

POLICY DEVELOPMENT FRAMEWORK

WHISTLE-BLOWING

POLICY

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1. PURPOSE

- 1.1. The Cape Peninsula University of Technology (“CPUT,” or “the University” or “We” or “Us”) is established, mandated, and governed by the Higher Education Act, 1997 (Act No. 101 of 1997), as amended and its Institutional Statute: Cape Peninsula University of Technology 2022.
- 1.2. This policy should be read in conjunction with the approved CPUT Ethics Framework. At CPUT, ethics, fairness and institutional service delivery excellence go hand in hand. CPUT ascribes to good governance practices and realise that the successful implementation of policies is dependent on the ethical behaviour of all CPUT stakeholders.
- 1.3. The University honours its legislative and regulatory obligation by adhering to the Protected Disclosures Act 26 of 2000 (PDA or the Act), as amended, which aims to promote greater openness and transparency in the workplace and acknowledges the need to offer legal protection to whistle blowers.
- 1.4. The Act in effect is commonly known as the Whistle-blowing Act and is supported by the Constitution of the Republic of South Africa Act, No108 of 1996 (The Constitution) and the Labour Relations Act 1995 (LRA).
- 1.5. The PDA protects individuals against retribution such as dismissal or any prejudicial conduct if they disclose information to certain persons concerning, among other things, the commission of criminal offences, miscarriages of justice, unfair discrimination and conduct detrimental to the health and safety or the environment.
- 1.6. The University is committed to a culture of compliance, ethical behaviour, and good corporate governance. As part of this culture, it is committed to maintaining a transparent working environment in which employees, students, service providers and the general public are able to report instances of unethical, unlawful or undesirable conduct without fear of intimidation or retaliation and with an assurance that their concerns will be taken seriously and investigated in a timely and appropriate manner, and the outcome duly communicated.
- 1.7. Employers, employees, students, and third parties are key stakeholders and therefore expected to play a vital role in deterring and detecting malpractices, wrongdoing, or irregularity.
- 1.8. It is however pertinent to note that this policy does not replace but complements the Codes of Conduct, the Anti-Fraud & Corruption Policy and other approved policies and guidelines of the University.
- 1.9. This whistle-blowing policy is intended to cover concerns that fall outside the scope of other procedures and therefore does not replace a procedure that enables an employee of the university to lodge a grievance relating to their own employment.
- 1.10. The concerns covered in this policy are that:
 - 1.10.1. Irregular conduct connected to CPUT has been committed, is being committed or is likely to be committed.
 - 1.10.2. A person has failed, is failing or is likely to fail to comply with any legal obligation, policy or procedure(s) to which that person is subject;
 - 1.10.3. A miscarriage of justice has occurred, is occurring or is likely to occur;

- 1.10.4. The health or safety, as contemplated in the occupational health and safety act, of an individual has been, is being or likely to be endangered;
 - 1.10.5. The physical office environment has been, is being or likely to be damaged;
 - 1.10.6. Unfair discrimination as contemplated in the Promotion of Equity and Prevention of Unfair Discrimination Act, No 4 of 2000 has occurred; or
 - 1.10.7. Any matter referred to in paragraphs **1.10.1.** to **1.10.6.** has been, is being or is likely to be deliberately concealed.
- 1.11. In summary, this whistle- blowing policy is therefore intended to provide;
- 1.11.1. An avenue for raising concerns related to any illegal or unethical behaviour such as fraud, corruption, and other misconduct.
 - 1.11.2. Assurance that those who disclose such information will be adequately protected and that action would be taken on the disclosure.
- 1.12. Any serious concerns on or about any aspect of the university activity or the conduct of employees can thus be reported under this policy.

2. SCOPE

2.1. Institutional Scope

- 2.1.1. All CPUT Staff, Students, and Other Stakeholders.

2.2. Individual Scope

- 2.2.1. Council members, Employees, Volunteers, Students, Affiliates, Alumni, Structures, Service Providers and Public.

3. OBJECTIVE(S)

- 3.1. This policy aims to encourage and enable employees, students, and other relevant stakeholders to report unethical or illegal conduct of Council Members, Senior Management, Directors, Managers, Employees, and other stakeholders to appropriate authorities in a confidential manner without any fear of harassment, intimidation, victimisation, or retaliation of anyone for raising a concern under this Policy. Specific objectives of the Policy are to:
- 3.1.1. encourage individuals to feel confident in raising serious concerns and to question and act upon concerns about work practice;
 - 3.1.2. ensure that individuals understand their responsibility for reporting misconduct or malpractice;

- 3.1.3. provide avenues for individuals to raise concerns and receive responses and updates on any action taken;
 - 3.1.4. allow individuals to take matters further if they are dissatisfied with management's response;
 - 3.1.5. assure individuals that they will be protected from reprisals or victimisation, if they have made any disclosure in good faith.
- 3.2. The PDA does not introduce a general right for "whistle-blowers" to receive special protection, for example indemnity from criminal prosecution, should it be found that the "whistle-blower" had been actively involved in a criminal activity, etc.

4. POLICY PRINCIPLE

Safeguards

4.1. **Harassment or victimization.**

- 4.1.1. CPUT Council and the Executive Management are committed to promoting a culture of openness, accountability, and integrity, and will not tolerate harassment, victimization or discrimination of the Whistle-Blower provided such disclosure is made in good faith with reasonable belief that what is being reported is true.
 - 4.1.2. Therefore employees, students, external stakeholders, affiliates, and members of the public can raise legitimate concerns, without fear of and are given assurance that such concerns would be adequately addressed.
 - 4.1.3. CPUT's whistleblowing Policy is therefore fundamental to the University's professional integrity. In addition, it reinforces the value it places on all University stakeholders to be honest and respected members of their individual professions.
 - 4.1.4. It provides a method of properly addressing bona fide concerns that individuals within the University might have, while also offering Whistle-Blowers protection from victimisation, harassment, or disciplinary proceedings.
 - 4.1.5. CPUT recognises that the decision to report a concern can be a difficult one to make. If an individual raises an allegation in good faith or provides information based on reasonable suspicion, that individual should have nothing to fear as he or she will be doing his or her duty under the law.
 - 4.1.6. CPUT will not tolerate the harassment or victimisation of individuals, who have raised concerns, including informal pressures and such actions will be treated as a serious disciplinable offence, which will be dealt with under the University disciplinary codes and procedures.
- 4.2. All University whistle-blowers who make a disclosure in good faith are protected by the PDA from the following occupational detriment:
- 4.2.1. Being subjected to any disciplinary action;
 - 4.2.2. Being dismissed, suspended, demoted, harassed or intimidated;

- 4.2.3. Being transferred against his or her will;
 - 4.2.4. Being refused transfer or a promotion;
 - 4.2.5. Being subjected to a term or condition of employment or retirement which is altered, or kept getting altered, to his or her disadvantage;
 - 4.2.6. Being refused a reference, or being provided with an adverse reference;
 - 4.2.7. Being denied appointment to any employment, profession or office;
 - 4.2.8. Being subjected to a civil claim arising from their breach of any confidentiality requirement through the disclosure of a criminal act or of a planned or current failure to comply with a law;
 - 4.2.9. Being threatened with any of the actions mentioned above; or
 - 4.2.10. Being otherwise adversely affected in respect of his or her employment, profession, or office, including employment opportunities and work security.
- 4.3. Whistle-blowers will only be liable for their own misconduct.
- 4.4. Any investigation into allegations of misconduct will not influence or be influenced by any disciplinary or redundancy procedures that may already affect an employee but neither does it mean that any disciplinary action or redundancy procedures to which an employee is already a subject of will be halted as a result of raising concerns.
- 4.5. Should an employee of the University believe that he or she has been subjected to detriment or victimisation because of a disclosure, such an employee can follow the internal grievance process/policy or refer the matter to the Labour Court and/or the CCMA.
- 4.6. **Confidentiality**
- 4.6.1. CPUT is fully committed to maintaining confidentiality and provides assurance that all reports will be subject to appropriate investigation and conclusion through an efficient process.
 - 4.6.2. Therefore, whistle-blowers are encouraged to disclose their names when filing reports to enhance credibility. However, anonymous disclosures may be considered on the following discretionary basis:
 - 4.6.2.1. The seriousness of the issues;
 - 4.6.2.2. The significance and credibility of the concerns; and
 - 4.6.2.3. The possibility of confirming the allegation.
 - 4.6.3. CPUT will always undertake to protect an individual's identity when he or she raises a concern but does not wish for his or her identity to be disclosed, unless required by law.
 - 4.6.4. It should be appreciated, however that the investigation process may reveal the source of the information and a statement by an employee, student or relevant stakeholder may be required as part of the process of gathering evidence.

4.6.5. However, no person may be compelled to give evidence in terms of this policy whether they remain anonymous or not.

4.7. **How to raise a concern**

4.7.1. In person reporting

4.7.1.1. This policy encourages whistle-blowers to submit allegations in writing.

4.7.1.2. CPUT encourages employees or other individual stakeholders to preferably raise the concerns directly with the immediate managers of the employee who is the subject of the concern. However, the employee is entitled to make use of the whistleblowing process and remain anonymous if they wish.

4.7.1.3. All such direct disclosures will be treated in confidence and every effort will be made not to reveal the individual's identity if they so wish.

4.7.1.4. It is recommended that individuals should raise concerns with their immediate managers where possible or through any Disclosure Officer as defined above in this Policy.

4.7.2. Alternatively contact:

Compliance Management Function: Phone: 021 959 4449

Email: cputwhistle@cput.ac.za

4.7.3. Anonymous Reporting through the Hotline

4.7.3.1. CPUT has engaged the services of an external independent service provider, rendering 24 hours, seven days a week confidential whistle blowing or hotline service where whistle-blowers may report any unlawful, fraudulent, corrupt, or irregular activity, affecting CPUT.

4.7.3.2. CPUT has considered whistle-blowers that may wish to stay anonymous and has established the Hotline with an independent external service provider Vuvuzela.

4.7.3.3. Individuals are encouraged to disclose their identities while using this service.

4.7.3.4. Should anyone wish to make use of the Hotline with the options of remaining anonymous, the following channels are available should you prefer:

Vuvuzela

- **A secure email address:** cput@thehotline.co.za
- **Telephone WebApp:** www.thehotlineapp.co.za
- **A toll-free telephone number: 0800 379 444**
- **SMS CALL – BACK: 30916**
- **A FAX2EMAIL: 086 726 1681**

4.8. CPUT encourages all whistle-blowers to disclose their name when making a disclosure as it is difficult to investigate a concern that is expressed without any contact details.

- 4.9. Alternatively, the whistle-blower is encouraged to provide an anonymous email address on which he or she may be contacted should further information be required during the investigation.
- 4.10. CPUT undertakes to make every effort to protect the identity of a whistle-blowers who chooses to provide his or her identity but requests confidentiality.
- 4.11. Nonetheless, every disclosure will be followed up by CPUT and its independent external service provider.

4.12. **Allegations**

- 4.12.1. When reporting or disclosing a concern, set out the background and history of the concern, giving names, dates, and places where possible and the reason why there are concerns about the situation.
- 4.12.2. Such disclosures or concerns may include any proof that the individual may have to support the allegation (e.g., invoices, bank statements, purchase orders).
- 4.12.3. If the individuals are in possession or aware of any other evidence and where it can be found, they are encouraged to provide the details to assist with the investigation. The earlier concerns are expressed, the easier it is for the University to act.
- 4.12.4. Although whistle-blowers are not expected to prove the truth of an allegation, they will however need to demonstrate that there are reasonable and sufficient grounds for the concern raised.
- 4.12.5. The University Representative or the Hotline Consultant will also assist whistle-blowers in the process to follow on how to demonstrate reasonable and sufficient grounds.

4.13. **False or Untrue Allegations.**

- 4.13.1. CPUT discourages individuals from making allegations which are false, frivolous, and uttered with malicious intent.
- 4.13.2. If an allegation is made in good faith, but not confirmed by the investigation, it means that CPUT's reporting facility has worked and no harm or foul has been done to anybody.
- 4.13.3. However, an allegation made in frivolous or malicious manner or for personal gain will undermine the existence of CPUT's reporting facilities and will discourage individuals from making use of such facilities. Such allegations will also tie up resources and deflect attention from real issues.
- 4.13.4. In instances where it is a CPUT employee or student who made an allegation that is frivolous, malicious and for-personal-gain, they shall be subjected to firm disciplinary action, while appropriate action shall be taken in the case of a CPUT external stakeholder.

4.14. **How CPUT will deal with a concern raised**

4.14.1. The action taken by CPUT will depend on the nature of the concern raised.

4.14.2. Any matter raised may be:

4.14.2.1. Investigated internally;

4.14.2.2. Investigated by appointed independent external forensic investigators;

4.14.2.3. Referred to the South African Police Services or;

4.14.2.4. Form the subject of an independent inquiry.

4.14.3. To protect individuals concerned and CPUT, initial enquiries will be made to determine whether an investigation is appropriate and if so, what form the investigation should take. Some concerns may be resolved by agreed actions without the need for an investigation.

4.14.4. Upon receiving the complaint or concern, CPUT will, within twenty-one (21) working days:

4.14.4.1. Acknowledge the receipt of the concern.

4.14.4.2. Record the complaint in the Whistle-blowing Register.

4.14.4.3. Initiate a preliminary enquiry or review of the allegations.

4.14.4.4. If the preliminary review suggests the need for further investigation, the matter will be referred to the appropriate department for an internal investigation or to independent external forensic investigators. In some cases, it may be referred to another body, such as a university committee (hereafter referred to as “party”), or any other relevant party.

4.14.4.5. Provide, where possible, an estimated timeframe for delivering a final response. The whistle-blower will be informed of any initial enquiries made.

4.14.4.6. Ensure that the decision regarding whether an investigation will proceed or not does not take more than six months.

4.14.4.7. In cases where the whistle-blower's identity is known, CPUT will maintain communication with the whistle-blower, keeping them updated on the status of any further investigations and providing explanations if such investigations will not proceed.

4.14.5. The amount of contact between the body investigating the issues and the whistle-blower will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary and/or possible, further information will be sought directly from the whistle-blower or through the Hotline Service Provider.

- 4.14.6. Where possible, the whistle-blower will be given as much feedback as possible, but CPUT cannot undertake to automatically provide feedback to the whistle-blower on the outcome of the investigation of the complaint due to factors such as anonymity of the complainant, legal restrictions on distribution of privileged information and related considerations.
- 4.14.7. All requests for feedback will be considered and responded to as per the PDA. However, the amount of detail will be on a case-by-case basis in consultation, where necessary, with the Legal Services Department and/or other relevant parties.
- 4.14.8. CPUT accepts that every whistle-blower needs to be assured that the matter has been properly addressed. However, the progress made with investigations shall be handled in a confidential manner and shall not be disclosed to or discussed with any persons who have no legitimate claim to such information. This is important in order to avoid damaging the reputation of a suspected person who may subsequently be found to be innocent of the alleged wrongful conduct.
- 4.14.9. When any meeting is arranged, the whistle-blower has the right, if they so wish to be accompanied by a colleague or other representative who is not involved in the area of work to which the concern relates.
- 4.14.10. CPUT will also take steps to minimise any difficulties that a whistle blower may or could experience as a result of raising a concern, for instance, if the person is required to give evidence in a criminal or disciplinary proceeding, the University will arrange for the whistle-blower to receive advice on the process, etc.
- 4.14.11. In cases where the matter is not escalated to another party for a decision, or after the second 21-day period if the matter has been referred to such a party, the whistle-blower will receive written updates every two months until the matter reaches a resolution.
- 4.14.12. Whenever the matter is concluded, the whistle-blower will receive written notification of the matter's resolution and the findings of the investigation regarding the disclosure, along with any consequent actions taken.
- 4.14.13. It is accepted by CPUT that whistle-blowers need to be assured that the matter has been properly addressed. If a whistle-blower is not satisfied with the University's response to concerns that have been raised and have reasonable grounds to base their dissatisfaction on, CPUT, through the Chairperson of the GEC may recommend an independent body (e.g., external forensic investigators) to investigate the matter.
- 4.14.14. While CPUT cannot guarantee that it will respond to all matters in the way that a whistle-blower may wish, the University will endeavour to handle all matters in line with requirements of the PDA. By abiding to this policy, all stakeholders will be assisting CPUT in achieving the objectives of this policy.
- 4.14.15. Disciplinary measures in line with CPUT's disciplinary procedures may be taken against any employee that receives concerns from a Whistle-Blower and fails to action or pass same to the appropriate authority.

4.15. **Who will deal with your information at CPUT?**

- 4.15.1. Under most circumstances the recipients of whistle-blowing reports at CPUT will be:

- 4.15.1.1. The Manager of Compliance Management Function.
- 4.15.1.2. The Deputy Registrar: Governance and Legal.
- 4.15.1.3. The responsible CPUT Executive: The Registrar of the University.
- 4.15.1.4. Dedicated divisional specific officers appointed by the Executive Heads to investigate a certain incident.
- 4.15.1.5. Any Disclosure Officer that the whistle-blower made the disclosure to.

5. COMMONLY USED TERMS & DEFINITIONS

- 5.1. **Whistle-blower** is any person(s) including a student, an employee, service provider, the public and other relevant stakeholder(s) of the University who report any form of unethical behaviour or dishonesty to any Disclosure Officer.
- 5.2. **Disclosure Officers** are the additional points of contact within the University's reporting system for any individual who wants to report wrongdoing. The Disclosure Officers are:
 - 5.2.1. Chairperson of Council;
 - 5.2.2. Chairperson of the Audit and Risk Committee (AROC);
 - 5.2.3. Chairperson of the Governance and Ethics Committee (GEC);
 - 5.2.4. Vice Chancellor;
 - 5.2.5. Any member of Senior Management of the University;
 - 5.2.6. Any Director of the University;
 - 5.2.7. Any Manager of the University;
- 5.3. **Good faith** means that the individual blowing the whistle has a reasonably held belief that the disclosure made is true and has not been made either for personal gain or any ulterior motive.
- 5.4. **Investigation** is a process designed to gather and analyse information in order to determine whether a misconduct has occurred and if so, the party or parties responsible.
- 5.5. **Misconduct** is failure by a staff member or other relevant stakeholder to observe the rules of conduct or standards of behaviour prescribed by an organization.
- 5.6. **Complaint** is an allegation or concern that is subject to investigation.
- 5.7. **Senior Management** refers to the members of the Management Committee which include the Vice Chancellor, The Deputy Vice Chancellors, the Executive Directors, the Registrar, the Deans, and the Senior Directors.

6. RESPONSIBILITY

- 6.1. CPUT Council through its GEC Committee and the Vice Chancellor have oversight of this policy.
- 6.2. Executive Management, Deans, Directors, and Managers are responsible for ensuring that every whistleblowing complaint or concern raised in their respective areas is handled according to this policy.
- 6.3. Through the Office of the Executive Director: Office of the Vice-Chancellor, The Director of Internal Audit may fulfil a role of receiving and assessing the complaint.

- 6.4. Through the Office of the Registrar, The Manager of the Compliance Management Function will fulfil the role as outlined under this Policy for receiving, assessing, and/or investigate the complaint.
- 6.5. Any Council member, employee, service provider, volunteer, visitor, University structure or student who receives any complaint or concern as provided by this Policy, or on behalf of the University must comply with this policy.

Accountability and Authority:	
Implementation:	Vice-Chancellor and Registrar: Compliance Function and Compliance Owners
Compliance:	Compliance Function and Compliance Owners
Monitoring and Evaluation:	Vice-Chancellor and Registrar: Compliance Function and Compliance Owners
Development/Review:	Compliance Function
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Interpretation and Advice:	Compliance Function, Legal Services and Compliance Owners

Policy Development Framework				
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CPUT Statute and/or Regulation Reference no. and date:	<ul style="list-style-type: none"> Cape Peninsula University of Technology Statute, Government Notice No 46382 of 20 May 2022. 			
Relevant Legislation and/or Policy, Codes of practice, Professional authorities:	<ul style="list-style-type: none"> Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) (The Constitution). Higher Education Act, 1997 (Act No. 101 of 1997) as amended. Protected Disclosures Act, 2000 (Act No. 26 of 2000). 			

	<ul style="list-style-type: none"> • The Protected Disclosures Amendment Act, 2017 (Act No. 5 of 2017). • Labour Relations Act, 1995 (Act No. 66 of 1995). • The Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004). • The Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998). • Criminal Procedure Act, 1977 (Act No 51 of 1977). 				
Relevant Institutional Policies/ documents/manuals/ handbooks	<ul style="list-style-type: none"> • Cape Peninsula University of Technology Statute, Government Notice No 46382 of 20 May 2022. • Ethics Framework. • Cape Peninsula University of Technology Strategic Plan: Vision 2030. • Code of Conduct for Staff. • General Handbook: Academic and Student Rules and Regulations. • Code of Conduct for Council Members. • Faculty/Department Rules and Regulations. 				
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Policy Owner/Sponsor	Office of the Vice Chancellor.				
Compliance Officers	Compliance Management Function.				
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