

THE OFFICE OF PROCUREMENT REGULATION

Port of Spain International Waterfront, Level 19, Tower D, 1A Wrightson Road, Port of Spain.

OPR/POL-008

WHISTLEBLOWING POLICY AND PROCEDURES (INTERNAL AND EXTERNAL Complaint)

APPROVAL AND AUTHORITY TO PROCEED

Approved By	Effective Date	Revision Date	Sponsor	Policy Number
			Legal Advisor	OPR/POL-008

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DEFINITIONS

1. In this Policy the following words and phrases shall have the following meaning:

TERM	DEFINITION
Employee	Any person who- <ul style="list-style-type: none"> a) Works or worked for another person; and b) Receives, received, or is entitled to receive, any remuneration for work done.
Employer	Any person who employs or employed another person to carry out work or provide services and who remunerates, or expressly undertakes to remunerate, that other person for the work carried out or services provided
External Whistleblowing Complaint	A disclosure made by members of the public, either directly or anonymously (i.e. contractors, suppliers, consultants, public bodies, agents or anyone who has information) which he/she believes shows improper conduct within the Office, or any breach or suspected breach of law or regulations that may fall within the areas of responsibility of the Office.
Improper conduct (as referred in the internal and external Whistleblowing Guidelines)	Any- <ul style="list-style-type: none"> a) Criminal offence such as bribery, corruption, collusion, fraud, embezzlement, theft etc; b) Violation of any law, regulations or directive under the PPDPPA; c) Irregularity in procurement proceedings;

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	<ul style="list-style-type: none">d) Conduct that is likely to result in a miscarriage of justice;e) Conduct that is likely to threaten the health and safety of a person;f) Conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds;g) Acts of reprisal against or victimization of a Whistleblower or person related to, or associated with a Whistleblower;h) Conduct that tends to show unfair discrimination on a basis of gender, race, place of origin, social class, colour, religion or political opinion / affiliation, or any other status protected by law or convention;i) Coercive practices: impairing or harming or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;j) Collusive practices: an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;k) Failure by employees to observe the Office's policies and procedures;l) Any other activity that undermines the Office's operations and mission; orm) Willful concealment of any act described in paragraph (a) to (l).
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Internal Whistleblowing Complaint	A disclosure made to a Whistleblowing Reporting Officer by any employee of the Office or a Member of the Board of the Office.
Office	The Office of Procurement Regulation.
PPDPPA	The Public Procurement and Disposal of Public Property Act, 2015 as amended.
Whistleblower	Any person who makes a Whistleblowing Complaint.
Whistleblowing Complaint	A disclosure made by a person on a matter of public interest, be it an employee, member of the Board or member of the public, of information which shows or potentially shows that improper conduct has occurred, is occurring or is likely to occur.
Whistleblowing Committee	A body appointed by the Board of the Office i.e. the Audit Committee to review the findings of the investigation conducted by the Whistleblowing Reporting Officer and makes the necessary decision or take appropriate action.
Whistleblowing Reporting Officer	An Officer that has been assigned with the responsibility of receiving, processing and investigating internal or external Whistleblowing Complaints.

POLICY STATEMENT

1. The Office is committed to high standards of ethical, moral and legal business conduct.
2. The Office encourages members of the Board, its employees and members of the public to either directly or anonymously report information which they believe shows improper

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conduct that may adversely impact the operations of the Office. Reports should be made through the Whistleblowing Reporting Officer without fear of retribution or unfair treatment.

3. The Office is also committed to: -
 - a. objectively investigating any Whistleblowing Complaint in a prompt manner;
 - b. protecting Whistleblowers and those who are part of the Whistleblowing process;
and
 - c. assuring that all Whistleblowing Complaints are treated in the strictest confidence.
4. As part of its objective to advance good governance, the Office has established this policy which sets out the mechanism by which improper conduct, whether internal or external, can be reported and independently investigated.

PURPOSE

5. In order to enhance good governance and transparency within the Office, this policy will:-
 - Encourage the reporting of any improper conduct;
 - Enable the Office to effectively deal with complaints from Whistleblowers and protect the identity of the Whistleblower;
 - Establish policies for protecting Whistleblowers against reprisal by any person internal or external to the Office;
 - Establish a process through which Whistleblowers can notify the **Whistleblowing Reporting Officer** of potential violations, improper conduct or concerns;
 - Establish a system of investigation for dealing with **internal and external Whistleblowing Complaints** and provide for the secure storage of the information provided;
 - Promote an environment of fairness and ethical conduct.

SCOPE

6. This policy is applicable to: -
 - All internal Whistleblowers i.e. All employees of the Office and Members of the Board and sub committees. This policy is separate and distinct from the Office's grievance process,

which relates to an employee's personal performance in the workplace. This policy cannot be used to challenge decisions arising from the Disciplinary Policy.

- All external Whistleblowers i.e. Members of the public who have information on improper conduct within the Office, or any breach or suspected breach of law or regulations that MAY FALL WITHIN THE AREAS OF RESPONSIBILITY OF THE OFFICE.

POLICY DETAILS FOR INTERNAL AND EXTERNAL COMPLAINTS

7. All Whistleblowing Complaints will be kept in strict confidence during the conduct of an investigation.
8. All Whistleblowing Complaints should be factual and should contain as much specific detail as possible to allow for proper assessment. The Whistleblowing Complaint should be candid and clearly set forth all the information the Whistleblower knows relevant to the improper conduct.
9. In addition, Whistleblowing Complaints should contain sufficient information/evidence to support commencement of an investigation. The Whistleblowing Reporting Officer may determine not to commence an investigation if a Whistleblowing Complaint contains only unspecified or a broad allegation of wrongdoing without appropriate factual support.
10. Anyone submitting a Whistleblowing Complaint must act in good faith and have reasonable grounds for believing the information disclosed.
11. Where an employee of the Office makes allegations that prove to be frivolous or unsubstantiated, and which prove to have been made maliciously or knowingly to be false, this shall be treated as a disciplinary offence.
12. An employee/a person who submits a Whistleblowing Complaint or is part of the Whistleblowing process shall not suffer harassment, ostracism, retaliation, victimization, acts of reprisal or adverse employment consequences as a result of doing so. An employee who is found guilty of such action against a Whistleblower who has made a Whistleblowing Complaint in good faith, will be subject to disciplinary action in accordance with the relevant policy or legislation. Where a Board Member is found guilty of such action against another person who has made a Whistleblowing Complaint in good faith, he /she will be

subject to legal sanctions and proceedings as outlined in the PPDPPA. This protection is also afforded in accordance with Section 40 of the PPDPPA.

13. Where the Whistleblowing Reporting Officer considers that the Whistleblowing Complaint can be better processed or addressed by another authority or entity, the Whistleblowing Reporting Officer may with the consent of the Procurement Regulator and the Whistleblower, refer the matter to the other authority or entity. Where the Whistleblowing Complaint is made against the Chairman/Procurement Regulator, the Whistleblowing Reporting Officer may with the consent of the Whistleblowing Committee and the Whistleblower, refer the matter to the other authority or entity.
14. The Whistleblowing Reporting Officer shall save and/or store all Whistleblowing Complaints, logs, correspondences and all other relating documents and data in secure locations at the Office and online, not accessible to any other unauthorized person.
15. The Whistleblowing Reporting Officer shall acknowledge receipt of the Whistleblowing Complaint within five (5) working days of receipt and thereafter indicate when/if the investigation has been initiated and when the same has been closed, completed or referred to another authority.

RESPONSIBILITY FOR INTERNAL AND EXTERNAL WHISTLEBLOWING COMPLAINTS

16. The following person(s) are responsible for internal and external Whistleblowing Complaints:

PERSON	RESPONSIBILITY
Management	<ul style="list-style-type: none"> • Engenders a culture of openness and transparency. • Implements and reviews this policy and other supporting policies such as Ethics and Business Code of Conduct, Fraud, Gifts etc.
Employees/Members of the public	<ul style="list-style-type: none"> • Report any knowledge of any wrongdoing or improper conduct.
Whistleblowing Reporting Officer: Head - Audit and Investigations	<ul style="list-style-type: none"> • Receives and maintains a log of internal and external Whistleblowing Complaints and their current status. • Conducts the administrative activities of the Whistleblowing process i.e. receives Whistleblowing Complaints, records updates and maintains the status of same.

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	<ul style="list-style-type: none"> • Prepares monthly Whistleblowing Complaint reports. • Ensures that all Whistleblowers are kept anonymous except where an investigation warrants revealing identity. • Provides an updated status to the Whistleblower within thirty (30) working days after receiving a Whistleblowing Complaint. • Determines whether a Whistleblowing Complaint should be referred for further investigation to an external authority such as the Trinidad and Tobago Police Service or any other investigative body subject to the approval of the Procurement Regulator. • Refers the Whistleblowing Complaint to the Office of the Director of Public Prosecutions for further guidance. • Assesses and Investigates Whistleblowing Complaints. The Whistleblowing Reporting Officer/designate shall take appropriate measures to implement a thorough investigation of the allegations recognizing the principles of natural justice. All findings will be documented and stored for safe keeping.
<p>Whistleblowing Committee – Audit Committee</p>	<ul style="list-style-type: none"> • Review the findings of the investigations and report the decisions to the Board quarterly. • Consult with subject matter experts or retain any other services deemed necessary in order to conduct the investigation and take appropriate action. • Conduct meetings from time to time to discuss the status of any ongoing investigations. • Conduct an audit of the functions of the Whistleblowing Reporting Officer and make such recommendations to the Board as it sees fit. • Conducts investigations of Whistleblowing Complaints where it relates to a Board Member or the Chairman/Procurement Regulator.

REPORTING PROCEDURES FOR INTERNAL AND EXTERNAL COMPLAINTS

17. All Whistleblowing Complaints shall be processed by the Head - Audit and Investigations, who is the designated Whistleblowing Reporting Officer (or as determined by the Office from time to time). In the absence of the Head- Audit and Investigations, or where the Whistleblowing Complaint is being made against the Head - Audit and Investigations, the Whistleblowing Complaint shall be made to the Head, Legal. Whistleblowing Complaints, whether anonymous or not, can be made via telephone, online/email, in writing or in person.

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<p>24/7 Hour Telephone (Whistleblower hotline) 1 (868) 224-5707</p>	<p>Caller Identification will not be utilized on this hotline. An option for leaving a voice message will be activated for persons that do not wish to speak to someone when utilizing the hotline. All information is treated confidentially and the anonymity of the Whistleblower is always protected.</p>
<p>Online via Whistleblower Security Inc https://integritycounts.ca/org/opr</p>	<p>The Office has contracted with a Canadian service provider, Whistleblower Security Inc, to host a website which is designed to ensure that the identity of the Whistleblower remains confidential to any party involved in the process. The online facility can accommodate approximately 150 languages and is available 24/7. The global Whistleblower site can be accessed from any computer anywhere in the world through this link. Whistleblowing Complaints submitted will only be accessed by the Whistleblowing Reporting Officer.</p>
<p>In Writing 1 (868) 224-5707</p>	<p>The report should be typed or written in legible handwriting, in English only, using the designated form (Appendix II) and addressed to the Whistleblowing Reporting Officer. If assistance is required to complete the form the online facility should be used for non-English users.</p>
<p>In Person/Walk in Level 19, Tower D, Port of Spain International Waterfront Centre, 1A Wrightson Road, Port of Spain, Trinidad and Tobago.</p>	<p>The Whistleblowing Reporting Officer or designate will receive and record the Whistleblowing Complaint on the designated form (Appendix II). The Whistleblower will be informed of the next step of the Whistleblowing Procedure. The Whistleblower may be accompanied by a legal representative. In raising a Whistleblowing Complaint, the Whistleblower shall be informed that his/her personal information will be handled appropriately and confidentially.</p>

MANAGEMENT OF POTENTIAL INTERNAL CONFLICTS OF INTEREST

18. If a Whistleblowing Complaint is made against any person or position named in this document the following approach would be employed: -

Internal Complaints made against the **Whistleblowing Reporting Officer i.e. Head, Audit and Investigations or the Management Team** shall be made using the Whistleblowing Complaint Form, either in writing or via electronic mail to the Head, Legal for intake and investigation. Thereafter to the Whistleblowing Committee for determination of the relevant action.

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Internal Complaints made against a **Board member** shall be made using the Whistleblowing Complaint Form, either in writing or via electronic mail to the Whistleblowing Reporting Officer, who will then forward to the Whistleblowing Committee for investigation. Thereafter, to the Board for consideration and to the Office of the President for the relevant action.

Internal Complaints made against the **Chairman** shall be made in writing using the Whistleblowing Complaint Form or via electronic mail to the Whistleblowing Reporting Officer, who will then forward to the Whistleblowing Committee for investigation. Thereafter to the Board for determination and to the Office of the President for the relevant action.

19. The identity of the Whistleblower shall be kept confidential except where consent in writing/email is provided by the Whistleblower. All complaints shall be handled with sensitivity and discretion.

COMPLAINT MANAGEMENT FOR INTERNAL AND EXTERNAL WHISTLEBLOWING COMPLAINTS

20. The following procedure will apply: -

1. Whistleblower

1.1 Discloses information verbally, in writing or electronically to the designated Whistleblowing Reporting Officer.

1.2 Complaints shall include at a minimum, the nature of the concern, any supporting evidence and the identity/(ies) of involved parties.

- 2. Whistleblowing Reporting Officer within five (5) working days of receipt of the complaint shall:**

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- 2.1 Acknowledge receipt of the complaint to the Whistleblower.
- 2.2 Update the Whistleblowing Log and apply a file ID to each claim.
- 2.3 Conduct an initial assessment of the Whistleblowing Complaint to determine the next course of action:
 - 2.3.1 If the Whistleblowing Complaint is fraud related, the Whistleblowing Reporting Officer shall forward the same to the Whistleblowing Committee. The Whistleblowing Committee shall determine the necessary course of action.
 - 2.3.2 For all other matters, the Whistleblowing Reporting Officer or appointed designate will take conduct of same.
- 2.4 Notify the Whistleblower of the status of the Whistleblowing Complaint within thirty (30) working days.

3. Investigation

- 3.1 The objects of the investigation are as follows: -
 - i. To collate information relating to the Whistleblowing Complaint as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
 - ii. To consider the information collected and draw conclusions objectively and impartially;
 - iii. To maintain procedural fairness in the treatment of witnesses and the person(s) who is/are the subject of the Whistleblowing Complaint;
 - iv. To protect the identity of the Whistleblower; and
 - v. Draft and submit a report with all findings.

3.2 The duration and scope of the investigation will depend on the subject matter of

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the Whistleblowing Complaint. In most cases an initial assessment will be conducted to determine whether there are grounds to conduct a more detailed investigation.

3.3 Investigation Plan

The Whistleblowing Reporting Officer/designate will prepare an investigation plan, addressing issues that include but are not limited to: -

- i. What is being alleged?
- ii. What are the possible findings or offences?
- iii. What are the facts in issue?
- iv. How is the inquiry to be conducted?
- v. What resources are required?

3.4 Conduct of the Investigation

At the commencement of the investigation, and provided that the Whistleblower can be contacted, the Whistleblowing Reporting Officer/designate shall: -

- i. inform the Whistleblower that an investigation has been initiated; and
- ii. seek clarification and request any additional materials the Whistleblower may possess.

3.5 The Whistleblowing Reporting Officer/designate will note in detail all discussions, emails and phone calls. All interviews with witnesses may be audio and visually recorded with their prior consent.

All information gathered during an investigation will be securely stored and accessed only by authorized personnel. All printed material will be kept in files that are clearly marked "CONFIDENTIAL" as a Whistleblower protection matter, with a

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warning of the disciplinary action (if any) that applies to any unauthorized release of information concerning a Whistleblowing Complaint.

3.6 Interviews will be conducted in private and the Whistleblowing Reporting Officer/designate will take all reasonable steps to protect the identity of the Whistleblower. The Whistleblower shall be allowed to have a legal representative or other support during the interview process, provided prior notice of their attendance is given to the Office.

3.7 Where the concealment of the identity of the Whistleblower cannot be guaranteed, due to the nature of the allegations, the Whistleblowing Reporting Officer/designate will advise the Whistleblower of this probability.

3.8 The Investigation Report shall contain: -

- i. The allegation(s);
- ii. An account of all information and evidence received;
- iii. The conclusion reached and the basis for same; and
- iv. Any recommendations arising from the conclusion.

3.9 The Investigation Report shall then be forwarded to the Whistleblowing Committee.

4. Whistleblowing Committee

Within five (5) days of receipt of the report the following would be performed:-

4.1 Review the findings of the investigation; and

4.2 Consult with the subject matter expert (if any) and make the necessary decision or take appropriate action.

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5. Whistleblowing Reporting Officer

Upon the decision of the Whistleblowing Committee on the investigation, the Whistleblowing Reporting Officer shall: -

- 5.1 Update the status of the Whistleblowing Complaint in the Whistleblowing Log;
- 5.2 Provide status updates to the Whistleblower; and
- 5.3 Prepare monthly Whistleblowing Complaint status reports and forward to the Chairman of the Whistleblowing Committee.

CORRECTIVE ACTION

- 21. Upon completion of the Whistleblowing Committee's review of the findings, it shall report any legal or regulatory non-compliance to the required body so that corrective action can be taken including where appropriate, reporting any violation to relevant governmental and/or law enforcement authorities.
- 22. For Internal Whistleblowing Complaints - Any board member, officer, or employee deemed to have violated any law, rule or regulation, or any internal policy regarding accounting standards, internal accounting controls, or matters related to the internal and external audit check of the Office's financial statements, or other internal policy that is covered by this policy may be subject to disciplinary action which may include termination and/or subject to legal sanctions as outlined in the PPDPPA.
- 23. No action will be taken if an allegation made in accordance with the policy is proved to be unfounded.

UNAUTHORISED RELEASE OF INFORMATION RECEIVED FROM WHISTLEBLOWER

- 24. Information received from a Whistleblower must not be released to any person who is not involved in the investigation or resolution of the matter without the authority of the Chairman of the Whistleblowing Committee.

25. The identity or any information that may lead to the identification of a Whistleblower must not be released to any person who is not involved in the investigation or resolution of the Whistleblowing Complaint

TRAINING FOR OFFICE STAFF

26. All employees should be aware of the requirements for reporting a Whistleblowing Complaint and all interrelated policies.

27. Internal Whistleblowers will be required to adhere to this policy in accordance with the terms and conditions of their employment contract. External Whistleblowers will be encouraged to access the Office's website to view and adhere to the policy and all updates.

28. Detailed training on this policy, specifically the areas listed below, will be conducted as part of the internal employee orientation process:

- i. Code of business conduct;
- ii. Importance of reporting corrupt, illegal or unethical practices;
- iii. Reasons for reporting corrupt, illegal or unethical practices;
- iv. Indicators of corrupt, illegal or unethical practices;
- v. Avoidance of these situations; and
- vi. Consequences of false, malicious or vexatious reporting

29. The Office will publicize on the Office's website, its commitment to details of the types of Whistleblowing Complaints dealt with in this policy and requirement for reporting improper conduct to staff, agents and relevant third parties.

RELATED DOCUMENTS

30. The following are related documents:

- The Whistleblower Protection Bill, 2018
- Code of Conduct
- Board Charter
- Administration and Records Management Policy
- Investigation Manual
- Evidence handling manual
- Disciplinary policy and procedure

FORMS

- 31. Whistleblowing Log
- 32. Reporting Form

CAVEAT

- 33. This policy will be reviewed upon passage and proclamation of The Whistleblower Protection Bill, 2018 or after one (1) year from the date of approval of this policy whichever is sooner.

RETENTION OF COMPLAINTS AND DOCUMENTS

- 34. The Office shall retain all documents and records regarding any Whistleblowing Complaint for a period of seven (7) years save and except any documents related to ongoing legal proceedings.

EXHIBITS / APPENDICES/ FORMS

- 35. APPENDIX I-Whistleblowing Log
- 36. APPENDIX II-Reporting Form

APPENDIX I-WHISTLEBLOWING LOG

FILE I.D.	DATE SUBMITTED	DETAILS OF COMPLAINT	PERIOD OF INVESTIGATION	DESIGNATION OF INVESTIGATOR	STATUS

APPENDIX II-OFFICE OF PROCUREMENT REGULATION WHISTLEBLOWING REPORTING FORM

The complaint should contain the following information: - ***Optional**

Name*	
Address*	
Email Address*	
Telephone and Mobile Contact*	
Date of Whistleblowing Complaint	
Date of Improper Conduct	
Duration of Improper Conduct	
Indicate whether the improper conduct is ongoing	

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<p>Indicate whether the matter was previously recorded and to whom</p>	
<p>Location of Improper Conduct</p>	
<p>Additional Details of Improper Conduct</p>	
<p>The alleged defaulter(s) information: (name, designation, company, contact number, email address, social user handles)</p>	
<p>Information on possible witnesses: (name, designation, company, contact number, email address, social user handles)</p>	
<p>Documents Submitted/Evidence relied upon You should not attempt to obtain evidence for which you do not have a right of access; as such, Whistleblowers are “reporting parties” not investigators.</p>	

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The list of individuals below may receive a copy of this case report. If you believe any of the individuals are implicated in the case and do not wish them to receive a copy, please check the box next to their name.

Moonilal Lalchan

Sharda Nanan

Lindy-Ann Mitchell

Chairman/Procurement Regulator

Head – Audit and Investigation

Head – Legal

If there are any other individuals who are involved in the case, who are not listed above, please list them here:

Level of Anonymity:

Strictly Anonymous

Anonymous from Your Organization

Contact Information Provided

Any Additional Information

Declaration: I hereby declare that the details furnished above are true and correct to the best of my knowledge and belief. I undertake to inform the Office of Procurement Regulation of any changes herein immediately. I am aware that I may be held liable for any false utterances and/information provided in this form.

Signature*

Date

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