



AUDITOR - GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*

## AGSA: Complaints policy

Effective from	May 2012
Date revised	January 2021
Policy owner/s	Business Executive: Risk and Ethics BU
Target audience	AGSA employees

Should be read in conjunction with:

>> Legislation	Constitution of the Republic of South Africa, 1996
	Public Audit Act 25 of 2004
	Protected Disclosures Act 26 of 2000
	Labour Relations Act 66 of 1995
	Prevention of Organised Crime Act 121 of 1998
	Prevention and Combating of Corrupt Activities Act 12 of 2004
	Employment Equity Act 55 of 1998
	Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
>> Policies	Protection of Personal Information Act 4 of 2013
	Ethics policy
	Employment equity policy
	Disciplinary action policy
	Grievance policy
	Conducting audits on behalf of the AGSA
	Litigation policy
	Investigations policy
>> Procedures	Policy on monitoring of quality control (QC) compliance
	Procedure on complaints against the auditor-general
	Procedures on ethics
	Employment equity procedure
	Disciplinary action procedure

	Grievance procedures
	Procedures for processing requests for investigations
	Litigation procedures
	Procedures: Public Audit Manual
	QC review procedures
>> Standards	International Ethics Standards Board for Accountants – Code of ethics for professional accountants
	International Organization of Supreme Audit Institutions – Code of ethics
	International Standard on Quality Control 1 (ISQC 1) issued by International Auditing and Assurance Standards Board (IAASB)
>> Other	Memoranda of agreement – performing audits on behalf of the AGSA

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## 1. Executive summary

The policy on complaints against the Auditor-General of South Africa (AGSA) is intended to facilitate compliance with section 13(1)(c) of the Public Audit Act 25 of 2004 (PAA), paragraphs 55 and 56 of the International Standard on Quality Control 1 (ISQC 1), and the Protected Disclosures Act 26 of 2000 (PDA), excluding complaints relating to section 8 of the PDA. The proper implementation and enforcement of the policy will ensure that complaints against the AGSA and its employees referred to in the PAA and the PDA are dealt with lawfully.

## 2. Purpose of the policy

The purpose of the policy is to ensure that the AGSA has a framework and mechanism for the transparent and consistent handling of complaints lodged against it or its employees in compliance with the PAA. To support this purpose, the policy promotes a safe, accountable and responsive work environment for employees who disclose information of occupational detriment, or unlawful or corrupt conduct by the employer or fellow employees.

## 3. Consultation

The revised policy was circulated for consultation with all employees; and further went through the mandatory review in line with the policy framework.

## 4. Definitions

<b>Auditor-general (AG)</b>	The individual appointed as auditor-general in terms of section 193(4) of the Constitution and as contemplated in paragraph (b) of the definition of "Auditor-General" in section 1 of the PAA.
<b>AGSA</b>	The institution contemplated in section 181(1)(e) of the Constitution.
<b>Audit</b>	The examination or investigation, in accordance with any applicable audit standards, of those aspects to be reported on in terms of section 20 or 28 of the PAA.
<b>Authorised auditor</b>	A person authorised in terms of section 12 of the PAA to perform or to assist in the performance of an audit referred to in section 11 of the PAA.
<b>Complaint</b>	Written or electronic communication from either an internal or an external source alleging unlawful or unethical conduct relating to the performance of an audit, or the conduct of AGSA employees, the AG and/or his/her administration, which will also include disclosures made in terms of the PDA.

<b>Constitution</b>	The Constitution of the Republic of South Africa, 1996.
<b>Deputy auditor-general (DAG)</b>	The head of administration and the accounting officer of the AGSA, who is responsible for the overall performance of the organisation. The deputy auditor-general is appointed in terms of section 31 of the Public Audit Act 25 of 2004
<b>Disclosure</b>	<p>Any disclosure of information regarding any conduct of an employer, or of an employee of that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) that a criminal offence has been committed, is being committed or is likely to be committed;</li> <li>(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;</li> <li>(c) that a miscarriage of justice has occurred, is occurring or is likely to occur;</li> <li>(d) that the health or safety of an individual has been, is being or is likely to be endangered;</li> <li>(e) that the environment has been, is being or is likely to be damaged;</li> <li>(f) unfair discrimination as contemplated in chapter II of the Employment Equity Act, 1998 (Act No. 55 of 1998), or the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000); or</li> <li>(g) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed.</li> </ul>
<b>Employee</b>	<p>Any person, excluding an independent contractor, who works for AGSA and who receives, or is entitled to receive, any remuneration; and</p> <p>(b) any other person who in any manner assists in carrying on or conducting the business of an employer.</p>
<b>Impropriety</b>	<p>Any conduct that falls within any of the categories referred to in paragraphs (a) to (g) of the definition of 'disclosure', irrespective of whether or not:</p> <ul style="list-style-type: none"> <li>(a) the impropriety occurs or occurred in the Republic of South Africa or elsewhere; or</li> <li>(b) the law applying to the impropriety is that of the Republic of South Africa or of another country.</li> </ul>

<b>Occupational detriment</b>	<p>In relation to the working environment of the employee, means:</p> <ul style="list-style-type: none"> <li>(a) being subjected to any disciplinary action (as a result of making a protected disclosure);</li> <li>(b) being dismissed, suspended, demoted, harassed or intimidated;</li> <li>(c) being transferred against his/her will;</li> <li>(d) being refused transfer or promotion;</li> <li>(e) being subjected to a term or condition of employment or retirement that is altered or kept altered to his/her disadvantage;</li> <li>(f) being refused a reference, or being provided with an adverse reference, from his/her employer;</li> <li>(g) being denied appointment to any employment, profession or office;</li> <li>(h) being subjected to any civil claim for the alleged breach of a duty of confidentiality or a confidentiality agreement arising out of the disclosure of: <ul style="list-style-type: none"> <li>(i) a criminal offence; or</li> <li>(ii) information that shows or tends to show that a substantial contravention of, or failure to comply with, the law has occurred, is occurring or is likely to occur;</li> </ul> </li> <li>(i) being threatened with any of the actions referred to in paragraphs (a) to (h) above; or</li> <li>(j) being otherwise adversely affected in respect of his/her employment, profession or office, including employment opportunities and work security and the retention or acquisition of contracts to perform work or render services.</li> </ul>
<b>External governance structure members</b>	<p>These are members of advisory and other structures outside the administration of the Auditor-General who provide specialised services to the AG and the AGSA in terms of section 5(2)(b), 5(2) (bA), 40(1)(a) of the PAA or according to the requirements of ISQC1.</p>
<b>Protected disclosure</b>	<p>Disclosure made to the following in accordance to the PDA:</p> <ul style="list-style-type: none"> <li>• a legal adviser in accordance with section 6;</li> <li>• an employer in accordance with section 6, using the procedures that the employer is obliged to develop and share with workers;</li> <li>• a member of Cabinet or the Executive Council of a province in accordance with section 7;</li> <li>• a person or oversight body contemplated in section 8; or</li> <li>• any other person or body in accordance with section 9 of the PDA but does not include a disclosure – <ul style="list-style-type: none"> <li>○ in respect of which the employee concerned commits an offence by making that disclosure; or</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ made by a legal adviser to whom the information concerned was disclosed in the course of obtaining legal advice in accordance with section 5.</li> </ul>
<b>Scoag</b>	The National Assembly's Standing Committee on the Auditor-General.
<b>Stakeholder</b>	An internal and external party or its representative that has an interest in the legality and credibility of the functions performed by the AGSA.
<b>Standards</b>	The standards by which an audit is conducted, including audit practices, procedures and guidelines.

## 5. Policy principles

- 5.1 All complaints must be directed in writing to the AGSA's Risk and Ethics business unit. All complaints, including:
- a) disclosures of suspected impropriety regarding compliance with internal policies and procedures;
  - b) complaints received through the whistle-blowing channel as communicated by the Risk and Ethics BU; and
  - c) disclosures of any suspected impropriety concerning non-compliance with professional standards and applicable legal requirements applied in the delivery of the AG's core mandate, but only if the escalation processes, as outlined in audit engagement letters for such issues, have been exhausted.
- 5.2 Complaints against the AG and/or his/her administration may originate from any source, whether internally from within the AGSA, or externally from auditees or members of the public.
- 5.3 Complaints alleging a grievance, sexual harassment or a breakdown in internal employee relationships (including line management and subordinates), will be handled in terms of the Employment equity and Grievance policies.
- 5.4 The Risk and Ethics BU must ensure that the AGSA's disclosure processes are secure for stakeholders to rely upon and that complaints are dealt with in a confidential manner.
- 5.5 The Risk and Ethics BU is required to act upon named and/or anonymous complaints received from stakeholders relating to the performance of an audit, the conduct of AGSA employees in the performance of their duties or which impacts on their roles, the reputation of the AGSA or the conduct of the AG.
- 5.6 Each complaint, irrespective of the category under which it falls as defined in paragraph 5.11 of the policy, should be treated and regarded:
- (a) as of equal importance; and
  - (b) ethically and in a professional manner as required by the AGSA's procedures on ethics.

- 5.7 Risk and Ethics BU may dismiss a complaint if, a preliminary assessment results found that allegations are false and/or baseless.
- 5.8 Should it come to the attention of the AGSA that a complainant knowingly submitted or disclosed false information, the matter will be assessed for possible corrective action or referral to an appropriate body; dependent on information available and the nature of the complaint.
- 5.9 The scope of the complaints covered by this policy is as follows:
  - 5.9.1 The exercising of powers, the performance of duties and the administration of the AGSA by the AG or AGSA employees.
  - 5.9.2 Work performed during an audit by the AGSA, authorised auditors and other employees of the AGSA where it is alleged that such work does not meet professional standards or legal requirements, or where the opinion issued or conclusions reached are not appropriate in the circumstances.
  - 5.9.3 Complaints about the AG.
  - 5.9.4 Complaints against external governance structure members appointed by the AG regarding the performance of their duties.
  - 5.9.5 Disclosure made by AGSA employees in terms of the PDA pertaining to occupational detriment.
- 5.10 Complaints are categorised as follows:
  - 5.10.1 **Category 1:** Complaints that do not fall within the scope of the complaints covered by this policy, in that they do not relate to audits conducted by the AGSA or authorised auditors, the conduct of their respective employees in performing the audits or the administration of the AGSA.
  - 5.10.2 **Category 2:** Complaints relating to operational matters dealt with during the course of an audit, including all matters pertaining to the execution of a function, the scope and extent of that function, the quality of work performed, the procedures followed during an audit assignment, the audit report and the audit opinion or, where applicable, the working papers and other supporting documentation.
  - 5.10.3 **Category 3:** Complaints pertaining to the conduct of employees and administration of the AGSA in the performance of their duties, or conduct which impacts on their role, or the reputation of the AGSA, including any complaints pertaining to criminal behaviour by the employees of the AGSA or authorised auditors, or against external governance structure members appointed by the AG in the performance of their duties.
  - 5.10.4 **Category 4:** Complaints pertaining to any actions of the AG in his/her official or personal capacity, and not to the AGSA as an institution, its staff or its representatives.
  - 5.10.5 **Category 5:** Complaints made in terms of the PDA pertaining to instances where an employee of the AGSA is subjected to any occupational detriment by the AGSA.



- 5.11 Where a protected disclosure has been made in terms of section 6 of the PDA, the Risk and Ethics BU must, within a specified time decide whether or not to investigate the matter or whether to refer the disclosure to another institution or body in consultation with the DAG.
- 5.12 The Risk and Ethics BU will not investigate any disclosures contemplated in section 8 of the PDA; the matter will be referred to the Investigations BU and dealt with in terms of the investigations policy.
- 5.13 The Risk and Ethics BU must, on behalf of the DAG as the accounting officer, report any suspicion of offences in line with the requirements of the Prevention and Combating of Corrupt Activities Act, 2004, to the South African Police Service and in line with AGSA's litigation policy.
- 5.14 In line with the PDA requirements, should it come to the attention of the AGSA that employees of its service provider are subject to an occupational detriment and/or the AGSA approves such actions or failed to address it in whichever appropriate manner, both the employer (service provider) and the AGSA may be jointly and severally liable.
- 5.15 To ensure independence in dealing with complaints lodged, the Risk and Ethics BU must forthwith submit any complaint:
  - 5.15.1 received through the whistle-blowing mechanism against any member of the Risk and Ethics BU directly to the DAG to determine the course of investigation and steps to be taken.
  - 5.15.2 against the AG directly to the DAG to refer the matter to Scoag.
  - 5.15.3 against any member of the AGSA external governance structures, simultaneously to the AG and Scoag, who must jointly assess the matter and determine the course of action and steps to be taken.
  - 5.15.4 against the DAG, directly to the AG determine the course of investigation and steps to be taken.
- 5.16 An appeal process for category 2, 3 and 5 complaints is provided for in the AGSA's procedure on complaints against the AGSA. All appeal requests must be processed and adjudicated by an appeal committee which the DAG must convene for each appeal request received.
  - 5.16.1 An appeal committee's composition will be dependent on the type of matter appealed against, and must include persons independent of the BU or BUs that had previously dealt with the complaint or subject matter of the complaint.
  - 5.16.2 An appeal committee may include external independent members, as determined by the DAG in his or her sole discretion.
- 5.17 No appeal can be lodged against a complaint outcome approved by the AG as the highest official in the AGSA.

## 6. Application of this policy

This policy applies to all AGSA employees.

## 7. Non-compliance and corrective action

In the event of non-compliance with, or a breach of, any aspect of this policy, the AGSA may institute disciplinary action against an AGSA employee in accordance with the AGSA's disciplinary action policy and procedures.

## 8. Key monitoring controls

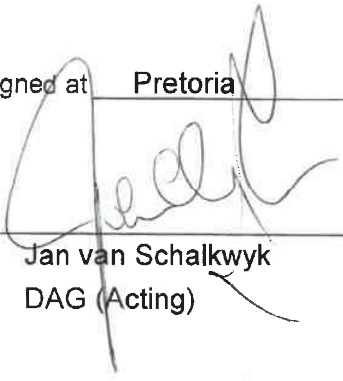
- 8.1 The Risk and Ethics BU must half-yearly submit a report to an appropriate AGSA executive committee to address identified high-risk areas and trends concerning complaints received in the performance year, which must include a view of the finalised cases in the form of a high-level executive summary of the trends identified for the period, corrective action implemented and details of any challenges experienced in resolving complaints.
- 8.2 The following monitoring questions are control indicators intended to ascertain whether the key principles of the complaints policy are being complied with:
  - 8.2.1 Did the Risk and Ethics BU maintain an accurate record of all complaints received and update that record on a bi-monthly basis?
  - 8.2.2 Did the Risk and Ethics BU process all complaints in accordance with this policy and related procedures, document the outcome thereof and appropriately report as required?
  - 8.2.3 What did the half-yearly reports referred to in paragraph 8.1 identify in respect of:
    - a) high-risk areas identified from complaints investigations;
    - b) trends noted relating to complaints received and investigated; and
    - c) closure of recommendations made as corrective action.
  - 8.2.4 Were all complaints received against any member of the AG's external governance structures simultaneously copied to the Scoag chairperson?
  - 8.2.5 Were all complaints received against the DAG directly submitted to the AG?
  - 8.2.6 Were all complaints against the AG directly submitted to the DAG?
  - 8.2.7 Were all complaints against members of the Risk and Ethics BU directly submitted to the DAG?



## 9. Delegation of authority

9.1 The delegation of authority must be in line with the approved Management Approval Framework.

Dated and signed at Pretoria on this 10 day of June 2021.

By:  for Exco (held on 26 January 2021 )  
Jan van Schalkwyk  
DAG (Acting)