



## Whistleblowing Policy

<b>Adopted</b>	15/06/2015
<b>Version No.</b>	01/2015
<b>Next Revision Date</b>	15/06/2018

### 1. INTRODUCTION

An important aspect of accountability and transparency is a mechanism to enable all individuals to voice concerns internally in a responsible and effective manner when they discover information which they believe shows serious malpractice.

Consultation goes to the heart of the Authority's culture, and avoids an individual having to resolve a difficult ethical situation alone. Staff should in the first instance consider consulting their line Manager, or Team Leader. If uncomfortable about raising the matter through the Authority's normal reporting channels, they may want to seek assistance from this whistleblowing policy [*hereinafter the Policy*].

The Policy is fundamental to the Authority's professional integrity and commitment to the prevention of corruption. In addition, it reinforces the value the Authority places on staff to be honest, courage to do right and to be respected members of their individual Departments. It provides a process of properly addressing bona fide with genuine concerns that individuals within the Authority might have, while also offering whistle-blowers protection from victimisation, harassment or disciplinary proceedings.

### 2. PURPOSE

The purpose of the Policy is to assist individuals who believe they have discovered malpractice or impropriety and any form of corruption such as bribery, fraud, extortion, abuse of office, etc. It is not designed to be used to reconsider any matters which have been investigated under the harassment, grievance or disciplinary policies and procedures.

### 3. SCOPE

The Policy covers situations where an individual (the whistle-blower) raises a concern about a risk, malpractice, or any corruption practices that affects others such as clients, suppliers, other staff, the Authority or the public interest.

### 4. DEFINITION AND ABBREVIATION

**4.1 Abuse of Office** – A person commits an indictable offence which is triable summarily if, being employed in the public service, the person does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another .


**4.2 Authority** – the Land Transport Authority

**4.3 Bribery** – Any person who, whether in Fiji or elsewhere, without lawful authority or reasonable excuse, offers any **advantage** to a public servant as an inducement to or reward for or otherwise on account of that public servants:

- performing or abstaining from performing, or having performed or abstained from performing any act in his capacity as a public servant
- expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- assisting, favoring, hindering or delaying, or having assisted, favored, hindered or delayed, any person in the transaction of any business with a public body

- Any public servant who, whether in Fiji or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any **advantage** as an inducement to or reward for or otherwise on account of his –

- performing or abstaining from performing, or having performed or abstained from performing any act in his capacity as a public servant

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- expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- assisting, favoring, hindering or delaying, or having assisted, favored, hindered or delayed, any person in the transaction of any business with a public body

**4.4 Confidential disclosure** – whereby the whistle-blower is given protected disclosures

**4.5 Corruption** – Any person who:

- being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly asks for, solicits, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or
- corruptly gives, confers or procures, or promises or offers to give or confer, or to procure, or attempt to procure, to, upon, or for any person employed in the public service, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed.

**4.6 Departments** – sections or units within the Authority

**4.7 Established Employees** – all current full time employees

**4.8 Harassment** – describes any ongoing torment such as bullying and is clearly defined in the Human Resource Policy number 24 and 25

**4.9 Impropriety** – a failure to observe standards or show due honesty or modesty; improper language, behaviour, or character

**4.10 Identity protection** – this is an undertaking in writing made between the whistle-blower and the recipient of the concern listed under clause 4(a) & (b), whereby the identity of the whistle-blower is protected in all stages of the process.

**4.11 Malpractice** – improper, illegal, or negligent professional activity or treatment especially by a public servant

**4.12 Managers** – all Managers including the Chief Executive Officer (CEO) and General Managers (GMs)

**4.13 Misdemeanour** – the wrongdoing

**4.14 Perceived** – to become aware of or to recognize

**4.15 Public servant** – all employees of the Authority since the Authority is a government statutory body

**4.16 Protected disclosure** – whereby the whistle-blower signs a declaration form stating that he/she wishes to be given identity protection


**4.17 Unestablished Employees** – all current temporary employees including attachés

**4.18 Victimisation** – a process of being physically or emotionally harmed or injured

**4.19 Whistle-blower** – any individual referred to in clause 6(2) of this policy, who raises a concern as defined under clause 6(1) to anyone listed in clause 4(a) & (b).

## 5. REFERENCES

- 5.1 Collective Agreement
- 5.2 Human Resource Policy & Procedures
- 5.3 Penal Code (Cap.17) Sec 106
- 5.4 Prevention of Bribery Promulgation No. 11 2007
- 5.5 Section 139 of Crimes Decree of 2009

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## 6. MAIN POLICY PROVISIONS

### 6.1 What is whistleblowing?

Whistleblowing is the confidential disclosure by an individual of any concern encountered in the workplace relating to a **perceived** wrongdoing.


- a) The Authority considers such wrongdoing to include:
  - i. General malpractice – such as immoral, illegal or unethical conduct; corruption and its related offences (including where someone's Health & safety has been put in danger)
  - ii. Gross misconduct as defined under the Collective Agreement and Human Resource Policy;
  - iii. Potential breaches of the Authority's Code of Conduct;
  - iv. Potential violations of the requirements in, or made under, the Land Transport Act 1998 Cap 176, the Land Transport Regulations, and the Authority's Policies and Procedures; and
  - v. Potential infractions of the Crimes Decree, Penal Code, and the Constitution.
- b) A whistle-blower should make a protected disclosure and to be given identity protection by the Authority.

### 6.2 Who does this policy apply to?

- a) This Policy applies to everyone who carries out work for the Authority, including:
  - i. Managers;
  - ii. All Established employees; and
  - iii. All Unestablished employees.
- b) However if individuals have any concerns relating to their employment with the Authority, these should be raised under the Authority's Human Resource Dispute & Grievance policy.

### 6.3 What are the fundamental elements of this policy?

- a) As listed in clause 2a above, all will be protected from victimisation, harassment or disciplinary action as a result of any disclosure, where the disclosure is made in good faith and is not made maliciously or for personal gain.
- b) Any disclosures will be investigated fully including interviews with all the witnesses and other parties involved.
- c) **Anonymity:** Normally individuals should make disclosures internally. The identity of the whistle-blower will be protected at all stages in any internal matter.
  - i. The authority can provide internal anonymity until and unless the court requires the identity of the whistle-blower.
  - ii. If the whistle-blower prefers to make a disclosure outside the Authority, they must first signed the Authority's Declaration Form stating that they wish to pursue the matter outside
  - iii. The Authority is not accountable for maintaining anonymity where the whistle-blower has told others of the alleged misdemeanour.
  - iv. The whistle-blower has to identify himself/herself to the relevant Manager if he/she wants the alleged misdemeanour to be taken seriously and to be investigated further.
  - v. Anonymous calls, texts, emails and letters will not be accepted.

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#### 6.4 Process for dealing with whistleblowing disclosures

##### *Raising the concern*

- a) All concerns raised may be made through the following channels:
  - i. The whistle-blower's line Manager or General Manager;
  - ii. Manager Human Resources; and
  - iii. Manager Audit
- b) If these contacts (refer a above) are unavailable, or if the whistle blower is concerned about making a disclosure to their own line management, they may make a disclosure to:
  - i. Any other Manager and General Manager; and
  - ii. The Chief Executive Officer.
- c) All whistleblowing disclosures made to the parties above will be treated as confidential in all stages of the process through a written undertaking via declaration form.
- d) The whistle-blower should make it clear that they are making their disclosure within the terms of the Authority's whistleblowing policy.
  - i. This will ensure the recipient (listed in a & b above) of the disclosure realises this and takes the necessary action to investigate the disclosure within 21 days of the disclosure and also to protect the whistle-blower's identity.
- e) The Whistle-blower may make reports through the following modes:
  - i. Written – emails, letters, memos, etc
  - ii. Oral – phone or any electronic modes such as video conferencing, skype, etc.

#### 7. EXCEPTIONS / EXEMPTIONS

This Policy applies to all LTA Employees and Managers.

#### 8. RESPONSIBILITY

- a) All officers outlined 6 (4 a&b) shall provide undertaking in writing to the whistle-blower that all information disclosed with be treated with confidentiality.
- b) The Manager Audit shall take overall responsibility to ensure that this Policy is established and understood by everyone.
- c) All LTA Employees and Management shall take reasonable steps to read, understand and comply with this Policy.

#### 9. REVIEW

- a) The CEO shall continuously improve the effectiveness of this Policy by periodically reviewing its intent, scope, performance and adequacy.
- b) This Policy shall be reviewed every three (3) years or as and when required.