



**CHRIS HANI**  
**DISTRICT MUNICIPALITY**  

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**SUSTAINING GROWTH**  
**THROUGH OUR PEOPLE**

**WHISTLE BLOWING POLICY**

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*Adopted in an Ordinary Council meeting held on 31 May 2023*

## 1. INTRODUCTION

1.1. One of the key aspects for preventing of fraud and corruption is effective measures to detect its occurrence. Reporting corruption and fraud or “whistleblowing” is one of the means through which fraud and corruption could be detected and prevented. It is important to establish mechanism and procedure for whistle-blowing in order to open an opportunity for councillors/employees and stakeholder to report.

1.2. The Chris Hani District Municipality (CHDM), recognises the fact that:

1.2.1. Criminal and other unethical conduct within the **CHDM** is detrimental to good, effective, accountable and transparent governance within the municipality and can endanger the economic stability of the municipality and have the potential to cause reputational damage;

1.2.2. There is a need for procedures in terms of which councillors/officials may, without fear of reprisals, disclose information relating to suspected or alleged criminal or other unethical conduct affecting the municipality;

1.2.3. Every employer, councillor and official has the responsibility to disclose criminal and any other unethical conduct in the workplace; and

1.2.4. Every employer has a responsibility to take all necessary steps to ensure that councillors/officials who disclose such information are protected from any reprisals as a result of disclosure.

## 2. PURPOSE

The purpose of this policy is to provide a means by which councillors/employees and stakeholders (whistle-blowers) who believe they have discovered unethical conduct/ behaviour are able to report such conduct. It is also meant to protect whistle-blowers from any form of victimization.

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### 3. DEFINITIONS AND ACRONYMS

<b>Corruption</b>	Shall mean “ involves a corruptor ( gives / offers to give) and a corruptee ( receives/ offer to accept) any gratification for him/ herself or for another person where the purpose is to act dishonestly or illegally
<b>Fraud</b>	Shall mean “ potential or actual misrepresentation of facts to deliberately deceive to the actual or potential detriment of another in order to secure an unfair or unlawful gain / benefit”
<b>Good Faith</b>	shall mean “ a sincere intention to deal fairly with others” or sincere belief or motive without any malice or the desire to defraud others”
<b>Gratification</b>	shall mean “ Money, whether in cash or otherwise; or any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, or any other similar advantage”
<b>PDA</b>	Shall mean “ Protected Disclosures Act ( no 26 of 2000”)
<b>CHDM</b>	“Chris Hani District Municipality”
<b>Whistleblower</b>	shall mean “ any person who makes a qualifying protected disclosure to a person or body as provided for in this policy and as per the provisions of the Protected Disclosures Act 2000; in respect of: a criminal offence committed, being committed or likely to be committed”

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#### 4. SCOPE

- a) This policy applies to all Chris Hani District Municipality (CHDM) employees, councillors, independent contractors/consultants and service providers
- b) This policy provides CHDM's position on whistle-blowing in line with the Protected Disclosures Act, No. 26 of 2000.
- c) This policy outlines available avenues for all CHDM councillors/employees when making protected disclosures within the organisation and provides steps that the organisation may take to ensure that employees who make disclosures are protected from reprisals as a result of making such disclosures.

#### 5. Legal Framework

- I. Constitution of the Republic of South Africa (No. 108 of 1996).
- II. Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. III. Protected Disclosures Act (No. 26 of 2000)
- IV. Municipal Finance Management Act V. Municipal Systems Act
- VI. Local Government Anti-Corruption Strategy 2016
- VII. Prevention and Combative of Corrupt Activities Act No 12 of 2004

##### 5.1. Protected Disclosures Act

Section 2 of The Protected Disclosures Act clearly defines the "*Objects of the Act*" as follows:

- i) To protect an employee from being subjected to an *occupational detriment* on account of having made a protected disclosure;

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- ii) To provide for *remedies* in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- iii) To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her colleagues, councillor, other stakeholders and employer.

This Policy is developed based on the principle objects of the Protected Disclosures Act, which encourages employees and councillors to disclose any acts of misconduct without fear of any recriminations or reprisals.

## **6. POLICY**

### **6.1 Policy Statement**

- 6.1.1. CHDM encourages and supports protected disclosure by councillors/employees in promoting accountability, openness, and transparency.
- 6.1.2. CHDM does not promote whistle-blowing or protects disclosure made with malicious or vexatious intent.
- 6.1.3. Councillors/employees making protected disclosures shall be accorded remedies provided for in terms of Section 4 of the Protected Disclosures Act 4, of 2000 by CHDM.
- 6.1.4. The municipality is committed to the highest standards of good professional ethics and integrity. The Municipality recognises that an important aspect of accountability and transparency is a mechanism that enable employees to voice concerns about incidents of unethical conduct
- 6.2.1. Councillors/employees making protected disclosures shall not be subjected to occupational detriment on account, or partly on account of having made a protected disclosure which include but is not limited to:-

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- 6.2.1.1. Being subjected to any disciplinary action;
- 6.2.1.2. Being dismissed, suspended, demoted, harassed or intimidated;
- 6.2.1.3. Being transferred against his/her will;
- 6.2.1.4. Being refused transfer or promotion;
- 6.2.1.5. Being subjected to any term or condition of employment or retirement which is altered or kept unaltered to his/her disadvantage;
- 6.2.1.6. Being refused a reference, or being provided with a negative (adverse) reference by the employer;
- 6.2.1.7. Being threatened with any of the above; and/or
- 6.2.1.8. Being otherwise adversely affected in respect of his/her employment, profession, including opportunities and work security.

## **6.2. Whistle-blowing Procedure**

- 6.2.1. Employees may make use any of the following avenues to make protected disclosures:
    - i) Inform the Legal advisor whose occupation involves giving of legal advice or with the object of and in the course of obtaining legal advice.
    - ii) Inform the Municipal Manager
    - iii) Inform the Chief Risk Officer.
  - iv) Disclose to be made as per the requirements of Section 5,6,7,8,9 of PDA
  - v) Utilise the National Anti-Corruption Hotline 0800 701 701.
- 6.2.2. Employees making protected disclosure need to satisfy themselves that the disclosure is made in good faith, reasonably believing that the information is substantially true, and the disclosure is not made for personal gain or vexatious reason/s.

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### **6.3. Managing Protected Disclosures**

- 6.3.1. CHDM views all employees and councillors as being obliged to disclose all suspicions (based on reasonable belief) to the employer. Failure to do so may be viewed as constituting derivative misconduct
- 6.3.2. Any person to whom a report is made in terms of the provisions of this policy has to treat the whistle-blower with care.
- 6.3.3. Disciplinary action may be taken against any person failing to do so, and or who subjects or causes the whistle-blower to be subjected to occupational detriment as a result of him/her having made the disclosure in question.
- 6.3.4. An employee who reports suspected unethical conduct or any such activity that he/she witnessed may remain anonymous should he/she so desire.
- 6.3.5. All protected disclosures shall be classified as confidential.
- 6.3.6. The identity of individuals making protected disclosures shall remain confidential (where required) and their jobs, safety and dignity will be protected as far as possible and sustainable in the given matter.

## **7. CONFIDENTIALITY**

- 7.1. All information relating to unethical conduct/ behavior that is reported and investigated will be treated strictly confidential. The process of investigation will be handled in a professional manner and will not be disclosed or discussed with any person(s) other than those who have legitimate right to such information. This is important in order to avoid harming the reputation of the suspected persons who are subsequently found innocent of wrongful conduct.

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7.2. No person is authorized to supply any information with regard to allegations or incidents of unethical behavior to the media without the express permission of the Accounting Officer.

**8. MONITORING AND EVALUATION**

The Municipal Manager shall be responsible for overall monitoring and evaluation of this policy.

**9. REVIEW OF THE POLICY**

This policy has been reviewed and no amendments made for 2023/24 financial year.

**10. DISPUTE RESOLUTION**

Any dispute arising from this policy shall be dealt with in terms of dispute resolution applicable in the sector.

**11. EFFECTIVE DATE**

01 July 2023

Signed by Municipal Manager: **G MASHIYI**



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*Initial & Surname*    *Signature*                      *Date*

Signed by Speaker of the Council: **J CENGANI**



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*Initial & Surname*    *Signature*                      *Date*

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