2024

PUNSAA Whistleblower Policy

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PURPOSE

PUNSAA is committed to high standards of ethical, moral, and legal conduct. It requires staff members and associated personnel to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the organization, we must practice honesty and integrity in fulfilling our responsibilities and comply with the Code of Conduct and organizational policies, all applicable rules, regulations, and laws.

It is the responsibility of staff members and associated personnel to report violations or suspected violations of PUNSAA's code of conduct or breaches of organizational policies, rules, regulations, and laws that govern PUNSAA's operations in accordance with this policy.

PUNSAA takes seriously all the complaints and concerns raised and will initiate rigorous investigation of complaints or allegations that indicate a possible violation of this policy, PUNSAA Code of Conduct and related policies. To that end, the Board of Directors, Executive Director and the Management Team shall take all necessary actions to ensure all reported violations are followed up, investigated and appropriate remedial action taken and that this, and related policies are sufficiently publicized.

This Whistle blower policy is intended to encourage and enable PUNSAA staff and associated personnel to raise serious concerns internally so that PUNSAA can address and correct inappropriate conduct and actions. However, if the whistle blower believes with reasonable certainty that the activity or malpractice is already known to the organization and is condoned, tolerated or otherwise ignored, the whistle blower may report it to relevant entities outside the organization in the interest of accountability to the public and in compliance with the law.

This whistle blower policy also aims to provide an avenue for whistle blowers to raise concerns and to reassure them that they will be protected from reprisals or victimization for whistleblowing.

SCOPE

This whistleblowing policy is applicable and binding to all PUNSAA staff and associated personnel at all levels. It is intended to offer protection from retaliation for whistle blowers who in good faith come forward with credible information on suspected illegal practices or violations of adopted policies of the organization including but not limited to:

- Procurement fraud.
- Corruption and bribery.
- Theft and embezzlement.
- Entitlements fraud.
- Misuse of PUNSAA or Partner resources.
- Misrepresentation.
- Failure to comply with financial disclosure requirements.
- Improper recruitment.
- Sexual exploitation, abuse and harassment.
- Child Abuse.

- Assault and threats of Assault.
- Workplace harassment.
- Abuse of authority.
- Unlawful activity as it pertains local, national, and international law.
- Activities, which otherwise amount to gross misconduct.
- Any other misconduct, such as wilful, reckless or grossly negligent disregard of PUNSAA regulations, rules, and administrative instructions.

Any staff member or associated personnel who retaliates against someone who has reported a violation in good faith, that was not done primarily with malice to damage another or the organization, is liable for gross misconduct and is subject to disciplinary action up to and including termination of employment or contract or discharge from the board whichever is applicable.

Protection from retaliation/reprisal includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistle blower who believes he/she is being retaliated against must contact the Executive Director immediately.

The right of a whistle blower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and established upon investigation. However, the organization shall give due consideration to the contribution such whistle blower made towards the discovery of the violation in the first place and may consider such as a mitigating factor when determining sanctions to be imposed.

A Whistle blower who makes a report that is not done in good faith is subject to disciplinary action, including termination of the board or employee relationship, or other legal means to protect the resources and the reputation of the organization and members of its board and staff.

Any concerns or disclosures made by a whistle blower as defined in this policy shall render any non-disclosure agreements and other such encumbrances including but not limited to settlement agreements null and void. They shall be ineffective. The whistle blower shall be protected to the fullest extent possible in such a situation as though such agreement did not exist.

CONFIDENTIALITY

PUNSAA commits to maintain confidentiality of the information given by whistle blowers. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. Information will only be disclosed as required by the legitimate needs of the investigation.

The requirement for confidentiality extends equally to investigators, management, staff members and other personnel, investigation participants, and investigation subjects.

The confidentiality of the whistle blower will be maintained insofar as is possible. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and to provide accused individuals their legal rights of defence.

DEFINITIONS

For the purpose of the present document:

Allegation – an assertion of wrongdoing.

Associated personnel - refers to a range of contracted paid and non-paid individuals who have committed to work with or support a PUNSAA Entity. It includes, among others, board members, volunteers (including community volunteers), interns, sponsors, researchers, donors, international and local consultants, in addition to individual and corporate contractors of these entities and related personnel. This includes non-PUNSAA entities and their employees and individuals who have entered into partnership, sub-grant or sub-recipient agreements with PUNSAA their staff and/or representatives of partner organisations and local governments (when operating in partnership agreement with Puntland Non-State Actors Association).

Complainant – the person making an allegation.

Disciplinary action – the procedure initiated against a staff member pursuant to code of conduct, ethical code, PUNSAA policies and employment contract stipulations.

Evidence – any type of proof which tends to establish or disprove a fact material to the case. It includes, but is not limited to, oral testimony of witnesses, including experts on technical matters; documents; electronic, audio, and video records; and photographs.

Investigation – a detailed inquiry and examination of evidence to objectively determine the facts following the receipt of an allegation. At the conclusion of an investigation, a dossier of evidence is assembled to form the basis of further action (such as a decision on whether formal charges of misconduct should be made against a staff member or termination of the contract of a Service Contractor).

Investigation participant – a person who is not the investigation subject but who cooperates with an investigation (for example, a witness who provides information to investigators).

Investigation subject – the person or one of the persons who is the focus of the investigation, either by virtue of an allegation made or evidence gathered during the course of an investigation.

Investigator – a person employed or engaged by the PUNSAA Investigative Office as an investigator.

Officer – a staff member or other personnel with a supervisory role.

Misconduct:

a) In the case of staff, the failure to comply with rules and regulations, ethical code, code of conduct and organizational policies, or other relevant administrative issuances, or to observe the standards of conduct expected of PUNSAA staff member. Such a failure could be deliberate (intentional, or wilful act), or result from an extreme or aggravated failure to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk (gross negligence) or from a complete disregard of a risk which is likely to cause harm (recklessness).

b) Associated personnel

i. Contractors are obliged to comply with the terms of their contract in which the contractor agrees to abide by the PUNSAA Code of Conduct and other policies as set out in the contract. Failure to abide by the standards set out therein will constitute misconduct.

ii. In the case of volunteers and interns the failure to comply with rules and regulations, ethical code, code of conduct and organizational policies, or other relevant administrative issuances, or to observe the standards of conduct expected of PUNSAA staff member constitutes misconduct. For avoidance of doubt, all that is applicable and is expected of a regular staff member is expected of a volunteer. They are bound by the same rules, regulations and procedures.

Staff- refers to individuals who receive a regular salary for work in any PUNSAA Entity**.**

PUNSAA- refers to Puntland Non-State Actors Association, including when operating through one of its subsidiaries. It generally includes headquarters, branch offices, PUNSAA Schools or any other affiliates.

Whistle blower – an individual who reports, to one or more of the parties specified in this policy, an activity that he/she considers to be a wrongdoing, illegal, dishonest, unethical, or otherwise improper.

Wrongdoing – Includes misconduct by personnel but also includes fraud, corruption and like behaviour by vendors.

ANONYMOUS ALLEGATIONS

This policy encourages employees to put their names to allegations because appropriate follow-up questions and investigation may not be possible unless the source of the information is identified.

Concerns expressed anonymously will be explored appropriately, but consideration will be given to:

- The seriousness of the issue raised.
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

Whistle blowers' anonymity will be protected as a rule. PUNSAA acknowledges that coming forward with sensitive information is challenging for whistle blowers due to the perceived risks they may feel there are in doing so.

WHISTLE BLOWING PROCEDURE

Reporting a Concern

PUNSAA has an open-door policy and suggests that employees share their questions, concerns, suggestions or complaints with their supervisor. If you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with HR manager, the program manager, the executive director, or a board member. Supervisors and managers are required to report or forward complaints or concerns about suspected misconduct and legal violations in writing to PUNSAA's Protection from Sexual Exploitation and Abuse (PSEA) Focal Point.

Employees with concerns or complaints may also submit their concerns in writing directly to their supervisor or the Executive Director or PUNSAA's Protection from Sexual Exploitation and Abuse (PSEA) Focal Point.

For serious and sensitive complaints and disclosures (Category 1 and 2) including those relating to Sexual Exploitation, Abuse and Harassment and Child Abuse, major breaches of the Code of Conduct such as fraud, corruption, theft and intoxication with alcohol or illegal substances, report directly to: Protection from Sexual Exploitation and Abuse (PSEA) Focal Point.

Use the whistle blowing procedure:

- When, for example, a senior member of staff or a Safeguarding Focal Point is implicated
- When there is a conflict of interest (e.g., line manager, supervisor, HR manager is implicated)
- If you feel you cannot raise your concern through the proposed reporting line, or when you have tried this, and it has not worked.

Timing – Staff and associated personnel are encouraged to come forward with their concerns as soon as possible. The earlier a concern is expressed, the easier it is to act.

Evidence - Although the complainant/whistle blower is not expected to prove the truth of an allegation, the whistle blower should be able to demonstrate to the person contacted that the report is being made in good faith. They should be able to explain their concern, why they are making the disclosure and any relevant background information that they have.

Handling Reported Concerns.

The PUNSAA's Protection from Sexual Exploitation and Abuse (PSEA) Focal Point will acknowledge receipt of the reported violation or suspected violation within twenty-four (24) hours of it reaching his/her desk and shall be the contact person from that point onwards.

The action taken by PUNSAA in response to a report of concern under this policy will depend on the nature of the concern and the circumstances surrounding it. A potential whistle blower is advised to refer to the feedback and complaints case handling process map AKA Safeguarding Case Handling Process map (annexed below) to see the different types of cases and how they will be handled.

Generally, the reported concern will follow the procedure set out below.

1. The person receiving the concern will store any hard-copy reports and documents associated with the concern in locked and secure storage. **A copy of the report will be sent password-protected to the PSEA Focal Point at the head office within 1 hour** and electronically saved in encrypted hard drive.
2. The **PSEA Focal Point will classify the disclosure and forward the case to the Executive Director for further action within an hour of receipt of the complaint/disclosure**. The PSEA Focal Point will contact the whistle blower for more information if required, then will hand over the complaint or feedback to the relevant team to resolve the issue/ absorb the feedback and for complaints, return an update on the situation for the PSEA Focal Point to communicate to the complainant within five days of the initial complaint. The amount of contact between the whistle blower and the person or persons investigating the concern will depend on the nature of the issue and the clarity of information provided.

3. The Executive Director will **open a case file of the incident**. Where necessary the Executive director may suspend the staff member adversely mentioned or who is the subject of the reported concern.

4. The Executive Director will then **convene a meeting of the Safeguarding and Complaints Committee within 24 hours** to deliberate on the appropriate actions to be taken for sensitive complaints/disclosures.

5. The Safeguarding and Complaints Committee or the Executive Director (For cases not within the mandate of the SCC the Executive Director) will **consider the merits of the case and may initiate an investigation with the support of Internal Audit and Compliance Office.** When deciding whether to initiate an investigation, due regard will be given to:

    a) the nature of the abuse (i.e. breach of the organization's code of conduct/national criminal law),

    b) reliability of source(s) of allegation,

    c) availability of hard evidence (e.g. photographs etc.),

    d) and risk(s) for the person(s) affected by the violation associated with the investigation process.

    e) wishes of the person(s) affected by the violation and his/her capacity to give informed consent.

6. **Preliminary Evaluation-** before "investigation proper" ensues and in compliance with PUNSAA Sensitive Investigation SOP, the reported concern/allegation will be evaluated by the Internal Audit and Compliance Office to determine its credibility, materiality, and verifiability. To this end, the complaint will be examined to determine whether there is a legitimate basis to warrant an investigation and such determination shall be communicated to the SCC for Category 1 disclosures, Executive Director for Category 2 Complaints. Some concerns may be resolved without the need for investigation. If it is determined that an investigation is warranted, the SCC or ED will make the necessary facilitation for investigation to be done pursuant to the Sensitive Investigation SOP *(Refer to PUNSAA Complaints and Disclosures Handling Process Map*).

7. **Investigation (Investigation proper)** - Where investigations are conducted it will purely be for cases where PUNSAA Staff or Associated Personnel are involved, and largely for the purposes of determining contractual arrangements around their employment, service provision or partnership. Investigations will be focused on conduct breaches. All investigations around criminal behaviour will be carried out by the police and governmental authorities. In cases where the investigation reveals credible evidence of a crime that appears appropriate for referral to governmental authorities, Internal Audit and Compliance Office will prepare a summary of the evidence and a request to SCC for referral of the matter.

8. **After Investigation**

    i. If the Internal Audit and Compliance Office does not find sufficient information during the investigation to substantiate the complaint, it will document such findings in a closure

report. The investigative office through the PSEA Focal Point will notify the complainant and the subject by letter that the investigation has been closed.

ii. If the investigation reveals adequate evidence to reasonably conclude that wrongdoing has occurred, the Internal Audit and Compliance Office will prepare an investigation report setting out the allegations, the investigation methodology and the facts established in the investigation and the recommendations for action.

9. Once a final investigation report has been prepared and submitted to SCC or Executive Director depending on the nature of Complaint/disclosure, the **PSEA Focal Point shall notify the subject(s), complainant(s) and any other stakeholders with a legitimate "need to know" of the submission and the actions taken thereof.** Such actions may include administrative realignment to prevent repeat of such cases, disciplinary action for those found culpable etc.

Other actions that PUNSAA may take when a case is reported include:

1. **Case Closure** – A case may be closed under the following circumstances:

   - Where perpetrator is an adult – General public with no affiliation to PUNSAA (neither staff nor beneficiary), no investigation will be done by PUNSAA or partners unless the victim is a staff member, but case logged in database/referred to SCC and any actions taken noted in database before case closure.

   - Where the victim is an adult – Non-Staff/ Beneficiary, no investigation will be done by PUNSAA or partners unless

     a) the perpetrator is a staff member or

     b) the circumstances of the abuse are such that the programme/PUNSAA could be in question for creating an environment that has enhanced risk for its beneficiaries and therefore an investigation into those circumstances would be an obvious preventative step to protect others.

   - Where the perpetrator is a child, no investigation will be done by PUNSAA or partners, but case logged in database/referred to SCC and any actions taken noted in database before case closure.

   - Where the complaint/disclosure was made anonymously, and the information provided is not sufficient enough or where the likelihood of confirming the allegation from attributable sources is minimal.

2. **Referral to government authorities-** where PUNSAA Staff and Associated Personnel are perpetrators the most intensive intervention will occur with investigations taking place along with cooperation with the authorities and police. If preliminary evaluation reveals credible evidence of a crime, Internal Audit and Compliance Office will, as appropriate, recommend to SCC referral of the case to the competent governmental law enforcement authorities for criminal investigation and prosecution and will prepare a summary of evidence for transmittal to the authorities concerned. The Safeguarding and Complaints Committee may then report the incident to the local/statutory authorities if it considers doing so is in the best interest of the person affected by

the violation. The SCC will also consider issues around mandatory reporting as and when such becomes a statutory/legal obligation.

RETALIATION

Retaliation is defined as a direct or indirect adverse administrative action or decision that is threatened, recommended or taken against and individual who has;

- Reported suspected wrong doing that implies a significant risk to PUNSAA; or
- Cooperated with a duly authorized audit or an investigation of a report of wrongdoing

Retaliation involves three sequential elements;

- A report of a suspected wrongdoing that implies a significant risk to PUNSAA, i.e is harmful to its interests, reputation, operations or governance;
- A direct or indirect adverse action threatened, recommended or taken following the report of such suspected wrongdoing and
- A causal relationship between the report of suspected wrongdoing and the adverse action or threat thereof

As such, the adverse action that could constitute retaliation against a whistleblower can include but not limited to;

- Harassment
- Discrimination
- Unsubstantiated negative performance appraisals
- Unjustified contractual changes
- Unjustified modification of duties
- Malicious delays in authorizing travel or provision of entitlements
- Threat to whistleblower, their family or property that may come from within and outside PUNSAA

Protection against retaliation

Under this policy, whistleblowers will be protected against retaliation of any form, whether directly or indirectly, by PUNSAA and by persons working for or acting on behalf of PUNSAA. Forms of such retaliation might include dismissal, suspension, demotion, loss of promotion opportunities, punitive transfers and reductions in or deductions of wages, harassment or other punitive or discriminatory treatment.

Protection should not be lost solely on the basis that the individual making the report or disclosure was mistaken as to its import or that the perceived threat to the public interest has not materialized, provided he or she had reasonable grounds to believe in its accuracy.

A whistleblower should be entitled to raise, in appropriate civil, criminal or administrative proceedings, the fact that the report or disclosure was made in accordance with the national framework. Protection of whistleblowers

In legal proceedings relating to a detriment suffered by a whistleblower, and subject to him or her providing reasonable grounds to believe that the detriment was in retaliation for having made the report or disclosure, it should be for the employer to establish that the detriment was not so motivated.

Interim relief pending the outcome of civil proceedings should be available for persons who have been the victim of retaliation for having made a public interest report or disclosure, particularly in cases of loss of employment

Protection measures may include;

- temporary reassignment
- transfer to another office or function for which the whistleblower is qualified
- placement on special leave with full pay
- any other appropriate action on a case by case basis, including security measures

Remedies against retaliation

Where investigation establishes that the whistleblower has been retaliated against, the senior management will decide on the appropriate remedy. Any staff member who is found to have retaliated against is entitled to a corrective remedy. Such remedies, with the consent of the whistleblower may include but not limited to, the rescission of the retaliatory action, or reassignment to another office or function for which the whistleblower is qualified. Remedies may also include reassignment of the retaliator.

PUNSAA ENDORSEMENT OF THE POLICY, PROCEDURES AND GUIDELINES.

The PUNSAA Board of Directors herein represented by the Executive Director and BoD Chairperson hereby adopt this policy as binding to PUNSAA BoD, PUNSAA management, all PUNSAA staff members and associated personnel, PUNSAA partners, PUNSAA Visitors, Vendors of goods and services to PUNSAA and any other entities with dealings with PUNSAA subject to contractual agreements.

Abdirahman Abdirisak Abdirahman

PUNSAA BoD Chairperson

Signature: _____

Date: _____

Dahir Hussein

Executive Director - PUNSAA

Signature: _____

Date: _____