

**KENYA PLANT HEALTH INSPECTORATE
SERVICE
WHISTLE BLOWING POLICY
2025**

Revised Edition (2017)

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In establishing state corporations, the government aimed at implementing government policies and executing programs for economic and social development. To achieve this goal, it is crucial for the corporations so established to enhance proper systems for management of resources while accelerating economic growth and development.

KEPHIS recognizes the crucial role its staff, clients and other stakeholders play in ensuring that it executes its role and mandate effectively. KEPHIS supports voicing of concerns on issues affecting the Corporation. In commitment to accountability, openness and effective delivery of service, KEPHIS has developed this whistle blowing policy to encourage the voicing of serious concerns that show malpractice in the Corporation as well as to protect the said persons from retaliation of any kind.

This policy is hereby adopted to promote the overall success of the Corporation in reporting malpractices.



PROF. THEOPHILUS M. MUTUI, PHD
MANAGING DIRECTOR

INTRODUCTION

- 1.1 The Kenya Plant Health Inspectorate Service (KEPHIS), in providing its services, is governed by the Kenya Plant Health Inspectorate Act, No. 54 of 2012, the Constitution of Kenya, 2010 as well as other enabling laws.
- 1.2 KEPHIS acknowledges that its success is premised on effective leadership and management of the institution while ensuring proper utilization of public resources in the face of rising societal needs. Good practices for government owned entities include promoting and facilitating development leading to national, social and economic growth. KEPHIS recognizes the negative impact corruption has on effective delivery of services while at the same time recognizes and upholds the principles enshrined under Articles 10 and 232 of the Constitution of Kenya, 2010. In fighting corruption, it is imperative that KEPHIS appreciates the role of its stakeholders, both internal and external.
- 1.3 In its commitment towards fighting graft and malpractice, KEPHIS adopts this whistle blowing policy that aims to prescribe channels for reporting manifested and/or potential acts of corruption as well as protecting individuals who make such reports in good faith. This policy is guided by the spirit of the Constitution of Kenya, the Witness Protection Act Cap 79, the Leadership and Integrity Act Cap 182, Anti-corruption and Economics Crimes Act, the Public Officer Ethics Act, Mwongozo, the Code of Governance for State Corporations and other enabling Laws and Policies.

SCOPE

- 2.1 This policy applies to All employees, the Board of Directors, contractors, partners, interns, volunteers and any other third parties associated or doing business with KEPHIS. Third parties doing business with or acting on behalf of KEPHIS are strongly encouraged to use the policy.
- 2.2 This Policy applies to protected disclosures such as:
 - a. suspected fraud or corruption;
 - b. a criminal offence which is, has or is likely to be committed;
 - c. disregard for legislation e.g. Public Officers Ethics Act;
 - d. violation of law, rule or regulation or breach of code of conduct;
 - e. abuse of authority;
 - f. real or potential damage to the environment;
 - g. breach of the standing financial rules and regulations;
 - h. where evidence may be concealed or destroyed;
 - i. where there has been a previous disclosure of the same information;
 - j. failure to comply with legal or regulatory frameworks; and
 - k. any other disclosure that management may deem fit and within the relevant laws and policies.
- 2.3 This Policy does not apply to disclosures that are prohibited by national laws in the interest of national defense or in the conduct of foreign affairs, unless the disclosures are made in a specific manner and to the specific entity or to false disclosures made deliberately. Protection is however afforded if the individual makes the disclosure upon the individual's reasonable

belief that the information disclosed is based on true information even if the individual's belief is incorrect.

2.4 The policy excludes Personal grievances which are handled as per the Human Resource Manual.

TERMS AND DEFINITIONS

The definitions of some of the key terms used in this policy are given below:

a. Integrity officer

This is an employee elected by the Board of Directors to act as the focal point for all whistleblowing matters raised within KEPHIS. He or she is the authorized receiver to whom whistleblowers shall make reports of a breach under this policy and shall provide liaison and communication with anonymous whistleblowers.

The Director of Legal Services and Corporation Secretary is the current Integrity Officer. When the current incumbent exits the position, the replacement for this role will be done by the Board. The holder of this position will be appointed via nomination and voting during a board meeting. The Managing Director will do the nomination and present to the board for consideration.

b. Whistleblower

A person or entity making a protected disclosure about improper conduct or illegal activities under this policy. Whistleblowers may be KEPHIS's staff or Board, applicants for employment, vendors, contractors, customers or general public. The whistleblower's role is as a reporting party. They are not investigators or finders of fact, nor do they determine the appropriate corrective or remedial action that may be warranted.

c. Improper conduct or breach

Is a violation or the suspicion of a violation on reasonable grounds of any legislation and/or the organization's Code of Conduct by any KEPHIS director, employee, contractor, agent or third party on behalf of KEPHIS.

d. Protected disclosure

Means a written or oral communication, whether by letter, email or over telephone relating to any breach or improper conduct, unethical practice or behavior or violation of the Code of conduct by directors, employees or third parties made in good faith by the whistleblower.

e. Employee

Means all persons engaged by KEPHIS on a contract of service irrespective of the duration of that engagement. This also includes volunteers, attachés, interns and pupils.

f. Good faith

Good faith is evident when the report is made without malice and the whistleblower has a reasonable basis to believe that the report is true; provided, however, that a report does not have to be proven to be true to be made in good faith. Good faith is lacking when the disclosure is known to be malicious or false.

g. Unsubstantiated allegations

If a whistleblower makes an unsubstantiated allegation in good faith but is not substantiated by the investigation, no action will be taken against her/him.

h. Bad faith

If an allegation is made frivolously, maliciously or in bad faith for personal gain, disciplinary action may be taken against the whistle blower

i. Victimization

Intentionally treating someone in an unfair manner due to their decision to whistle blow.

j. Unethical practice

A practice or behavior that is not conforming to high moral standards; and therefore, morally wrong. Examples include misuse of company time, lying to employees, abusive behavior etc.

k. Board

Means the Board of Directors of KEPHIS

l. Directors

Means all persons holding the position of Director in the organization, whether independent, non-independent, or executive

n. Ethics committee

Means the committee formed to evaluate, consider and investigate the protected disclosures received from a whistleblower under this policy

m. Removed

Means that the personal data are completely deleted or adapted in such a way that identification of the person involved is no longer possible.

o. Report

Means a complaint by a whistleblower of a breach under this policy.

p. Subject

Means a person or group of persons against or in relation to whom a protected disclosure is made or evidence gathered during the course of an investigation.

q. Interested party

Means a party with an interest in the matter and who is unbiased or connected to remain unaffected, regardless of the outcome.

OBJECTIVES

This policy describes what a person should do when he/she suspects or observes a breach. Employees and Third parties can report to the Integrity Officer under this procedure, using the following address: director@kephis.org

The Board of Directors ("the Board") of the organization is committed to achieving and maintaining the highest standard of work ethics in conducting KEPHIS's business in line with the code of conduct and good corporate governance practices.

This policy is to provide an avenue for all employees of the organization and the public to disclose any breach or improper conduct in accordance with the procedures under this policy and to provide protection for employees and members of the public who report such allegations.

The policy is designed to support the following:

- Show the commitment to the organization's business ethics of honesty, integrity and transparency.
- To provide a transparent and confidential process for all parties to give information on non-compliances to the Code of Conduct and any legislation, or any misconduct regardless of the offender's position, to an independent party to investigate the allegations and take the appropriate actions;
- To uphold the moral duty as a responsible organization by protecting the interests of all its stakeholders;
- To create a mechanism for disclosure and investigation of serious concerns of potential or manifested corruption that may hinder growth and performance of KEPHIS if not acted upon; and
- To protect persons who make the disclosures.

Specifically, the objectives of this policy are to:

- i. Provide for a culture of zero tolerance towards fraud, corruption, bribery and any malpractice or wrongdoing.
- ii. Explain what qualifies as a whistle-blow and provide guidelines on how to report a concern.
- iii. Encourage stakeholders to bring out information helpful in enforcing good corporate governance practices.
- iv. Provide a platform to disclose concerns of malpractices within the organization.
- v. Mitigate against any fraud, operational or regulatory risk that could lead to potential financial loss or damage to the organizations' reputation.

- vii. Reassure and protect those who raise concerns in the public interest and that of the organization, that they can do so without fear of reprisals or victimization or disciplinary action, for making such a report.

RESPONSIBILITIES

5.1 AII staff members are required to ensure that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct as well as the KEPHIS Code of Conduct and Ethics.

5.2 Staff are encouraged to report such matters as outlined below to the persons listed in clause 5.3

Type	Description
Fraud	Any intention to deprive another person or the organization of money by deception or unfair means
Bribery	The illegal practice of offering something like money or anything of value to another person for the purpose of gaining an unfair advantage
Corruption	Dishonest or Dishonest or unethical conduct by a person entrusted with a position of authority so as to acquire personal benefit.
Theft	The unauthorized taking of money, supplies or other property without the permission of the owner.
Financial misstatement	Statements or action that encourage or result in false or intentionally misleading entries into accounting or financial records.
Discrimination	Statements or actions of favoritism or disadvantage to a person based on age, race, nationality, ethnicity, gender, disability or faith as the basis for employment, or retention in employment or other favor.
Harassment & Bullying	Conduct, words or actions, which are habitual, uninvited, degrading, or coercive, offensive, humiliating or intimidating and result in a hostile work environment or domination of others
Retaliation or retribution	Statements or actions that are threatening, harassing or discrimination against a whistleblower in connection with reporting a violation of law or policy, filing a complaint or assisting with an investigation or processing.
Environmental health & safety	Conduct, actions, policies or practices that either violate any laws on environment, health and safety legislation or which may cause or reflect in potentially hazardous conditions that impact the environment or the health and safety of employees, customers or their parties.
Data privacy breach	The loss of data where one is culpable either through negligence or intentional acts as well as unauthorized sharing of the organization's confidential information.
Sexual Harassment	Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Abuse of power or authority	Improper use of authority and privileges that arise from the entitlements of a person's job for personal benefits or to the detriment of the company or any worker or stakeholder.
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5.3 Staff members are encouraged to internally report suspected cases of fraud and corruption to any of the following:

- a) Managing Director;
- b) Board Chairperson;
- d) Heads of Departments;
- e) Regional Managers/Officers in Charge;
- f} Line managers/supervisors; or
- g) Corruption Prevention Committees.

5.4 Whoever receives such disclosure has a duty to:

- a) acknowledge receipt of the disclosed information;
- b) treat the information in a confidential manner;
- c) take staff concerns seriously;
- d) consider the information carefully and conduct investigations;
- e) seek appropriate advice;
- f) take appropriate actions to resolve the concern or refer it to an appropriate person;
- g) monitor and review the situation;
- h) inform the seniors; and
- i) ensure that individuals who genuinely report such concerns are not penalized in any way.

REPORTING PROCEDURE

5.1 Any person who shall have witnessed or experienced a breach or improper conduct on the part of a director, employee of the organization or any third party associated with the organization, may make the report or disclosure of the breach in any of the following ways:

- i. In writing, duly addressed to either the line manager of the offender by a letter in a sealed envelope specifically marked as "Disclosure under Whistleblower Policy"; or
- ii. By telephone or email to the Integrity Officer (authorized receiver) at the address that will be provided by the authorized receiver. The email address and telephone number for the purposes of reporting shall be: director@kephis.org
- iii. Deposit in Corruption Reporting Boxes : All KEPHIS stations shall maintain Corruption reporting box(es) that shall be strategically placed to ensure confidentiality of the people accessing the boxes. All staff shall be sensitized on the use of the corruption reporting boxes and feedback on the reports made shall be communicated through the Director of Legal Services office or Regional/Officer in Charge's office.

- 5.2 The whistleblower may be required to provide suitable proof of his/her identity, contact number and address so that additional information, if any, can be obtained.
- 5.3 In case identity cannot be ascertained, the complaint will be treated as anonymous but will nevertheless be investigated to the extent possible unless it is completely impossible to ascertain the key details of the complaint, in which case such an anonymous complaint may not attract further action.
- 5.4 Disclosure can also be made to the authorized receiver or the line manager as the case may be, by telephone or email.
- 5.5 The whistleblower shall be required to provide verifiable information such as the background, history and reasons for his/her concern, together with names, dates, places and as much other relevant information as possible. It is not necessary that a whistleblower proves all facts leading to a breach, but he/she should be able to provide sufficient evidence to substantiate the assumption of a breach. Individuals are encouraged to report breaches at the earliest possible stage, in order for timely action to be taken.
- 5.6 Although it will be preferable to make a report in English, the organization will support persons reporting a breach in Kiswahili or any other language in which a report or complaint shall have been made.
- 5.7 Additional information, as deemed necessary, will be sought by the authorized receiver or the Corruption Prevention Committee.

REPORTING LEVELS AND PROCEDURES OF MAKING REPORTS

6.1 General

There shall be three (3) levels of handling disclosures under this policy:

- i. Where a report is made to the line management;
- ii. Where a report is made to the authorized receiver;
- iii. Where a report is made to either the chairperson of the Board or chairperson of the Audit Committee.

Every recipient of a reported breach shall ensure that it is handled carefully, confidentially and promptly, irrespective of the level of the report.

If a breach is not reported at the appropriate level, the person receiving the report will forward it to the appropriate level and inform the whistleblower accordingly, where the identity of the whistleblower can be ascertained.

Level 1: Reporting to line management

- i. As a general rule, employees who wish to report a breach should make the report to their immediate supervisor.
- ii. In case the handling of the report by the immediate supervisor (line management) is unsatisfactory or the decision taken is in itself considered a breach, the whistleblower can make a report as a new case to the authorized receiver under Level 2 below.

Level 2: Reporting directly to the authorized receiver

- i. If reporting to line management is not possible, because it would be inappropriate or unfeasible, or is handled in a manner that itself constitutes a breach or is otherwise improper, the whistleblower shall then be entitled to make the report to the authorized receiver by any of the methods specified in section 5.1 of this policy. For persons outside the organization, reports should be made directly to the authorized receiver.

Level 3: Reporting to either the chairperson of the Board or chairperson of the Audit Committee.

- i. If the subject of a report of a breach is either a member of the Corruption Prevention Committee or a director of the corporation, the authorized receiver shall forward the report directly to the chairperson of the Board.
- ii. If the subject of a report of a breach is a non-executive director other than the chairperson of the Board, then the authorized receiver shall submit the report directly to the chairperson of the Board.
- iii. If the subject of a report of a breach is the chairperson of the Board, then the authorized receiver shall submit the report directly to the chairperson of the Corruption Prevention Committee.
- iv. Reports under the categories 6.3(i), 6.3(ii) and 6.3(iii) below shall be deemed to be Level 3 reports in this policy.

6.2 Procedure for handling reports

Upon receipt of the report under either Level 1 or Level 2 or Level 3, the line manager or the authorized receiver as the case may be, will take the following actions:

- i. Confirm receipt of the report to the whistleblower.
- ii. If relevant, arrange an interview with or request additional information from the whistleblower to get more details of the complaint.
- iii. Refer the report and all relevant information to the Corruption Prevention Committee as soon as possible after receipt of a report of a breach.

6.3 Procedure on report of breach by a Board Director or Corruption Prevention Committee member

- i. If the subject of a report of a breach is either a member of the Corruption Prevention Committee or a director, the authorized receiver shall forward the report directly to the chairperson of the Board.
- ii. If the subject of a report of a breach is a member of the committee but not the chairperson of the Board, then the authorized receiver shall submit the report to the chairperson of the Board.
- iii. If the subject of a report of a breach is the chairperson of the Board, then the authorized receiver shall submit the report directly to the chairperson of the Audit committee.
- iv. Upon receipt of a report under section 6.3(i) and 6.3(ii), the chairperson of the Board shall review the report and may discuss it with any other non-executive director who is not the subject of the report and make a determination within fifteen (15) days on whether the report is admissible under the criteria listed in section 7.0 of this policy.
- v. Upon receipt of a report under section 6.3(iii), the chairperson of the Audit committee shall review the report and may discuss it with any other director and make a determination within fifteen (15) days on whether the report is admissible under the criteria listed in section 9.3 of this policy.
- vi. Upon making a determination that a report made under section 6.3(i) and 6.3 (ii) is admissible, the chairperson of the Board shall constitute an ad-hoc committee of the Board comprising at least two other directors to investigate the report.
- vii. Upon making a determination that a report made under section 6.3(iii) is admissible, the chairperson of the Audit committee shall constitute an ad- hoc committee of the Board comprising at least two other non-executive directors to investigate the report.
- viii. The chairperson of the Board or the chairperson of the Audit Committee may involve the Ethics & Corruption Prevention Committee, the Managing Director and other organization employees or directors, as well as external advisers or institutions in the investigation as required and as far as they are not the subject of the report themselves.
- ix. The decision whether a breach has occurred or not shall be taken and communicated to the whistleblower and the interested party within two (2) months after the chairperson of the Board or the chairperson of the Audit Committee have arrived at a determination or such other appropriate period as may be necessary.
- x. In case of a finding that there has been a breach, the chairperson of the Board or the chairperson of the Audit Committee, as the case may be, shall ask the ad-hoc committee to make a recommendation to the Board for its consideration and determination based on the findings of the Investigations.
- xi. Once a determination on a report has been made the chairperson of the Board, the chairperson of the Audit Committee or the chairperson of the Ethics & Corruption Prevention Committee, as the case may be, shall inform the whistleblower in writing about the decision taken on the whistleblower's report.

Notwithstanding the foregoing, no adverse decision shall be made against any subject of a report under this policy before the subject is given details of the complaint and allowed to make a response to it in writing or any other reasonable manner as the subject shall request.

6.4 Information to subject of a report

- i. The Ethics & Corruption Prevention Committee may, through the Director of Human Resources, inform the subject of a report under this policy of such report having been made.
- ii. If the subject of a report is a director of the Board, then the Board chairperson or the chairperson of the Audit Committee shall inform the subject of a report under this policy of such report having been made.
- iii. In cases where there is a substantial risk that such notification would jeopardize the ability to effectively investigate the reported facts or to gather the necessary evidence, notification to the person about whom a report is filed can be withheld as long as such risks exist.
- iv. The information given to the subject of the report will contain the facts of the breach as reported.
- v. The subject of a report of breach under this policy will be given the opportunity to provide an explanation, without the name of the person who reported the breach being disclosed to him/her.
- vi. The subject of the report shall be entitled to and may request access to his/her personal data held by the organization through the chairperson of the Ethics & Corruption Prevention Committee in the case of an employee or the board chairperson or the chairperson of the Audit Committee, as the case may be.
- vii. As soon as the investigation has been concluded, the subject of the report will be informed of any action to be taken as a result of the report. If the person about whom a report was filed is informed that no action will be taken, any suspension or temporary measure that had been imposed on him/her as guided by the human resource policy manual and/ or other organization policies will automatically terminate and cease to be of effect.
- viii. The subject of the report shall have the right to have incorrect, incomplete and outdated data corrected or removed in accordance with the rights available under the Constitution, The Data Protection Act and the Fair Administrative Action Act respectively.

6.5 The Disclosure

The disclosure made should include as much information as possible to enable thorough investigations to be conducted. This should include:

- a) nature of the disclosure;
- b) person(s) involved;
- c) area/section where the action took or will take place;
- d) date and time when the incident took place;
- e) evidence in support of the allegation;

- f} names of possible witnesses in support of the allegation; and
- g) any other mechanisms you have pursued to report the disclosure.

7.0 ADMISSIBILITY OF REPORTS

The policy is designed to support the following:

- i. It clearly specifies and relates to a breach; and
- ii. It is sufficiently substantiated.

8.0 SAFEGUARDS

8.1 Whilst whistleblowing is an effective tool in combating corruption, this method carries with it a high personal risk, especially where protection is not accorded to the whistleblower. KEPHIS commits to promote whistleblowing made in good faith, giving protection against any repercussions to the whistleblower. It also commits to conduct prompt action on the disclosures made and give feedback where appropriate on the actions.

8.2 Protection measures to be taken by KEPHIS include:

- a) protection from harassment, stigmatization, threats and any other forms of retaliatory action;
- b) protection from any form of discriminatory or retaliatory personnel action including dismissal, suspension or demotion, other disciplinary or corrective action, transfer or reassignment, performance evaluation, decision concerning pay benefits, awards, training or education, order to undergo medical test or examination, or any other significant change in duties, responsibilities or working conditions;
- c) protection from failure to take personnel actions for example, selection, reinstatement, appointment or promotion;
- d) protection from other forms of retaliatory conduct including protection from criminal and civil liability;
- e) protection of identity through availability of anonymous reporting; Protection of persons mistakenly believed to be whistleblowers;
- g) maintaining confidentiality of all matters raised as well as concealing the identity of the whistleblower if a matter is not raised anonymously.

8.3 Non-retaliation

- i. Any whistleblower who reports a situation or occurrence which he/she reasonably believes is a breach under this policy shall be protected from blame, harassment or undue questioning.

- ii. Retaliation against a whistleblower for reporting in accordance with this policy is a serious violation of the policy itself. If this occurs, the violator will be subject to appropriate disciplinary sanctions.
- iii. Any such retaliation shall be reported to the authorized receiver, the chairperson of the Board or the chairperson of the Finance & Audit Committee at once as a breach in itself.
- iv. The organization, the authorized receiver and/or the Ethics Committee as appropriate shall assure the whistleblower that he/ she will not be expected to get involved in the investigations after providing the disclosure information.

8.4 Confidentiality

- i. The organization would prefer to avoid anonymous reports, as it can make investigating allegations very difficult. However, if a person feels there is no other way than filing an anonymous report and applicable local law allows for it, the organization will take appropriate protective action.
- ii. In recognition that a whistleblower may require anonymity, all whistleblower reports shall be handled confidentially, and whistleblowers shall also be expected to observe absolute confidentiality.
- iii. Under circumstances, when maintaining someone's privacy hinders finding the truth, the organization may not be able to guarantee full confidentiality for the whistleblower such as where the breach may require to be reported to the police for further action.

8.3 Abuse of the policy

- i. The organization encourages persons to report breaches in good faith. If after an investigation a breach cannot be confirmed or cannot be substantiated, no action shall be taken against the whistleblower.
- ii. Appropriate action will, however, be taken against a person who it is established made a report in full knowledge or ought to have known that a reported alleged breach was false at the time it was made.
- iii. Where it is established that an employee has made a malicious report without any factual foundation, disciplinary action will be taken against the malicious whistleblower.

9.0 MALICIOUS ALLEGATIONS

- 9.1 Disciplinary action shall not be taken against an individual who raises a concern, made in good faith, which they believe to be true but proven otherwise on investigation.
- 9.2 Where it is established, after investigations, that an allegation was made maliciously or for personal gain, disciplinary action may be taken against the individual making the allegation.

10.0 DATA PRIVACY AND RETENTION PERIODS

- 10.1 Personal data relating to a report judged to be "inadmissible" or "admissible but not valid" shall be removed immediately.
- 10.2 The Ethics & Corruption Prevention Committee will take the necessary technical and organizational measures to adequately safeguard personal data against loss or unauthorized access.
- 10.3 Personal data relating to reports that are admissible and valid will be kept for two (2) years, unless disciplinary action is taken, or court proceedings are filed against a person. In these events, the data will be removed within two (2) years after the disciplinary action, or the court proceedings have been finalized.

11.0 IMPLEMENTATION OF THE POLICY

This Reviewed KEPHIS Whistle Blowing Policy shall come into operation upon the review and approval by the Board of Directors.

12.0 REVISION OF THE POLICY

This Policy shall be revised every two years from the date of its implementation.

13.0 REFERENCES

- i. The Constitution of Kenya;
- ii. The Witness Protection Act, Cap 79 and all its amendments;
- iii. The KEPHIS Fraud and Corruption Prevention Policy;
- iv. The Anti-Corruption and Economic Crimes Act;
- v. The Public Officer Ethics Act;
- vi. The Fair Administrative Action Act (2015)
- vii. The Penal Code (Cap. 63)
- viii. The Bribery Act (2016)
- ix. The Data Protection Act (2019)
- x. The Leadership and Integrity Act, Cap 182; and
- xi. Mwongozo, the Code of Governance for State Corporations

	Signature	Date
Managing Director		8/4/2025
Chairperson, KEPHIS Board of Directors		
Approved on		
Implemented on		