

Whistleblowing Policy & Procedures

Version control

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1.0 Introduction

This document explains KELIN's Whistleblower Policy and Procedure to support its employees, directors and third parties in expressing their concerns about suspected serious misbehavior at, or related to, the activities of the organization.

KELIN is committed to encouraging open communication, honesty, integrity and transparency. This policy demonstrates **KELIN's** commitment to recognize and act in respect of malpractice, illegal acts or omission by employees, directors or third parties.

2.0 Scope

This policy applies to All employees, the Board of Directors, contractors, partners, interns, volunteers and any other third parties associated or doing business with KELIN. Third parties doing business with or acting on behalf of KELIN are strongly encouraged to use the policy.

3.0 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 **KELIN**. **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 Head of Operation & Compliance 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 Executive 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 KELIN'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 KELIN director, employee, contractor, agent or third party on behalf of KELIN.

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 behaviour 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 KELIN on a contract of service irrespective of the duration of that engagement. This also includes volunteers, 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. B a d f a i t h

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 KELIN

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 so as to remain unaffected, regardless of the outcome.

4.0 Objectives of the Policy

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: *whistleblowing@kelinkeny.org*

The Board of Directors ("the Board") of the organization is committed to achieving and maintaining the highest standard of work ethics in conducting KELIN'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:

- i. Show the commitment to the organization's business ethics of honesty, integrity and transparency;
- ii. To provide a transparent and confidential process for all parties to give information on non-compliance 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; and
- iii. To uphold the moral duty as a responsible organization by protecting the interests of all its stakeholders.

Specifically, the objectives of this policy are to:

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

- f) 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 victimisation or disciplinary action, for making such a report.

5.0 Reportable breaches

A breach or improper conduct that may be reported under this policy shall not be limited to fraud, theft, corruption, discrimination, or harassment, but can be in regard to disobedience to any other KELIN policy or other unethical or behavioral complaints as well.

The following are examples of breaches or improper conduct which can be reported under this policy:

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 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 actions 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 favour.
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 discriminating against a whistleblower in connection with reporting a violation of law or policy, filing a complaint or assisting with an investigation or proceeding.

Environmental health & safety	Conduct, actions, policies or practices that either violate any laws on environment, health and safety legislation or which may cause or result in potentially hazardous conditions that impact the environment or the health and safety of employees, customers or third 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 organizations' 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 the 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

6.0 Reporting breaches

- i. 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 organisation, may make the report or disclosure of the breach in any of the following ways:
 - a. 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
 - b. 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: whistleblowing@kelinkeny.org and +254708389979 respectively
- ii. 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.
- iii. 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.
- iv. Disclosure can also be made to the authorized receiver or the line manager as the case may be, by telephone or email.
- v. 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.

- vi. 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.
- vii. Additional information, as deemed necessary, will be sought by the authorised receiver or the Ethics Committee.

7. Reporting levels and procedures of making reports

7.1 General

- i. There shall be three (3) levels of handling disclosures under this policy:
 - a) Level 1: Where a report is made to the line management;
 - b) Level 2: Where a report is made to the authorised receiver;
 - c) Level 3: Where a report is made to either the chairperson of the Board or chairperson of the Finance & Audit Committee of the board.
- ii. Every recipient of a reported breach shall ensure that it is handled carefully, confidentially and promptly, irrespective of the level of the report.
- iii. 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

- (a) As a general rule, employees who wish to report a breach should make the report to their immediate supervisor.
- (b) 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 authorised receiver under Level 2 below.

Level 2: Reporting directly to the authorised receiver

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 6.1(i) (b) 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 Finance & Audit Committee of the board

- (a) If the subject of a report of a breach is either a member of the Ethics Committee or an executive director of the organization, the authorized receiver shall forward the report directly to the chairperson of the Board.
- (b) 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.
- (c) 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 Finance & Audit Committee.
- (d) Reports under the categories 7.3(i), 7.3(ii) and 7.3(iii) below shall be deemed to be Level 3 reports in this policy.

7.2 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 Ethics Committee as soon as possible after receipt of a report of a breach.

7.3 Procedure on report of breach by a Board director or Ethics Committee member

- i. If the subject of a report of a breach is either a member of the Ethics committee or an executive 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 non-executive director 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 Finance & Audit committee.
- iv. Upon receipt of a report under section 7.3(i) and 7.3(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 9.3 of this policy.
- v. Upon receipt of a report under section 7.3(iii), the chairperson of the Finance & Audit committee shall review the report and may discuss it with any other non-

executive 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 7.3(i) and 7.3 (ii) is admissible, the chairperson of the Board shall constitute an ad-hoc committee of the Board comprising at least two other non-executive directors to investigate the report.
- vii. Upon making a determination that a report made under section 7.3(iii) is admissible, the chairperson of the Finance & 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 Finance & Audit Committee may involve the Ethics Committee, the Executive 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 Finance & 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 Finance & 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 Finance & Audit Committee or the chairperson of the Ethics 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.

7.4 Information to subject of a report

- i. The Ethics Committee may, through the Head of Human Resources or the Executive Director in the case of an employee, 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 Finance & 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 Committee in the case of an employee or the board chairperson or the chairperson of the Finance & 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.

8. Protection of the whistleblower

8.1 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.

8.2 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. The Ethics Committee

9.1 Role of the Ethics Committee

- i. The Ethics Committee shall be the body duly authorized by the Board for the purpose of considering and, evaluating all protected disclosures from whistleblowers, maintaining records thereof and liaising with the Executive Director in the preparation of the reports to the Board under section 10 of this policy.
- ii. The Ethics Committee shall meet and determine within fifteen (15) days of receipt of a report, whether that report is admissible under section 9.3 of this policy.
- iii. The Ethics Committee may co-opt or liaise with security officers or professional investigators inside or outside the organization in the event that it requires investigation and or other security-related guidance with regard to any matter under its consideration.

9.2 Composition of Ethics Committee

- i. The Ethics Committee shall consist of the following persons, each of whom shall be a full-time employee of the organization and is well respected for integrity, independence and fairness:
 - a. The Deputy Executive Director
 - b. The Head of Operations & Compliance
 - c. Senior Finance & Administration Officer
 - d. The Legal Counsel, and

- e. Any other person as the committee may consider necessary to discharge its functions under this policy;
- ii. The Ethics Committee shall appoint a chairperson from among its members whose primary function shall be to preside during the conduct of the committee's functions.
- iii. A member of the Ethics Committee, who is the subject of a whistleblower's report shall not attend or participate in the proceedings of the committee until the report of breach against such member is conclusively resolved.

9.3 Admissibility of reports

A report by the whistleblower shall only be deemed to be admissible if:

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

9.4 Investigation by Ethics Committee

- i. If the Ethics committee determines that the report is admissible, it shall investigate it by itself or through any other departments of the organization or external organs as it may consider necessary.
- ii. The Ethics committee shall be entitled to speak to the whistleblower either directly or through the authorized receiver to clarify the information provided or may seek additional information from other persons.
- iii. The Ethics Committee shall, in conducting its investigations, be entitled to all documents and information from the organization, employees or directors, including all of the organizations' departments and organs as it shall consider necessary for that purpose.
- iv. Upon conclusion of the investigation, the Ethics Committee shall consider the evidence and determine whether a breach has occurred or not.
- v. If the Ethics Committee determines that a breach has been established to have been committed by an employee, it shall make a recommendation to the Executive Director based on the organization's policies and any other applicable laws for execution in accordance with the recommendation.
- vi. The Ethics Committee shall simultaneously with its recommendation to the Executive Director inform the whistleblower in writing about its recommendation. This information may be direct or through the authorized receiver.
- vii. The Ethics Committee shall inform the whistleblower accordingly if the investigation of the report takes more than one (1) month and give a written indication of how long it may take to provide a final response.
- viii. Providing false information, refusal to give information and, or, withholding relevant information from the Ethics Committee will be regarded as gross misconduct on the part of an employee or any other involved party.

- ix. The periods mentioned in this policy start on the day following the date on which the report is received at the appropriate reporting level, unless otherwise indicated.

9.5 Confidentiality

- i. The authorized receiver, the whistleblower, the Ethics Committee and the Board shall keep each report confidential.
- ii. Information relating to the report shall only be given to other persons within the organization if they need this to execute their tasks under this policy and/or to implement the conclusions of the investigation.
- iii. The name of the whistleblower will not be disclosed, unless this is necessary for the investigation and/or judicial procedures and only after informing the whistleblower.

10. Reports

The Ethics committee shall provide a report of cases covered under this policy to the Executive Director and the Board through the Finance & Audit Committee on a quarterly basis.

11. Data privacy and retention periods

- i. Personal data relating to a report judged to be “inadmissible” or “admissible but not valid” shall be removed immediately.
- ii. The Ethics Committee will take the necessary technical and organizational measures to adequately safeguard personal data against loss or unauthorized access.
- iii. 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 finalised.

12. Interaction with other policies, procedures and regulations

This Policy interacts and overlaps with a number of other KELIN policies and procedures:

- a) Code of conduct
- b) Anti-Fraud & Bribery Policy
- c) Human Resource Manual
- d) Child protection policy
- e) Safeguarding policy
- f) Finance Manual
- g) Conflict of Interest policy
- h) Risk Management Policy

In implementation of this policy, regard and compliance shall also be made to the following laws and regulations as amended from time to time:

- i. The Non-Governmental Organizations (NGO's) Act (2016)
- ii. The Fair Administrative Action Act (2015)
- iii. The Penal Code (Cap. 63)
- iv. The Bribery Act (2016)
- v. The Data Protection Act (2019)

APPROVAL

Name	Title	Signature	Date
Allan Maleche	Executive Director		October 2022