropriate manner. Konza Technopolis Development Authority (KoTDA) is committed to promoting and maintaining high standards of transparency, accountability, ethics and integrity at the service of the Authority.
- 2.2 This Policy is designed to support the Authority's core values and facilitate reporting of employees', Board's and third parties' concerns about possible improprieties at the earliest opportunity to ensure that concerns can be raised without fear of reprisal or detrimental action.

- 2.3 The procedures contained in this Policy provide a process of managing disclosures of improper conduct that is transparent without compromising the confidentiality of persons involved. This Policy is adapted to promote alignment with the Witness Protection (Amendment) Act 2010, The Leadership and Integrity Act 2012, and all applicable laws and regulations in Kenya. However, this Policy does not absolve employees and stakeholders from any statutory obligations contained in any Act or Regulation to report criminal offences or breaches of law with the relevant enforcement agencies.
- 2.4 This Policy is to be read together with the Authority's Code of Conduct and Ethics and provisions made on code of conduct and disciplinary control in the Authority's Human Resource Management Policies and Procedures Manual and other internal, statutory or regulatory reporting procedures.
- 2.5 The Authority through Integrity Committee shall designate its Secretary and two other appointees who will be receiving reports on Whistleblowing matters and when needed provide independent advice on the administration, interpretation, application and implementation of this Policy.

### **3 Objectives**

- 3.1 The objective of this Policy is to:
- a) provide employees and other parties dealing with the Authority with proper procedures in disclosing cases of Improper Conduct;
  - b) manage disclosures of Improper Conduct in an appropriate and timely manner;
  - c) provide protection to Whistleblowers from Detrimental Action that may result from the disclosure of Improper Conduct; and
  - d) provide fair treatment to both the Whistleblower and the alleged wrongdoer when a disclosure of Improper Conduct is made.

### **4 The Scope**

- 4.1 This Policy applies to all Employees and Members of the Board of the Authority and any third party acting as a whistle-blower.
- 4.2 The Policy and procedures are concerned with alleged malpractice, impropriety or wrongdoing including but not limited to:
- a) Financial malpractice or impropriety;

- b) Conflict of Interest situations;
- c) Fraud;
- d) Improper conduct or unethical behaviour including any offence under the Bribery Act, 2016;
- e) Failure to comply with a legal obligation;
- f) Failure to comply with the Code of Conduct and any rules and regulations that may be prescribed by the Authority from time to time;
- g) Suspected criminal activity;
- h) Attempts to conceal any of the above.

## **5 Disclosure of Improper Conduct**

- 5.1 KOTDA encourages employees, the Board and stakeholders to report any of the above acts. Any staff wishing to make a report may disclose their identity or make reports anonymously.
- 5.2 All reports will be treated with utmost confidentiality and will be acted upon, taking into account the seriousness and credibility of the issues raised and the likelihood of confirming the allegations from attributable sources and information provided.
- 5.3 All concerns or irregularities raised will be handled in confidence and every effort will be made to ensure that confidentiality is maintained throughout the process. Concerns may be raised verbally, by email, Authority's website, Hotline or reporting boxes situated in appropriate points like in the washrooms.
- 5.4 As it is essential for the Authority to have all critical information in order to effectively evaluate and investigate a complaint, the report made should provide as much detail and be as specific as possible.

The complaint/report should include:

- a) The misconduct the whistle-blower wishes to report on;
- b) Details of the parties concerned;
- c) When the activities took place (dates and time);
- d) Proof (evidence substantiating the misconduct, where available);
- e) Motives (do they know or have an idea of why the action was committed);



- f) Contact details (if the person reporting so chooses) in case further information is required.

## **6 Reporting**

- 6.1 A disclosure of Improper Conduct may be made orally in person to the Appointed Officer, via free Hotline, in writing via a letter or electronic e-mail to [integrity@konza.go.ke](mailto:integrity@konza.go.ke) or via reporting boxes situated in appropriate points like in the washrooms.
- 6.2 When a disclosure is made orally, the person receiving the disclosure shall, as soon as practicable, reduce the same in writing.
- 6.3 If the Improper Conduct involves the Appointed Officer, members of the Integrity Committee or any of the members of the Board of the Authority, the Whistleblower is to report the matter directly to the CEO or the Chair of the Board or appointing Authority in case of all the members of the Board
- 6.4 In order to ensure protection of Whistleblowers, the Authority may outsource the function of reporting of Improper Conduct.

## **7 Conduct of Investigation**

- 7.1 In respect of disclosures made to the Appointed Officer, he or she will assess the same to determine whether it is related to an Improper Conduct or excluded from the scope of this Policy. The Appointed Officer shall recommend for appointment a Committee to conduct a preliminary review of the improper conduct and shall, within seven (7) days from the date the disclosure was made, prepare an assessment report to the Chief Executive Officer (CEO) appraising him/her of the result of the assessment, and recommend either to ignore the disclosure or to take further action. The CEO may extend the time for the completion of the assessment report
- 7.2 In respect of disclosures made against the Appointed Officer, a member of the Integrity Committee or a member of the Board, the receiving party shall assess the same to determine whether it is related to an Improper Conduct or excluded from the scope of this Policy before deciding on the next course of action.

- 7.3 For the purpose of the clause above the receiving party shall be the Chief Executive Officer and the Chair of the Board or the appointing authority in the case of the Appointed Officer and the member(s) of the Board respectively.
- 7.4 Within seven (7) days from the date the Assessment Report is received, so far as is practicable, the CEO or the chair of the Board or the appointing Authority as the case may be , shall have the authority to make decisions including, but not limited to, any of the following:
- a) Rejection of the disclosure(s), either in part or in total, if it falls outside the scope of this Policy;
  - b) Directing the matter or any part thereof to be dealt with under other appropriate internal procedures;
  - c) Directing an investigation into the disclosure(s) made on any persons involved or implicated;
  - d) Designating the Appointed Officer or any other persons from within or outside of the Authority to conduct investigations or to take any other action pursuant to this Policy;
  - e) Obtaining any other assistance from other parties such as external auditors or obtaining legal advice whether from internal or external advocates; and,
  - f) Referring the matter to an appropriate law enforcement agency in case further investigation is necessary.
- 7.5 Where the reporting is made to an outsourced function, the assessment report shall be made to the Chief Executive Officer as soon as reasonably practicable.
- 7.6 The Investigating Officer shall have free and unrestricted access to all records of the Authority and shall have the authority to examine, obtain or make copies of all or any portion of the contents of documents, files, desks, cabinets, and other storage facilities of the Authority so far as it is necessary to assist in the investigation of the Improper Conduct
- 7.7 At the conclusion of the investigation, the Investigating Officer will submit an Investigation Report of the findings to the CEO, Chair of the Board, the appointing authority as the case may be.
- 7.8 The Investigation Report will contain the following: -

- a) The specific allegation(s) of Improper Conduct;
- b) All relevant information or evidence received and the grounds for accepting or rejecting them. Copies of interview transcripts and any documents obtained during the course of the investigation shall accompany the investigation report; and
- c) The conclusions and recommendations thereof.

7.9 The CEO, Chair of the Board or the appointing Authority shall act in accordance with recommendations of the investigations report.

## **8 Whistle-Blower Protection**

8.1 In keeping with applicable law, the Authority prohibits discrimination, retaliation or harassment of any kind against a Whistle - blower who submits a complaint or report in good faith.

8.2 This is done through the following measures:

### **8.2..1 Confidentiality**

The identity of the individual making an allegation will remain confidential, unless otherwise agreed with that individual.

### **8.2..2 Protection**

The Policy offers protection against dismissal or other punitive action to those individuals who make reports in accordance to this Policy.

## **9 Unsubstantiated Allegations**

9..1 No action will be taken against an individual who makes an allegation in good faith even if it is not confirmed by subsequent investigations. If, however, an individual makes what are subsequently determined to be malicious or vexatious allegations or made for personal gain, and particularly if he or she persists in making them, disciplinary action may be taken.

## **10 Handling of Investigation (Assessment) Reports**

10.1 The Authority may in appropriate cases, particularly if the report pertains to criminal activity forward such report to external bodies such as the DCI and EACC.

**11 Employee Cooperation**

11.1 An employee who fails to cooperate in an investigation, or who deliberately provides false information during an investigation, shall be subject to disciplinary action.

11.2 If, at the conclusion of an investigation, the Authority determines that a violation has occurred or the allegations are substantiated, effective remedial action commensurate with the severity of the offence will be taken.

**12 Fair Hearing**

12.1 Any person named in a report will be given an opportunity to be heard and defend themselves before any action is taken.

**13 Administration and Independent Advice on The Policy**

13.1 The Appointed Officer(s) is responsible for the administration, interpretation and application of this Policy.

**14 Policy Implementation Responsibility**

14.1 This Policy will be implemented by the Authority's Integrity Committee Chairman assisted by the Appointed officer(s), Internal Audit division and Legal Services division in collaboration with all Heads of Divisions.

**15 Review**

15.1 This Policy shall be reviewed every three (3) years or from time to time as informed by changes in the operational environment of the Authority.

**16 EFFECTIVE DATE**

15.2 This policy comes into effect on this 27<sup>th</sup> day of October 2020.

Eng. John Tanui

**CHIEF EXECUTIVE OFFICER**

