



Revenue Services Lesotho

REVENUE SERVICES LESOTHO

WHISTLE-BLOWING POLICY

July 2024

REVISION HISTORY

Revision Period	Drafted by	Owner	Description of Revision	Effective Date
		Commissioner General		
2023/2024	Drafting Team	Commissioner General	First Draft	

POLICY QUALITY REVIEW

Drafting Date	Drafted by	Stakeholders	Description of Revision	Effective Date
September 2023	Drafting Team under GRC guidance	Drafting Team	First Draft	N/A
		Middle Management		
		Senior Management		
9 th February 2024	EXCO input	EXCO	2 nd Draft	
9 th July 2024	EXCO input	EXCO	3 rd Draft	

APPROVALS

This policy was approved by the Board on the 25 July 2024:

Role	Name	Designation	Effective Date
On behalf of the RSL Board			

1. ABBREVIATIONS, DEFINITIONS AND INTERPRETATIONS

For the purpose of this Policy, unless the context otherwise requires, the following abbreviations and definitions must mean:

1.1 ABBREVIATIONS

CCO – Commissioner Core Operations; the Commissioner responsible for this Policy.

CG – Commissioner General.

EXCO – Executive Committee.

RSL – Revenue Services Lesotho.

1.2 DEFINITIONS

Anonymous Whistle Blower – Any person who reports a concern under this policy and does not want to be known and believes the matter reported to be true.

Client - Any person subject to taxation under the revenue laws of Lesotho.

Commissioner General - The Commissioner General of the Revenue Services Lesotho appointed under section 17(1) of the enabling Act.

Contractor - Includes even a prospective contractor and supplier.

Corruption – The offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.

Country - The country of Lesotho as interpreted in section 1 of the Constitution of Lesotho.

Deputy Commissioner -The Deputy Commissioner Investigations and Anti-smuggling, Deputy Commissioner Compliance Risk Management and Intelligence and Head Governance, Risk and Compliance.

Designated Official – RSL officer with delegated powers.

Disciplinary Offence - Includes any contravention or breach of the administrative rules of the Revenue Services Lesotho.

Fraud – Any act or omission, including a misrepresentation, that knowingly and recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation.

High Profile Taxpayers - Any VIP and Large Taxpayers as understood within the Revenue Services Lesotho from time to time.

Law - Any legal instrument having the force of law in the Kingdom of Lesotho.

Ministry - Ministry of Finance and Development Planning.

Misconduct – Failure by a Revenue Services Lesotho member of staff to observe the rules of conduct or standards of behaviour of the Revenue Services Lesotho.

Offence - Any contravention or breach of, or failure to comply with any provision of any revenue law, which it is an offence not to comply with under such revenue law.

Person - A natural person or juristic person.

Staff - Any Revenue Services Lesotho's staff member, whether permanent, temporary or contracted.

Power - Any privilege, authority or discretion.

Recovered Revenue - Any taxes or penalties that would otherwise have not been recovered but for the successful investigations and intelligence initiatives resulting from information provided by a Whistle Blower.

Revenue Law - Any Act enacted by the National Assembly of Lesotho for the purposes of revenue collection, or any subsidiary legislation made by the Assembly in so far as the Government of Lesotho may confer powers on the Revenue Services Lesotho or subject to the definition of the word “revenue” under section 2 of means the taxes, duties, fees, fines or other monies imposed and collected under the written laws, or the specified provisions of the written laws, set out in the Schedule to the Revenue Services Lesotho Act 14 of 2001 As Amended.

Suspect – A person thought to be guilty of a crime or offence.

Whistle blower - Any person, who reports a concern under this Policy.

Writing - Writing, printing, lithography, typewriting, and any other mode of representing words in visible form.

2. INTERPRETATIONS

- 2.1 The Board** - RSL Board of Directors.
- 2.2 Policy** - RSL Whistle Blowing Policy.

SECTION 1:

1.1. INTRODUCTION

This Policy is in furtherance of the Revenue Services Lesotho's desire to affirm its commitment on organizational integrity and to intensify the fight against fraud and corruption related offences.

The success of this Policy depends, in part, on the conscience and professional ethics of the Whistle-Blower. Perceived ostracism by peers, harassment or victimization by Management may nonetheless discourage whistle-blowing. Accordingly, the RSL commits to protecting the identity of Whistle-Blowers.

1.2. POLICY PURPOSE

The purpose of this policy is to:

- 1.2.1. Define the RSL commitment to maintaining the highest possible standards of ethical and legal conduct.
- 1.2.2. Take cognizance of the commitment by the RSL in preventing and combating fraud, corruption and misconduct.
- 1.2.3. Guide management of information from Whistle-Blowers.

1.3. POLICY SCOPE

The policy must apply to all RSL Staff, Clients, Law Enforcement Agencies and members of the public or any other person (an attaché, a scheduled worker, an independent consultant contracted by the RSL, clearing agents, contractors and suppliers of services to the RSL) who has useful and relevant information relating to tax fraud and evasion, corruption or any misconduct against the RSL.

1.4. POLICY OBJECTIVES

The objectives of this Policy are to:

- 1.4.1. Encourage Whistle-Blowers to report acts of corruption, fraud or dishonesty or offence committed;
- 1.4.2. Provide ways for Whistle-Blowers to raise concerns;
- 1.4.3. Assure Whistle-Blowers that the information provided will be followed up and necessary action taken;

- 1.4.4. Assure Whistle-Blowers that they will be protected from possible reprisals or victimization on any information provided by them in good faith and believed to be reasonably true;
- 1.4.5. Promote integrity in the behaviour of the RSL staff and stakeholders;
- 1.4.6. Create a fair and effective revenue environment;
- 1.4.7. Promote voluntary compliance;
- 1.4.8. Build a strong and sustainable organization;
- 1.4.9. Enhance the RSL's corporate image; and
- 1.4.10. Fight corruption, fraud and tax evasion.

SECTION 2:

2.1 POLICY STATEMENTS

This section presents specific areas of focus of the Whistle-Blowing Policy required to enhance achievement of the RSL mandate.

2.2 REPORTING

Reporting of tax evasion, corruption, fraud or any act of misconduct, may be done through any of the following methods:

- 2.2.1 In person at designated RSL offices.
- 2.2.2 Telephonically to designated RSL contact details.
- 2.2.3 Electronically to the RSL designated contact details e.g. e-mail, texting (SMS), WhatsApp, Telegram.
- 2.2.4 Surface mail to a designated RSL address.
- 2.2.5 The report must include full details of a concern raised and where possible, information such as names, dates and places, must be provided.
- 2.2.6 The RSL must establish a Report Centre where all reports by concerned clients, the public, the RSL staff or any other person may be made.
- 2.2.7 The Report Centre must have all facilities necessary for receiving and handling reports of tax evasion and corruption.
- 2.2.8 RSL staff must report acts of corruption, tax evasion and any misconduct to either their immediate supervisors or at the report Centre.
- 2.2.9 If the act(s) involves the staff's immediate supervisor, the report must be raised directly with Ethics and Anti-Corruption Unit or Report Centre. The suggestion boxes supplied at different RSL service points can also be used.
- 2.2.10 When reporting incidences which occurred at RSL premises, Clients must be free to report to any station manager.
- 2.2.11 The reporter may reserve his/her identity where he/she wishes to remain anonymous.
- 2.2.12 Anonymous Whistle-Blowers must provide sufficient corroborating evidence to justify the commencement of an investigation.
- 2.2.13 In the event that the Whistle-Blower is reporting about CG, the concern must be raised with the Chairman of the Board.

2.2.14 If for whatever reason an informer feels that he/she cannot talk to anyone internally, he/she must have a right to approach the Directorate on Corruption and Economic Offences (DCEO) or Lesotho Mounted Police Services (LMPS).

2.2.15 Whistle blowing should be made in the reasonable belief that what is being reported is true. Allegations and concerns expressed anonymously must be considered by the RSL. The factors to be considered must include, without limitation, the seriousness of the allegation, its credibility, and the extent to which the allegation can be confirmed or corroborated by attributed sources.

2.2.16 It should be noted that Whistle-Blowers are reporting parties. They are neither Investigators nor finders of facts and as such, they must not determine if corrective measures are necessary nor determine the appropriate corrective or remedial action that may be warranted.

2.2.17 Whistleblowers must have a responsibility to be candid with the RSL designated officials to whom they made a report of alleged misconduct and must set forth all known information regarding any reported allegation(s).

2.2.18 Persons making a report of allegation must be prepared to be interviewed by the RSL designated officers.

2.2.19 Unless there are compelling reasons to the contrary, suspects must be given the opportunity to respond to material points of evidence contained in an investigation report.

2.2.20 Whistle-Blower must have a right to be informed of the outcome of the reported case. but further need to know that RSL will not disclose any material information on progress as RSL can never discuss anyone's tax affairs with a third party.

2.2.21 Reportable offenses must be as per offences covered under revenue laws, Money Laundering Act, Criminal Procedure and Evidence Act, Penal Code Act including corruption and fraud as envisaged by RSL act.

2.3 PROTECTION AND REMEDIES FOR WHISTLE-BLOWERS

- 2.3.1 Protection of a whistle-blower's identity, must be maintained to the extent possible within the legitimate needs of the law and the investigation. Should the whistle-blower self-disclose his or her identity, the RSL must not be obligated to maintain such confidence.
- 2.3.2 The RSL assures all Whistle-Blowers that information given must be treated in a confidential manner and afforded the necessary security around it.
- 2.3.3 The RSL must ensure that the Whistle-Blower is protected against retaliatory acts, discrimination, reprisal, harassment, or vengeance, whether direct or indirect.
- 2.3.4 The acts which constitute victimization must be, but not limited to retaliation, ridicule, abuse, threats, unjustified questioning of performance, unjustified transfer, assignment of trivial duties, threat of litigation for breach of confidentiality, dismissal, whether threatened or taken against a Whistle-Blower by any person because the Whistle-Blower has made a disclosure pursuant to this Policy.
- 2.3.5 The RSL discourages any false or malicious reporting and must endeavour to investigate, verify and follow-up on all reports, information and allegations before instituting legal measures against the suspect(s).
- 2.3.6 The RSL must endeavour to investigate all cases, where Whistle-Blowers are involved, in a careful, cautious and prudent manner in order not to reveal the source of the information or identity of the Whistle-Blower. This must also be the case where the subject matter of investigation involves the information which the Whistle-Blower is expected to know as part of his/her duties.

2.4 EXCEPTION TO DISCLOSURE

The RSL must maintain as confidential, the Whistle-Blower's identity, unless if:

- 2.4.1 Such a person volunteers to be identified.
- 2.4.2 The identification is required by law.
- 2.4.3 It is under the RSL's rules and regulations, where a false accusation has been maliciously made.
- 2.4.4 The person accused is entitled to the information as a matter of legal right or under the RSL's rules and regulations in the disciplinary proceedings. In such an eventuality, the RSL must inform the Whistle-Blower prior to revealing his or her identity.

2.5 REMEDIES FROM ACTS OF RETALIATION

2.5.1 Employment remedies available to a Whistle-Blower against whom there has been retaliation must be determined by the Commissioner based upon the findings and recommendations of the line manager and must include but not be limited to:

2.5.1.1 Reinstatement without loss of benefits and salary to the same position/job on the same terms and conditions as existed before dismissal or provide equitable compensation to him or her, this may be payment of salary up to the date of compensation settlement, benefits accrued and all termination benefits as if he or she was not dismissed. Adjudication expenses, including representation fees, costs of expert witnesses, travel and other costs associated with the claim of retaliation.

2.5.1.2 Transfer upon the request of the prevailing Whistle-Blower to another Division/Unit of the RSL where his/her knowledge, qualifications or experience may be relevant.

2.5.1.3 Intangible benefits, including public recognition of the vindication of the Whistle-Blower, and in appropriate circumstances public recognition of the contributions of the Whistle-Blower to the RSL.

2.5.2 The RSL assures all Whistle-Blowers that it must do all in its powers and abilities to protect them against victimization and retaliatory acts within and outside the organization.

2.6 ACTION UPON RECEIPT OF RETALIATION

2.6.1 Upon receipt of a complaint of retaliation, RSL must initiate an investigation and as appropriate, provide interim relief to the Whistle-Blower, and take such interim remedial action to cure the underlying circumstances.

2.6.2 The interim relief and actions to protect and adjudicate on the rights of the Whistle-Blower must be separate processes from the investigation of related underlying issues within the jurisdiction of the Commissioner.

2.6.3 Where RSL staff has suffered retaliation because of assistance he or she gave in an investigation or audit, on the recommendations of Head Governance

Risk and Compliance, the Commissioner General must take steps to prevent such retaliatory actions from taking effect.

- 2.6.4 RSL staff who believes that retaliatory action has been taken against him or her because of whistle-blowing or cooperating in an investigation or audit, must contact Head Governance Risk and Compliance with all information and documentation available to them in support of their complaint.
- 2.6.5 If the alleged retaliation is by Head Governance Risk and Compliance, the report must be made to the Commissioner General.

2.7 FURTHER RELIEF AND PROTECTION

- 2.7.1 Where there is reasonable concern that a Whistle-Blower's security is compromised (including RSL staff), RSL must take reasonable measures to secure his or her safety and security as an interim relief.
- 2.7.2 Where an individual (whether external whistle-blower or RSL staff) can show evidence of being mistakenly identified as a Whistle-Blower and consequent retaliatory action taken against him or her, the RSL must take reasonable measures to secure his or her safety and security, as an interim relief.
- 2.7.3 The RSL staff not making allegations in good faith or without reasonable belief that what is being reported is true may be subjected to disciplinary action in line with RSL disciplinary rules.
- 2.7.4 The RSL must inform the Whistle-Blower on the possibility of exposure of his/her identity.

2.8 LEGAL PRIVILEGE

- 2.8.1 The common law of this country, does not force law enforcement officers to disclose their informants to anyone including the court of law. If therefore, the matter is referred to the LMPS or the DCEO, the officers of those organisations are bound by the law not to disclose where they got their information from.
- 2.8.2 As far as disciplinary cases are concerned, the RSL has undertaken not to force anyone to disclose his/her source within the boundaries of the law.

2.9 GENERAL POLICY STATEMENTS

- 2.9.1 RSL must establish safe and supportive environment to encourage Whistle-Blowers to come forward.
- 2.9.2 Whistle-Blowers must not act on their own by conducting any investigative activities nor have a right to participate in any investigative activities other than as requested by the RSL designated officers.
- 2.9.3 Whistle-Blowers must refrain from obtaining evidence to which they do not have a right of access.
- 2.9.4 This Policy does not apply to complaints of the RSL's staff associated with any acts of misconduct other than dishonesty acts or those that are normally handled by the Human Capital Management department and/or other mechanisms established by the RSL for such grievances (for example; coming to work late).
- 2.9.5 This policy must be reviewed every two years, or as and when necessary to consider the changing circumstances.

SECTION 3

3.1 RELATED POLICIES OR DOCUMENTS

- 3.1.1 Code of Ethics.
- 3.1.2 Code of Conduct.
- 3.1.3 ERM Policy
- 3.1.4 Finance Policies.
- 3.1.5 HR Policies.
- 3.1.6 Physical Security Policy.

SECTION 4

ROLES AND RESPONSIBILITIES OF KEY STAKEHOLDERS

4.1 THE RSL BOARD

The Board is responsible for:

- 4.1.1 Approving the Whistle-Blowing Policy.
- 4.1.2 Providing oversight over the implementation of the Whistle-Blowing Policy.

4.2 EXCO

EXCO is responsible for:

- 4.2.1 Facilitating approval of the policy by the Board.
- 4.2.2 Revision of the Whistle-Blowing Policy in line with the revision timelines or business needs.
- 4.2.3 Ensuring implementation of the Whistle-Blowing Policy.

4.3 THE RSL MANAGEMENT

Management is responsible for:

- 4.3.1 Enabling understanding and communication of this policy to staff and the general public.
- 4.3.2 Establishing processes, procedures and standards for the implementation of the Policy.

- 4.3.3 Ensuring that Whistle-Blowing standards and/or best practices are met and corrective action taken in the event of non-compliance.
- 4.3.4 Continuously scanning the operating environment and advising Commissioners of any observed and emerging risks.
- 4.3.5 Managing risks associated with the Whistle-Blowing process.

4.4 HEADS OF FUNCTIONS RESPONSIBLE FOR INVESTIGATION AND INTELLIGENCE.

Heads of Investigations and Intelligence are responsible for:

- 4.4.1 Guiding action to be taken in relation to all reported breaches.
- 4.4.2 Protecting the identity of Whistle-Blowers.
- 4.4.3 Raising awareness about Whistle-Blowing procedures.
- 4.4.4 Fostering a healthy ethical culture.

4.5 GOVERNANCE, RISK AND COMPLIANCE (GRc)

The GRC is responsible for:

- 4.5.1 Providing Policy development advisory and risk management services.
- 4.5.2 Monitoring compliance to the Policy.

4.6 INTERNAL AUDIT

The Internal Audit Function is responsible for:

- 4.6.1 Reviewing Whistle-Blowing Management processes for adequacy and effectiveness of controls.
- 4.6.2 Reporting to management and the Board on any deficiencies and action agreed to control them.
- 4.6.3 Following-up on implementation of agreed actions.

4.7 RSL STAFF

All Staff are obliged to comply with the Whistle-Blowing Policy.

REFERENCES

1. Criminal Procedure and Evidence Act.
2. Money Laundering Act.
3. Revenue laws.
4. Penal Code Act.