Whistleblowing Policy

The African Women’s Development and Communication Network (FEMNET)

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1. Introduction
Whistleblowing is the act of making a disclosure of a malpractice in the public interest. In an organisational set-up, we may have the staff members who disclose illegal, immoral or illegitimate practices under the control of their employer to persons/organizations who may be able to effect action. Generally, whistle-blowers call attention to organizational problems; as a result, solutions may follow.

2. Scope Of The Policy
The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. The African Women's Development and Communication Network, herein FEMNET, ensures that if anyone has concerns about any activities that go against the core values, policy and procedures of the organisation have a safe, fair and effective procedure to raise the concerns.

This policy does not replace other FEMNET policies or procedures and applies to, but is not limited to, allegations about any of the following:

- Conduct which is an offence or breach of the law
- Alleged miscarriage of justice
- Serious Health and Safety risks
- The unauthorised use of organisation's or public funds
- Possible fraud and corruption
- Sexual, physical or verbal abuse, or bullying or intimidation of staff members, customers or service users
- Abuse of authority
- Other unethical conduct

This policy also applies to contractors and suppliers working for/with FEMNET where they are allowed to disclose specific categories of malpractice relating to one or more of the following actions:

- Financial malpractice or impropriety or fraud
- A criminal offence is, has or is likely to be committed
• A failure to comply with a legal obligation
• A miscarriage of justice and a breach of the code of conduct
• The endangering of an individual’s health and safety
• Fundraising malpractice
• Showing undue favour over a contractual matter or to a job applicant.
• Where evidence may be concealed or destroyed.
• Deliberate concealment of information relating to any of the above.
This list is not exhaustive.

3. The Purpose Of The Policy
Under any circumstances, members and staff have legal protection in whistleblowing.

1. This policy **gives some information** about whistleblowing to assist staff members in deciding whether any proposed action would be protected under the whistleblowing legislation and sets out the procedure to follow if staff members reasonably believe that they have identified such malpractice.

2. It should be emphasised that this policy is **intended to assist and give clear guidelines to individuals** who believe they have discovered malpractice or impropriety. People who make a disclosure under an organisation’s whistleblowing policy should be assured that they are acting in the organisation’s or public interest. It is not designed to question financial or business decisions taken by FEMNET nor should it be used to reconsider any matters which have already been addressed under safeguarding, complaint, disciplinary or other procedures.

3. This policy is intended to **provide a transparent and confidential process for dealing with concerns.** It serves to reassure staff members and members of protection from possible reprisals or victimization.

4. Safeguards
The organisation recognises that the decision to report a concern can be a difficult one to make. If the allegations are true, an employee should have nothing to fear because they acted in good faith and in the interest of the organisation. The organisation will not tolerate any harassment of victimisation and will take appropriate action to protect an employee who raises a concern in good faith.

5. Our Organisations Commitments
FEMNET is committed to maintaining an open culture with the highest standards of honesty and accountability, where staff can report as soon as possible any legitimate concerns in every area of its operation. FEMNET takes very seriously any form of misconduct and wants to help people to raise concerns at an early stage, and in the right way. We, therefore, encourage the board, staff and members to be alert to wrongdoing and to inform management of any concerns. We would rather the matter was raised when it is just a
concern than wait for proof or for individuals to investigate the matter themselves. The designated people can take the issue forward in an appropriate way.

6. Procedures for making a disclosure

Staff members should inform their line manager immediately if they become aware that any of the specified actions is happening (or has happened, or is likely to happen). If the line manager feels that the issue is serious, particularly involving potential criminal activities, then they should escalate the issue to the Finance, Administration & Human Resources Manager together with the Executive Director who will arrange an appropriate investigation.

If the allegation is about the actions of their line manager or the issues are considered more serious, the employee should raise the issue with the Finance, Administration & Human Resources Manager or if s/he is their line manager, the Executive Director.

Complaints against Board Members or the Executive Director should be passed to the Finance, Administration & Human Resources Manager or the Nominated Board Members. The complainant has the right to bypass the line management structure and take their complaint directly to the Nominated Board Members or the Board Chair. The Nominated Board Members or the Chair have the right to refer the complaint back to management if s/he feels that the management without any conflict of interest can more appropriately investigate the complaint.

If there is evidence of criminal activity, then the investigating officer should inform the police. FEMNET will ensure that an internal investigation does not hinder a formal police investigation. Whistle-blowers can ask for their concerns to be treated in confidence and this will be respected so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

Staff members will not be penalised for informing the management about any of the specified actions and will be protected from reprisals. FEMNET encourages all to use the procedure if they are concerned about any wrongdoing at work.

If you make an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against you. In making a disclosure you should exercise due care to ensure the accuracy of the information. However, if the procedure has not been invoked in good faith (e.g. for malicious reasons or in pursuit of a personal grudge), then it will make you liable to disciplinary action up to and including dismissal as may be appropriate in the circumstances.

This policy encourages individuals to put their name to any disclosures they make but complete anonymity is accepted. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the organisation. In exercising this discretion, the factors to be taken into account will include:
7. Confidentiality

All allegations shall be treated in confidence and every effort will be made not to reveal a whistleblower’s identity unless the whistleblower otherwise requests.

Similarly, if the allegation results in court proceedings then the whistleblower may have to give evidence in open court if the case is to be successful. The management will not, without the whistleblower’s consent, disclose the identity of a whistleblower to anyone other than a person involved in the investigation/allegation.

This policy encourages you however to put your name to your concern whenever possible. Please note that you:

- Must disclose the information in good faith.
- Must believe it to be substantially true.
- Must not act maliciously or make false allegations.
- Must not seek any personal gain.

8. Timescales

Due to the varied nature of these sorts of complaints, which may involve internal investigators and/or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practicably possible, send a written acknowledgement of the concern to the complainant indicating:

- An indication to deal with the matter
- An estimate of how long it will take to provide a final response
- An indication of whether any initial enquiries have been made
- Information on whistleblower support mechanisms
- Indication whether further investigations will take place and if not, why not and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigator should keep the complainant informed, in writing regularly, as to the progress of the investigation and as to when it is likely to be concluded.

9. Investigating procedure

The investigating officer should follow these steps:
• Full details and clarifications of the complaint should be obtained.
• The investigating officer should inform the member of staff against whom the complaint is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied by a representative (or trade union official is applicable) at any future interview or hearing held under the provision of these procedures.
• The investigating officer should consider the involvement of the Police at this stage and should consult with the Executive Director/Chair.
• The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals/bodies.
• A judgement concerning the complaint and validity of the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and the reasons for the judgement. The report will be passed on to the Executive Director/Chair as appropriate.
• The Executive Director/Chair will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate organisation procedures.
• The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
• If appropriate, a copy of the outcomes will be passed to the Senior Team or Assurance Committee to enable a review of the procedures.

If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the Executive Director/Chair or the Nominated Board Members.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome, FEMNET recognises the lawful rights of staff members and ex-staff members to make disclosures to an appropriate organisation or body (such as the Criminal Investigation Department, The Ethics and Anti-Corruption Commission, the Police, or regulators), or, where justified, elsewhere.

If you do not report your concerns to FEMNET management, Nominated Board Members, or Chair you may take them directly to the appropriate funder/partner organisation or body.

10. **Untrue Allegations**

No disciplinary or other action will be taken against a whistleblower who makes an allegation in the reasonable belief that it is in the organisation’s and/or public interest to do so even if the allegation is not substantiated by an investigation. However, disciplinary action may be taken against a whistleblower who makes an allegation
without reasonable belief that it is in the organisation’s and/or public interest to do so (e.g. making an allegation frivolously, maliciously or for personal gain where there is no element of public interest).

11. **Protection and Support for whistle blowers**

The investigating officer or committee will take steps to minimise any difficulties which may be experienced as a result of making an allegation. For instance, if a whistleblower is required to give evidence in criminal or disciplinary proceedings the investigating committee will arrange for them to receive advice about the procedure and advise on the support mechanisms that are available.

The investigating officer or committee accepts that whistleblowers need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform those making allegations of the outcome of any investigation.

12. **External Support**

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases whistleblowers should not find it necessary to alert any external body. It will be rarely if ever be appropriate to alert the media. We strongly encourage staff members to seek advice before reporting a concern to anyone external.

The government of Kenya regulators where you can raise relevant concerns include:

1. Ethics and Anti-Corruption Commission (EACC)  
2. The National Police Service
3. The Commission on Administrative Justice (The Ombudsman)

13. **Are you protected under the whistleblowing legislation?**

In order to benefit from the protection of the legislation, the whistle-blower has to generally satisfy certain conditions.

- Disclosure to the employer will be protected, provided that it is made in good faith and the whistle-blower has a reasonable suspicion that the alleged malpractice has occurred, is occurring, or is likely to occur.

- Disclosure to a regulator namely: The Ethics and Anti-Corruption Commission (EACC) in Kenya, Criminal Investigation Department (CID), The Kenya National Audit Office (KNAO), National Environment Management Authority, The NGO
Board will be protected where, in addition, the whistle-blower honestly and reasonably believes that the information and any allegation in it are substantially true. Currently, there is a multi-agency framework for handling corruption-Asset recovery Agency, DCI, EACC, CBK, FRC, ODPP, KRA, NIS, KWS, Immigration Department and AG.

- Disclosure to other bodies is protected if, in addition to the tests for regulatory disclosures, it is reasonable in all the circumstances and is not made for personal gain.

**NOTE:** **SHOULD THE CONCERNS IN ANY WAY RELATE TO A SAFEGUARDING THEY SHOULD BE REPORTED IMMEDIATELY TO THE DESIGNATED OFFICER ON TEL: +254 20 2712971/2 OR IN THE EMAIL SUBJECT: ‘SAFEGUARDING’ TO ADMIN@FEMNET.ORG.KE**