

# WHISTLEBLOWING AND ANTI FRAUD REPORTING POLICY



## **POLICY PREAMBLE**

### **WHISTLEBLOWING OPTIONS**

The following communication channels are available should you wish to make use of this service (with the option of remaining anonymous should you so prefer):

The Ngubane Ethics Hotline is an independent external reporting service and is available on a 24/7 basis through the Ethics helpdesk Platform. <https://ngubane.ethicshelpdesk.com>

The Ngubane & Co's Department of Risk, Compliance and Ethics may be contacted directly on the following email address: [ethicsoffice@ngubane.co.za](mailto:ethicsoffice@ngubane.co.za)

### **Board oversight**

The Firm's Social and Ethics Committee constitutes another facet of the Company's ethics initiative which oversees ethical conduct of our employees and the Ngubane &Co as an organisation.

## Contents

1. POLICY STATEMENT .....	4
2. PURPOSE/POLICY OBJECTIVE .....	4
3. DEFINITIONS .....	4
4. SCOPE OF THE POLICY .....	5
5. POLICY REQUIREMENTS.....	6
5.1. PROTECTED DISCLOSURES .....	6
5.2. CONFIDENTIALITY .....	7
5.3. ANONYMOUS ALLEGATIONS.....	7
5.4. UNTRUE/FALSE ALLEGATIONS .....	8
5.5. THE REPORTING PROCESS .....	8
5.6. PRECAUTIONARY SUSPENSIONS AND SEIZURE OF EVIDENCE .....	9
5.7. HOW A CONCERN SHALL BE DEALT WITH .....	9
5.8. STATUTORY REPORTING OF FRAUD AND RELATED CRIMINAL OFFENCES TO SAPS .....	11
5.9. FURTHER PROCESSES.....	11
5.10. PUBLICATION OF SANCTIONS.....	12
5.11. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS .....	12
5.12. ROLES AND RESPONSIBILITIES.....	12
6. ASSOCIATED DOCUMENTS .....	13
7. MONITORING.....	13
8. MECHANISM TO ACHIEVE THE OBJECTIVES OF THE POLICY .....	13
9. POLICY REVISION.....	14
<b>9.1. Policy life cycle</b> .....	14
<b>9.2. Revision History</b> .....	14
10. APPROVAL OF POLICY AND EFFECTIVE DATE .....	14

## 1. POLICY STATEMENT

- 1.1. The Ngubane & Co. (“Ngubane”) and the entities under Ngubane’s control are committed to principles of good corporate governance and a culture of zero tolerance towards unethical conduct, noncompliance, fraud or corruption (“irregularities”) in its activities.
- 1.2. In line with this commitment, Ngubane expect employees and other stakeholders that it deal with, to report any acts of misconduct and impropriety.

## 2. PURPOSE/POLICY OBJECTIVE

- 2.1. The purpose of this policy is to provide means by which employees and other stakeholders are able to raise concerns with the appropriate managers if they have reasonable grounds to believe that an act of misconduct or impropriety has been committed, and which will be detrimental to good governance, and to further to give effect to the Protected Disclosure Act.
- 2.2. This Policy seeks to encourage and protect responsible whistle-blowing and is a commitment to working towards a culture of openness and transparency, and provides assurance that employees and other stakeholders will report any acts of misconduct and impropriety, which include instances of fraud and corruption without fear of reprisal.
- 2.3. The objective of the Ngubane & Co’s Whistle-blowing and Anti-Fraud Policy (“the Policy”) is to communicate the position of Ngubane & Co and the entities under Ngubane’s control regarding irregularities, provide information on the policies and procedures aimed at deterring, detecting and eradicating such malpractices, and to protect complainants against any victimisation arising from the disclosure of concerns.
- 2.4. In line with the Protected Disclosures Act (Act 26 of 2000, as amended), Ngubane has a number of mechanisms to facilitate effective and safe reporting of concerns to Ngubane & Co. by Ngubane employees, workers, contractors, vendors and other concerned parties (“ Ngubane stakeholders”) relating to suspected irregularities at Ngubane & Co.
- 2.5. Ngubane & Co’s stakeholders are encouraged to disclose their knowledge of actual or suspected irregularities in the Ngubane workplace to the appropriate office at Ngubane.

## 3. DEFINITIONS

- 3.1. **Whistleblowing** - is the act of drawing attention, or the attention of an authority figure, to perceived wrongdoing, misconduct, unethical activity within public, private or third-sector organisations. This includes a disclosure of an impropriety and includes a protected disclosure.
- 3.2. **Fraud** - A dishonest act that intentionally uses deception to illegally deprive another person or entity of money, property, or legal rights

- 3.3. **Corruption** - A form of dishonesty or criminal offense undertaken by a person or organisation entrusted with a position of authority, to acquire illicit benefit or abuse power for private gain.
- 3.4. **Bribery** - .The offering, giving, receiving, or soliciting of any item of value to influence the actions of an official, or other person, in the discharge of a public or legal duty.
- 3.5. **Forgery** - The false making or alteration of a document with the specific intent to mislead.
- 3.6. **Uttering** - The act of knowingly presenting or using the forged document.
- 3.7. **Protected disclosure** - a disclosure made by an employee must be one that is regarded as “protected” under the Protected Disclosure Act. Section 1 of the PDA defines a disclosure as the disclosure of information by an employee, regarding any conduct of an employer, or an employee of that employer, which shows that:
- A criminal offence has been committed, or is being committed or is likely to be committed;
  - A person has failed, is failing or is likely to fail to comply with any legal obligation which they have;
  - A miscarriage of justice has occurred, is occurring or is likely to occur;
  - The health or safety of an individual has been or is likely to be endangered;
  - The environment has been, is being or is likely to be damaged;
  - Unfair discrimination is taking place, as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000; or
  - Any matter related to the above, has been or is likely to be deliberately concealed.
- 3.8. **Unethical conduct - Behavior** that falls below or violates the professional standards in a particular field or that of the firm’s code of conduct.
- 3.9. **Impropriety** - . Behaviour that is dishonest, socially unacceptable, or unsuitable for a particular situation

#### 4. SCOPE OF THE POLICY

- 4.1. This Policy is applicable to the Ngubane & Co and the entities under Ngubane & Co’s control, as well as their employees, workers, contractors, vendors, consultants, students and members of the public.
- 4.2. This policy applies to the following types of irregularity:
- Fraud;
  - Corruption;
  - Bribery;
  - Material non-compliance with laws or Ngubane policies;
  - Dishonesty, forgery and uttering/use of forged documents;
  - Financial mismanagement, fruitless and wasteful expenditure and procurement irregularities;

- Conflict of interest and unauthorised external work/private practice;
  - Nepotism and favouritism;
  - Misconduct by Ngubane employees, including breaches of the Code of Conduct for employees and self-approval (e.g. expense claims, leave, etc.);
  - Collusion between Ngubane staff and Ngubane suppliers/vendors;
  - Criminal offences, cybersecurity threats and data breaches; and
  - Damage to the environment.
- 4.3. Complainants are encouraged to initially report their concerns relating to items listed in 4.2, in a timely manner, to the relevant members of line management.
- 4.4. Any person who has raised an issue with a line manager, which issue has not been resolved to their satisfaction within a reasonable time, must advise the functionary with whom the initial complaint was lodged or to whom the matter was previously escalated, that the matter should be escalated or further escalated to the next level of authority. In the event that the complaint is not resolved through the escalation process, the complainant is encouraged to report the matter to the Ngubane Ethics Helpdesk.
- 4.5. The following matters should be reported as follows:
- 4.5.1. Matters relating to employment-related grievances of Ngubane employees and workers should be reported to the Human Resource department to be dealt with in terms of the *Ngubane Grievance Procedures*.
- 4.5.2. Matters relating to complaints of gender-based harm, racial discrimination, homophobia or xenophobia and other forms of discrimination or harassment should be directed to the Human Resource office to be dealt with in terms of the *Human resource policies*.
- 4.5.3. Matters involving threats to life or property should be immediately reported to the Department of Risk, Compliance & Ethics.
- 4.5.4. For assistance with ethical or Code of Conduct related matters you should approach your supervisor/ director, your human resources representative, your Head of department, or your office managing Director. In some instances, the matter should be brought directly to the attention of firm management:
- Head of Risk, Compliance and Ethics
  - Managing directors
  - Chief Executive officer
  - Chair of Social and ethics committee
  - Chair of the Board

## 5. POLICY REQUIREMENTS

### 5.1. PROTECTED DISCLOSURES

- 5.1.1. Complaints submitted by whistle-blowers qualify as protected disclosures, and Ngubane is under an obligation to take all the necessary steps to protect

complainants from any occupational or other detriments, in as far as it is within Ngubane's power to do so, if the complaint is submitted as follows:

- The complaint is reported on any of the available formal Ngubane channels, including the Ngubane Ethics Helpdesk;
- The complaint is reported in good faith (without malicious intention); and
- The complainant was not involved in the actual or alleged irregularity that they are reporting.

5.1.2. In addition, a complaint may qualify as a protected disclosure if it is made to a legal practitioner or to a person whose occupation involves the giving of legal advice, and with the object of and in the course of obtaining legal advice.

5.1.3. Ngubane acknowledges the fact that the decision to report a concern may be difficult to make, not least because of fear of potential reprisal from those responsible for the alleged irregularity.

5.1.4. Ngubane does not tolerate harassment or victimisation of whistle-blowers and shall take appropriate action to protect employees, workers, students and external parties when they raise a concern in good faith.

5.1.5. Any acts of alleged harassment or victimisation arising from a submission of a protected disclosure, should be reported to the Department of Risk, Compliance & Ethics

## 5.2. CONFIDENTIALITY

5.2.1. Ngubane & Co shall endeavour at all times to protect a person's identity when they raise a concern and do not wish their identity to be disclosed.

5.2.2. It should be noted, however, that the investigation process may inadvertently locate the source of the information and that a statement by the employee, worker, contractor, vendor, student or external party concerned may be required as part of the evidence. However, no person may be compelled to give evidence in terms of this Policy.

5.2.3. No person shall supply any information with regard to alleged irregularities to the media or external parties without the express written permission of the Chief Executive Officer, which decision may be taken in consultation, as considered necessary in the circumstances, with the Chair of the Board and the Chairperson of the Social, Ethics & Transformation committee

## 5.3. ANONYMOUS ALLEGATIONS

5.3.1. A concern expressed anonymously and without contact details is difficult to investigate. In order to reduce the risk of malicious allegations, Ngubane encourages complainants to put their name on allegations made by them. Alternatively, a whistle-blower may provide an anonymous email address or other details on which they may be contacted, without revealing their identity, should further information be required during the course of the investigation.

- 5.3.2. Anonymous allegations will be followed up at the discretion of the Head of Risk, Compliance & Ethics in consultation with EXCO. This discretion will be exercised by taking into account –
- the potential jurisdiction of Ngubane in the particular matter;
  - the seriousness of the issue raised;
  - the credibility of the allegation; and
  - the likelihood of confirming the allegation.

#### 5.4. UNTRUE/FALSE ALLEGATIONS

- 5.4.1. Members of Ngubane management should discourage the making of allegations which are false and are intended to cause harm to the affected party. In instances where reported allegations are proven to be intentionally fabricated and malicious, the person who made them shall be subjected to firm disciplinary action or similar action, while appropriate action may be taken in the case of external parties.
- 5.4.2. In terms of the Protected Disclosures Act, persons who made false and malicious allegations that have caused the affected party to suffer harm, may be criminally charged with an offence and may be liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

#### 5.5. THE REPORTING PROCESS

- 5.5.1. The reporting channels of the Ngubane Ethics Helpdesk and the Department of Risk, Compliance & Ethics are indicated on the cover page of this Policy.
- 5.5.2. It is the responsibility of every employee to immediately report any alleged incident of unethical conduct, irregularity, fraud and corruption to their line manager as the first point of contact, unless the line manager is the suspected perpetrator of the alleged incident. In the latter case, the matter should be reported to the line manager of the suspected perpetrator.
- 5.5.3. Other stakeholders such as customers, vendors and members of the public are also encouraged to bring their concerns relating to actual or suspected irregularities to the attention of Ngubane.
- 5.5.4. Members of Ngubane management are responsible for the prevention, detection and resolution of instances of unethical conduct and irregularities. In addition, instance of suspected or confirmed fraud and corruption must be further reported to the Department of Risk, Compliance & Ethics, who shall initiate an investigation into the matter.
- 5.5.5. Should it be suspected that the Chief Executive Officer or Managing Directors or any other member of Board of Director of the firm may be involved in an alleged incident of fraud and corruption, the Department of Risk, Compliance & Ethics will initiate an investigation into the matter in consultation with the Chairperson of the Social & Ethics Committee.
- 5.5.6. Should it be suspected that the Head of Risk, Compliance & Ethics is involved in an alleged incident of fraud and corruption, the matter shall be reported directly to Managing Director or Chief Executive officer for further investigation.



- 5.5.7. In respect of minor issues (e.g. personal use of Ngubane equipment etc.), an employee or other individual should preferably raise the concerns with the immediate line manager of the employee who is the subject of the concern. However, every complainant is entitled to make use of the whistle-blowing process.
- 5.5.8. The background and history of the concern, including names, dates and places where possible, should be set out, as well as the reason why the whistle-blower is particularly concerned about the situation.
- 5.5.9. A whistle-blower is not expected to prove the truth of the allegation(s), however, they shall demonstrate to the person contacted that there are sufficient grounds for concern.
- 5.5.10. Advice and guidelines on how matters of concern may be pursued, can be obtained from the Head of Risk, Compliance & Ethics.

## 5.6. PRECAUTIONARY SUSPENSIONS AND SEIZURE OF EVIDENCE

- 5.6.1. In the event that preliminary indicators are noted (in the course of an investigation) that Ngubane staff may be involved in a material irregularity and a significant risk of loss or destruction of forensic evidence exists, the Head of Risk, Compliance & Ethics, in consultation with the Registrar, shall obtain urgent approval directly from the Director responsible for HR, that the suspected staff member is placed on precautionary suspension, per the Ngubane Disciplinary Code for Employees.
- 5.6.2. The preparation of the documentation for the precautionary suspension and the seizure of Ngubane computers and documents will be done in a strictly confidential manner by the Chief Executive Officer, in consultation with the Department of Risk, Compliance & Ethics and the Director responsible for HR and other portfolios, as deemed relevant in the circumstances.

## 5.7. HOW A CONCERN SHALL BE DEALT WITH

- 5.7.1. The Head of Risk, Compliance and Ethics shall upon receipt of a complaint directly or via the Ethics Helpdesk from a whistle-blower, shall:
  - Acknowledge that the concern has been received (where possible, i.e. where the identity or alternatively, contact details of the anonymous whistle-blower are known);
  - Enter the complaint in the Ngubane Whistle-blowing Register for tracking; and
  - Initiate a preliminary enquiry/review of the allegations internally or refer it to another appropriate portfolio.
- 5.7.2. The action taken by Ngubane will depend on the nature of the concern raised. Should the results of the preliminary review indicate the need for further investigation, the matter will be referred for further enquiries to the appropriate internal department or external investigators, or any other relevant party.
- 5.7.3. In order to protect the individuals concerned as well as Ngubane, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other

procedures, will normally be referred for consideration in accordance with those procedures.

- 5.7.4. The following timelines apply to the investigation of complaints received from Ngubane employees and Ngubane workers, as legislated in the Protected Disclosures Act and where practical, these timelines may also apply to complaints received from other persons:
- Informing the whistle-blower within 21 calendar days after receipt of the complaint (where the whistle-blower's identity is known) whether further investigation will take place or not, or indicating the referral of the complaint to another person or body and the estimated timeframes (if possible);
  - If Ngubane is unable to decide within 21 calendar days whether the whistle-blowing complaint should be investigated further, the company will inform the whistle-blower that it is unable to make a decision within 21 calendar days and provide feedback at regular intervals (not more than two months apart) that the decision is still pending.
- 5.7.5. Once the investigation is completed, Ngubane. undertakes to provide feedback on the outcome of whistle-blowing complaints received from Ngubane employees and workers, and where possible to complaints received from other categories of complainants, subject to factors such as anonymity of the complainant, legal restrictions on distribution of privileged information and related considerations. Requests for feedback are therefore considered on a case by case basis in consultation, where necessary, with outsourced legal counsel of the firm and/or other relevant parties.
- 5.7.6. Documents relating to the investigation are confidential and privileged and will not be disclosed to any party (whistle-blower or otherwise), unless Ngubane is legally obliged to do so during legal proceedings.
- 5.7.7. The Company will only correspond with a representative of the whistle-blower in cases where the whistle-blower is not anonymous and where the whistle-blower has provided written consent for the Company to correspond through a representative or third party, subject to the following requirements:
- Consent via email will be sufficient.
  - The whistle-blower needs to communicate the details of their chosen representative to the Department of Risk, Compliance & Ethics.
  - Only one representative per complaint will be approved.
  - Written acceptance by the representative should also be attached to the relevant correspondence.
- 5.7.8. Where the complainant refers to additional potential complainants wishing to join the original complaint, these additional individuals referred to by the original complainant will not be automatically contacted by the investigators unless these individuals, in writing, inform the Head of Risk, Compliance & Ethics that they are requesting to join the original complaint.
- 5.7.9. The details of the investigating team and the evidence files relating to the investigation are privileged and confidential. These particulars will not be disclosed to any party, including the whistle-blower, unless Ngubane. is legally obliged to do so during the course of legal proceedings.

- 5.7.10. The amount of contact between the body investigating the issues and the whistle-blower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the whistleblower (where possible).
- 5.7.11. Some concerns may be resolved by means of agreed remedial action, thereby negating the need for investigation.
- 5.7.12. Ngubane accepts that every employee, worker, contractor, vendor, student and/or external party concerned needs to be assured that the matter has been properly addressed. However, the progress made with investigations shall be handled in a confidential manner and shall not be disclosed to or discussed with any persons who have no legitimate claim to such information.
- 5.7.13. The manner and scope of the investigation process depends on a number of factors, including the requirements of the relevant professional bodies. Ngubane does not permit interferences in the investigation process or intimidation of the investigators by complainants or other parties.
- 5.7.14. When there is a concurrent employee relations grievance/disciplinary matter and a whistleblowing complaint on the same or related matter, it is at the discretion of the Registrar, in consultation with the Head of Risk, Compliance & Ethics and Director: HR, which process takes precedence.

The decision will be made on a case by case basis, depending on the facts of each matter.

- 5.7.15. Any Ngubane employee or Ngubane worker who has been subjected, is subjected or may be subjected, to an occupational detriment resulting from the submission of a protected disclosure, or anyone acting on behalf of an employee who is not able to act in their own name, may approach any court having jurisdiction, including the Labour Court, for appropriate relief or pursue any other process permitted by law.

## 5.8. STATUTORY REPORTING OF FRAUD AND RELATED CRIMINAL OFFENCES TO SAPS

- 5.8.1. Any person who holds a position of authority at Ngubane, who knows or should have reasonably been expected to know or to suspect that any other person has committed criminal acts such as corruption, theft, fraud, extortion, forgery or uttering of a forged document involving an amount of R100 000 or more, must report such knowledge or suspicion to a police official, as required by law (Prevention and Combating of Corrupt Activities Act).
- 5.8.2. If considered necessary any other fraudulent activities below R100,000 may be reported to the police were considered appropriate.
- 5.8.3. The Risk, Compliance and Ethics Department shall provide assistance to members of management in opening such cases at the SAPS, after consultation with the Chief Executive officer and legal counsel.

## 5.9. FURTHER PROCESSES

- 5.9.1. Any irregularity committed by a Ngubane employee or worker shall be pursued by thorough investigation and to the full extent of the law, including (where appropriate) consideration of:

- In the case of Ngubane employees and workers , taking disciplinary action within a reasonable period of time after the conclusion of the investigation;
- Instituting civil action to recover any loss or damage suffered by Ngubane;
- Reporting the matter to the relevant professional body /organisation;
- Any other appropriate legal remedy available.

## 5.10. PUBLICATION OF SANCTIONS

5.10.1. The Chief Executive officer, in consultation with the members of the Executive Committee and/or the Chairperson of the Social & Ethics Committee, shall decide whether any information relating to corrective actions taken or sanctions imposed in respect of incidents of irregularity, fraud and corruption should be brought to the direct attention of any person or made public by any other means, subject to the applicable limitations in terms of the Protection of Personal Information Act.

## 5.11. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS

5.11.1. In respect of all reported incidents of alleged irregularities, fraud and corruption, management shall, in consultation with the Head of Risk, Compliance & Ethics, immediately review and, where possible, improve the effectiveness of the controls that have been breached in order to prevent similar irregularities from taking place in future.

## 5.12. ROLES AND RESPONSIBILITIES

5.12.1. The Chief Executive Officer

The custodian of the Policy is the **Chief Executive Officer**, who shall be responsible for the administration, revision, interpretation, as well as implementation and monitoring of compliance with the Policy and reporting thereon with assistance from the Department of Risk, Compliance & Ethics and other relevant stakeholders.

5.12.2. The Department of Risk, Compliance & Ethics

The Department of Risk, Compliance & Ethics shall maintain a confidential record of all concerns raised as well as of the outcome of all actions taken in compliance with the applicable legislative and policy requirements and investigate complaints within its jurisdiction. In addition, formal training sessions on compliance and anti-fraud are presented by the Department of Risk, Compliance & Ethics on an ongoing basis.

5.12.3. Head of departments and Managing Director

The Heads of department and the Managing Directors shall be responsible for ensuring that all employees and workers under their control are made aware of and receive the relevant policy documentation, as well as any updates and training on the policy. The Department of Risk, Compliance and Ethics is responsible for structuring and implementing awareness campaigns relating to this Policy

## **6. ASSOCIATED DOCUMENTS**

The policy should be read in conjunction with the following:

- Prevention and Combating of Corrupt Activities Act (PRECCA) 12 of 2004 (as amended);
- Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (as amended);
- The Protected Disclosures Act 26 of 2000 (as amended);
- Electronic Communications and Transactions Act 25 of 2002 (as amended);
- Employment Equity Act 55 of 1998 (as amended);
- Ethics management policy
- Ngubane & Co Code of conduct
- IRBA/SAICA/ IESB Code of conduct

## **7. MONITORING**

The Department of Risk, Compliance and Ethics should on a continuous basis monitor and evaluate the provision contained in this policy with the actual position as reflected in application as well as in respect of problem areas that may arise after approval in order to identify needs which could necessitate a revision of these provisions

## **8. MECHANISM TO ACHIEVE THE OBJECTIVES OF THE POLICY**

The realisation of this policy is achieved by the understanding, acceptance, and implementation the requirements of this policy framework.

## 9. POLICY REVISION

### 9.1. Policy life cycle



The policy shall be reviewed at least every 3 years or earlier if should a need arise due to changes in regulatory requirements or applicable standards.

### 9.2. Revision History

Initial policy	March 2021
----------------	------------

## 10. APPROVAL OF POLICY AND EFFECTIVE DATE

This Policy is approved by the Board and shall be effective with immediate effect from date of approval thereof.

	DESIGNATION	SIGNATURE	DATE
Recommended for approval by	Head of Risk, Compliance and Ethics		18 March 2021
Signed on behalf of the Board as evidence of approval by	Managing Director		18 March 2021