

Background

Kisumu Local Interaction Platform (KLIP) values openness, integrity, accountability and transparency. In it is on this premise that all the Trustees, staff, employees, researchers, PhD students, partners and stakeholders and sensitized and informed that KLIP is corruption free zones. Similarly, KLIP does not engage or entertain any form that is ill aligned to the detriment of the Trust and its financiers.

Employees are often the first to realise that there may be something seriously wrong within the Trust. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Trust. They may fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Trust is committed to the highest possible standards of openness, probity and accountability. In line with the commitment we expect employees and others that the Trust deals with, who have serious concerns about any aspect of the Trust's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

This policy document makes it clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage. This policy is intended to encourage and enable employees to raise serious concerns within the Trust rather than overlooking a problem or blowing the whistle outside.

The policy applies to all employees and those contractors working for the Trust. It also covers suppliers and those providing services under a contract with the Trust in their own premises.

These procedures are in addition to the Trust's code of conduct, grievance procedures and other statutory reporting procedures.

Where this policy is in conflict with an Act enacted by the Parliament of Kenya, then the Act will take precedence over this policy.

Responsibility for ensuring compliance with the policy rests with the Head of Internal Affairs. The Head of Internal Affairs is responsible for keeping the policy up to date, defining the extent to which powers and duties vested in him/her may

be exercised and performed by officers under him/her and giving direction to ensure the proper exercise of the powers and performance of the duties.

The Trust is committed to ensuring the highest possible standards of care and the highest possible ethical standards in delivering the services it provides. To this end, this policy demonstrates the Trust's commitment to recognize and take action in respect of malpractice, illegal acts or omissions by its employees or ex-employees. It is the responsibility of all staff to ensure that if they become aware that actions of other staff or officers of the Trust might compromise this objective, they will be expected to report the matter in the safe knowledge that this will be treated seriously and sensitively.

Even though, the Kenya Parliament is in the stages of passing a law (Witnesses Protection Bill) that will protect whistle blowers, it is important for the Trust to develop a whistle blowing policy and procedures to protect staff who acting in good faith disclose information about the Trust and its activities or those of any of its staff or officers which might be considered as fraudulent or corrupt behaviour. Management shall ensure that the policy is in tandem with the Witnesses Protection Bill that is in the process of being passed in parliament. This policy and procedures has been developed to support and assist staff in bringing genuine concerns to the attention of appropriate people within the Trust who can initiate an investigation into matters raised.

SCOPE OF THE POLICY

This policy applies to all staff and officers of the Trust, including permanent and temporary staff.

Situations may arise when it is not appropriate or staff feel unable to report incidents through the usual management channels.

This may include, inter alia:

- a) suspected fraud or corruption.
- b) a criminal offence is, has or is likely to be committed.
- c) disregard for legislation e.g. Public Officers ethics Act.
- d) a breach of code of conduct.
- e) damage to the environment
- f) breach of the standing financial rules and regulations.
- g) showing undue favour over a contractual matter or to a job applicant.

h) where evidence may be concealed or destroyed.

i) where there has been a previous disclosure of the same information.

RESPONSIBILITIES

All staff have a responsibility to ensure that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct. Staff are advised to:

a) Report to an appropriate staff member as outlined in this procedure, any concerns that something is happening which might compromise the rules contained in the code of conduct.

b) Raise concerns in good faith with the true belief that a malpractice has occurred.

c) Not raise concerns with any malicious intent or vexatious nature.

d) Raise concerns with an appropriate officer as outlined in the Anti-Fraud and Corruption Policy.

Staff members may report suspected cases of fraud and corruption to any of the following:

1. Commissioner General
2. Head of Internal Affairs
3. Board of Directors
4. Investigation and Enforcement Department
5. Commissioners or Heads of Departments
6. Regional heads/Station managers
7. Information and Complaints Centre at the CG's office
8. Corruption Prevention Committees (CPCs)
9. Integrity Assurance Officers (IAOs)
10. If the staff member prefers to remain anonymous, then, she/he can report through the confidential reporting hotline (to be established).

Heads reat concerns in a confidential manner of Departments or whoever receives the information have a duty to: Take staff concerns seriously; Consider them carefully and undertake an investigation; Understand the difficult position a member of staff may be in; Seek appropriate advice; Take appropriate action to resolve the concern or refer it on to an appropriate person; Keep the member of staff informed of the progress; Monitor and review the situation; Inform their

seniors; Ensure that individuals who genuinely report concerns are not penalized in any way.

SAFEGUARDS

The Trust is committed to good practice and high standards and wants to be supportive of employees. The Trust recognizes the difficulty staff may face in voicing concerns and assures them of support and confidentiality during the investigation process. It will not tolerate any harassment or victimization and will protect you if you raised concern in good faith. Where the Trust concludes that false or malicious allegations have been made it may be necessary to take action under the Trust's disciplinary procedures against the complainant.

The Trust will not retaliate and will not allow any retaliation or discrimination by its employees of any kind against any employee who submitted a complaint in good faith. Specifically, the Trust will not discharge, demote, suspend, threaten, harass or in any other manner discriminate or retaliate against any employee who lawfully provides information to the authorities regarding any conduct which the employee reasonably believes constitutes a violation of Anti-

Fraud Laws or participates in or otherwise assists with a proceeding relating to such potential violations by the Trust or employees.

CONFIDENTIALITY

The Trust will protect the confidentiality of all matters raised by concerned employees. In case of any breach of confidentiality by any of the officers named in 3.2, the employee raising concern can take the appropriate action under the Trust's grievances procedures.

ANONYMOUS ALLEGATIONS

This policy encourages you to put your name to your allegations whenever possible. To the extent possible, any complaint should be factual rather than speculative or conclusory, and should contain as much information as possible to allow for proper assessment. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Trust. In exercising this discretion, the factors to be taken into account would include:

1. The seriousness of the issues raised
2. The credibility of the concern and
3. The likelihood of confirming the allegation from attributable source.

UNTRUE ALLEGATIONS

If a staff member makes an allegation in good faith but it is not confirmed by the investigation, no action will be taken against him/her. If however, as an employee you make the allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against him/her.

PROCEDURES

1. RAISING A CONCERN

You can raise your concern orally, (i.e. face to face or over the phone) or in writing. If you write, mark the envelope 'personal, private and confidential' and if the concern is of a serious nature, hand deliver the envelope to the person you wish to report the matter to. If an employee wishes to discuss the matter orally, he or she should indicate this in the submission and include a telephone number at which she might be contacted if the Commissioner General or Head of Internal Affairs deems it appropriate.

Whichever way you choose, please give as much information as you can. The complainant should identify or provide evidence of the following to the extent that this detail is known or available to the complainant:

1. Why you are concerned and the background information
2. Any other procedures which you have already used and what happened.
3. The section or location of the alleged behaviour.
4. Key personnel involved in the alleged behaviour.
5. The nature of the alleged incident.
6. The time period over which the alleged incident has occurred.
7. An estimate of the monetary value, if appropriate, associated with the alleged incident.
8. Documentary evidence in support of the alleged incident.
9. Names and jobs of other employees who may support your concern.

The person (s) receiving the concerns will be required to investigate the allegations thoroughly. The staff member will receive an initial response within ten working days, including details of any further action to be taken and full written response within seven working days of the completion of the investigation where appropriate. These time scales may be extended, if necessary, by mutual agreement. The earlier you express your concern, the easier it will be to take action. Although you will not be expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate that there is a reasonable ground of the concern. You may find it easier to raise the matter jointly if there is another employee that has the same concern and will support your allegations. You would be advised to invite a colleague or another person to be present during any meetings or interviews in connection with the concern raised. In this

case, you can remain anonymous when the concern is first raised but you may have to be involved personally if the matter goes further.

HOW THE TRUST WILL RESPOND

One of those named above will first decide whether to carry out an investigation and determine which procedures are appropriate to use. If it is decided that the matter should be taken further under these procedures the concern will be:

1. investigated by the Director of KLIP,
2. referred to the Police (Investigation and Enforcement Department)
3. Referred to the External Auditor.
4. the subject of an independent inquiry.

You may be interviewed by the person investigating the matter.

In order to protect individuals accused of a possible malpractice, enquiries will be made to decide whether an investigation is appropriate. Some concerns may be resolved by agreed action without need for an investigation. If urgent action is required, this will take place before an investigation is undertaken.

WHAT YOU WILL BE TOLD

The person to whom you have raised your concern will contact you in writing within 10 working days detailing the following:

- a) Acknowledge that the concern has been received.
- b) Indicate how the Trust intends to deal with the matter.
- c) Give an estimate of how long it will take to provide a final response.
- d) Provide any feedback to the whistleblower
- e) Inform you whether further investigation will take place and if not, why not.

The amount of contact you have with the people considering the matter will depend on the type of concern, the potential difficulties of the investigation and availability of information. Wherever possible, you will be told of the final outcome of any investigation.

The Trust will take steps to minimize any difficulties you may experience as a result of raising a concern. For example, if required to give evidence in a criminal or disciplinary proceedings, the Trust will arrange for you to receive advice about the procedure.

IF YOU ARE NOT SATISFIED WITH THE TRUST'S RESPONSE.

This procedure is meant to give everyone an effective way to raise a concern within the Trust (if possible resolve it internally). However, if you are still unhappy after using the procedure (and getting a final written response) you are entitled to consider taking your concern elsewhere. If you do this, these are some of the contacts that are available:

The Kenya National Audit Office (KNAO)

A relevant professional or regulatory body.

A relevant voluntary organization.

Efficiency Monitoring Unit (EMU)

Ethics and Anti-Corruption Commission (EACC) and Criminal Investigation Department (CID)

What is whistleblowing?

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. In this guidance, we call that “making a disclosure” or “blowing the whistle”. The wrongdoing will typically (although not necessarily) be something they have witnessed at work.

To be covered by whistleblowing policy, staff who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing policy.

The second thing that staff must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone's health and safety
- damage to the environment
- covering up wrongdoing in the above categories

Whistleblowing policy is embedded also in the KLIP Anti-Corruption Policy. It provides the right for a worker to take a case to an employment re-dress mechanism if they have been victimised at work or they have lost their job because they have ‘blown the whistle’.

What are an employer's responsibilities in regards to whistleblowing?

As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer's commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. This is also demonstrated by the following:

Recognising workers are valuable ears and eyes: Workers are often the first people to witness any type of wrongdoing within an organisation. The information that workers may uncover could prevent wrongdoing, which may damage an organisation's reputation and/or performance, and could even save people from harm or death.

Getting the right culture: If an organisation hasn't created an open and supportive culture, the worker may not feel comfortable making a disclosure, for fear of the consequences. The two main barriers whistleblowers face are a fear of reprisal as a result of making a disclosure and that no action will be taken if they do make the decision to 'blow the whistle'. There have been a number of high profile cases, including evidence collated by the Mid-Staffordshire NH Foundation Trust Public to Speak Up Independent Review

the disclosure has been acted upon appropriately and that the issue has been resolved. There should be clear and prompt communications between the whistleblower and the organisation. It is best practice for organisations to provide feedback to whistleblowers, within the confines of their internal policies and procedures. Feedback is vital so that whistleblowers understand how their disclosure has been handled and dealt with. If a whistleblower is unhappy with the process or the outcome it will make them more likely to approach other individuals and organisations to 'blow the whistle', such as a "prescribed person".

Disclosure or grievance?

Sometimes an employee believes they are blowing the whistle when, in fact, their complaint is a personal grievance. Workers who make a disclosure under an organisation's whistleblowing policy should believe that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law. It is important that any policy, procedures and other communications make this clear.

An organisation may want to direct workers to the Government's guidance for whistleblowers to verify the position that a personal grievance is not generally regarded as a protected disclosure. Workers can also contact the Advisory, Conciliation and Arbitration Service (Acas) for guidance on whistleblowing and grievances.

Communicating the policy and procedures

Having a policy is a good first step to encourage workers to blow the whistle but KLIP to put mechanism on place of letting the staff know about this policy and makes sure they know how to make a disclosure. Some organisations choose to publicise their policy via their intranet or through a staff newsletter. It is a good idea for organisations to share the information with all staff regularly to make sure they are all reminded of the policy and procedures and to inform any newcomers. Providing training at all levels of an organisation on the effective implementation of whistleblowing arrangements will help to develop a supportive and open culture.

How? When someone blows the whistle an organisation should explain its procedures for making a disclosure and whether the whistleblower can expect to receive any feedback. Often a whistleblower expects to influence the action the organisation might take, or expects to make a judgement on whether an issue has been resolved – such expectations need to be managed.

Has the issue been resolved? It is for the organisation to be satisfied that

Is there a standard whistleblowing policy?

There is no one-size-fits-all whistleblowing policy as policies will vary depending on the size and nature of the organisation. Some organisations may choose to have a standalone policy whereas others may look to implement their policy into a code of ethics or may have 'local' whistleblowing procedures relevant to their specific business units.

A large organisation may have a policy where employees can contact their immediate manager or a specific team of individuals who are trained to handle whistleblowing disclosures. Smaller organisations may not have sufficient resources to do this.

Any whistleblowing policies or procedures should be clear, simple and easily understood. Here are some tips about what a policy should include:

- An explanation of what whistleblowing is, particularly in relation to the organisation

- A clear explanation of the organisation's procedures for handling whistleblowing, which can be communicated through training
- A commitment to training workers at all levels of the organisation in relation to whistleblowing law and the organisation's policy
- A commitment to treat all disclosures consistently and fairly
- A commitment to take all reasonable steps to maintain the confidentiality of the whistleblower where it is requested (unless required by law to break that confidentiality)
- Clarification that any so-called 'gagging clauses' in settlement agreements do not prevent workers from making disclosures in the public interest
- An idea about what feedback a whistleblower might receive
- An explanation that anonymous whistleblowers will not ordinarily be able to receive feedback and that any action taken to look into a disclosure could be limited – anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymised email address
- A commitment to emphasise in a whistleblowing policy that victimisation of a whistleblower is not acceptable. Any instances of victimisation will be taken seriously and managed appropriately An idea of the time frame for handling any disclosures raised
- An idea of the time frame for handling any disclosures raised
- Clarification that the whistleblower does not need to provide evidence for the employer to look into the concerns raised
- Signpost to information and advice to those thinking of blowing the whistle, for example the guidance from the Government, Acas, Public Concern at Work or Trade Unions
- Information about blowing the whistle to the relevant prescribed person(s)

Promoting a policy and making sure it is easily accessible

- It's no good having a policy in place if no one knows about it. Actively promoting a policy shows the organisation is genuinely open to hearing concerns from its staff. Managers and leaders in the organisation can also promote a policy in the way they behave at work. Conduct and written policies will help to create an open culture, which will increase the likelihood of a worker speaking up about any wrongdoing they come across.
- **Written policies are not enough.** Training should be provided to all staff on the key arrangements of the policy. Additional training should be provided to those with whistleblowing responsibilities, such as managers or designated contacts, so they are able to provide guidance confidently to workers. Managers should also lead by example

and ensure they are committed to creating an open culture where disclosures are welcome. It is also a good idea to include handling whistleblowing disclosures as part of discipline and grievance training for managers and staff. Training should be offered at regular points to make sure it stays fresh in managers' minds and to capture any newcomers to the organisation.

Here are some ideas about how to promote a policy:

- Hold a staff session or in larger organisations require managers to hold smaller, consistent team meetings
- Make the policy accessible on the staff intranet
- Appoint a whistleblowers' champion to drive the commitment to valuing whistleblowing and protecting whistleblowers within the organisation
- Use promotional posters around the building
- Include the policy within induction packs for newcomers
- Set the policy out in staff handbooks and contracts

Deciding how to deal with the whistleblowing disclosure

Where a worker feels able to do so they may make a disclosure to their immediate manager who will be able to decide whether they can take forward the disclosure or whether it will require escalation. An organisation will need to equip managers with the knowledge and confidence to make these judgements. A whistleblowing policy and training can help with this. Larger organisations may have a designated team who can be approached when workers make a disclosure. Although this may not be possible for smaller organisations, it is considered best practice that there is at least one senior member of staff as a point of contact for individuals who wish to blow the whistle. This is particularly helpful in cases where the immediate line management relationship is damaged or where the disclosure involves the manager. Alternatively, there are commercial providers who will manage a whistleblowing process on the employer's behalf.

Dealing with disclosures

Once a disclosure has been made it is good practice to hold a meeting with the whistleblower to gather all the information needed to understand the situation. In some cases a suitable conclusion may be reached through an initial conversation with a manager. In more serious cases there may be a need for a formal investigation. It is for the organisation to decide what the most appropriate action to take is.

It is important to note that if an investigation concludes that the disclosure was untrue it does not automatically mean that it was raised maliciously by a worker.

When dealing with disclosures, it is good practice for managers to:

- Have a facility for anonymous reporting
- Treat all disclosures made seriously and consistently
- Provide support to the worker during what can be a difficult or anxious time with

access to mentoring, advice and counselling

- Reassure the whistleblower that their disclosure will not affect their position at work
- Document whether the whistleblower has requested confidentiality
- Manage the expectations of the whistleblower in terms of what action and/or feedback they can expect as well clear timescales for providing updates
- Produce a summary of the meeting for record keeping purposes and provide a copy to the whistleblower
- Allow the worker to be accompanied by a trade union representative or colleague at any meeting about the disclosure, if they wish to do so
- Provide support services after a disclosure has been made such as mediation and dispute resolution, to help rebuild trust and relationships in the workplace.

It will be useful to document any decisions or action taken following the making of a disclosure by a worker.

It is also good practice for organisations to:

- Record the number of whistleblowing disclosures they receive and their nature
- Maintain records of the date and content of feedback provided to whistleblowers
- Conduct regular surveys to ascertain the satisfaction of whistleblowers.

What happens when a worker blows the whistle to someone other than their employer?

Ideally workers will feel able to make a disclosure to their organisation. Good policies and procedures for handling whistleblowing will help encourage this. However, there may be circumstances where they feel unable to. There are other ways, some of which are set out in law, that a worker may make a disclosure without losing their rights under whistleblowing law. One option for external disclosures of this type is prescribed persons. Prescribed persons are mainly regulators and professional bodies but include other persons and bodies such as MPs. The relevant prescribed person depends on the subject matter of the disclosure, for example a disclosure about wrongdoing in a care home could be made to the Care Quality Commission.

Prescribed persons have individual policies and procedures for handling concerns and complaints. Generally these will be accessible on their websites.

Alternatively, a worker might choose to approach the media with their concerns. If a worker goes to the media, they can expect in most cases to lose their whistleblowing law rights. It is only in exceptional circumstances that a worker can go to the media without losing their rights. They must reasonably believe that the information they disclose and any allegation contained in it are substantially true. They cannot be acting for personal gain. Unless the wrongdoing is exceptionally serious, if they have not already gone to their employer or a prescribed person, they must reasonably believe that their employer will subject them to “detriment” or conceal or destroy evidence if they do so. And even then, their choice to make the disclosure must be reasonable.

What happens if a whistleblower believes they have been unfairly treated?

If a whistleblower believes that they have been unfairly treated because they have blown the whistle they may decide to take their case to an employment tribunal. The process for this would involve attempted resolution through the Advisory, Conciliation and Arbitration Service (Acas) early conciliation service.

The Phone Helpline Contact for reporting any form of irregularities are:

Director KLIP: +254 722 760 538 and email: sgagong@jooust.ac.ke

Chairman, KLIP Trust: +254 722 412 520 email: okellosamuel11@gmail.com

Head of Administration, MUF: Mobile: +46 (0) 733 84 63 56 E-mail: viveka.blomgren@chalmers.se

Director, MUF: Tel: 00 46 70 864 2780 Email: david.simon@chalmers.se

Whistleblowing Code of Practice

It is important that employers encourage whistleblowing as a way to report wrongdoing and manage risks to the organisation. Employers also need to be well equipped for handling any such concerns raised by workers. It is considered best practice for an employer to:

- Have a whistleblowing policy or appropriate written procedures in place
- Ensure the whistleblowing policy or procedures are easily accessible to all workers
- Raise awareness of the policy or procedures through all available means such as staff engagement, intranet sites, and other marketing communications
- Provide training to all workers on how disclosures should be raised and how they will be acted upon
- Provide training to managers on how to deal with disclosures
- Create an understanding that all staff at all levels of the organisation should demonstrate that they support and encourage whistleblowing
- Confirm that any clauses in settlement agreements do not prevent workers from making disclosures in the public interest
- Ensure the organisation's whistleblowing policy or procedures clearly identify who can be approached by workers that want to raise a disclosure. Organisations should ensure a range of alternative persons who a whistleblower can approach in the event a worker feels unable to approach their manager. If your organisation works with a recognised union, a representative from that union could be an appropriate contact for a worker to approach
- Create an organisational culture where workers feel safe to raise a disclosure in the knowledge that they will not face any detriment from the organisation as a result of speaking up.
- Undertake that any detriment towards an individual who raises a disclosure is not acceptable
- Make a commitment that all disclosures raised will be dealt with appropriately, consistently, fairly and professionally Undertake to protect the identity of the worker raising a disclosure, unless required by law to reveal it and to offer support throughout with access to mentoring, advice and counselling

Provide feedback to the worker who raised the disclosure where possible and appropriate subject to other legal requirements. Feedback should include an indication of timings for any actions or next steps.

THE RESPONSIBLE OFFICER

The Director shall nominate the “**Contact Person**” for the purposes of maintenance and operation of this policy. Records of (all written statements along with the results) any investigations relating thereto shall be kept on a separate secured file in the Head of Internal Affairs office for seven years. It is illegal and against the Trust’s Policy to destroy any audit records that may be subject to or related to an investigation by the Trust. This procedure is subject to monitoring and shall be reviewed by the Director. This policy has been approved by the Board of Trustees Resources, Commissioner General and the Board of Directors.

REPORTING LINE

The Phone Helpline Contact for reporting any form of irregularities are:

Director KLIP: +254 722 760 538 and email: sgagong@jooust.ac.ke

Chairman, KLIP Trust: +254 722 412 520 email: okellosamuel11@gmail.com

Head of Administration, MUF: Mobile: +46 (0) 733 84 63 56 E-mail: viveka.blomgren@chalmers.se

Director, MUF: Tel: 00 46 70 864 2780 Email: david.simon@chalmers.se