

# WHISTLE-BLOWING POLICY

WE VALUE  
DOING THINGS RIGHT





# **KENYA PORTS AUTHORITY**

## **WHISTLE-BLOWING POLICY**

*We Value Doing Things Right*

(UNCONTROLLED DOCUMENT)

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## **FOREWORD**

The purpose of the Whistle-Blowing Policy is to encourage and give whistle-blowers assurance that they will not be victimized or intimidated if they report any unethical or corruption practices. This Policy outlines the procedure of reporting corruption and unethical behaviour; i.e. how to report, where to report and whom to report to.

Employees are encouraged to report corruption incidences through different channels namely, Ethics and Integrity office, the Managing Director's office, suggestion boxes, Anticorruption report boxes, and Anti-corruption email-address (stopcorruption@kpa.co.ke). Corruption has been recognized as a threat to the economic and political prosperity of the Country. This policy is designed to help Whistle-blowers understand their responsibilities and obligations in reporting aspects of corruption and unethical behaviour. It should be noted that corruption may affect functions and operations of the Authority by increasing cost of doing business, causing poor service delivery, loss of business, bad reputation and affect negatively the Authority's contribution towards the realization of the KPA's Vision.

The Authority recognizes the fact that corruption may exist or may be practiced by one or a number of employees, suppliers, contractors or stakeholders. It is because of this recognition that the Authority finds it necessary to formulate a proper Whistle-blowing Policy to alleviate fears of victimisation or intimidation of Whistle-blowers.

**Dr. Arch. Daniel O. Manduku**  
**MANAGING DIRECTOR**

## 1.0 INTRODUCTION

- 1.1 The Kenya Ports Authority has a positive approach to Whistle-blowing. This policy gives effect to the Witnesses Protection Act Cap79 of the Laws of Kenya. Where a genuine concern is raised under this policy, a whistle blower should not be at the risk of victimization or any adverse treatment.
- 2.2 The Kenya Ports Authority wishes to ensure that its resources are utilized appropriately. Misuse of resources as a result of fraud or corruption may frustrate the realization of the Authority's obligations. Involvements in corrupt activities dent the image of the Authority and reduce the morale and performance of the entire organization. The Authority therefore undertakes to investigate all suspected cases of fraud and corruption to full conclusion.
- 2.3 Malicious allegations are to be dealt with severely by Management.
- 2.4 The aim of this Policy is to enable employees, stakeholders or anyone involved with the Authority to report genuine concerns about fraud & corruption malpractices, whether witnessed or suspected.

## 3.0 OBJECTIVES OF THE POLICY

- 3.1 The aim of this policy is to state:-
- Who and what is covered by the Policy;
  - How to raise a complaint;
  - Confidentiality in reporting and investigating reported cases.
  - Provision of internal and external contact details for reporting and feedback.
- 3.2 This document is available on the Authority's web site [www.kpa.co.ke](http://www.kpa.co.ke) or to staff members on the Authority's intranet. A separate leaflet is also available at reception areas (customer service Desk) for customers or through distribution by the Ethics and Integrity Department to all members of staff.

The Whistle-blowing Policy is to be used only in instances of fraud or corruption malpractices.

## 4.0 **OUR VISION, VALUES AND ETHICAL PRINCIPLES**

This Whistle-blowing Policy outlines the procedure of reporting of corruption and unethical behaviour in order to support the Authority's vision and mandate by creating a corruption free working environment.

### 4.1 **Our Mandate**

To maintain, operate, improve and regulate all scheduled ports. So as to realize our mandate, the Authority strives to conduct its activities with the highest possible ethical standards.

### 4.2 **Our Values**

- **Customer focus:** We honour our commitments to one another, the community and our customers. Service excellence is key to our operations. We strive to provide outstanding service and value to each other and our customers.
- **Integrity:** We conduct our business with the highest ethical standards and uphold fairness, honesty, professionalism and transparency in all our undertakings.
- **Team work:** We embrace team spirit in all that we do. We are capable, high performing people who appreciate the privilege of public service. We practice open communication, innovation, collaboration and transparency in all interactions.
- **We care:** We care for our staff, the communities around us and are sensitive to the environment. We embrace the richness of a diverse workplace and support employee development. We encourage a healthy and diverse organization that enhances our contributions locally and globally. We are responsible stewards of community resources and the environment.
- **We exercise care and wisdom in the use of both in uncial and natural resources.**

## 5.0 TO WHOM WE ARE RESPONSIBLE

A successful business is measured by amongst other things, its relationship with its shareholders, customers, employees, business partners and the community in which it operates. The Authority aims to tap into the synergy of these relationships and create a collectively beneficial business environment. Its responsibilities are identified as follows: -

- **Shareholders**  
To safeguard shareholders' investment and to create and add economic value.
- **Customers**  
To satisfy the unique needs of our customers by offering innovation, flexibility and service that create value for their businesses as their commercial success is in turn our success.
- **Employees**  
To recognize that employees are our greatest asset and to ensure that they have a safe and conducive working environment with equitable and competitive terms and conditions of service. The Authority promotes a culture of trust, the development and best use of human talent and resource.
- **Business Partners**  
To cultivate meaningful, mutually beneficial and successful long-term relationship with our partners, suppliers and contractors based on trust and understanding.
- **Community**  
To be a responsible corporate citizen and conduct business in a manner that promotes sustainable development for both the Authority and the community. This involves full compliance with laws and authorities, respect for local culture and giving due consideration to social and environmental issues in all commercial decisions.

## 6.0 **PROCESS FOR MAKING A COMPLAINT**

- 6.1 In order to deal with fraud and corruption effectively, it is recommended that suspected Corruption and unethical cases be reported promptly for quick action.
- 6.2 Anyone making a complaint should make a note of the relevant details, documents, and names (as accurately as possible) of people suspected to be involved, in order to support the allegation to the extent possible. The person reporting is not expected to take part in the investigation, but may be required to make a formal statement at a later stage to facilitate investigations.
- 6.3 In general, it is preferable that complaints are made in writing giving detailed background information backed by particulars, the main cause of concern and reasons for giving rise to suspicion.

- The compliant will initially be handled by the Head of Ethics and Integrity as the designated Anti-corruption Manager who will initiate investigations. Where necessary, the matter may be escalated to the Managing Director.
- 6.4

- 6.5 The Whistle-blowing Policy covers serious concerns and/or malpractice where they relate to fraud/theft or financial irregularity in which case they will be investigated and acted upon.

## 7.0 **USERS OF THIS WHISTLE – BLOWING POLICY**

### 7.1 **Employees**

- 7.2 The Authority recognizes that employees have a key role in identifying fraud and corruption and making reports to the relevant authority.
- 7.3 This Whistle blowing Policy is intended for the protection of the Whistleblower; and to make the reporting confidential.
- 7.4 Where an employee suspects that fraud or corruption is taking or has taken place, he/she should make a note of the same as accurately as possible e.g. dates, names of suspected persons involved, whatever happened,



etc and report the matter to the Managing Director, the Head of Ethics & Integrity or any other person in a position authority whom the whistleblower is comfortable with.

## **8.0 CONTRACTORS, CONSULTANTS AND SUPPLIERS SHOULD SUPPORT THE FIGHT AGAINST CORRUPTION AND FRAUD.**

8.1 The Authority in the course of its undertakings occasionally engages number of Contractors, Suppliers and Consultants to provide goods and services. The Contractors, Suppliers and Consultants are in a position to identify cases of suspected fraud or corruption that might adversely affect the reputation or cause financial loss to the Authority.

8.2 All Contractors, Consultants and Suppliers are required to be fair and honest in their dealings with the Authority and to report any fraud, corruption, and malpractices they encounter. They should co-operate with the Authority whenever required, to help with investigations. Areas of concern include; - tender frauds, creditor payment fraud, misappropriation of Authority income and stolen or misused assets and all other corruption offences.

8.3 Any Port user should make an accurate record of any (suspected) fraud / corrupt activity and promptly report the matter to the Head of Ethics and Integrity, the Managing Director or one of the other bodies tasked with receiving complaints or reports by this Whistle blowing Policy.

## **9.0 STAKEHOLDERS SHOULD SUPPORT THE FIGHT AGAINST CORRUPTION AND FRAUD.**

9.1 Stakeholders have a major role to play in ensuring the Authority achieves its targets and obligations as a public organization.

9.2 Where a stakeholder suspects fraud or corruption, the Authority expects him/her to provide such information as may be necessary and relevant, and to support investigations.

- 9.3 Where that complaint is against another stakeholder, the matter can be referred to the Ethics and Anti-Corruption Commission, which is responsible for investigating corruption countrywide. However, where the complaint directly affects the Authority, then such report should also be made to the Authority's Managing Director and the Head of Ethics and Integrity.
- 9.4 Allegations of corruption and fraud should be recorded as accurate as possible and reported to the Managing Director or Head of Ethics & Integrity.
- 9.5 Where a more independent body is required, then the matter should be reported to the External Audit unit based at the Authority's premises or the Ethics and Anti-corruption Commission (EACC), ACK Building-Nkrumah Road (Mombasa) or Integrity Centre (Nairobi).

## **10.0 OTHER MEMBERS OF THE SOCIETY**

- 10.1 The Authority encourages members of the public who have reasonable grounds for suspecting fraud or corruption that arises from or concerns the Authority to report to the Managing Director, the Head of Ethics and Integrity or EACC.
- 10.2 The Whistle-blowing Policy is intended for fraud and corruption cases which can be distinguished from the normal customer care type of complaints. Complaints concerning corruption or fraud received through the customer service Centre desk will be acknowledged and forwarded to the Head of Ethics and Integrity.

## **11.0 PROCESS FOR DEALING WITH COMPLAINTS**

- 11.1 All reports will be dealt with expeditiously.
- 11.2 The action to be taken will depend on the nature of the allegation. The matter will first be investigated internally to establish the facts and action will depend on the results. The case may thereafter be:-
- Forwarded to Human Resources & Administration for disciplinary action.

- Referred to Security Department for further investigation
  - Referred to the Internal Audit and Risk Management for further investigation
  - Referred to the Directorate of Criminal Investigations
  - Subjected to an independent inquiry appointed by the Management.
- 11.3 The level of contact between the investigators and the whistle-blower will vary depending on the nature of the complaint, a further meeting may be required to clarify or obtain further information in the course of investigation.
- 11.4 During such meetings in the course of investigations, the whistle-blower has the right, should he desire, to have a friend or representative in attendance.
- 11.5 The Authority will take steps to eliminate or mitigate any difficulties that might be experienced by a whistle-blower. For example, the Authority will give them support as may be necessary including taking appropriate action against people who may be threatening or intimidating the whistleblower.

## **12.0 FEEDBACK OF COMPLAINTS RAISED**

- 12.1 The Head of Ethics and Integrity will acknowledge complaints promptly and make a formal response within 10 working days.
- 12.2 Investigations will depend on the nature of complaint. Where investigations are necessary, the Head of Ethics and Integrity will record the complaints raised, the Officer(s) assigned and how the Whistle-blower may be contacted. The Head of Ethics and Integrity will decide whether the allegation is covered by the Whistle blowing Policy or any other policy.
- 12.3 The Head of Ethics and Integrity will decide whether or not there will be any further correspondence once the investigations have been completed outlining the results of the investigation.

12.4 Feedback from an investigation maybe limited especially if disclosing certain information in anyway may jeopardize the on-going investigation.

### 13.0 **RECORDING COMPLAINTS**

13.1 The Head of Ethics and Integrity as the designated Anti-corruption Manager maintains a log of complaints which is reported formally to the Corporate Corruption Prevention Committee (CCPC) quarterly.

### 14.0 **HARASSMENT OR VICTIMISATION OF WHISTLE-BLOWERS**

14.1 The Authority will put in place measures to protect whistle-blowers from harassment or victimization.

14.2 Such measures may include reporting the persons responsible for or suspected of the harassment to the police and or Witness Protection Agency and affording the whistle-blower security.

### 15.0 **MALICIOUS ALLEGATIONS**

15.1 The Authority will treat any malicious complaints with seriousness and will take action against anyone deliberately making false or malicious allegations.

15.2 Malicious complaint is to be distinguished from unproved complaints made in good faith.

### 16.0 **REFERENCES AND CONTACT DETAILS**

#### 16.1 **References**

The Authority has a range of other policies (all available on Authority's web site and intranet) which can be referred to by a whistle-blower. In addition, all staff and stakeholders should be made aware of the following legislation that guide behaviour of Public Officers;-

- The Public Procurement & Disposal Act, Cap 412A
- The Public Officer Ethics Act, Cap 183
- Leadership and Integrity Act, Cap 182

- The Anti-corruption & Economic crimes Act, Cap 65
- The Witness Protection Act, Cap 79

16.2 Under the Witness Protection Act, Cap 79, individuals who make certain disclosures of information in the public interest are protected in order to allow them report such information without fear of victimization or harassment. This Legislation protects anybody who would like to raise genuine concerns about crimes, civil offences (such as negligence and breach of contract) and miscarriages of justice. As well as covering employees, the Witness Protection Act also covers workers, contractors, agency staff and home workers. More details of these Laws can be found on the website [www.kenyalaw.org](http://www.kenyalaw.org)

16.3 KPA will work closely with Witness Protection Agency with a view to providing protection of Whistle-blowers where necessary.

## **17.0 INTERNAL CONTACT DETAILS**

17.1 The Authority has established its internal lines of communication to make reporting of corruption and fraud easy. However, to make the act of whistle blowing even easier, the following direct lines of communication are available for use by any whistle-blower;-

Managing Director	+254 -41 -2113497
Head of Ethics and Integrity	+254 -41 -2113465

## **18.0 EXTERNAL CONTACT DETAILS**

18.1 Kenya Ports Authority operates with honest, transparency and accountability and allows any whistle-blower sensing victimization or harassment if the potential corruption or fraud report is made direct through the Authority's established reporting channels, to make such a report to any other state agency charged with the duty of handling such cases.

18.2 The following are the alternative available external contacts that can be used by any whistle-blower to report any acts of corruption and fraud that affects Kenya Ports Authority and which it is felt that cannot be reported to the Authority directly;



Signed under seal by: -

Managing Director.....

General Manager  
(Board & Legal Services): .....









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