



# **KENYA SCHOOL OF GOVERNMENT STAFF RETIREMENT BENEFIT SCHEME**

## **WHISTLE BLOWING POLICY**

## **APPROVAL OF THIS WHISTLE BLOWING POLICY**

The Kenya School of Government Staff Retirement Benefit Scheme Board of Trustees deliberated on and adopted this Whistle blowing Policy in its meeting of November 18, 2021. The policy was approved for use with effect from 16/11/2021.

The Board of Trustees will review the policy from time to time and in any case within a period of three years. All amendments will be communicated in writing. This will provide assurance that the Whistle Blowing Policy will remain consistent with the Scheme's mandate, objectives, roles and responsibilities.

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**Chairman, Board of Trustees**  
**Kenya School of Government**  
**Staff Retirement Benefit Scheme**

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**AMENDMENT SHEET**

<b>Issue/Revision No.</b>	<b>Subject Of Amendments</b>	<b>Reviewed By (Signature)</b>	<b>Authorized By (Signature)</b>	<b>Date</b>

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## ABBREVIATIONS

CAJ	-	Commission on Administrative Justice
DCI	-	Directorate of Criminal Investigation
EACC	-	Ethics and Anti-Corruption Commission
EMU	-	Efficiency Monitoring Unit
FRC	-	Financial Reporting Centre
KIA	-	Kenya Institute of Administration
KSG-SRBS	-	Kenya School of Government Staff Retirement Benefit Scheme
OAG	-	Office of the Auditor General
RBA	-	Retirement Benefit Scheme

### Definition of terms

**Whistleblowing** is the act of telling the authorities or the public that the organization you work for is doing something immoral or illegal.

**Malpractice** could be improper, illegal or negligent behavior by anyone in the workplace.

The Witness Protection Act 2006 provides protection to employees for disclosure made without malice and in good faith of certain specific confidential information to a third party in defined circumstances.

## SECTION ONE

### INTRODUCTION

#### 1.1 Mandate of the Scheme

- i. This Policy and Procedure Manual will aid realization of the mandate of the Scheme through effective management of members' fund.
- ii. Kenya School of Government Staff Retirement Benefits Scheme (*Formerly Known as Kenya Institute of Administration Staff Retirement Benefits Scheme*) was established by a Trust Deed dated 15<sup>th</sup> July 2003 between the Founder and the Trustees at the time. The Trust Deed has since been amended as follows:
  - a. By a supplemental trust deed dated December 2008 made between the Founder and the Trustees at the time the Original Trust Deed was amended
  - b. By a revised Trust Deed and Rules dated 1<sup>st</sup> December 2010 made between the Founder and the Trustees at the time the Original Trust Deed was amended
  - c. By a deed of amendment dated 9<sup>th</sup> December 2015 made between the Sponsor and the Trustees at the time the Original Trust Deed was amended
  - d. By a deed of amendment dated 18<sup>th</sup> May 2021 made between the Sponsor and the Trustees at the time the Original Trust Deed was amended
- iii. The Scheme is constituted in Kenya as a Defined Contribution Scheme and the main purpose of the Scheme is the provision of pension and other retirement benefits for Members upon their retirement from the Sponsor's service and relief for the Dependants of deceased Members

#### 1.2 Vision

Secure, prosperous and sustainable retirement life

#### 1.3 Mission Statement

To prudently manage the scheme towards providing quality life to our members and beneficiaries of the Scheme

## 1.4 Core values

Kenya School of Government Staff Retirement Benefit Scheme (KSG-SRBS) will uphold the following values as the guiding principles for its operations:

- i. **Hope:** Providing confidence to members in our ability to persevere and to achieve goals
- ii. **Accountability:** Each of us is responsible for our words, our actions, and our results
- iii. **Professionalism:** We shall endeavor to demonstrate reliability, competence and expertise in all our dealings
- iv. **Integrity:** Being honest and showing a consistent and uncompromising adherence to strong moral and ethical principles and values

## 1.5 Key Result Areas and Strategic Objectives

### 1.5.1 Key Result Areas

The Scheme has identified the following Key Result Areas (KRAs):

- i. Sustainability and Adequacy
- ii. Member Satisfaction
- iii. Strengthen Governance Framework
- iv. Capacity Development

### 1.5.2 Strategic Objectives

The strategic objectives in the KSG-SRBS Strategic Plan, 2021-2026 are:

- i. Ensure financial sustainability of the scheme
- ii. Enhance Member Engagement and Satisfaction
- iii. Enhance Governance Framework and Operational Excellence
- iv. Strengthen Internal Stakeholders through Capacity Development

## 1.6 Policy Statement

- i. KSG-SRBS is committed to upholding the highest standards of ethics, honesty, openness, probity and accountability by its staff and members in order to enhance governance and safeguard the integrity of the Scheme.
- ii. The KSG-SRBS Whistle Blowing policy will therefore provide a framework to assist staff and members bring genuine concerns in a responsible manner of malpractice, illegal acts or omissions to the attention of appropriate authorities at the Scheme for investigation and action.

## **1.7 Purpose of the Policy**

- i. This policy is designed to:
  - a. Support the Scheme's values of integrity, responsiveness, commitment and excellence
  - b. Ensure that staff and members can raise concerns over malpractices and misconduct without fear of suffering retribution
  - c. Provide a transparent and confidential process for dealing with concerns
  - d. Encourage awareness by whistleblowers of their rights;
  - e. Promote a culture of openness, accountability and integrity
- ii. The policy applies to Board of Trustees, staff of the Scheme, members, suppliers, contactors, clients, members of the public and any other stakeholders. It covers reportable incidents including
  - a. Suspected fraud or corruption
  - b. Criminal offences
  - c. Disregard for laws e.g. Public Officer Ethics Act
  - d. Breach of code of ethics
  - e. Breach of the standing financial rules and regulations
  - f. Damage to the environment
  - g. Academic or professional malpractice
  - h. Showing undue favour over a contractual matter or to a job applicant
  - i. Failure to comply with legal or regulatory obligations
  - j. Concealment of any of the above

The policy will not apply to personal grievances concerning individual terms and conditions of employment, or other aspects of the working relationship,



complaints of bullying or harassment, or disciplinary matters. Such complaints will be dealt with under existing procedures on grievance, bullying and harassment, discipline and related misconduct.

## **1.8 Legal framework - Legislation and Policies**

- i. The Whistle Blowing Policy is formulated in compliance with the relevant laws, regulations and procedures.
- ii. The use of the Policy should take cognizance of policy pronouncements from the Government.
- iii. Where any policy, rules, regulations, procedures or provisions of the Policy is in conflict with the applicable Kenyan Laws and other statutory requirements, the latter shall prevail. Where necessary, the Trust Secretary shall issue clarifications in writing.
- iv. Reference was mainly made to the following legal, policies and institutional documents during the review of this manual:
  - a. Constitution of Kenya, 2010
  - b. Witness Protection Act, No. 16 of 2006
  - c. Public Officer Ethics Act, No. 4 of 2003
  - d. Employment Act Chapter No. 11 of 2007
  - e. Public Finance Management Act No. 18 of 2012
  - f. Public Audit Act No. 34 of 2015
  - g. Leadership and Integrity Act No. 19 of 2012
  - h. Kenya School of Government Act of Parliament No. 9. of 2012
  - i. Kenya Vision 2030
  - j. Kenya School of Government Strategic Plan, 2018-2023
  - k. Kenya School of Government Terms and Conditions of Service
  - l. Public Service Code of Conduct
  - m. KSG Code of Conduct and Ethics

## **1.9 Review of the Policy**

- i. This Policy shall be updated and revised whenever there are changes in policies, rules, procedures and guidelines as may be approved from time to time by the Board of Trustees;
- ii. The Policy shall also be reviewed and updated every three (3) years to be in line with changes in relevant statutory and regulatory rules and procedures as necessary;
- iii. Any proposed changes by the management to the Policy should be brought to the attention of the Board of Trustees and approved using the “Amendments Records Sheet”

#### **1.10 Administration of the Policy**

- i. Administration of this policy shall be the responsibility of
  - a. The Board of Trustees who is the Principal administrator of the policy;
  - b. Trust Secretary who is responsible for the operationalization of the policy
- ii. Operating mechanisms will be developed in consultation with members of scheme to ensure uniform application and understanding of the policy.
- iii. Should there be need for clarification or interpretation on any specific matter, Trust Secretary in consultation with Board of Trustees will exercise the administrative responsibility for such interpretation.

## **SECTION TWO**

### **WHISTLEBLOWING**

#### **2.1 Introduction**

- i. The Scheme recognizes that it is the responsibility of all staff to ensure that if they become aware that actions of other customers or officers might compromise the Scheme's integrity in the course of delivering on its national mandate, they are under obligation to report such actions in the safe knowledge that the reports will be treated seriously and in confidence.
- ii. The policy is demonstrative of the Scheme's commitment to transparency and equal treatment in the management of public affairs.

#### **2.2 Principles**

This policy is guided by the following key principles

- i. All concerns raised will be treated fairly and properly;
- ii. The Scheme will not tolerate any form of harassment or victimization of anyone raising a genuine concern;
- iii. Any individual making a disclosure will retain his/her anonymity unless he/she agrees otherwise;
- iv. The Scheme will ensure that any individual raising a concern is aware of who is handling the matter; and
- v. The Scheme will ensure that no one is at risk of suffering any form of retaliation as a result of raising concerns in good faith. Staff or members who raise concerns maliciously, however, will be subjected to disciplinary action.

#### **2.3 Responsibilities**

- i. All staff and members are duty bound to ensure that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct. Staff and members are encouraged to:
  - a. Report any form of unethical behavior, contravention of the Scheme's code of conduct and ethics or raise any concerns that something

- happening is unethical or improper and might compromise the provisions of the code of ethics;
- b. Raise concerns in good faith with the true belief that a malpractice has occurred;
  - c. Not raise concerns with any malicious intent or which are vexatious in nature; and
  - d. Raise concerns with an appropriate officer as outlined in this policy
- ii. Staff and members may report suspected cases of unethical practices including fraud and corruption to the following:
- a. Board of Trustees
  - b. Trust Secretary
  - c. Scheme Secretariat
- iii. If the staff and members prefer to remain anonymous, then he or she can report through confidential reporting hotline: **[schemeintegrity@ksg.ac.ke](mailto:schemeintegrity@ksg.ac.ke)**
- iv. All persons, who are the first recipient of reports, have a duty to:
- a. Treat concerns in a confidential manner
  - b. Take staff and members concerns seriously
  - c. Consider them carefully including undertaking an investigation
  - d. Establish an enabling environment which ensures that corrective measures are taken to address any operating procedures that may contribute to such violations;
  - e. Seek appropriate advice;
  - f. Take appropriate action to resolve the concern or refer it to an appropriate person;
  - g. Keep staff and members informed of the progress and monitor and review the situation; and
  - h. Ensure that those who in good faith report suspected violations or misconduct are not penalized

## 2.4 Reports and Confidentiality

- i. Any staff or member who has a reasonable belief that there is serious malpractice relating to any issue of public interest at the Scheme may raise a concern in accordance with the procedure detailed in this policy;
- ii. The issues raised may relate to another member of staff, a group of staff, the Scheme or members of the Scheme and the following considerations will apply:
  - a. All matters raised by concerned staff and members will be treated with utmost confidentiality;
  - b. All correspondence entered into the whistleblowing process is absolutely confidential whether a person making the disclosure wishes to remain anonymous or not;
  - c. The substance of an investigation including the identities of the parties to it will remain confidential and may only be disclosed with the consent of the complainant
  - d. Concerns must be raised without malice and in good faith, and the individual must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.
  - e. The disclosure must not be made for purposes of personal gain, and in all the circumstances it must be reasonable to make the disclosure.
  - f. The Scheme will ensure that any staff or members who makes a disclosure in such circumstances will not be penalized or suffer any adverse treatment for doing so. However, a staff or members who does not act in good faith or makes an allegation without having reasonable grounds for believing it to be substantially true, or makes it for purposes of personal gain, or makes it maliciously or is vexatious may be subjected to disciplinary action as per scheme disciplinary process
- iii. In view of the protection afforded to a staff or members raising a bona fide concern, it is preferable if that individual puts his/her name to any disclosure. The identity of the person raising the matter will be kept confidential, if so requested, for as long as possible to facilitate proper investigation.

## **2.5 Anonymous Allegations**

- i. All complaints must contain as much information as possible to allow for proper assessment.
- ii. Whenever there are anonymous allegations their consideration will be based on the following factors;
  - i. Seriousness of the issue raised;
  - ii. The credibility of the concern;
  - iii. The likelihood of confirming the allegation from attributable sources;

## **2.6 Untrue allegations**

- i. To the extent possible, any complaint should be factual rather than speculative or conclusive.
- ii. Disciplinary action will be taken against staff or members who make allegations that are untrue, frivolous, and malicious or made for personal gain.

## **2.7 Complaints of retaliation as a result of disclosure**

- i. The Scheme accepts that it has an obligation to ensure that staff or members who make a disclosure without malice and in good faith are protected, regardless of whether or not the concern raised is upheld.
- ii. A staff or members who has made a disclosure and who feels that, as a result, he or she has suffered adverse treatment should submit a formal complaint under the scheme disciplinary procedures detailing what has been done to him or her. If it appears that there are reasonable grounds for making the complaint, the onus will be on the person against whom the complaint of adverse treatment has been made to show that the actions complained of were not taken in retaliation for the disclosure.
- iii. Where it is determined that there is a prima facie case that a staff or members has suffered adverse treatment, harassment or victimization as a result of his or her disclosure, further investigation may take place and disciplinary action taken against the perpetrator in accordance with the scheme relevant procedure.

## **SECTION THREE**

### **WHISTLEBLOWING PROCEDURE**

#### **3.1 Disclosure Procedure**

- i. Staff or members with a complaint, an issue or concern to raise may follow the following procedure:
  - a. Report to an immediate supervisor. If the discussions with the immediate supervisor are fruitful, the case shall be investigated and resolved forthwith;
  - b. If the discussions with the immediate supervisor are not fruitful or are highly confidential, the staff or member may report to Trust Secretary
  - c. If the disclosure concerns the Trust Secretary, the member or staff may raise the concern with the Chair of the Board of Trustee. The person to whom the disclosure is made will decide whether the matter should be dealt with under the procedure outlined in this policy.
  - d. If that person considers that the matter should be dealt with under a different procedure, the person making the disclosure will be advised as to the appropriate steps which should be taken.
  - e. Staff or member may forward complaints or concerns directly to external agencies as outlined in paragraph 3.5 of this policy;
  - f. The Secretariat will provide regular feedback on the progress of the case until closure;
- ii. Staff or members, who raise concerns over illegal, unsafe or unethical practices, should do so promptly to avoid any misinterpretation of their motives. Their reports or concerns should focus on the issues avoid unnecessary personal antagonism which would distract attention from proper solution of the problem
- iii. Staff or member may also wish to seek independent legal advice.

#### **3.2 Processing of a report or concern**

The person in authority to whom a report or concern is made shall take the following steps:

- i. consider the information and decide whether there is a prima facie case to answer;
- ii. Decide whether an investigation should be conducted and what form it should take. This will depend on the nature of the matter raised and may be investigated internally or be the subject of independent enquiry;
- iii. Decide whether to refer the matter to the relevant constitutional offices, e.g. the Police, EACC; and
- iv. Decide not to proceed with an investigation and explain the grounds for the decision as fully as possible to the individual who raised the concern. It will then be open to the individual to make the disclosure again either to another of the persons specified in the paragraph above

### **3.3 Investigation**

Investigation of concerns and reports shall be guided by the following considerations:

- i. Any investigation will be conducted as expeditiously as possible;
- ii. Staff or member will be notified of the intended timetable for the investigation;
- iii. The person to whom the disclosure is made may authorize an initial investigation to establish the relevant facts;
- iv. The investigation may be conducted by the internal auditor in the case of a financial irregularity, or by another person;
- v. The investigator will report his or her findings to the person to whom the disclosure was made, who will then decide if there is a case to answer and what procedure to follow. This may include taking steps with the competent authority to set up a special internal independent investigation or reference to some external authority, such as the police, for further investigation;



- vi. The matter may be more appropriately handled under existing procedures relating to employee or member grievances, bullying and harassment, or discipline;
- vii. Where disclosure is made the person or persons against whom it is made will be told at an early stage of it and of the evidence supporting it, and they will be allowed to respond;
- viii. The individual making the disclosure will be informed of what action is to be taken;
- ix. Should an investigation or referral lead the appropriate authority to conclude there has been a breach of discipline, the scheme member or members of staff responsible may, in addition to any civil or criminal proceedings, be subject to disciplinary action in accordance with the appropriate disciplinary procedures for the relevant category of staff; and
- x. An official written record will be kept of each stage of the procedure

### **3.4 Reporting of Outcomes**

A report of all disclosures and subsequent actions taken will be made by the persons deciding on the issues and the following procedures will apply:

- i. This record should be signed by the Investigating Officer and the person who made the disclosure, and dated;
- ii. Where appropriate, the formal record need not identify the person making the disclosure, but in such a case that person will be required to sign a document confirming that the complaint has been investigated
- iii. Such reports will normally be retained for at least five years. In all cases a report of the outcome will be made to the Board of Trustees which will refer to the report appropriately if necessary.

### **3.5 External disclosure**

- i. Staff or member who is dissatisfied with the Scheme's response and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true, may report the matter to an external authority.

- ii. Where the external complaint is made in good faith to any prescribed body or person after exhausting the Scheme's procedure the member or staff concerned will be protected against victimization or other adverse treatment.
- iii. The authorities and bodies to whom external complaints may be made are:
  - a. Retirement Benefit Authority (RBA)
  - b. The Office of the Auditor General (OAG)
  - c. Ethics and Anti-Corruption Commission (EACC)
  - d. Commission on Administrative Justice (CAJ)
  - e. Efficiency Monitoring Unit (EMU)
  - f. Directorate of Criminal Investigation (DCI)
  - g. A relevant professional or regulatory body
  - h. Witness Protection Agency (WPA)
  - i. Financial Reporting Centre (FRC)