

POLICY DOCUMENT

WHISTLE BLOWING POLICY

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ENABLING SKILLS DEVELOPMENT IN THE BANKING AND ALTERNATIVE BANKING SECTOR

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ME 

BANKSETA WHISTLE BLOWING POLICY

1. Introduction

- 1.1 The Whistle-Blowing Policy provides a framework through which the BANKSETA will manage and mitigate the financial, legal, reputational risk.
- 1.2 This Whistle-Blowing Policy is also a fundamental means to guard against management override of internal controls and, as such, forms part of the BANKSETA's Anti-Corruption Policy.
- 1.3 The Protected Disclosures Amendment Act (PDA), (Act No. 5 of 2017) provides protection to employees for disclosures made without malice and in good faith, in defined circumstances.
- 1.4 In terms of the PDA, any person can blow the whistle on corruption in the working environment without fear of being victimised.
- 1.5 The BANKSETA encourages staff to raise matters of concern responsibly.

2. Abbreviations and concepts

Abbreviations	Description
AA	Accounting Authority
BANKSETA	Banking Sector Education and Training Authority
CEO	Chief Executive Officer
PDA	Protected Disclosure Act
PAIA	Promotion to Access to Information Act
SAPS	South African Police Services
PRECCA	Prevention and Combating of Corrupt Activities Act
Concepts	Description
Board	Means Accounting Authority
Complainant	The person with a suspicion of business wrongdoing or a suspicion of an Incident, including any member of the Board, Independent member of the Committee, supervisor, employee, temporary worker, freelancer, seconded worker, trainee or intern.

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Disclosure	<p>Any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or 5 more of the following:</p> <ol style="list-style-type: none"> That a criminal offence has been committed or is being committed or is likely to be committed; That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject; That a miscarriage of justice has occurred is occurring or is likely to occur; That the health or safety of an individual has been, is being or is likely to be endangered; That the environment has been, is being or is likely to be damaged. That unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No, 4 of 2000); or that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed.
Employee	Any person, excluding an independent contractor, who works for BANKSETA and who receives, or is entitled to receive, any remuneration; and any other person who in any manner assists in carrying on or conducting the business of BANKSETA.
Suspicion of an Incident	A suspicion based on reasonable grounds of (threatened) facts/behaviours or circumstances as described in the definition of an Incident.
Stakeholder	Refers to a BANKSETA employee, sector company, levy payer, service provider, learner or an employee of such sector company, levy payer or service provider within the banking sector.
Unlawful or Irregular Conduct	Means impropriety and includes acts of fraud or other forms of dishonest behaviour, corruption or misconduct by the BANKSETA or its Senior Management and the employees.

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	This includes unethical or illegal practices or who has reasonable grounds to believe that unethical or illegal practices are occurring, occurred in the past, or might occur in the future, should report this alleged misconduct
Whistleblowing	Means raising a concern or disclosing information regarding unlawful or irregular conduct by the BANKSETA.
Whistle-blower	A person who raises a concern or disclosing information regarding unlawful or irregular conduct by the BANKSETA.

3. Purpose of the Policy

To regulate and provide direction with regard to the reporting unethical behaviour that includes but not limited corruption, theft, misconduct within the BANKSETA working environment.

4. Legislative Framework

The main pieces of legislation which this policy aligns with are:

Statute / Policy/ Regulation	Applicability
The Protected Disclosures Amendment Act (PDA) (No. 5 of 2017)	This Act was passed to encourage employees to disclose information about unlawful and irregular behaviour in the workplace.
The Promotion of Administrative Justice Act (PAJA) (No. 3 of 2000)	This Act provides effect to Section 33 of the Constitution (Just Administrative Action).
The Promotion of Access to Information Act (PAIA) (No. 2 of 2000)	This Act provides effect to Section 32 of the Constitution (Access to Information) on obtaining access to information held by the state by impacted /interested parties
Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004)	This Act provides for the strengthening of measures to prevent and combat corruption and corrupt activities

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Financial Intelligence Centre Act (Act No. 38 of 2001)	This Act provides platform to fight financial crime, such as money laundering, tax evasion, and terrorist financing activities
Prevention and Combating of Corrupt Activities Act 12 of 2004	To place a duty on certain persons holding a position of authority to report certain corrupt transactions; to provide for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities

5. Scope and application

- 5.1 The Whistle-Blowing Policy applies to all BANKSETA employees, permanent and contract employees, and other stakeholders.

6. Document reference Library

- 6.1 Anti-corruption policy
- 6.2 Code of conduct
- 6.3 Fraud Prevention Plan
- 6.4 Investigation procedure

7. Roles and responsibilities

7.1 The Board is responsible for:

- 7.1.1 The BANKSETA Board is accountable for ensuring effective whistleblowing procedures are in place that guarantee confidentiality, anonymity and avoid conflicts of interest.
- 7.1.2 Reporting to the Minister any whistle blowing allegation that may bring BANKSETA's image into disrepute.
- 7.1.3 Deciding to hand over the investigation to external agencies (SAPS, SIU or Public Protector) for further investigations.
- 7.1.4 Taking responsibility for instituting and overseeing the investigations involving senior management.

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7.1.5 Leading and directing whistle blowing investigations against the executives and other Committee Members.

7.1.6 Authorise investigation for reported allegations with the exception of allegation implicating Board members. Where the member of the Board is implicated, then the processes as outlined in the code of conduct and/ BANKSETA constitution shall prevail.

7.2 The CEO is responsible for:

7.2.1 Ensures that risk and compliance management function is adequately resourced to conduct investigations into allegations as approved by the board.

7.2.2 Delegates mandate to investigate and report on reported whistleblowing cases to forensic services.

7.2.3 Establishes a system that encourages and allows employees and citizens to report allegations of corruption and other unethical conduct.

7.2.4 Ensures that the whistleblowing reporting system provides for confidentiality and anonymity.

7.2.5 Ensure that there is established information system that records all allegations of corruption and unethical conduct and monitor the management of reported cases.

7.3 Audit and Risk Committee is responsible for:

7.3.1 Provide oversight on reported whistleblowing cases.

7.3.2 Ensure proper monitoring of the case register/database and ascertain that cases/allegation reported are investigated and finalised.

7.3.3 Investigate matters within their power as identified in its terms of reference.

7.3.4 Report to the chairperson of the board, executive authority and Auditor-General if the member of the Board is implicated for fraud, corruption, or gross negligence.

7.4 Management is responsible for:

7.4.1 Establish and maintain an ethical culture in the organisation.

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7.4.2 Design policies, strategies, processes, and procedures to prevent possible fraud and corruption.

7.4.3 Develop necessary controls that ensure compliance with these policies, strategies, processes, and procedures.

7.4.4. Ensuring that systems of preventing and detecting corruption in BANKSETA are adequate and effectively implemented to address any fraud and corruption risk faced by the organisation.

7.5 Risk and Compliance officer is responsible for:

7.5.1 Embedding a culture of reporting unethical behaviour through awareness campaigns.

7.5.2 Collating and reporting of incidents to appropriate structures.

7.5.3 Communicating the organisation whistle-blowing policy to all employees and stakeholders in the institution and monitoring its implementation.

7.5.4 Disclosing criminal and any other irregular conduct in the workplace.

7.5.5 Developing and maintaining a case register/database.

7.5.6 Promoting whistleblowing best practice, testing, and monitoring systems and advising on change where it is needed.

7.5.7. Executing investigations as approved by the board and also conducting preliminary investigations for allegations received excluding complaints and grievances.

7.6 Internal Audit function is responsible for:

7.6.1 Providing assurance on the adequacy and effectiveness of the whistleblowing system and procedures to the board. It also shall have the right to be informed of all whistleblowing reports so that it can consider what impact they have on its overall opinion to the board concerning risk management and internal control in the organisation.

7.7 External Audit responsible for:

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7.7.1 Obtaining reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error, and to issue an auditor's report that includes an opinion on the financial statements.

7.7 The Employees are responsible for:

7.7.1 Reporting any allegation of unethical behaviour that they may be aware of.

8. Implementation overview

8.1 Confidentiality

8.1.1 The BANKSETA shall take all the necessary steps to protect identity of the individual(s) when there are concerns raised.

8.1.2 The investigation process may reveal the source of information and a statement by the whistleblower may be required as part of the evidence.

8.1.3 Whistle-blowers who raise concerns of unethical behaviour that includes but not limited to corruption, theft, misconduct in accordance with the prescripts in this policy are guaranteed that issues shall be treated with the highest degree of confidentiality.

8.1.4 If the situation arises where the BANKSETA is not able to resolve the concern without revealing the whistleblower's identity (for example where your evidence is needed in court), the organisations will discuss with the affected whistle-blower on the procedure.

8.1.5 Whistleblowing Information must clearly indicate:

8.1.5.1 What is the alleged misconduct?

8.1.5.2 Where and when did the alleged misconduct occur? (dates, times, location);

8.1.5.3 Who is the perpetrator of the alleged misconduct? (name and surname, description of person, title, department);

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8.1.5.4 Why do you think it is improper conduct? (if the nature of the purported misconduct is not otherwise apparent);

8.1.5.5 Who are potential witnesses? (name and surname, description of person, title, department);

8.1.5.6 Where can supporting evidence be found? (evidence of the purported misconduct, supporting documentation, security footage); and

8.1.5.7 Any other information that the whistle-blower believes is relevant to the matter.

8.2 Internal Reporting

8.2.1 The reporting addresses the avenues available to employees, the Board and other stakeholders for raising concerns or disclosures of any irregularities. The reporting is in line with the guidelines found in the PDA.

8.2.2 Whilst the policy is developed in line with the PDA, it seeks to promote both internal and external disclosures, and as such, it should be made clear that protection shall be given to whistle-blower who choose to follow either internal or external reporting channels.

8.2.4 BANKSETA is using the service provider for hotline reporting, details for hotline are included in the Fraud Prevention Plan

8.2.6 The whistleblowing hotline shall dedicate service to assist potential whistle-blower who seeks advice.

8.2.7 All the reported cases shall be reviewed by Risk and Compliance Officer and shall be recommended for further investigation.

8.2.8 External reporting

8.2.8.1 In the event that an individual is afraid or has reasonable doubt that they may not raise the matter using internal procedures due to the nature and circumstances surrounding the case or disclosure, this policy promotes that the relevant external structures should be utilised; however, protection shall be offered by the PDA and any other applicable legislation within the Republic.

8.2.8.2 Individuals can, as their first option under external reporting, seek advice from their private legal representatives.

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8.2.8.3 The next option can be reporting of the matter through the:

- National Anti-Corruption Hotline
- The Presidential Hotline Call Centre
- National Skill Authority hotline

8.2.8.4 The policy outlines that it is not necessarily the duty of the whistle-blower to prove that there is a case.

8.2.8.5 However, in certain instances the whistle-blower shall be requested to furnish further details to enable establishment of a case.

8.2.8.6 The policy outlines that any employee, the Board, irrespective of rank, who has reasonable grounds to suspect that there is misconduct/unethical behaviour happening, is entitled to report or disclose, irrespective of any confidentiality clause in the contract between the employee and the employer.

8.2.9 Section 8 of the PDA makes provision for persons and bodies to be used for external reporting of corruption. The following regulatory bodies are included:

8.2.9.1 Office of the Public Protector.

8.2.9.2 Office of the Public Service Commission.

8.2.10 Or made to bodies and / or structures such as the:

8.2.10.1 National Anti-Corruption Hotline.

8.2.10.2 Special Investigating Unit.

8.2.10.3 South African Police Services.

8.2.10.4 Office of the Auditor General.

8.2.11 PDA further makes provision for wider disclosures to the South African Police Service, Members of Cabinet or Executive Council and the media.

8.2.12 Issues related to personal use and / or abuse of the BANKSETA equipment or other resources by employees shall be raised with their immediate manager. In general, however, whistleblowing is expected to be used for potentially more serious and sensitive issues such as fraud and corruption.

8.3 Harassment or Victimisation

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8.3.1 The BANKSETA shall not tolerate harassment or victimisation and shall take action to protect employees when they raise an allegation in good faith. This does not mean that if an employee is already the subject of disciplinary or other action, that action shall be halted as a result of their whistleblowing.

8.3.2 Where such harassment or victimisation is discovered, the person who committed such acts shall be subjected to disciplinary action, or remedial action.

8.3.3 The BANKSETA shall not use unfair labour practice against whistleblowing that is raised in good faith.

8.3.4 The BANKSETA shall also take reasonable steps to protect stakeholders who blow a whistle from victimisation and detriment.

8.4 Anonymous Allegations

8.4.1 The BANKSETA employees, Board members and other stakeholders are encouraged to report anonymously.

8.5 Untrue Allegations

8.5.1 A whistleblower shall be discouraged from making false allegations with malicious intentions.

8.5.2 Where such malicious or false allegations are discovered, the person who made such allegations shall be subjected to disciplinary action, or remedial action.

8.6 Dealing with Reported allegations.

8.6.1 The action taken by BANKSETA shall depend on the nature of the allegations. The matters raised shall, among other possible actions include:

8.6.1.1 Conduct investigations by Risk and Compliance Unit

8.6.1.2 Referral to the SAPS or other relevant law enforcement agency.

8.6.1.3 Disciplinary action.

8.6.1.4 Recovery of losses through civil action; and / or

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8.6.1.5 Referral to the Head of Risk and Compliance, Chairperson of Risk and Audit Committee, Chairperson of the Board, or the Minister in instances where the Board is implicated.

8.6.2 In order to protect employees, Board Members and other stakeholders at BANKSETA, initial enquiries shall 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 shall be referred for consideration under applicable rules, regulations, policies, and procedures.

8.6.3 Where necessary, concerns shall be resolved by agreed action without the need for investigation.

8.6.4 The extent of contact between the authority investigating the issues and the persons raising the concern shall depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information shall be sought from the individual.

8.6.5 The BANKSETA undertakes and shall assure the employees, management, Board Members and other stakeholders, that the matter reported would be properly addressed. However, the progression of investigations shall be handled in a confidential manner and shall not be disclosed or discussed with any persons other than those who have a legitimate right to such information.

8.6.6 This is important in order to avoid damaging the reputation of suspected persons who are subsequently found innocent of the alleged wrongful conduct.

8.6.7 Once a matter has been reported and it has been found to warrant an investigation, such investigation shall be completed within a specific turnaround time as determined in the investigation plan and feedback shall be provided to the complainant/whistleblower on the outcome of the investigation.

8.6.8 The turnaround times for investigations from the moment that the complaint/allegation is received, throughout the investigation process, until finalisation of the investigation shall be determined by Risk and Compliance Officer.

8.7 Concealing of information

8.7.1 Employees shall not conceal information necessary during investigation or any wrongdoing known within BANKSETA.

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8.7.2 Concealing of such information is contravention of the Code of Conduct and shall be treated as misconduct. If employees are aware of wrongdoing, but choose to ignore it, it is in itself a criminal offence.

8.7.3 Any person in position of authority such as, CEO, anyone appointed in acting or temporary capacity in this position, who fails to report corruption to the value of R 100 000.00 and more as stipulated in section 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA), is guilty of this offence.

8.7.4 In addition the BANKSETA employees and stakeholders are encouraged to report all corruption regardless of value.

8.8 Creating Awareness

8.8.1 In order for this policy to be sustainable, the BANKSETA commits itself to encouraging a culture that promotes openness. This will be done by:

8.8.1.1 It shall be supported by a structured education, communication, induction and awareness programme. Involving employees, listening to their concerns, and encouraging the appropriate use of this policy/process on whistleblowing promoted by the BANKSETA. This policy will be issued to all existing employees and to new employee.

8.8.1.2 Educating/training/informing/explaining to employees what constitutes fraud, corruption and malpractice and its effect on the organisation. Promoting awareness of standards of appropriate and accepted employee conduct and establishing a common understanding of what is acceptable and what unacceptable behaviour.

8.8.1.5 Annual reporting to Accounting Authority on the number of fraud/corruption matters reported and the outcome.

8.9 Dissatisfaction with the response

8.9.1 If an employee or stakeholder is at any stage unhappy with the response, they shall approach other levels and / or bodies specified in this policy. Whilst it cannot be guaranteed that the response shall, in all instances, be in accordance with their wishes, the BANKSETA is committed to handling the matter fairly and diligently, without fear or favour.

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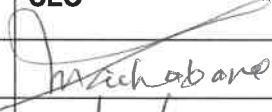
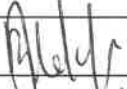
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9. Review of the Policy

9.1 All employees of the BANKSETA must be made aware of this framework together with its associated procedures and processes. The policy has a lifespan of three years and can be reviewed as and when the need arises, or when a need to add / change arises on legislation or procedures.

10. Approval

	Business Unit Owner	CEO	Board Chairperson
Signature			
Date		09/02/2024	20/02/2024