



AUDITOR - GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*

## AGSA: Complaints policy

|                 |                                       |
|-----------------|---------------------------------------|
| Effective from  | May 2012                              |
| Date revised    | May 2022                              |
| Policy owner/s  | Business Unit Leader: Risk and Ethics |
| Target audience | AGSA employees                        |

Should be read in conjunction with:

|                       |   |
|-----------------------|---|
| >> Legislation        | Constitution of the Republic of South Africa, 1996                          |
|                       | Public Audit Act, 2004  |
|                       | Protected Disclosures Act, 2000 of 2000                                     |
|                       | Schedule 8 of the Labour Relations Act 66 of 1995 (LRA)                     |
|                       | Prevention of Organised Crime Act 121 of 1998                               |
|                       | Prevention and Combating of Corrupt Activities Act 12 of 1998               |
|                       | Employment Equity Act 55 of 1998  |
| >> Policies           | Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 |
|                       | Ethics policy   |
|                       | Employment equity policy  |
|                       | Disciplinary action policy  |
|                       | Grievance policy  |
|                       | Litigation policy   |
|                       | Investigations policy   |
| >> Procedures         | Audit dispute resolution policy   |
|                       | 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 |   |

|              |  |
|--------------|--|
| >> Standards | Dispute resolution procedures  |
|              | International Ethics Standards Board for Accountants – Code of ethics for professional accountants   |
|              | International Organization of Supreme Audit Institutions – Code of ethics<br><i>International Standard on Quality Management (ISQM) 1 – Quality Management for Firms That Perform Audits or Reviews of Financial Statements, or Other Assurance or Related Services Engagements</i><br><i>ISQM 2 – Engagement Quality Reviews</i><br><i>International Standard on Auditing (ISA) 220 – Quality Management for an Audit of Financial Statements</i> |
|              |  |

# Contents

- 1. Executive summary ..... 2
- 2. Purpose of the policy ..... 2
- 3. Definitions ..... 2
- 5. Policy principles ..... 5
- 6. Application of this policy ..... 8
- 7. Non-compliance and corrective action ..... 8
- 8. Key monitoring controls ..... 8
- 9. Delegation of authority ..... 8

## 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, 2004 (PAA), in collaboration with the Technical Audit Support BU (TAS) and other role players charged with the effecting of the dispute resolution process; and the Protected Disclosures Act, 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. The policy should be read together with the Audit Dispute Resolution Policy in respect of audit related complaints.

## 3. 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 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 deputy auditor-general appointed in terms of section 31(1) of the PAA.  |
| <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>                     | Any person, excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and any other person who in any manner assists in carrying on or conducting the business of an employer, and “employed” and “employment” have meanings corresponding to that of “employee”.   |
| <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>Occupational detriment, 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> </ul>   |

|                                    |   |
|------------------------------------|---|
|                                    | <p>(f) being refused a reference, or being provided with an adverse reference, from his/her employer;</p> <p>(g) being denied appointment to any employment, profession or office;</p> <p>(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:</p> <p>(i) a criminal offence; or</p> <p>(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;</p> <p>(i) being threatened with any of the actions referred to in paragraphs (a) to (h) above; or</p> <p>(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.</p> |
| <b>Oversight structure members</b> | 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.   |
| <b>Protected disclosure</b>        | <p>A disclosure made in terms of the relevant section of the PDA to:</p> <ul style="list-style-type: none"> <li>• a legal adviser;</li> <li>• an employer, 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;</li> <li>• a person or oversight body contemplated in section 8 of the PDA;</li> <li>• any other person or body in accordance with section 9 of the PDA.</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 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.
- 5.2 All complaints as well as all disclosures of suspected impropriety regarding the non-compliance by employees with internal policies and procedures must be directed in writing (which includes any form of electronic communication) to the AGSA's Risk and Ethics Business Unit (BU), including:
  - (a) complaints received through the whistle-blowing channel as communicated by the Risk and Ethics BU allowing employees and other stakeholders to confidentially report complaints and make disclosures;
  - (b) disclosures of any suspected impropriety concerning the conduct of the audit engagement teams in the delivery of the AG's core mandate as it relates to the non-compliance with internal policies and procedures applicable to all employees;
  - (c) complaints and/or disputes which relates to audits and audit related services, irrespective of whether the audit report has been signed or not are dealt with in accordance to the Audit dispute resolution policy and the related procures. Where the complaint is lodged through the complaints function, it will be referred to the TAS BU for processing; and
  - (d) complaints and/or disputes, which relates to conduct of AGSA staff in conducting audits and audit related services.
- 5.3 Complaints alleging a grievance, sexual harassment or a breakdown in the employer-employee relationship, will be referred to the Business Support and Operations BU for purposes of an investigation and resolution as these forms part 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 internal and external sources 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 internal or external sources relating to 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 only if the complaint contains sufficient detail regarding the allegation, such as the specifics of the alleged issue, the date of the alleged incident or the names of the individuals allegedly involved.
- 5.6 Each complaint, irrespective of the category under which it falls as defined in this policy, should be treated and regarded:
  - (a) as of equal importance; and

- (b) investigated ethically and in a professional manner as required by the AGSA's procedures on ethics.
- 5.7 The Risk and Ethics BU may only dismiss a complaint (which excludes audit related complaints) if, after a preliminary assessment, it is considered:
  - (a) hearsay, a baseless rumour or a false report;
  - (b) frivolous, misconceived, unwarranted, or manifestly incompatible with the mandate of the AGSA; and
  - (c) as having malicious intent and, objectively considered, is seen to be invalid or irrelevant.
- 5.8 It is a disciplinary offence to knowingly submit or disclose false information to the AGSA.
- 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 Complaints about the AG.
  - 5.9.3 Complaints against oversight structure members appointed by the AG regarding the performance of their duties.
  - 5.9.4 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 subject matter of other complaints referred to in 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. [These complaints are dealt with in accordance with the Audit dispute resolution policy.]
  - 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 oversight 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 as stipulated in the procedures on handling complaints following such disclosure, decide whether or not to investigate the matter or whether to refer the disclosure to another institution or body in consultation with the DAG.
- 5.11.1 The Risk and Ethics BU must report complaints and/or its investigations falling under the ambit of the Prevention of Organised Crime Act, 1999, and the Prevention and Combating of Corrupt Activities Act, 2004, to the South African Police Service in line with AGSA's litigation policy.
- 5.11.2 The Risk and Ethics BU will not investigate the matter and must report any disclosure contemplated in section 8 of the PDA to the Investigations BU in terms of the investigations policy.
- 5.11.3 Whenever a protected disclosure is made to the AGSA by employees of a service provider contracted to the AGSA, particularly in relation to occupational detriment, the Risk and Ethics BU must take action to ensure that the AGSA is not held jointly and severally liable with the service provider for the alleged act in line with the procedures for handling complaints against the Auditor General South Africa.
- 5.12 To ensure independence in dealing with complaints lodged, the Risk and Ethics BU must forthwith submit any complaint:
- 5.12.1 received through the whistle-blowing mechanism against any member of the Risk and Ethics BU directly to the CRO.
- 5.12.2 against the AG directly to the DAG.
- 5.12.3 against any member of the AG oversight structures, simultaneously to the AG and the chair of SCoAG, who must jointly assess the matter and determine the course of action and steps to be taken.
- 5.12.4 against the DAG, directly to the AG.
- 5.13 An appeals process for category 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 appeals committee, which the DAG must convene for each appeal received. The appeals committee's composition will be dependent on the type of matter appealed, and must include persons independent of the BU or BUs that had previously dealt with the complaint or subject matter of the complaint. The appeals committee may include external independent members, as determined by the DAG his or her sole discretion. No appeal can be lodged against a ruling of the AG in respect of a complaint lodged against the DAG.

## 6. Application of this policy

6.1 This policy applies to all AGSA employees.

## 7. Non-compliance and corrective action

7.1 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 oversight 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 CRO?

## 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 21 day of July 2022.

A handwritten signature in black ink, consisting of several overlapping loops and a final horizontal stroke.

By: \_\_\_\_\_ for Exco (held on 7 June 2022 )