



**KenGen**

# **WHISTLE BLOWER PROTECTION POLICY**

July 2019

---

## TABLE OF CONTENTS

---

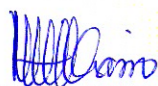
1.0 INTRODUCTION .....	4
2.0 PURPOSE .....	4
3.0 SCOPE .....	4
4.0 DEFINITIONS.....	4
5.0 LEGAL AND ADMINISTRATIVE PROVISIONS .....	5
6.0 DISCLOSURE OF IMPROPER CONDUCT .....	5
7.0 PROCESS FOR DEALING WITH COMPLAINTS.....	5
7.1 REPORTING CHANNELS:.....	5
8.0 RECORDING COMPLAINTS .....	6
9.0 FEEDBACK ON COMPLAINTS .....	6
10. MALICIOUS ALLEGATIONS .....	6
11.0 PROTECTION OF WHISTLE BLOWERS .....	6
12.0 RESPONSIBILITIES.....	7
12.1 EMPLOYEES .....	7
12.2 STAKEHOLDERS .....	7
12.3 GENERAL PUBLIC.....	8
13.0 BREACH OF THIS POLICY .....	8
14.0 REVIEW OF THE POLICY.....	9

## FORWARD

KenGen is committed to high ethical standards in all its business processes. The Company seeks to conduct its business with honesty and accountability to the interest of all our stakeholders. From time to time, a member of staff might discover information which he or she believes it is wrongdoing or malpractice within the company. On such occasions, it must be made possible for the information to be disclosed without fear of reprisal to appropriate persons within the KenGen.

In line with the above, this Policy is intended to provide various channels for reporting actual or suspected wrong-doings committed by any employees , supplier, service provider, contractor or other stakeholders dealing with the Company for investigation and appropriate action as well as assurance that the staff making the report (“Whistle-blower”) will be protected from reprisals, retaliation or any adverse treatment

I believe that this policy provide employees and other KenGen stakeholders with confidence to report corruption and unethical practices without fear of intimidation or retaliation. .



.....  
**REBECCA MIANO (MRS), OGW**  
**MANAGING DIRECTOR & CEO**



## 1.0 INTRODUCTION

In order to safeguard the company from any corrupt practices, KenGen has developed this Whistle Blowing Policy which contains clear guidelines and measures for staff, stakeholders and the general public to report corruption, fraud or malpractice as per the procedure set out in the policy.

The policy allows for reporting by employees or outside parties, of such matters, without fear of reprisal, discrimination or adverse consequences. It also permits the company to address such reports by taking appropriate action including, but not limited to, discipline or termination of employment and/or contractual services of those responsible.

This policy is meant to protect genuine whistle blowers from unfair treatment as a result of their reports. The policy is however, not a channel for taking up personal grievances which should otherwise be addressed directly with the Head of Division or Department.

This Policy is to be read together with the KenGen's Code of Conduct and Ethics and other Human Resource Management Policies and Procedures Manual and other internal, statutory or regulatory reporting procedures.

## 2.0 Purpose

This policy seeks to entrench both National and KenGen values of integrity in the work place. It is aimed at setting up transparent procedures to enable employees, stakeholders or the general public to report genuine concerns about fraud, corruption and other malpractices witnessed or suspected, as well as preventing malicious allegations without fear of retribution. The objective of this Policy is to:

- provide employees and other parties dealing with KenGen in disclosing cases of improper conduct;
- manage disclosures of improper conduct in an appropriate and timely manner;
- provide protection to whistle-blowers from detrimental action that may result from the disclosure of improper conduct; and
- Provide fair treatment to both the whistle blower and the alleged wrongdoer when a disclosure of improper conduct is made.

## 3.0 Scope

This Policy extends protection of whistle-blowers to KenGen employees, Board members, suppliers, consultants, contractors and member of the public. The policy is concerned with reporting of alleged malpractice, impropriety or wrongdoing.

## 4.0 Definitions

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

A **whistle blower** is someone who notices occurrence of activities that are deemed fraud, illegal or unethical practices and reports in good faith to the relevant authorities.

**Confidential Information** includes:

- a) Information about the identity, occupation, residential address, work address or whereabouts of: (i) A Whistle-blower; and A person against whom a Whistle-blower has made a disclosure of improper conduct;
- b) Information disclosed by a Whistle-blower; and
- c) Information that, if disclosed, may cause detriment to any person.

## 5.0 Legal and Administrative Provisions

The following statutes and KenGen policy documents will form the basis of the whistleblowers policy.

- KenGen Code of Conduct and Ethics
- KenGen Anti-Corruption & Anti-Bribery Policy
- Public Officers Ethics Act, 2003
- Anti-Corruption and Economic Crimes Act, 2003 as revised in 2016
- Leadership and Integrity Act, 2012
- Public Procurement and Disposal Act, 2015

## 6.0 Disclosure of Improper Conduct

An employee, member of the board of the KenGen or any other stakeholder who becomes aware of an alleged Improper Conduct shall make a disclosure as provided for in the policy. KenGen shall introduce an outsourced anonymous reporting system.

## 7.0 Process for Dealing with Complaints

Any employee or any other stakeholder wishing to make a report may disclose their identity or make reports anonymously. 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.

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. The substance of an investigation, including the identities of the parties to it, will remain confidential and may only be disclosed with the consent of the complainant or as may be required in a judicial process.

### 7.1 Reporting Channels:

Employees and other stakeholders may report suspected cases of fraud, corruption or any other malpractice to:



- a) The Managing Director and CEO
- b) Head of Security and Integrity Department
- c) Integrity office
- d) Any appointed Integrity Champion
- e) Where the whistleblower prefers to remain anonymous, then, he or she can report through the confidential reporting hotline as shall be established by the KenGen. This is an external and internationally accredited hotline service provider which enables employees and other stakeholders to report workplace dishonesty while remaining totally anonymous.

However, if one is not satisfied after using the procedure, the concerns may be reported to other relevant Agencies which include:

- a) The Kenya National Audit Office (KNAO)
- b) A relevant professional or regulatory body
- c) Ethics and Anti-Corruption Commission (EACC)
- d) Directorate of Criminal Investigation (DCI)
- e) Ombudsman Office

## **8.0 Recording Complaints**

Security and Integrity office shall maintain a log of all complaints reported. This information will be formally reported to the Corruption Prevention Committee (CPC)

## **9.0 Feedback on Complaints**

Security and Integrity office will promptly acknowledge receipt of any complaint and formally respond in more detail within 14 working days. Regular feedback will be provided to the whistle blower and the Managing Director and Chief Executive Officer. Disclosure of findings on an investigation may be limited especially if such disclosure may jeopardize the on-going investigation.

## **10. Malicious Allegations**

Disciplinary action will be taken against employees who make allegations maliciously or for personal gain. This will be in accordance with the KenGen Human Resource policies. If an allegation is made in good faith but not proven by investigation, no action will be taken against the complainant.

## **11.0 Protection of Whistle Blowers**

The decision to report an allegation can be difficult, particularly when colleagues are involved or if there is fear of reprisal.

11.1 Upon making a disclosure in good faith, based on reasonable grounds and in accordance with and pursuant to this Policy:

- a) The Whistle-blower shall be protected from any detrimental action within the KenGen as a direct consequence of the disclosure; and



- b) The Whistle-blower's identity and such other confidential information of the Whistle-blower shall not be disclosed.

11.2 In keeping with applicable law, KenGen prohibits discrimination, retaliation or harassment of any kind against a Whistle - blower who submits a complaint or report in good faith. The Company will not tolerate any attempt on the part of an employee, stakeholder or contractor to apply any pressure, sanction, harassment or victimization on any whistle blower.

11.3 Any employee in Breach of clause 11.2 above shall undergo disciplinary action in accordance with the KenGen Human Resource policies.

11.4 A contractor or supplier engaged in harassment or victimization of a whistleblower shall have their contract terminated and shall be reported to the relevant authorities.

This is done through the following measures.

## **12.0 Responsibilities**

### **12.1 Employees**

All KenGen staff are required to act in accordance with KenGen Code of Conduct and Ethics as well as their respective professional codes.

Staff members are encouraged to:

- a) Report any form of unethical behavior, contravention of the Company's Code of Conduct and Ethics or raise any concerns on unethical or improper occurrences that may compromise the provisions of the Code;
- b) Raise concerns in good faith with the true belief that malpractice has occurred;
- c) Not raise concerns with any malicious intent or vexatious nature;
- d) Address the concerns with an appropriate officer as outlined in this policy.

### **12.2 Stakeholders**

12.2.1 The Company expects all stakeholders including contractors, consultants and suppliers to be fair and honest in their dealings with the Company and to report any fraud or corruption cases that come to light.

12.2.2 Stakeholders should make an accurate record and promptly report the matter to the Managing Director and Chief Executive Officer, Manager Security & Integrity, or through the provided outsourced anonymous reporting platform.

12.2.3 Stakeholders have a major role to play to ensure the Company achieves its targets and obligations as a public organization. Where a stakeholder suspects fraud or corruption, the Company expects him/her to provide such information and support in investigations to be conducted. They must neither investigate a matter by themselves nor convey their suspicions to anyone else as this may jeopardize future investigations.

12.2.4 Where that complaint is against another stakeholder, the matter may be referred to the EACC or any other relevant Government oversight body.

### **12.3 General Public**

12.3.1 The Company encourages the general public with reasonable grounds to suspect fraud, corruption or other malpractice to communicate to the Managing Director and Chief Executive Officer or the Head of Security and Integrity Department.

12.3.2 The Whistle Blowing Policy is separate from the normal complaints process where minor complaints are channeled to the Security and Integrity department. Any complaint of a serious nature received will be directed to the Head of Security and Integrity and the complainant will be given an acknowledgement as receipt of the complaint.

### **13.0 Breach of this Policy**

If, at the conclusion of an investigation, the company determines that a violation of this policy has occurred, and allegations are substantiated, effective remedial action commensurating with the severity of the offence will be taken.



## 14.0 Review of the Policy

14.1 This policy will be subjected to review as and when it may be necessary to conform to the applicable laws or accommodate organizational changes.

14.2 The responsibility rests with the Head of Security & Integrity in consultation with the Managing Director and Chief Executive Officer.

This Policy was Approved on \_\_\_\_\_ 2019 By the Board of Directors

Effective Date of Implementation \_\_\_\_\_