



NATIONAL ENVIRONMENT TRUST FUND (NETFUND)

WHISTLEBLOWING POLICY

NOVEMBER 2024

National Environment Trust Fund (NETFUND)

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Document Control

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Revision History

Version Reviewed	Date Reviewed	Reviewed By	Description of Revision
Final Draft V0.III	September 2024	Manager Internal audit	Review took into consideration international legal requirements and standards on whistle blower protection Review has put into consideration the role of Internal Audit in protection of whistle blowers

Document Approval

Version III	Approved By	Date
	Chief Executive Officer	
	Chairperson Governance, Risk and Compliance Committee	
	Chairperson Board of Trustees	

Contributors

Africa Development Bank Whistleblowing Policy 2023
UNDP Policy for Protection Against Retaliation
Witness Protection Act 2006
Whistleblower Protection Bill, 2023

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1 Introduction

1.1 About NETFUND

National Environment Trust Fund (NETFUND) is a State Agency under the Ministry of Environment, Climate Change and Forestry in Kenya, established under section 24 of the Environmental Management and Coordination Act (EMCA 1999) with a mandate to mobilize, avail and manage resources to support the Country's environmental initiatives. Environmental actions include climate change adaptation and mitigation, ecosystem restoration, biodiversity conservation, circular and blue economy, and promotion of alternative nature-based solutions.

NETFUND is committed to providing channels for reporting any corruption and will protect the whistleblowers from any reiteration.

1.2 The scope

The policy applies in reporting all mul practices and provides a safe environment for protection of whistleblowers for NETFUND activities including donor funded projects.

2 Purpose, Statement and Guiding Principles

2.1 Purpose

This policy aims to encourage whistle blowing in a free and fair environment, offers a framework for protection of whistle blowers against retaliation for reporting acts of fraud and corruption. The policy provides a structured and confidential process for reporting corruption and fraud within the organization. it aims to protect whistleblowers from retaliation, ensuring that employees and stakeholders can safely raise concerns.

2.2 Policy statement

NETFUND is committed to adhering to the highest standards of integrity, transparency, and accountability in all aspects of its operations and encourage individuals to raise concerns in good faith without fear of retaliation or adverse consequences.

2.3 Guiding principles

Non-Retaliation: Whistleblowers who report concerns will be protected from any form of retaliation, including dismissal, harassment, demotion, or discrimination. NETFUND prohibits any retaliation against a whistleblower, any reiteration warrants a disciplinary action.

Confidentiality: Reports made will be treated with the utmost confidentiality. The identity of whistleblowers will be protected unless disclosure is required by law or with the whistleblower's consent.

Anonymity: NETFUND will respect Whistleblowers who choose to remain anonymous when reporting concerns.

Protection of Rights: NETFUND will protect the rights of all parties involved, including the whistleblower and the subject of the report.

Transparency and Accountability: NETFUND promotes a culture of openness, transparency, and accountability, where fraud and corruption reports will be addressed at the earliest possible stage to maintain ethical standards and trust.

2.4 Legal Basis

Whistleblower protection laws and regulations in Kenya are enacted to encourage reporting of misconduct, corruption, fraud, and other illegal activities while ensuring the safety and security of whistleblowers. These laws aim to foster transparency, accountability, and good governance. Below is an overview of whistleblower protection in Kenya:

United Nations Convention Against Transnational Organized Crime Article 24 of the Convention calls for measures to protect witnesses in criminal proceedings, especially those who provide essential information on criminal activities. This extends to whistleblowers, as they may serve as crucial witnesses in investigations involving organized crime.

The Witness Protection Act (2006, Amended in 2010): This Act provides for the protection of witnesses in criminal cases and other proceedings in Kenya. It establishes a Witness Protection Agency, a Witness Protection Advisory Board, a Witness Protection Complaints Committee, and a witness protection programme.

The Bribery Act of 2016: The Act encourages whistleblowing by requiring public and private entities to report bribery and offers protection to whistleblowers. It safeguards whistleblowers from retaliation such as dismissal, harassment, or discrimination. It also ensures their confidentiality during investigations. Penalties are imposed on those who retaliate against whistleblowers.

The Leadership and Integrity Act (2012): This Act provides for protection of public officers who report unethical conduct or corruption, it grants their protection from victimization and adverse treatment. The Act also requires public officers to report any instances of corruption, fraud, or unethical behaviour in their workplaces.

Anti-Corruption and Economic Crimes Act (2003): This Act provides on fighting corruption in Kenya, provides for protection of whistleblowers by providing avenues to report corruption anonymously. It requires that information provided by whistleblowers is kept confidential to protect them from retaliation.

3 Whistleblowing Reporting Procedures

3.1 Reporting Channels

Whistleblowers shall have access to NETFUND's reporting channels. These include secure telephone lines, postal address and e-mail addresses. Any suspicion of can also be reported through the office of Internal Audit.

Secure email: : corruption@netfund.go.ke and/ info@netfund.go.ke

Telephone number +254-20-2369563,

Corruption reporting box provided at NETFUND premises

Website link <https://www.netfund.go.ke/report->

Mail addressed to Chief Executive Officer P.O Box 19324 – 00202 Nairobi.

Individuals who wish to protect their identity may report fraud anonymously via website link provided above.

3.2 Reporting Avenues

NETFUND will establish a reporting structure to receive all complaints and allegations of corruption, fraud and illegal activities. An efficient communication channel will be established to ensure a secure channel of reporting. All issues will be reported to the Internal Audit or through the established reporting channels. Internal Audit in collaboration with relevant stakeholders will investigate and report to management and the Board of Trustees for further action.

The internal auditor will report directly to senior management and the Board on any reported and investigated cases and a regular compliance update. The department will also liaise with external authorities for complex cases.

4 Investigations

All allegations received by NETFUND shall be reviewed and dealt with in accordance with applicable policies and procedures and the Legal frameworks.

4.1 Due process

The presumption of innocence shall apply to the subject of an Investigation or party against whom an allegation is made throughout the handling of the matter. Due process shall be observed, subjects of an Investigation shall be informed of the allegations made against them in accordance with applicable standards and guidelines as set out below:

- a) NETFUND staff will be informed in accordance with Human Resource procedures manual, and any other relevant internal policies/guidelines.
- b) Board of Trustees will be informed in accordance with the Board Charter and the Code of Conduct.
- c) In case of Implementing Partners/ beneficiaries/suppliers, the internal audit office in collaboration with relevant departments shall communicate to the subject of investigation on the allegations and provide them an opportunity to respond.

4.2 Internal investigation

Upon receipt of an allegation of fraud or corruption from a Whistleblower, the Internal Audit office shall register the allegation; and where the identity of the Whistleblower is known, acknowledge receipt.

All allegations received from NETFUND staff or external parties, whether through the Fund's reporting channels provided for in this policy, shall be registered and screened by the Internal Audit office.

Once registered, the allegation will be evaluated by the Internal Audit to determine its credibility, materiality and verifiability, i.e. the allegation will be evaluated to determine whether there is sufficient evidence to warrant an investigation.

The Internal Auditor shall inform the whistleblowers within a reasonable period indicating whether or not the report warrants an investigation, subject to considerations including the nature of the matter, rights of other parties and issues of confidentiality.

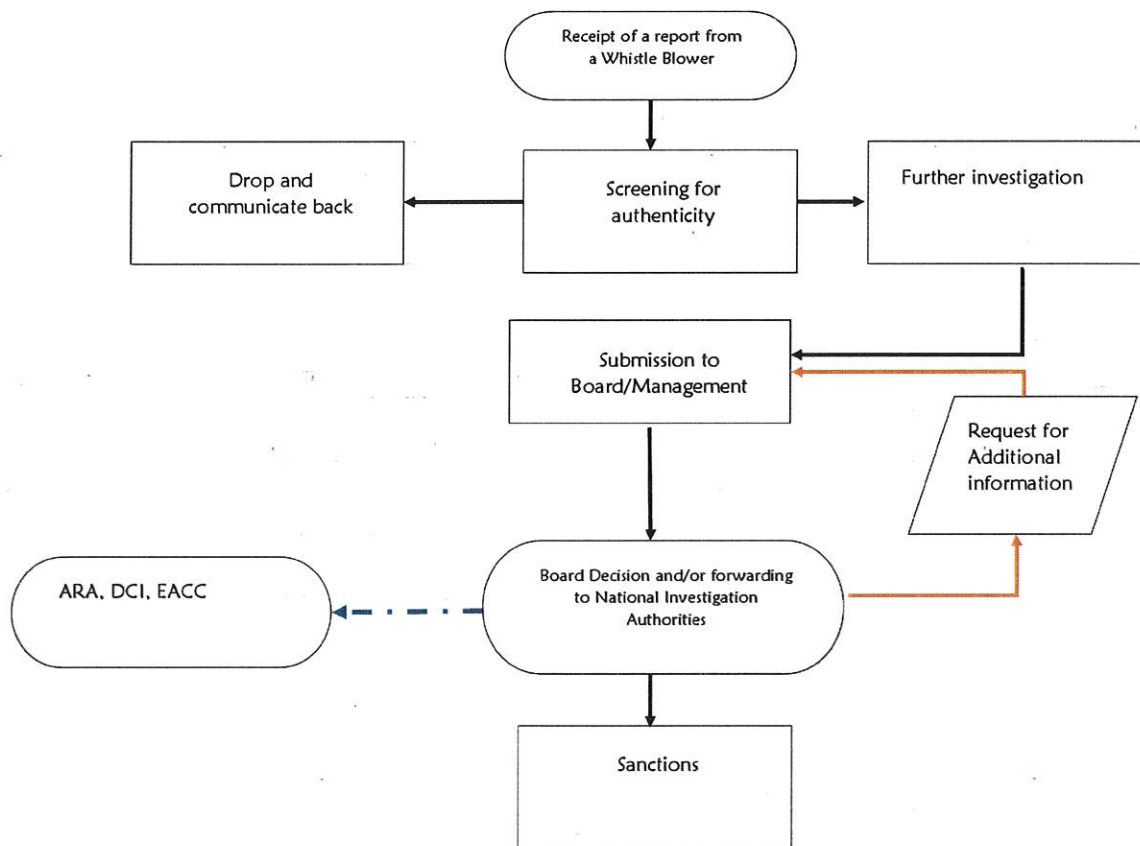
Where the preliminary evaluation reveals credible, material and verifiable information that supports the existence of conditions reported, the Internal Audit office shall conduct a full investigation either through existing Human Resources guidelines or in collaboration with relevant multi agencies.

4.3 Collaboration with relevant Multi Agencies

NETFUND shall collaborate with relevant agencies in protection of whistleblowers and investigations such as;

- **Implementing Partners/donors** NETFUND will collaborate with all the relevant stakeholders to obtain all the relevant information regarding a matter under investigation
- **Public Procurement Regulatory Authority** NETFUND will engage and collaborate with the Public Procurement Regulatory Authority in case of fraud case and whistleblowing involving a vendor and procurement of goods, services and works.
- **The Witness Protection Agency (WPA)**, established under the Witness Protection Act of 2006, is responsible for safeguarding witnesses in fraud and corruption cases and are at risk due to their whistleblowing. It provides physical protection, manages witness safety through relocation or identity changes, maintains confidentiality, offers psychological and legal support. The Agency works closely with law enforcement and judicial bodies, ensuring witnesses can testify without fear.
- **Ethics and Anti-Corruption Commission (EACC)**, it plays a crucial role in combating corruption and promoting ethical standards. It investigates corruption-related offenses, undertakes asset recovery by tracing, seizing, and recovering proceeds of corruption.
- **Directorate of Criminal Investigations** The DCI is the investigative arm of Kenya's National Police Service, responsible for handling serious and complex criminal investigations, forensic analysis, cybercrime, anti-terrorism, and economic crime cases. It plays a crucial role in maintaining law and order by investigating and preventing crimes, ensuring justice through the legal process, and collaborating with national and international bodies in the fight against crime.
- **Office of the Director of Public Prosecutions** The ODPP plays a critical role in the fight against corruption and economic crimes. It works closely with the **Ethics and Anti-Corruption Commission (EACC)** to prosecute cases involving bribery, fraud, embezzlement, and other forms of economic crime.
- **Office of the Auditor General:** It plays a crucial role in combating corruption by auditing government accounts, ensuring compliance with financial regulations, and reporting findings to the Parliament.

4.4 Investigation Process



5 Whistleblower Protection

5.1 Request for Protection against Retaliation

Parties who believe that retaliatory action has been threatened or taken against them because they whistle blew may report their concern and request protection by contacting the Witness Protection Agency as soon as possible and submitting a formal written (or email) request for protection. The party is required to include all available supporting information and documentation.

NETFUND encourages the informal resolution of conflicts. Therefore, notwithstanding any other provisions of this policy, a whistleblower who believes they may have been subjected to, or is threatened with, retaliation may, at their discretion, contact the subject and initiate informal resolution of the underlying matter (i.e., the issue that has given rise to the concern about retaliation).

Pursuit of informal resolution of a matter, grievance or interpersonal problem that may form the basis of a complaint of retaliation may not prevent or preclude the independent and eventual institution of disciplinary or other administrative action against the alleged retaliator, if appropriate.

5.2 Safety and Well-Being of Complainant

If NETFUND becomes aware of an immediate risk to the safety and security of the whistleblower or their family due to whistleblowing, the Fund will immediately contact the Witness Protection Agency in order to secure the personal safety and well-being of the complainant and/or members of their family.

5.3 Action against the person who engaged in Retaliation

NETFUND prohibits Retaliation against whistleblower and constitutes a misconduct. If established, may lead to administrative action or disciplinary sanctions against the retaliator.

A staff member may be subject to disciplinary proceedings for Retaliation, notwithstanding the fact that the individual against whom the retaliation was allegedly committed or threatened did not apply for protection.

5.4 Action against Individual Falsely or in Bad Faith Requesting Protection

Where it is established that an individual reporting retaliation provided information in bad faith, or transmitted or disseminated unsubstantiated or false rumors, or made allegations which they knew or should reasonably have known were false or misleading, such individual may be subject to disciplinary proceedings under the law or administrative action, in accordance with Human Resource Policy and Procedures Manual.

5.5 Remedies

Remedies available to a Whistleblower who is a NETFUND employee and whom there has been retaliation requires approval as stipulated in the Human Resource Policy and Procedures manual.

Remedies shall be based on the findings and recommendations of the Internal Audit Office or the court process and may include, but not be limited to, any of the following:

- a) Reinstatement to the same or comparable position in salary, responsibility, opportunity for advancement and job security

- b) Transfer to another department only upon the request of the Whistleblower
- c) Intangible benefits, including public recognition of contributions of the Whistleblower. However, the consent of the Whistleblower shall be obtained prior to such public recognition being made, in order to preserve the requirement of confidentiality and reduce the possibility of further Retaliation.

6 Training and Awareness

NETFUND will provide regular training to employees on the importance of whistleblowing, reporting channels, how to report concerns, and the protections available to whistleblowers. This policy will be widely communicated to all stakeholders to ensure awareness and accessibility.

7 Roles and Responsibility

7.1 Board of Trustees

The Board of Trustees will approve and oversee the implementation and effectiveness of whistleblowing policy.

7.2 Internal Audit Department

Internal audit will investigate claims of reiteration against a whistle blower and play a role in engaging the relevant Agency for their protection.

7.3 Employees

All employees are required to comply with this policy and are encouraged to whistle blow. Failure to comply with this policy including reiteration acts may result in disciplinary action.

7.4 Implementing Partners

Implementing Partners will be required to report any malpractices and collaborate with investigators in case of a reported incidence of corruption or fraud.

8 Review and Monitoring

The effectiveness of the Whistle Blowing policy will be regularly monitored and reviewed every three years. Any necessary updates or changes will be implemented to ensure ongoing compliance with relevant laws and regulations.

9 Authorization of the Policy

The Chief Executive Officer duly recommends the Whistle Blowing Policy for approval by the NETFUND Board of Trustees and hereby confirms that the policy has been developed consultatively considering the views of all the relevant stakeholders.

Signature:



Date: 20-11-2024

Samson Toniok

Chief Executive Officer and Secretary to the Board of Trustees

The NETFUND Board of Trustees hereby approves the Whistle Blowing Policy to be operative for three (3) years.

Signature:



Date: 21/11/2024

Hon Mwaure Waihiga

Chairperson, Board of Trustees

10 Complimentary Policies

- i. Corruption Prevention Policy
- ii. NETFUND Risk Management Policy
- iii. Anti Money Laundering Policy

