



Whistle-Blower Policy

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WHISTLE BLOWING POLICY

1. INTRODUCTION

The South African Protected Disclosures Act, Act 26 of 2000 (PDA) and the Zambian Public Interest Disclosure (Protection of Whistleblowers) Act, 2010 of aim to promote greater openness and transparency in the workplace and acknowledge the need to offer legal protection to whistle blowers. The Acts in effect are commonly known as the Whistle-blowing Acts. The South African Constitution and the Labour Relations Act support the content of this Act.

The Acts protect employees against retribution such as dismissal or any prejudicial conduct if they disclose information to certain persons concerning, among other things, the commission of criminal offences, miscarriages of justice, unfair discrimination and conduct detrimental to health and safety or the environment

2. WHY A FRAUD AND ETHICS REPORTING FACILITY?

With the new emphasis on corporate ethics in the aftermath of so many high-profile corporate financial scandals, formal Whistle Blower facilities represent an increasingly important communication tool for employees to report violations of the company's ethical standards, and of the law, without fear of retribution.

Employees, contractors and consultants are often in a good position to identify concerns regarding misconduct within and against Edulution, however, they may not want to express their concerns because they are fearful of repercussions and that speaking up would be disloyal to their colleagues or Edulution. In these circumstances it may be easier to ignore the concern rather than report what may just be an act of misconduct or malpractice.

This policy is intended to encourage and enable employees to raise serious concerns within Edulution rather than overlooking the problem or "blowing the whistle" outside the company.

3. DEFINITION

The term "whistle blowing" in this policy refers to the disclosure by employees or contract workers, both former and current of suspected or real malpractice as well as suspected or real illegal acts and omissions at work.

4. LEGAL BACKGROUND

The Acts introduced protection against dismissal and other occupational detriments for those employees or workers who disclose information in the public interest, in prescribed circumstance, to prescribed persons.

The only provision is that the disclosure should be made in good faith.

The Acts do not introduce a general right for “whistle blowers” to receive special protection, for example indemnity from criminal prosecution, should it be found that the “whistle blower” had been actively involved in a criminal activity, etc.

5. STATEMENT

Edulution takes misconduct or malpractice very seriously. Edulution has a “Zero Tolerance Policy” concerning all crimes and violations of the company’s ethical standards as contained in the Code of Conduct.

Edulution is also committed to display the highest possible standards of openness, honesty and accountability.

In line with this commitment employees who have serious concerns on any aspect of Edulution’s business are encouraged and expected to come forward and voice those concerns and are advised that they may do so without fear of victimisation, subsequent discrimination or disadvantage.

6. POLICY OBJECTIVES

This policy aims to

- Encourage individuals to feel confident in raising serious concerns and to question and act upon concerns about work practice;
- Ensure that individuals understand their responsibility for reporting misconduct or malpractice;
- Provide avenues for individuals to raise concerns and receive a response on any action taken;
- Allow individuals to take matters further if they are dissatisfied with management’s response;
- Reassure individuals that they will be protected from reprisals or victimisation, if they have reasonable belief that they have made any disclosure in good faith.

7. SCOPE

This policy applies to all employees of Edulution including contract workers, temporary employees or persons considered to have the rights and privileges of employees or workers.

IMPORTANT NOTE: The whistle blowing policy is intended to cover concerns that fall outside the scope of other procedures and therefore does not replace a procedure that enable you to lodge a grievance relating to your own employment.

Any serious concerns on or about any aspect of Edulution business or conduct of employees can thus be reported under this policy.

This may be about something that:

- Is unlawful, fraudulent, corrupt; or
- Is against, or fails to comply with Edulution's guidelines, procedures, values, policies, codes of conduct, legal obligations; or
- Falls below established standards of practice; or

- Amounts to improper conduct; or
- Constitutes sexual, physical or emotional abuse of clients/employees; or
- Endangers the health and safety of any individual; or
- Is a miscarriage of justice; or
- Is unfair discrimination as defined in the Employment Equity Act and Promotion of Equality and Prevention of Unfair Discrimination Act; or
- Is an attempt to cover up any of the above

8. OTHER RELEVANT POLICIES AND PROCEDURES

This policy should be read in conjunction with Edulution's Code of Conduct and with future guidelines and procedures that may be developed from time to time and which will be brought to the notice of employees and others to whom this policy applies.

9. SAFEGUARDS

Edulution's management recognises that the decision to report a concern can be a difficult one to make. If an employee raise an allegation in good faith or provide information based on reasonable suspicion the employee should have nothing to fear as the employee will be doing his or her duty to the employer.

Edulution will not tolerate harassment or victimisation of individuals, who have raised concerns, including informal pressures and such actions will be treated as a serious disciplinable offence, which will be dealt with under the Edulution disciplinary code and procedures.

The Acts protects the whistle blower from the following occupational detriment due to the disclosure:

- Being subjected to any disciplinary action;
- Being dismissed, suspended, demoted, harassed or intimidated;
- Being transferred against his or her will;
- Being refused transfer or promotion;
- Being subjected to a term or condition of employment or retirement which is altered, or kept altered, to his or her disadvantage;
- Being refused a reference, or being provided with an adverse reference, from his or her employer;
- Being denied appointment to any employment, profession or office;
- Being subjected to a civil claim arising from their breach of any confidentiality requirement through the disclosure of a criminal act or of a planned or current failure to comply with a law;
- Being threatened with any of the actions mentioned above; or
- Being otherwise adversely affected in respect of his or her employment, profession or office, including employment opportunities and work security.

Any investigation into allegations of malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect an employee but neither does it mean that any disciplinary

action or redundancy procedures to which an employee is already a subject of be halted as a result or raising concerns.

Should an employee believe that he or she has been subjected to detriment or victimisation because of a disclosure such an employee can follow the internal grievance policy or refer the matter to the Labour Court and/or CCMA.

10. HOW TO RAISE A CONCERN

10.1. In person reporting

If an employee has a concern he or she should not approach or accuse individuals directly or attempt to investigate the matter.

This policy encourages whistle blowers to submit allegations in writing and to address their email to report@edulution.org.

All direct disclosures will be treated in confidence and every effort will be made not to reveal your identity, if you so wish. It must be appreciated that the investigation process may reveal the source of the information and a statement by an employee may be required as part of the process of gathering evidence.

It is recommended that employees should raise concerns with their immediate manager or by sending an email to report@edulution.org

10.2. Anonymous reporting through the Edulution reporting lines

Edulution had to consider the decision of “whistle blowers” that may wish to stay anonymous and have therefore established confidential mailbox: report@edulution.org.za

WHY EMPLOYEES DO NOT BLOW THE WHISTLE?

- While employees are usually the first to know of wrongdoing, many may feel that they stand to lose the most by speaking up.
- Those employees who genuinely suspect that something may be going seriously wrong in the workplace may face an acute dilemma. They can stay silent and look the other way or they can raise the matter with the employer.
- The fear of being labelled a “sneak/rat/impimpi” or the fear of “breaking rank” and appearing disloyal to colleagues and the fear of being required to provide irrefutable evidence are powerful incentives not to speak up.

- Those individuals who think they ought to resist the social pressure to look the other way and recognise that those in charge should look into the matter must consider their own position. Usually they fear that they may be disadvantaged, disciplined or even be dismissed for speaking up.
- In such circumstances, it is not surprising that most employees who find themselves in such a position speak only to friend or family, rather than to their employer, the person best able to look into and deal with the issue.
- The result of this communication breakdown is that the employer loses a valuable opportunity to avert what might become a damaging crisis or to reassure employees that their concerns are mistaken, and the employer also loses access to a valuable pool of information.

Edulution has therefore decided that the best practice is to also make a facility available to employees, where employees and other concerned persons can report violations in an **independent anonymous environment**, should they so wish.

10.3 Escalation protocol: Whistle Blowing

As a point of departure, Edulution affirms that it will always take all reasonable steps to ensure that whistle-blowing takes place in a non-discriminatory and confidential manner. In this regard Edulution has introduced a formal guidance note on the escalation of whistle blowing incidents.

The guidance note was compiled in view of the frequent inquiries from Edulution employees and managers for guidance and information on the process and escalation protocol when dealing with complaints or when an employee blew the whistle, whether directly or anonymously. The guidance note also advises on the existence of and usage of whistle blowing facilities available to employees and other stakeholders.

The **Edulution Escalation Protocol Guidance note** can be found in the Risk category under Policies and Procedures.

11. ALLEGATIONS

Employees are advised to set out the background and history of the concern, giving names, dates, and places where possible and the reason why you are particularly concerned about the situation. Include any proof that you may have to support the allegation (invoices, bank statements, purchase orders). If you are in possession or aware of any other evidence and where it can be found, please provide the detail to assist with the investigation. The earlier concerns are expressed, the easier it is to take action.

Although employees are not expected to prove the truth of an allegation, employees will need to demonstrate that there are reasonable and sufficient grounds for the concern raised.

The Edulution Representative will assist whistle blowers in this regard.

12. FALSE ALLEGATIONS

If an allegation is made in good faith, but not confirmed by the investigation the reporting facility has worked. However, an allegation made in frivolous or malicious manner or for personal gain will undermine the existence of reporting facilities and will discourage employees to make use of such facilities. Such allegations will also tie up resources and influence giving attention to real issues.

If a person is therefore identified at any stage after making such frivolous, malicious or for-personal-gain allegations, Edulution will take strong action against such a person. The PDA also makes it an offence to provide false information intentionally and where this results in harm, a conviction may result in a fine, or imprisonment or both.

13. HOW EDULUTION MANAGEMENT WILL RESPOND

Action taken by Edulution management will depend on the nature of the concern that is raised and taking in account the Edulution escalation protocol.

Any matter raised may be:

- Investigated internally,
- Referred to the relevant Police Services or
- Form the subject of an independent inquiry

In order to protect individuals and Edulution, initial enquiries will be made to determine whether an investigation is appropriate and if so what form the investigation should take. Some concerns may be resolved by agreed actions without the need for an investigation.

Within twenty **one working days** of a concern being received, the relevant officer will contact the whistle blower, to indicate the following to:

- Acknowledge that the concern has been received
- Indicate how the matter will be dealt with
- Whether the matter will be referred to another person or body to be dealt with more appropriately
- Give an estimate of how long it will take to provide a final response
- Tell the whistle blower whether any initial enquiries have been made, and
- Tell the whistle blower whether further investigations will take place, and if not, why not.

Should Edulution not be in a position to make a decision within 21 days whether to investigate or refer the matter, you will be informed that Edulution is unable to do so and, thereafter be advised on a regular basis (at intervals not more than two months at a time) that the decision is still pending. The whistle blower will be advised within six months from the time he or she has made the protected disclosure of the decision to investigate or not.

Whistle blowers will be given as much feedback as possible, but sometimes precise action will not be set out especially where this would infringe on a duty of confidence that Edulution owes to someone else or if it is necessary to avoid prejudice to the prevention, detection or investigation of a criminal offence.

Edulution may on occasion and after informing the whistle blower change the time limits referred to in this policy.

The amount of contact between the whistle blower and the representative of Edulution whom is considering the issues will depend upon the nature of the matters raised, the potential difficulties involved and the clarity of the information that was provided. If necessary, further information will be sought from you directly or through the report@edulution.org.

When any meeting is arranged, the whistle blower has the right, if so wished to be accompanied by a colleague or other representative who is not involved in the area of work to which the concern relates.

Edulution will also take steps to minimise any difficulties that a whistle blower may or could experience as a result of raising a concern, for instance, if the person is required to give evidence in criminal or disciplinary proceeding, management will arrange for the whistle blower to receive advice on the process, etc.

It is accepted by Edulution that whistle blowers need to be assured that the matter has been properly addressed. If a whistle blower is not satisfied with management's response to concerns that have been raised and have reasonable grounds to base their dissatisfaction on, Edulution could arrange for an independent body (e.g. external auditors) to investigate a matter.

While management cannot guarantee that it will respond to all matters in the way that a whistle blower may wish for, Edulution will endeavour to handle all matters fairly and properly. By abiding to this policy employees will assist management to achieve the objective of this policy.