

Whistleblowing Standard Operating Procedure



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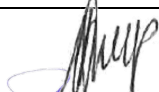

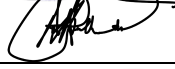

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Table of Contents

1. Purpose	3
2. Audience	3
3. Scope	4
4. Definitions.....	4
5. Disclosure.....	7
5.1 Should a disclosure be made?.....	7
5.2 What should be disclosed?	7
5.3 How to make a disclosure?.....	7
5.4 When should disclosures be made?	8
6. Post-disclosure.....	8
7. Procedure to follow in the event of victimisation.....	9
8. Disclosure of false information	10
9. How to ensure anonymity of disclosure.....	10
10. Shout’s commitment to disclosures	11
11. Version History	11

1. Purpose

Shout-It-Now NPC (Shout) is committed to creating a working environment and organizational culture that is open, transparent and one that encourages employees to work ethically.

This procedure serves as a guide in which clients, staff and other external parties can freely raise concerns in a responsible manner where they have reasonable grounds for believing that there is fraud, corruption, dishonest behaviour or misconduct occurring within the organization. This includes but is not limited to sexual misconduct, violence and abuse, against adults and minors.

This procedure also seeks to assist Shout and our employees on how to facilitate and manage disclosures in terms of the:

- Protected Disclosures Act 26 of 2000 (PDA),
- Prevention and Combating of Corrupt Activities Act 12 of 2004 (PCCA),
- PDA and the PCCA are designed to encourage individuals to report corruption, malpractice and other crimes,
- Children's Act 38 of 2005, and
- Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

The following principles apply to this procedure:

- Shout commits itself to building a culture that promotes integrity and transparency;
- The management of Shout is committed to the significance of this procedure; and
- Shout management will not tolerate retaliation through harassment or victimization of anyone raising genuine concerns.

2. Audience

The audience of this procedure includes the public, our clients, employees (whether former or current), our funders, partners, service providers of Shout and other stakeholders

3. Scope

The Whistleblowing procedure covers whether a disclosure should be made, by a whistleblower, and what, how and when to make a disclosure. It also covers what would happen after disclosure.

4. Definitions

- **Child** means an individual under the age of 18 years;
- **Child Abuse** means any form of harm or ill-treatment deliberately inflicted on a child. It includes:
 - a) assaulting or deliberately injuring a child;
 - b) sexually abusing a child or allowing a child to be sexually abused;
 - c) bullying by another child;
 - d) a labour practice that exploits a child; or
 - e) exposing or subjecting a child to behaviour that may harm him or her psychologically or emotionally;
- **Client** means those persons to or in respect of whom Shout provides services;
- **Disclosure** means any information regarding the misconduct of an employer, or an employee of that employer, made by any individual who has reason to believe that the information concerned shows or tends to show one or more of the following:
 - a) that a criminal offence has been committed, is being committed or is likely to be committed;
 - b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
 - c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - d) that a Sexual Offence has been committed, is being committed or is likely to be committed against an individual or child;
 - e) that the health or safety of an individual or child has been, is being or is likely to be endangered;
 - f) that the environment has been, is being or is likely to be damaged;
 - g) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000); or
 - h) that any matter referred to in points (a) to (f) has been, is being or is likely to be deliberately concealed;

- **Employee** means any individual contracted by Shout to provide services to and on behalf of Shout. This includes permanent and casual staff, independent contractors, agents, consultants, sub-contractors or other representatives of Shout;
- **Employer** means Shout-It-Now NPC (Shout);
- **Guardian** means a parent or other person who has guardianship of a child;
- **Internal Investigation Committee** means the Internal committee responsible for investigating all protected disclosures;
- **Parent** in relation to a Child, includes the adoptive parent of the child, but excludes-
 - a) the biological father of a child conceived through the rape of or incest with the child's mother;
 - b) any person who is biologically related to a child by reason only of being a gamete donor for purposes of artificial fertilisation; and
 - c) a parent whose parental responsibilities and rights in respect of a child have been terminated;
- **Partner** means an organization who has a contractual relationship with Shout to administer authorised services in terms of the contract;
- **Person** or **body** means:
 - a) The Public Protector;
 - b) The Auditor-General;
 - c) Law Enforcement
 - d) A person or body prescribed for purposes of this section; and in respect of which the employee concerned reasonably believes that:
 - The relevant impropriety falls within any description of matters which, in the ordinary course are dealt with by the person or body concerned; and
 - The information disclosed, and any allegation contained in it, are substantially true;
- **Person unsuitable to work with children** means a person listed in Part B of the 35 National Child Protection Register;

- **Prescription** means a time limit prescribing a period of limitation for the bringing of prosecution for offences or crimes committed;
- **Protected disclosure**, as defined in the Protected Disclosures Act 26 of 2000, means a disclosure made to:
 - a) A 'legal adviser' in accordance with section 5;
 - b) An 'employer' in accordance with section 6;
 - c) A 'member of cabinet' or of the 'Executive Council' of a province in accordance with section 7;
 - d) A 'person' or 'body' in accordance with section 8;
 - e) Any other person or body in accordance with section 9, but does not include a disclosure:
 - In respect of which the employee concerned commits an offence by making that disclosure; or
 - Made by a legal adviser to whom the information concerned was disclosed in the course of obtaining legal advice in accordance with section 5;

(where reference is made to a section in the above definition, it is referring to a section in the Protected Disclosures Act 26 of 2000)
- **Reasonable Grounds for Suspicion** means set of facts or circumstances that would cause a person of ordinary and prudent judgment to believe beyond a mere suspicion;
- **Service Provider** means an individual or entity that provides services to Shout. The provision of services between the service provider and Shout is governed by a service agreement/ contract;
- **Sexual Offence**, as defined in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, means any offence in terms of Chapter 2, *Sexual Offences*; Chapter 3, *Sexual Offences against Children*; Chapter 4, *Sexual Offences against persons who are Mentally Disabled*; Section 55, 71(1), 71(2) and 71(6) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007;
- **Whistleblower** means clients, staff and other external parties intending to disclose information about conduct of the employer, fellow employee/s, member of management or partners who are Operators of Shout for the provision of services or goods.

5. Disclosure

5.1 Should a disclosure be made?

An initial assessment first needs to be made as to whether a disclosure should be made or not.

A disclosure is about revealing information on the conduct of the employer, fellow employee/s, member of management on a child, client, employee, partner, person or service provider and is not limited to matters of a financial nature.

The process should not be used for personal matters outside of work unless they pertain to engagements with clients or a child who is or intends to be a client.

It is important to note the onus is not on the whistleblower to prove or provide evidence of the alleged crime. However, the whistleblower needs to demonstrate that there are sufficient grounds for concern.

5.2 What should be disclosed?

Minor issues (such as theft of cutlery or food from the kitchen) should not be part of this procedure and should simply be reported to an immediate supervisor/manager. This procedure is expected to be used for potentially more serious and sensitive issues, such as (the below list is not exhaustive):

- A criminal or Sexual Offence;
- Failure to comply with a legal obligation;
- Miscarriage of justice;
- Endangering health and safety;
- Misuse of job function and client data;
- Damaging the environment;
- Reputational damage to the organization; or
- Unfair discrimination.

A disclosure differs from a grievance in that a grievance is regarding a human resources or payroll-related problem that an individual has, such as queries on leave calculations, pension or the behaviour of a colleague. All grievances should be submitted to human resources.

5.3 How to make a disclosure?

If the whistleblower is satisfied that a disclosure is required to be made, a written disclosure is always preferred, but not compulsory.

Shout has implemented the following whistleblowing reporting mechanisms:

- Email Address: whistleblower@shoutitnow.org
- Website: shoutitnow.org/whistleblower

Disclosures can be made anonymously.

When making a disclosure, the Shout Whistleblowing Information and Disclosure Form should be completed and submitted. Please see attached.

The following information is required:

- Background and history of concern;
- Names and designations of alleged perpetrator(s), if possible;
- Date(s) of occurrence(s);
- Place(s) of occurrence(s); and
- Reasons for concern regarding the situation.

5.4 When should disclosures be made?

- As soon as the whistleblower feels he/she has Reasonable Grounds for Suspicion
- The earlier the concern is reported the easier it is to take action and initiate recovery procedures where necessary
- At exit interviews
- The disclosure will remain open until such time as the case has been resolved
- Where a crime has been committed, any Prescription applicable in the Republic of South Africa will be considered

6. Post-disclosure

It is in the best interests of Shout to deal with a whistleblowing disclosure when it is first raised. This allows the organisation to investigate promptly, ask further questions and where applicable provide feedback.

- All reported items will be directly sent to the Chief Executive Officer (CEO), Head of People Operations and Head of Compliance of Shout
- The Head of Compliance records the details of the reported item in the Shout Whistleblowing Register
- The CEO forwards all investigable reported matters to the Internal Investigation Committee (IIC)
- The CEO may seek legal counsel from Shout's attorneys
- The IIC consists of the CEO, CFO, Head of People Operations, Head of Compliance and the Departmental Head of the alleged perpetrator

- The IIC has the primary responsibility to conduct the investigation
- Depending on the nature of the suspected disclosure as well as the availability and expertise of internal resources, Shout has the discretion to determine the nature and extent of and resources to be applied to the investigation process. Should the investigation be outsourced to an external party, preference will be given to established and preferred service providers to support the quality and extent of the investigation
- Every effort will be made by Shout and IIC to keep the identity of the whistleblower confidential
- If the whistleblower's identity is known, the whistleblower's complaint will be acknowledged and confirmation of the investigation will be provided if applicable
- Every effort will be made by Shout to keep the whistleblower aware and abreast of progress of actions being taken to the extent practical
- Appropriate measures taken including civil and criminal proceedings to recover losses that have been incurred
- Where the IIC has found a disclosure relating to a Federal award or funds to be:
 - a violation of any law, rule, or regulation;
 - mismanagement;
 - a gross waste of funds;
 - an abuse of authority or
 - a substantial and specific danger to public health or safety,then the disclosure must be reported to The U.S. Department of Health and Human Services' Office of the Inspector General (HHS OIG)
- Particular efforts will be made to take direct action against anybody who may try to victimise the whistleblower at work

7. Procedure to follow in the event of victimisation

All acts of victimisation against whistleblowers and witnesses are illegal.

Victimisation or intimidation of whistleblowers and witnesses is a disciplinary offence in Shout's Disciplinary Code of Conduct found in Shout's Employee Policies Manual. Any Shout employee found to be retaliating, through threatening, harassing, or intimidating, against any whistleblowers or witnesses will be subject to disciplinary processes at Shout.

All acts of victimisation against whistleblowers and witnesses should be reported to the Human Resources department.

The protection provided by the PDA is aimed at preventing acts causing occupational detriment to the whistleblower. These acts include dismissal,

suspension, harassment, victimisation and intimidation. Should a whistleblower be subjected to occupational detriment, the remedies that they have at their disposal is to approach any court that has jurisdiction for relief, such as the Labour Court, or to approach the Commission for Conciliation, Mediation and Arbitration.

8. Disclosure of false information

An employee or worker who intentionally discloses false information-

- a. knowing that information to be false or who ought reasonably to have known that the information is false; and
- b. with the intention to cause harm to the affected party and where the affected party has suffered harm as a result of such disclosure,

is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

Disclosing of false information is a disciplinary offence in Shout's Disciplinary Code of Conduct found in Shout's Employee Policies Manual. Any Shout employee who discloses false information will be subject to disciplinary processes at Shout.

9. How to ensure anonymity of disclosure

The guidelines listed below are not a comprehensive list in ensuring anonymity during the whistleblowing process and he/she should take care in not demasking themselves.

- Use your own device/s and flash drives
- Do not connect to your work network
- Do not print or scan documents
- Do not use credit cards
- Do not use your work email, if possible, create a new email for this disclosure
- Purchase a prepaid sim card that you could use to SMS, WhatsApp and call from
- No profile photos or social media must be linked to the sim card

10. Shout's commitment to disclosures

Shout commits to the following:

- to treat all disclosures seriously, consistently and fairly;
- to provide an acknowledgement of receipt of all disclosures;
- to manage the expectations of the whistleblower in terms of what action and/or feedback they can expect as well clear timescales for providing updates;
- to take all reasonable steps to maintain the confidentiality of the whistleblower where it is requested (unless required by law to break that confidentiality);
- to provide summary updates of the investigation, meetings held and proceedings to the whistleblower;
- support is provided to the whistleblower with access to advice and counselling; and
- before closing the investigation, feedback is provided to the whistleblower and signoff of closure must be obtained from all parties involved.

11. Version History

Date	Version	Authors	Summary of changes
2022/03/31	V1	Kaylin Scheepers and Damien Francis	Creation of Whistleblowing Standard Operating Procedure