

<b>MEDIA RELEASE</b>	PSA concerned about alleged contravention of <i>Protected Disclosures Act</i> by North-West Departments
DATE	7 November 2024
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The Public Servants Association (PSA) concerned following reports that North-West government departments are allegedly subjecting employees to internal disciplinary inquiries for whistle blowing.

Whistleblowers play an essential role in maintaining the integrity of public operations by bringing attention to unlawful activities, corruption, and inefficiencies. The PSA emphasizes that employees making such disclosures enjoy protection in terms of the *Protected Disclosures Act (PDA)*. Section 1 of the *Act* defines a protected disclosure as the “*disclosure of information by an employee regarding any conduct of an employer or any of its employees, which is criminal or morally opprobrious.*” Furthermore, in terms of section 3 of the *Act*, “*an employee who has made a protected disclosure may not be subjected to any occupational detriment by the employer because of having made such a protected disclosure.*”

The Labour Court in *Jacobs and Others v National Commissioner of South African Police Service and Another* [13] held that if, “*an employee alleges in good faith that the holding of an inquiry contravenes the Protected Disclosures Act, that employee or the employer may require that an inquiry be conducted in terms of section 188A(11) of the Labour Relations Act into allegations by the employer into the conduct or capacity of the employee.*” The Court further held that section 188A(11) is not necessarily a scheme to challenge the alleged occupational detriment in terms of the *PDA*, per se. However, it is a mechanism aimed at avoiding collateral litigation where an employee claims that the holding of a disciplinary inquiry into allegations of misconduct offends the provisions of the *PDA* [21].

It is therefore important for North-West Departments in the province to adhere to the provisions of the mentioned legislation when dealing with the conduct and or capacity of employees who are whistleblowers. The PSA will continue to support and protect whistleblowers and aim to reinforce governmental policies. The PSA further calls on all members of the public and government employees to assist in ongoing efforts to promote a culture of honesty and accountability.

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