

PSC CIRCULAR

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PSC Circular. 35/2005

To: Chief Executive Officers & Heads of Departments **File:** C29/67/45

Subject: Public Service Whistle Blowing Policy **Date:** 30/08/05

1.0 Introduction

- 1.1 The Commission is seriously concerned about the increased incidents of abuse of office and malpractices within the public service.
- 1.2 One has only to look at the Auditor General's Report to realise that the public service has over the years developed a widespread and a deep seated problem of malpractice and abuse of office.
- 1.3 While the Commission is trying to reform the civil service to live up to the expected standards of its legislated public service values, there are still people, regrettably, who have the tendency to illegally and unethically manipulate government systems to their advantage and benefit.
- 1.4 Therefore, the Commission has decided to introduce a policy called 'Public Service Whistle Blowing' in order to address and hopefully eliminate, if not, reduce the problem.

2.0 General

- 2.1 It is in the public interest that public services are provided fairly, equitably and without any form of discrimination or coercion.
- 2.2 The public service whistle blowing policy is basically a means of disclosing incidents of serious wrongdoing or malpractice within Ministries and Departments. A 'whistle blower' can disclose information concerning issues that brings about disrepute to the public service especially those which generally tarnishes protected public interest.

- 2.3 Whistle blowing issues are non compliance with legal obligations such as Acts, Instructions and Regulations, large scale financial or non financial maladministration, malpractice, impropriety and fraud.
- 2.4 It could also include criminal offence, academic or professional malpractice, risk to health or safety to an individual or any community, environmental damage, miscarriage of justice, improper conduct or unethical behaviour and attempts to suppress or conceal any information relating to the discovery of the issues herein.
- 2.5 Whistle blowing will not cover personal grievances concerning terms and conditions of employment, working relationship, complaints of mistreatment and disciplinary matters. These Issues will have to be dealt with in accordance with the existing procedures currently in place.
- 2.6 An employee of the public service should disclose information under this policy as and when he or she has reasonable grounds to believe that a serious malpractice has occurred within his/her Ministry or Department. In doing so whistle blowers are assured of their protection from victimization and from any other forms of unfair treatment.
- 2.7 In this context, whistle blowers are reminded that when disclosing information they must conduct themselves in a way that they do not breach the Public Service Code of Conduct under Section 6 subsection(s) 7, 9, 10 & 11 of the Public Service Act, 1999.

3.0 **Credible Whistle Blowers**

- 3.1 Credible whistle blowers are those persons who without malice and in good faith reasonably believe that the information disclosed and any allegations contained in it are substantially true.
- 3.2 Whistle blowers that disclosed information truthfully and was not made for the purpose of personal gain.
- 3.3 Whistle blowers who fully comply with the laid down whistle blowing procedures without trying to circumvent the same in any other way. Please refer to **Appendix I**.
- 3.4 Promptly raises concern in regards to illegal, unsafe or unethical practices in order to avoid any misinterpretation of the motives for doing so.

- 3.5 Focuses on the issues and proceed in a tactful manner to avoid unnecessary personal ill - feelings which might distract attention from disclosing the problem.
- 3.6 Is accurate in observations and in his/her claims, by keeping formal records and documenting relevant events .
- 3.7 Is not hesitant to seek independent legal advice and or clarification(s) on the issues to be disclosed.

4.0 **Protection for Whistle Blowers**

- 4.1 The Public Service Commission will ensure that any member of the public service who makes a disclosure in such circumstances will not be penalized or suffer any adverse treatment.
- 4.2 In the case where the whistle blower suffered adverse treatment because of the disclosure , then he or she should submit a formal complaint under the grievance procedure .
- 4.3 The onus will be on the whistle blower to present reasonable grounds that the adverse treatment against him/her was done in retaliation for disclosing information.
- 4.4 Should there be a prima facie case that a whistle blower has suffered adverse treatment, harassment or victimization because of the disclosure then disciplinary action will be taken against the perpetrator in accordance with the Public Service Act and Regulations 1999.

5.0 **Protection against Persons who are subjects of Whistle Blowing**

- 5.1 The CEO, upon receiving the disclosed information should ensure that the whistle blower had fully complied with the whistle blowing procedures.
- 5.2 The CEO should ascertain the facts in support of the disclosed information before seeking any response from the person who has been reported upon by the whistle blower.
- 5.3 The whistle blower is also reminded of Section 6 subsection(s) 7, 9, 10, and 11 of the Public Service Act, 1999 that one could face disciplinary action if it is discovered that the disclosed information was misleading, false or was meant for some personal gain or advantage.

6.0 **Investigation**

- 6.1 Investigation will be conducted as sensitively and speedily as possible on a set timetable and the CEO to whom the disclosure was made, should initiate an investigation to establish relevant facts .
- 6.2 Investigation should be conducted by an Internal Auditor in cases of financial irregularity and should submit his or her report to the CEO to whom the disclosure was made to decide if there is a case to answer.
- 6.3 If there is a case to answer, the matter should be referred to the relevant authority or to the Police if the case warrants proper criminal investigation.
- 6.4 The matter could also be dealt with under the existing grievance procedure, mistreatment or disciplinary procedure in addition to any civil or criminal proceedings .
- 6.5 The person(s) to whom the disclosure is made against shall be informed at an early stage with supporting evidence and to be allowed to submit a response.
- 6.6 The CEO could also refer the matter to the Auditor General or have the issue investigated by an Independent Inquiry Committee.
- 6.7 If the disclosed information cannot be dealt with under this policy or if it does not warrant an investigation, then the decision should be fully explained to the whistle blower stating the reasons why the disclosed information cannot be dealt with as such.
- 6.8 Only in this instance (6.7 above) the whistle blower will be at liberty to make the disclosure to the Public Service Commission or to the Auditor General and the whistle blower will still be protected against victimization or other adverse treatment.

7.0 **Clarification**

- 7.1 Should you require any further clarification then please contact Mr. Salimoni Karusi on telephone 3314588, extension 307 or email to skarusi@psc.gov.fj



[A. Jale]
Chief Executive Officer-Public Service

APPENDIX 1

Whistleblowers and the authorities concerned shall comply with the procedure set out below when lodging a complaint and when taking subsequent actions.

1 **Procedure/Method of reporting**

- (a) Clearly write down the complaint detailing the fault or reason giving rise to the complaint;
- (b) Names and details of all persons involved should be provided including ministry/department;
- (c) Dates, times and nature of the illegal activity/offences as detailed in the Public Service Code of Conduct should be provided;
- (d) When any money is involved, the approximate amount is to be stated together with the date;
- (e) If a receipt had been issued, that receipt number and any related documentary evidence should be provided;
- (f) If stores or resources were used/wasted/illegally taken then the exact stores or resources should be stated giving details such as registration number, quantity etc;
- (g) The names and positions of other persons within or outside of the civil service who had knowledge of or were party to the illegal activity;
- (h) Where possible the informant should provide his/her name and address for corroboration;
- (i) The names and address of any other person(s) who have knowledge of the offence or were witness to the offence should be given;
- (j) All complaints should be forwarded to the CEO concerned for investigation and follow-up action; and
- (k) The CEO will direct further clarifications if required.

2 **Protection for Whistle Blowers and of Persons being the subject of Whistle blowing**

- (a) The PSC shall ensure that the staff of any ministry/department who makes a disclosure on any matter under this policy will not be penalized or suffer any adverse treatment;
- (b) All information provided including the identity of the information(s) and the person(s) being complained against shall be kept in the strictest confidence by all officers handling the case; and
- (c) Whistle blowers are reminded that they can be disciplined if the disclosed information is proven to be false or misleading.

3 **Action to be taken**

- (a) All allegations, complaints and issues of such nature when received shall be investigated upon and analyzed thoroughly by the CEO concerned;
- (b) A report of the analysis and findings with appropriate recommendations shall be then made to the CEO concerned for consideration;
- (c) The CEO shall institute disciplinary action where there is sufficient evidence and suspend the officer(s) where necessary;
- (d) A report shall also be made to the Police where criminal offence has been committed, for their action;
- (e) A submission for disciplinary action shall be submitted to the PSC by the CEO together with all relevant evidence, documentary or otherwise with an appropriate recommendation for consideration; and
- (f) Remedial action(s) shall be taken once a decision has been given.

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