



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

AGSA: Complaints policy

Effective from	May 2012
Date revised	June 2018
Policy owner/s	Head: Risk and Ethics BU
Target audience	AGSA employees or workers as defined by Protected Disclosures Act

Should be read in conjunction with:

>> Legislation (as amended)	Constitution of the Republic of South Africa, 1996
	Public Audit Act, 2004 (Act No. 25 of 2004)
	Protected Disclosures Act, 2000 (Act No. 26 of 2000)
	Schedule 8 of the Labour Relations Act, 1995 (Act No. 66 of 1995)
	Prevention of Organised Crime Act, 1999 (Act No. 121 of 1998)
	Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)
	Employment Equity Act, 1998 (Act No. 55 of 1998)
>> Policies	Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000)
	Ethics policy
	Disciplinary action policy
>> Procedures	Policy: grievance
	Conducting audits on behalf of the AGSA
	Procedure on complaints against the auditor-general
	Procedures on ethics
>> Standards	Disciplinary action procedure
	Procedures for processing requests for investigations
	IESBA – Code of ethics for professional accountants
>> Other	INTOSAI – Code of ethics
	International Standard on Quality Control 1 (ISQC 1)
	Memorandums 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, 2004 (PAA), paragraphs 55 and 56 of the International Standard on Quality Control 1 (ISQC 1), 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 in a responsible manner.

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. A further purpose of the policy is to promote 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 review of this policy was done in consultation with the Corporate Legal Services, Investigations and Quality Control business units (BUs).

4. Definitions

Auditor-general (AG)	means the individual appointed as auditor-general or acting as such in terms of section 193(4) of the Constitution and as per section 1 of the PAA.
AGSA	as per section 1 of the PAA means the institution contemplated in section 181(1)(e) of the Constitution.
Audit	as per section 1 of the PAA means 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.
Authorised auditor	means a person authorised in terms of section 12 of the PAA to perform or to assist in the performance of an audit or function referred to in the PAA.

Complaint	means written or electronic communication from either an internal or an external source alleging unethical conduct relating to the execution 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.
Complaints manager	means an employee assigned to the Risk and Ethics BU specifically for the purpose of complaints management.
Constitution	means the Constitution of the Republic of South Africa, 1996
Deputy auditor-general (DAG)	means the deputy auditor-general appointed in terms of section 31 of the PAA.
Disclosure	<p>means 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"> (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 the health or safety of an individual has been, is being or is likely to be endangered (e) that the environment has been, is being or is likely to be damaged (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) (g) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed
Employee	- means any person, excluding an independent contractor, who works or worked for another person or for the state, and who receives or received, or is entitled to receive, any remuneration

	<ul style="list-style-type: none"> - means any other person who in any manner assists or assisted in carrying on, or conducts or conducted, the business of an employer - where the term employee has been used in this policy, it must be read in line with the term worker as per the PDA definition.
IESBA	means the International Ethics Standards Board for Accountants
Impropriety	<p>means 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"> (a) the impropriety occurs or occurred in the Republic of South Africa or elsewhere or (b) the law applying to the impropriety is that of the Republic of South Africa or of another country.
INTOSAI	means the International Organization of Supreme Audit Institutions
ISQC 1	means the International Standards on Quality Control 1 - quality control for firms that perform audits and reviews of financial statements and other assurance and related service engagements
Occupational detriment	<p>in relation to an employee, means –</p> <ul style="list-style-type: none"> (a) being subjected to any disciplinary action (as a result of making a protected disclosure) (b) being dismissed, suspended, demoted, harassed or intimidated (c) being transferred against his/her will (d) being refused transfer or promotion (e) being subjected to a term or condition of employment or retirement that is altered or kept altered to his/her disadvantage (f) being refused a reference, or being provided with an adverse reference, from his/her employer (g) being denied appointment to any employment, profession or office

	<ul style="list-style-type: none"> (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"> (i) a criminal offence or (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 (i) being threatened with any of the actions referred to in paragraphs (a) to (h) above or (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
Protected disclosure	<p>means a disclosure made to:</p> <ul style="list-style-type: none"> (a) a legal adviser in accordance with section 5 (b) an employer in accordance with section 6 (c) a member of cabinet or the executive council of a province in accordance with section 7 (d) a person or body in accordance with section 8 or (e) any other person or body in accordance with section 9, but does not include a disclosure: <ul style="list-style-type: none"> (i) in respect of which the employee concerned commits an offence by making that disclosure or (ii) made by a legal adviser to whom the information concerned was disclosed in the course of obtaining legal advice in accordance with section 5
Protection	<p>means the action of protecting or the state of being protected</p>
SAPS	<p>means the South African Police Service</p>
SCoAG	<p>means the Standing Committee on the Auditor-General</p>
Worker	<p>- means any person who works or worked for another person or for the state, or any other person who in any manner assists or assisted in carrying on, or conducts or</p>

conducted, the business of an employer or client, as an independent contractor, consultant, or agent
 or
 - means any person who renders services to a client while being employed by a temporary employment service⁹⁹

5. Policy principles

- 5.1 All complaints are to be directed to the Risk and Ethics BU in writing or through any form of electronic communication.
- 5.2 Complaints against the AG and/or his/her administration may originate from any source, whether internally from within the administration of the AGSA, or externally from auditees, other public or private entities, or members of the public.
- 5.3 Employees or workers are encouraged to disclose suspected impropriety on compliance to internal policies and procedures to the Risk and Ethics BU for investigation.
- 5.4 The Risk and Ethics BU should reasonably ensure that the disclosure process is secure for employees to rely upon and that the employees have trust in the process. All complaints will be dealt with in a confidential matter.
- 5.5 The AGSA will receive and act upon named and/or anonymous complaints from internal or external sources relating to the execution of an audit, the conduct of AGSA employees, or the conduct of the AG and/or his/her administration, on condition that the complaint contains sufficient detail regarding the allegation/s.
- 5.6 Each complaint, irrespective of the category under which it falls, should be treated and regarded as of equal importance and should be dealt with expeditiously and thoroughly to resolve whatever fact or circumstance may have caused or led to such a complaint.
- 5.7 Each complaint must at all times be dealt with in an ethical and professional manner as required by the AGSA's *Procedures on ethics*. In order to ensure the expeditious resolution of all legitimate complaints against the AG or his/her administration, the complaints procedures should be followed in all instances where a complaint, as referred to below, is received.
- 5.8 Protection of employees who blow the whistle may be required depending on the nature of the complaint and security considerations, where necessary.
- 5.9 The Risk and Ethics BU may reject any complaint, which after a preliminary assessment is:
 - (a) proven to be hearsay, rumour or false reports disseminated through the media
 - (b) inherently abusive, insulting, rude or disparaging
 - (c) frivolous, misconceived, unwarranted and manifestly incompatible with the mandate of the AGSA as per the PAA

- (d) is known to the employee to be false or which is made with malicious intent; an employee needs to be aware of the legal consequences for these transgressions
 - (e) viewed to be of no substance to the allegation/complaint.
- 5.10 The scope of the complaints covered by this policy will be as follows:
- 5.10.1 The exercising of powers, the performance of duties and the administration of the AGSA pertaining to the performance of audits and any other functions in terms of the PAA.
 - 5.10.2 Work performed during an audit by the AGSA, authorised auditors and other personnel where it is alleged that such work does not meet professional standards and regulatory and legal requirements.
 - 5.10.3 Complaints pertaining to the AG as a person.
 - 5.10.4 Disclosure made by AGSA employees in terms of the provisions of the PDA that pertain to occupational detriment.

- 5.11 The complaints will be categorised as follows:
- 5.11.1 **Category 1:** Complaints that do not fall within the scope of the subject matter of complaints referred to in this policy, in that they do not relate to audits conducted by the AGSA, conduct of its employees in conducting the audits nor the administration of the AGSA.
- 5.11.2 **Category 2:** Complaints pertaining to operational matters dealt with during the course of an audit referred to in the PAA. This category will include 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 assignment, the report and opinion (where applicable), and the working papers and all other supporting documentation.
- 5.11.3 **Category 3:** Complaints pertaining to the conduct of the personnel and administration of the AGSA. This category will include any complaints pertaining to criminal behaviour or other actions of whatever nature by authorised auditors and other personnel of the AGSA. Where the complaint alleges a grievance or a breakdown in the employer-employee relationship, the complaint will be referred to the business executive Business Support and Operations for investigation and resolution.
- 5.11.4 **Category 4:** Complaints pertaining to any actions of the AG in his/her official or personal capacity, and not the institution, its staff or representatives.
- 5.11.5 **Category 5:** Complaints that fall within the scope and ambit of the PDA. These complaints will pertain to instances where an employee is subjected to any occupational detriment by the AGSA, as his/her employer, on account, or partly on account, of having made a protected disclosure. To make a protected disclosure, a person must be an employee of the AGSA. In terms of the PDA, employees may report unlawful or irregular conduct by employers and fellow employees.
- 5.12 In line with the PDA requirements, should it come to the attention of the AGSA that employees of its service providers 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.
- 5.13 Complaints should be risk assessed considering the following
- Possible impact of the allegation within the complaint
 - Level of employee affected
 - Business area affected (administration or core business)
 - Risk category in line with the risk management framework
- The assessment will be performed by the complaints manager and the head of the Risk and Ethics BU after consultation with the respective corporate executive.
- 5.14 Complaints made against senior leadership will be dealt with in the following manner:

- 5.14.1 Should the complaint be made against an executive or higher, the line manager must brief the DAG on the complaint.
- 5.14.2 Should the complaint be made against the DAG, the head of the Risk and Ethics BU must brief the AG
- 5.14.3 Should a complaint be made against the AG in his official or personal capacity the DAG should brief SCOAG.
- 5.15 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 frame after the protected disclosure is made, decide on whether to investigate, not to investigate or to refer the disclosure to another institution or body in consultation with the DAG.
 - 5.15.1 The AGSA is mindful that some complaints, which fall under the ambit of the Prevention of Organised Crime Act, 1999 and the Prevention and Combating of Corrupt Activities Act, 2004, must be reported to the SAPS.
 - 5.15.2 Any disclosure that falls under section 8 of the PDA, must be reported to the Investigations BU in terms of the procedures for processing requests for investigations.
- 5.16 Half yearly reports will be submitted to an appropriate AGSA executive committee to address identified high-risk areas and trends in relation to complaints received in the performance year.
- 5.17 An appeals process is available for category, 2, 3 and 5 complaints. All appeal requests will be processed and adjudicated by an appeals committee that will be convened by the DAG for each appeal received. The appeals committee composition will be dependent on the type of matter appealed, and will be made up of individuals independent of the BU that would have previously dealt with the complaint or subject of the complaint. Where necessary, the appeal committee may include external independent members, as determined by the DAG.
 - 5.17.1 Where the complaint was lodged against the DAG, the AG's ruling cannot be appealed against. In the event that a complainant is dissatisfied with the outcome of a complaint lodged against the DAG, such complainant must approach a competent court to have the AG's decision reviewed.
 - 5.17.2 The appeal process is not available for anonymous complaints.
- 5.18 Should a complaint be made against the Risk and Ethics BU, the head of the Risk and Ethics BU shall report the complaint immediately to the DAG. The DAG will delegate the investigation of the complaint to a function independent of the risk and ethics business unit.

6. Application of this policy

- 6.1 This policy is applicable to all AGSA employees.

7. Non-compliance and corrective action

- 7.1 All employees are responsible for complying with this policy, as well as any guidelines and standards developed in support of the policy. Non-compliance with this policy shall be brought to the attention of management for appropriate action, and failure to comply with the conditions of this policy may lead to the institution of disciplinary proceedings as set out in the AGSA's disciplinary policy and procedures.

8. Key monitoring controls

- 8.1 The following monitoring questions are intended to ascertain whether the principles of the complaints policy are being complied with. Specific questions are as follows:
- 8.1.1 Was an accurate complaints register maintained and updated bi-monthly?
 - 8.1.2 Were all complaints received investigated and reported by the Risk and Ethics BU?
 - 8.1.3 Has the complaints manager categorised the complaint in terms of the policy within five working days?
 - 8.1.4 Has an acknowledgement letter been communicated to the complainant within five working days?
 - 8.1.5 Were all investigations resolved within thirty days, in cases where thirty days was exceeded was it documented and agreed to?
 - 8.1.6 Were the half yearly reports highlighting the high risk areas and trends in relation to complaints communicated to Exco?

9. Delegation of authority

Responses to complaints

- 9.1 Category 2, 3 and 5 complaints: The corporate executive recommends for approval; if the corporate executive is the subject of the complaint, the relevant line manager will make a recommendation on the outcome of the complaint.
- 9.2 Delegation of authority on complaints is in line with MAF, all category 2 complaints will be approved by the national leader and all category 3 and 5 complaints will be approved by the DAG.
- 9.3 Category 4 complaints: The DAG will escalate the complaint to SCoAG for investigation and resolution.
- 9.4 Complaints against the Risk and Ethics BU: The DAG will appoint a corporate executive and a business executive of an independent BU who will report to the national leader.

Dated and signed at Bradclun on this 14th day of August 2018.

By: Fabel for Exco (Held on 12 June 2018)