

**KENYA NATIONAL INNOVATION AGENCY WHISTLEBLOW WORKPLACE POLICY**



**2023**

TABLE OF CONTENTS

[DEFINITIONS 3](#_Toc138972364)

[FOREWARD 5](#_Toc138972365)

[ACKNOWLEDGEMENT 6](#_Toc138972366)

[CHAPTER 1 7](#_Toc138972367)

[INTRODUCTION 7](#_Toc138972368)

[1.1 Objectives 7](#_Toc138972369)

[1.2 Scope 7](#_Toc138972370)

[1.3 Policy Statement 8](#_Toc138972371)

[CHAPTER 2 9](#_Toc138972372)

[2.0 LEGAL FRAMEWORK 9](#_Toc138972373)

[CHAPTER 3 10](#_Toc138972374)

[3.0 Whistle Blowing procedures. 10](#_Toc138972375)

[3.1 Disclosure of Improper Conduct 10](#_Toc138972376)

[3.2 Reporting 11](#_Toc138972377)

[3.3 Conduct of Investigation 11](#_Toc138972378)

[3.4 Protection of the Whistleblower 13](#_Toc138972379)

[3.5 Protection of the suspect 14](#_Toc138972380)

[CHAPTER 4 15](#_Toc138972381)

[4.0 Administration of the Policy 15](#_Toc138972382)

[CHAPTER 5 15](#_Toc138972383)

[5.0 Implementation 15](#_Toc138972384)

[CHAPTER 6 15](#_Toc138972385)

[6.0 Policy review 15](#_Toc138972386)

# DEFINITIONS

**Whistleblowing**- It is the disclosure based on one’s reasonable belief that any person has engaged, is engaging or preparing to engage in improper conduct.

**Whistle-blower**- It is a person who discloses information of improper conduct in accordance with this policy.

**Corruption –** Corruption means the misuse or abuse of KeNIA office for private gain.

**Improper Conduct**- Any conduct which if proved, constitutes a breach of integrity.

**Appointed Office**r-Means authorized person appointed to receive reports on Whistleblowing matters.

**Investigating Officer**-Means a person assigned to investigate of an improper conduct.

**Disciplinary Offence**- Means any action or omission which constitutes a breach as provided by law or the Agency’s code of conduct and ethics, policies or a contract of employment.

**Detrimental action -** Refers to any adverse action taken by the Agency, or any individual doing work for or on behalf thereof against a whistleblower.

**Designated office**- Means an independent office mandated by the CEO to implement this policy and carry out any other functions under this policy.

**Disclosure -** Means any written or oral submission of information reporting alleged malpractice.

**Good faith -** Means honestly intended action based on a reasonable belief and is evident when the report is made without malice and the individual has a reasonable basis to believe that the report is substantially true.

**Malpractice -** Means improper, illegal, or negligent professional activity or treatment.

**Protected disclosure -** Means a disclosure that relates to any of the matters covered under the definition of disclosure above, has been made in good faith and in accordance with the procedure established by this policy.

**Public interest -**Means considerations affecting the welfare of the general public.

**Suspect -**Means a person against whom a disclosure has been made.

# CHAPTER 1

## INTRODUCTION

**1.1** Statement

The Kenya National Innovation Agency (KeNIA) is a State Corporation established under the Science, Technology, and Innovation (STI) Act, No. 28 of 2013 under the Ministry of Education. The core mandate of the Agency is to develop and manage the National Innovation System. The Agency is therefore responsible for co-ordination, promotion, and regulation of the National Innovation System.

This Policy has been developed by KeNIA to enable her staff, stakeholders, Board members, customers, and partners to make disclosures of corruption or malpractice without fear of intimidation or reprisal. The policy is in tandem with other policies in the Agency that promote transparency and accountability.

### 1.1 Objectives

The objective of this Policy is to:

1. provide employees and other parties dealing with the Agency with proper procedures in disclosing cases of Improper Conduct.
2. manage disclosures of Improper Conduct in an appropriate and timely manner.
3. provide protection to Whistleblowers from Detrimental Action that may result from the disclosure of Improper Conduct; and
4. provide fair treatment to both the Whistleblower and the alleged wrongdoer when a disclosure of Improper Conduct is made.

### 1.2 Scope

This Policy applies to all employees and members of the board of the Agency.

### 1.3 Policy Statement

This Policy is designed to support the Agency’s core values and facilitate reporting of employees’ and other parties’ concerns about possible improprieties at the earliest opportunity to ensure that concerns can be raised without fear of reprisal or detrimental action.

The Policy is adapted to promote alignment with the Witness Protection (Amendment) Act 2010, The Leadership and Integrity Act 2012, and all applicable laws and regulations in Kenya to protect whistle blowers who act in good faith, disclose information about the Agency`s mandate and activities not forgetting the customers, stakeholders, Board members and staff who genuinely might be considered as violators of the code of ethics.

An important aspect of accountability and transparency is a mechanism to enable staff, stakeholders of the Agency and the general public to voice genuine concerns in a responsible and appropriate manner. Kenya National Innovation Agency (“the Agency”) is committed to promoting and maintaining high standards of transparency, accountability, ethics and integrity at the service of the Agency.

# CHAPTER 2

## 2.0 LEGAL FRAMEWORK

This policy will be guided by the relevant legal and policy frameworks, which include:

1. Constitution of Kenya, 2010
2. Anti-Corruption and Economic Crimes Act, 2003
3. Commission on Administrative Justice Act, 2011
4. Ethics and Anti-Corruption Commission Act, 2011
5. Fair Administrative Action Act, 2015
6. Leadership and Integrity Act, 2012
7. Official Secrets Act (Cap 187)
8. Penal Code (Cap. 63)
9. Public Officer Ethics Act, 2003
10. Public Procurement and Asset Disposal Act, 2015
11. Proceeds of Crime and Anti-Money Laundering Act, 2009
12. Public Audit Act, 2015
13. Public Finance Management Act, 2012
14. Witness Protection Act, 2006
15. Leadership and Integrity Code
16. Mwongozo Code of Conduct
17. KeNIA HR Policies and procedures
18. KeNIA Service Charter

# CHAPTER 3

## 3.0 Whistle Blowing procedures.

### 3.1 Disclosure of Improper Conduct

An employee, member of the board of the Agency or third party who becomes aware of an alleged Improper Conduct shall make a disclosure as provided for in the policy.

For the purpose of this policy an Improper Conduct includes:

1. Criminal offences, unlawful acts, fraud, corruption, bribery and blackmail.
2. Irregularities in the hiring or promotion of staff.
3. Failure to comply with legal or regulatory obligations.
4. Practicing of nepotism, tribalism, clannism.
5. Misuse of the Agency’s funds or assets.
6. Inversion and distortion of social values including soliciting for and giving sexual and assorted favors.
7. An act or omission which creates a substantial and specific danger to the lives, health or safety of the employees or the public or the environment.
8. Irregular procurement of goods and services and irregular resource allocation
9. Abuse of power by an officer of the Agency.

The Whistleblower while making a report needs to have reasonable evidence of the occurrence of Improper Conduct.

In order to give the Agency an opportunity to investigate the alleged Improper Conduct and to take the necessary internal corrective actions, Whistleblowers are encouraged to lodge a report by providing, to the extent that is possible, the following information: -

1. Description of the person, people or parties that are involved in the improper conduct.
2. Details of the Improper Conduct, including the relevant dates of occurrence.
3. Particulars of witnesses, if any; and,
4. Particulars or production of documentary evidence, if any.

A disclosure of Improper Conduct may be made even though the person making the disclosure is not able to identify a particular person to which the disclosure relates.

### 3.2 Reporting

A disclosure of Improper Conduct may be made through: -

1. Orally in person to the Appointed Officer,
2. Mobile No. 0792446976,
3. Writing a letter to our address Kenya National Innovation Agency, Ground Floor, NACOSTI Building, Off Waiyaki Way, P.O. Box 22269-00100, Nairobi, Kenya.
4. Electronic e-mail to info@innovationagency.go.ke or
5. The corruption boxes.

Where the Whistleblower prefers to remain anonymous, then, he or she can report through the confidential reporting hotline as shall be established by the Agency.

When a disclosure is made orally, the person receiving the disclosure shall, as soon as practicable, reproduce the same in writing.

If the Improper Conduct involves the Appointed Officer or any of the members of the board of the Agency, the Whistleblower is to report the matter directly to the Chief Executive Officer in case the appointed officer or the Chair of the Board or appointing Agency in case of the members of the Board.

In order to ensure protection of Whistleblowers, the Agency may outsource the function of reporting of Improper Conduct.

### 3.3 Conduct of Investigation

In respect of disclosures made to the Appointed Officer, he or she will assess the matter to determine whether it is related to an Improper Conduct or excluded from the scope of this Policy. The Appointed Officer shall, within seven (7) days from the date the disclosure was made, prepare an assessment report to the Chief Executive Officer (CEO) informing him of the result of the assessment, and recommend either to ignore the disclosure or to take further action. The CEO may extend the time for the completion of the assessment report.

In respect of disclosures made against the Appointed Officer or a member of the board, the receiving party shall assess the same to determine whether it is related to an Improper Conduct or excluded from the scope of this Policy before deciding on the next course of action.

For the purpose of the clause above the receiving party shall be the Chief Executive Officer and the chair of the board or the appointing Agency in the case of the Appointed Officer and the member of the board respectively.

Within seven (7) days from the date the Assessment Report is received, so far as is practicable, the CEO or the chair of the board or the appointing officer as the case may be, shall have the Agency to make final decisions including, but not limited to, any of the following:

1. Rejection of the disclosure(s), either in part or in total, if it falls outside the scope of this Policy.
2. Directing the matter or any part thereof to be dealt with under other appropriate internal procedures.
3. Directing an investigation into the disclosure(s) made on any persons involved or implicated.
4. Designating the Appointed Officer or any other persons from within or outside of the Agency to conduct investigations or to take any other action pursuant to this Policy.
5. Obtaining any other assistance from other parties such as external auditors or obtaining legal advice whether from internal or external advocates; and,
6. Referring the matter to an appropriate law enforcement agency in case further investigation is necessary.

Where the reporting is made to an outsourced function, the assessment report shall be made to the Chief Executive Officer as soon as reasonably practicable.

The Investigating Officer shall have free and unrestricted access to all records of the Agency and shall have the Agency to examine, obtain or make copies of all or any portion of the contents of documents, files, desks, cabinets, and other storage facilities of the Agency so far as it is necessary to assist in the investigation of the Improper Conduct.

At the conclusion of the investigation, the Investigating Officer will submit an Investigation Report of the findings to the CEO, chair of the board, the appointing Agency as the case may be.

The Investigation Report will contain the following:

1. The specific allegation(s) of Improper Conduct.
2. All relevant information or evidence received and the grounds for accepting or rejecting them. Copies of interview transcripts and any documents obtained during the course of the investigation shall accompany the investigation report; and
3. The conclusions and recommendations thereof.

The CEO, chair of the board or the appointing officer shall act in accordance with recommendations of the investigations report.

### 3.4 Protection of the Whistleblower

Reasonable steps will be taken to maintain the confidentiality of the Whistleblower’s Confidential Information.

1. Agency will protect whistle blowers who raise concerns in good faith and ensure no victimization of any employee or interested party who provides information to the authorities regarding any form of malpractice.
2. Where the whistle blower is required to give evidence in criminal or disciplinary proceedings, Agency will accordingly arrange for the Whistle Blower to receive the relevant legal advice about the procedure and other related support.
3. A whistle blower may report any unfair treatment in line with the reporting channels. The identity of the whistle blower shall be kept confidential as is provided for under the Witness Protection Act.
4. An employee and/or interested party assisting in investigations shall be protected to the same extent as the Whistle Blower.

Upon making a disclosure in good faith, based on reasonable grounds and in accordance with and pursuant to this Policy:

1. The Whistleblower shall be protected from any Detrimental Action within the Agency as a direct consequence of the disclosure; and
2. The Whistleblower’s identity and such other Confidential Information of the Whistleblower shall not be disclosed.

The protection against Detrimental Action is extended to any person related to or associated with the Whistleblower.

A Whistleblower may lodge a complaint to the Agency of any Detrimental Action committed against the Whistleblower or any person related to or associated with the Whistleblower, by any employee of the Agency.

The Whistleblower protection conferred under this Policy is not limited or affected notwithstanding that the disclosure of the Improper Conduct does not result in any disciplinary action of the person against whom the disclosure was made.

# 3.5 Protection of the suspect

In the interest of natural justice, the suspect will be presumed innocent and will be accorded the right to be heard. The suspect will be taken through a fair due process until proven guilty or not guilty.

#  CHAPTER 4

## 4.0 Administration of the Policy

The Appointed Officer is responsible for the administration, interpretation, and application of this Policy.

# CHAPTER 5

## 5.0 Implementation

This policy will be implemented by the Head of Human Resource Management and Administration in collaboration with all Heads of Departments.

# CHAPTER 6

## 6.0 Policy review

This shall be reviewed after 3 years or as when need arises.