



Whistleblower reporting procedure

Whistleblower Protection Act

Contents

This whistleblower scheme complies with the Whistleblower Protection Act (Wbkr).

On February 18, 2023, the Whistleblower Protection Act was passed. This law replaces the House for Whistleblowers Act.

Every organisation with 50 employees or more is required by law to have an internal reporting procedure, the so-called whistleblower policy. The scheme gives employees the opportunity to report (possible) abuses and violations of EU law in the organisation.

This tool consists of the following components:

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Whistleblower reporting procedure

Article 1. Definitions

1. For the purposes of this regulation, the following definitions apply:
 - a. **employee:** a person who performs or has performed work on the basis of an employment contract or a public-law appointment, and a person who performs or has performed work for the employer other than in the context of an employment relationship.
 - b. **employer:** Digital Power B.V., who has or has had work performed on the basis of a contract of employment or an appointment governed by public law or has work performed or has been performed or has had work performed otherwise than in the course of an employment relationship;
 - c. **work-related context:** future, current or past work-related activities which, regardless of the nature of those activities, allow individuals to obtain information about wrongdoing and where those individuals may be disadvantaged if they were to report such information
 - d. **'wrongdoing' means** a breach or a risk of breach of Union law, or an act or omission in which the public interest is at stake in:
 - a. a violation or a risk of violation of a statutory provision or internal rules of an employer, or
 - b. a danger to public health, to the safety of persons, to the deterioration of the environment or to the proper functioning of the public service or of an undertaking resulting from improper acts or omissions;
 - e. **infringement of EU law:** an act or omission committed by
 - a. unlawful and relates to Union acts and policies falling within the material scope referred to in Article 2 of the Directive, or
 - b. undermines the purpose or application of the rules contained in Union acts and policies falling within the material scope referred to in Article 2 of the Directive.
 - f. **Directive:** [Directive \(EU\) 2019/1937 of the European Parliament and of the Council of 23 October 2019 \(OJ 2019 L 305\)](#)
 - g. **Suspicion of wrongdoing:** the suspicion of a reporter that there is (imminent) wrongdoing within the organisation in which he works or has worked or at another organisation - if he has come into contact with that organisation through his work. This presumption must be based on reasonable grounds arising from the knowledge acquired by the reporting person from his employer or from his work with another organisation.
 - h. **suspicion of an irregularity:** a suspicion based on reasonable grounds of an imperfection or injustice of a general, operational or financial nature that takes place under the

- responsibility of the organisation and is so serious that it falls outside the regular work processes and exceeds the responsibility of the immediate supervisor;
- i. **information on a breach:** information, including reasonable suspicions, about actual or potential breaches of Union law, which have occurred or are very likely to occur within the organisation where the reporting person works or has worked or within any other organisation with which the reporting person has been in contact in the course of his or her work, as well as attempts to conceal such breaches;
 - j. **'notification'** means the reporting of a suspicion of an irregularity, wrongdoing or breach of EU law under this regulation;
 - k. **reporting person:** a natural person who, in the context of his or her work-related activities, reports or discloses a suspicion of wrongdoing or irregularity;
 - l. **follow-up:** action by an employer to verify the accuracy of the reporting person's allegations and, if necessary and to the extent authorised, to carry out further investigations or take measures;
 - m. **confidential adviser:** the person who has been appointed to act as such for the employer's organisation;
 - n. **senior manager:** the body or person who is in charge of the day-to-day management of the employer's organisation;
 - o. **internal supervisory body:** the body that supervises the most senior management within the employer's organisation;
 - p. **contact person:** the person who has been appointed by the highest management after receipt of the report, in consultation with the reporting person, as the contact person with a view to combating disadvantage;
 - q. **third party concerned:** a third party who is connected in a work-related context to a reporting person or a legal entity owned by the reporting person, for which the reporting person works or with which the reporting person is otherwise connected in a work-related context;
 - r. **the person who assists a reporting person/advisor:** a natural person who advises a reporting person in the reporting process in a work-related context and whose advice is confidential;
 - s. **investigators:** those to whom the highest management entrusts the investigation into the wrongdoing;
 - t. **competent authority:** authority responsible for the receipt and follow-up of a report, where competent;
 - u. **'external third party'** means an administrative body, agency or other competent authority, other than a competent authority, which receives a report of a breach of Union law by virtue of a task or power conferred by or pursuant to the law or mandate.
 - v. **Advice Department of the House for Whistleblowers:** the Advice Department of the House referred to in Section 3a(2) of the WbK;

- w. **Investigation Department of the House for Whistleblowers:** the Investigation Department of the House referred to in Section 3a(3) of the Whistleblower Protection Act;
 - x. **trade secret:** trade secret as referred to in Article 1 of the Trade Secrets Protection Act;
2. Where the he-form is used in this regulation, the she/them/their-form should also be read.

Article 2. Information, advice and support for the employee

1. An employee can ask the confidential counsellor (internal) Annemiek Vonk 06 18 99 94 49 or (external) PraatUit 023-2010219 in confidence for information, advice and support regarding the suspicion of an irregularity, wrongdoing or a breach of EU law.
2. An employee can consult a duty of confidentiality adviser in confidence about a suspicion of an irregularity, wrongdoing or a breach of EU law.
3. The staff member may also request the advice department of the House for Whistleblowers for information, advice and support regarding the suspicion of an irregularity, wrongdoing or a breach of EU law.

Article 3. Internal report by an employee of the employer

1. An employee who suspects an irregularity, wrongdoing or a breach of EU law within his employer's organisation can report this to any manager who holds a hierarchically higher position than him within the organisation. If the employee has a reasonable suspicion that the highest management is involved in the suspected wrongdoing, violation or irregularity, he can also report the incident to the HR department. In that case, the term 'senior management' should be replaced by 'the internal supervisory body'.
2. The employee can also report the suspicion of an irregularity, wrongdoing or a violation of EU law within his employer's organisation via the confidential adviser (internal) Annemiek Vonk 06 18 99 94 49 or (external) PraatUit 023-2010219. The confidential adviser will forward the report, in consultation with the employee, to a supervisor as referred to in the previous paragraph.
3. The report may be made in writing, orally by telephone or other voice messaging systems or at the request of the reporting person within a reasonable period of time by means of a conversation at a location. The employee may also report anonymously.

Article 4. Internal report by an employee of another organization

1. An employee of another organisation who, through his work, has come into contact with the employer's organisation, and who suspects an irregularity, misconduct or infringement within the employer's organisation, can report this to any manager who occupies an equal or higher position than he or she within the employer's organisation.
2. If the employee has a reasonable suspicion that the highest management is involved in the suspected wrongdoing, violation or irregularity, he can also report the incident to the HR department.

3. The employee of another organisation can also report the suspicion of abuse, breach or irregularity within his employer's organisation via the confidential (internal) Annemiek Vonk 06 18 99 94 49 or (external) PraatUit 023-2010219. The confidential adviser shall, in consultation with the employee, forward the report to a manager as referred to in paragraph 1 or the internal supervisory body referred to in paragraph 2.
4. The report may be made in writing, orally by telephone or other voice messaging systems or at the request of the reporting person within a reasonable period of time by means of a conversation at a location. Call recordings may only be made with the consent of the reporting person. The employee may also report anonymously.

Article 5. Reporting to a competent authority

1. A reporter with a suspicion of wrongdoing or violation within his employer's organisation can also report this directly to the competent authority. This article does not apply to a suspicion of an irregularity: only internal reporting is possible.
2. Competent authorities are:
 - a. the Netherlands Authority for Consumers and Markets (ACM);
 - b. the Netherlands Authority for the Financial Markets (AFM);
 - c. the Dutch Data Protection Authority (DPA);
 - d. De Nederlandsche Bank (DNB);
 - e. the House for Whistleblowers;
 - f. the Health and Youth Care Inspectorate (IGJ);
 - g. the Dutch Healthcare Authority (NZ);
 - h. the Authority for Nuclear Safety and Radiation Protection (ANVS), and
 - i. organisations and administrative bodies designated by general administrative order or ministerial regulation, or parts thereof.
3. The report may be made in writing, orally by telephone or other voice messaging systems or at the request of the reporting person within a reasonable period of time by means of a conversation at a location. The employee may also report anonymously.

Article 6. Protection of the reporter against detriment

1. The employer must protect the reporter against harm.
2. A reporting person should also not be prejudiced during and after disclosure of a suspected irregularity, wrongdoing or breach of EU law, provided that:
 - a. the reporting person has reasonable grounds to believe that the information reported is accurate at the time of disclosure;
 - b. the reporting person has made a report prior to the disclosure:
 - i. with the employer and a competent authority or administrative body, agency or other competent authority; or
 - ii. directly to a competent authority or an administrative body, agency or other competent body; or if,

- iii. On the basis of the information, the reporter has reasonable grounds to believe that the investigation is not progressing sufficiently.
 - c. A reporting person should also not be prejudiced during and after the disclosure of a suspected irregularity, wrongdoing or breach of EU law, if the reporting person has reasonable grounds to believe that:
 - i. the abuse may constitute an imminent or real danger to the public interest;
 - ii. there is a risk of being disadvantaged when reporting to a competent authority or other competent authority; or
 - iii. it is unlikely that the abuse will be remedied effectively.
- 3. Disadvantage as referred to in paragraph 1 shall in any case be understood to mean the adoption of a prejudicial measure, such as:
 - a. dismissal or suspension;
 - b. a fine as referred to in Article 650 of Book 7 of the Dutch Civil Code;
 - c. demotion;
 - d. withholding promotion;
 - e. a negative review;
 - f. a written reprimand;
 - g. transfer to another establishment;
 - h. discrimination;
 - i. intimidation, bullying or exclusion;
 - j. smaad of laster;
 - k. early termination of a contract for the provision of goods or services; and
 - l. withdrawal of an authorisation.
- 4. Disadvantage also exists if there are reasonable grounds to hold the reporting person accountable for his performance or to take a disadvantageous measure as referred to in paragraph 3 against him, but the measure taken by the employer is not in reasonable proportion to his performance or violation of the rules.
- 5. In the event of a detriment to a reporting person during and after the handling of a report, or after the publication of a suspicion of an irregularity, wrongdoing or a breach of EU law, it is presumed that the disadvantage is the result of the report or the disclosure. The employer can provide evidence to the contrary.
- 6. The employer shall ensure that the reporting person's supervisors and colleagues refrain from any form of detriment in connection with the good faith and proper reporting of a suspected irregularity, wrongdoing or a breach of EU law that impedes the professional or personal functioning of the reporting person. In any case, this includes:
 - a. bullying, ignoring and excluding the reporter;
 - b. making unfounded or disproportionate accusations with regard to the functioning of the reporting person;
 - c. the actual imposition of an investigation, speaking, workplace and/or contact ban on the reporter or colleagues of the reporter, in whatever way formulated;

- d. intimidating the reporter by threatening certain measures or behaviour if he goes through with his report.
7. The employer will address employees who are guilty of disadvantage and may impose a warning or other disciplinary measure on them.

Article 7. Countering disadvantage of the reporter

1. As soon as possible after receiving the report, the most senior management – in consultation with the reporter – will appoint a contact person with a view to countering disadvantage to the reporter. The contact person discusses as soon as possible, together with the reporter, what risks of disadvantage are present, how those risks can be reduced and what the employee can do if he or she believes that disadvantage has occurred. The contact person shall ensure that this is recorded in writing, and shall submit this record to the reporter for approval and signature. The reporter will receive a copy of this.
2. If the reporter is of the opinion that there has been a disadvantage, he can discuss this with the contact person. The contact person and the reporter also discuss what measures can be taken to prevent disadvantage. The contact person shall ensure that this is recorded in writing, and shall submit this record to the reporter for approval and signature. The contact person forwards the report to senior management as soon as possible. The reporter will receive a copy of this.
3. The senior management ensures that measures are taken to prevent disadvantage.

Article 8. Protection of other data subjects against detriment

1. The employer will not disadvantage the confidential advisor, contact person, third parties involved, advisor and investigators who is employed by the employer because of the performance of the duties described in these regulations.
2. The employer will not disadvantage an employee who is heard by the investigators in connection with making a statement in good faith.
3. The employer will not disadvantage an employee in connection with the fact that he provides the investigators with documents that he reasonably deems to be important for the investigation.
4. Article 7(1) and (2) shall also apply to the other data subjects referred to in this Article.

Article 9. Confidential handling of the report and the identity of the reporter and other data subjects

1. All those involved in the handling of a report shall not disclose the identity of the reporting person and other persons involved without the express written consent of the reporting person and shall treat the information about the report confidentially.
2. If the suspicion of an irregularity, wrongdoing or a breach of EU law has been reported through the confidential adviser and the reporting person has not consented to his or her

identity being disclosed, all correspondence about the report will be sent to the confidential adviser and the confidential adviser will forward it to the reporting person as soon as possible.

3. All those involved in the handling of a report shall also not disclose the identity of the third party and adviser concerned without their express written consent.

Article 10. Recording, forwarding and acknowledgment of receipt of the internal report

1. If the employee reports a suspected irregularity, wrongdoing or a breach of EU law orally to a supervisor or through the confidential adviser or provides a written report with an oral explanation, this supervisor or confidential adviser, in consultation with the reporting person, will ensure that this is recorded in writing and submit this record to the reporting person for approval and signature. The reporter will receive a copy of this.
2. The supervisor to whom the report has been made must immediately forward the report to the highest manager within the employer's organisation.
3. If the reporter or the supervisor to whom the report was made has a reasonable suspicion that the senior manager is involved in the suspected misconduct or irregularity, the supervisor will immediately forward the report to the HR department. In that case, in these regulations, the term 'senior management' should be read as 'the HR department'.
4. The senior management shall send the reporter an acknowledgement that the report has been received without delay, but no later than within seven days. In any case, the acknowledgement of receipt must contain a factual description of the report, the date it was received and a copy of the report. The most senior management will send the reporting person information about the next steps within three months of the acknowledgement of receipt.
5. The employer registers a report upon receipt in a register set up for this purpose. The data of a report in the register will be destroyed if it is no longer necessary to comply with the requirements of the Whistleblower Protection Act or other requirements laid down by or pursuant to law or Union law.

Article 11. Handling of the internal report by the employer

1. Senior management investigates the reported suspicion of irregularity, wrongdoing or breach of EU law, unless:
 - a. the presumption is not based on reasonable grounds, or
 - b. It is clear in advance that the report does not relate to a suspicion of wrongdoing, infringement or irregularity.
2. If the senior management decides not to initiate an investigation, he or she must inform the reporter in writing within two weeks of the internal report. It also indicates on the basis of which the senior management considers that the suspicion is not based on reasonable

grounds, or that it is clear in advance that the report does not relate to a suspicion of an irregularity, wrongdoing or a breach of EU law.

3. Senior management assesses whether a competent authority should be informed of the internal report of suspected wrongdoing. Reports will only be sent to other authorities with the explicit consent of the reporter. If the employer informs a competent authority, the most senior management will send a copy to the reporting person, unless there are serious objections to this.
4. The senior management shall entrust the investigation to investigators who are independent and impartial, and in any case shall not have the investigation carried out by persons who may be or have been involved in the suspected wrongdoing or irregularity.
5. Senior management shall inform the reporting person in writing as soon as possible that an investigation has been initiated and by whom the investigation is being conducted. The most senior management will send the reporter a copy of the investigation assignment, unless there are serious objections to this.
6. Senior management shall inform the persons to whom a report relates about the report and about informing a competent authority, unless the interest in investigation or enforcement may be harmed as a result.

Article 12. The conduct of the study

1. The investigators will give the reporter the opportunity to be interviewed. The investigators shall ensure that this is recorded in writing and shall submit this record to the reporter for approval and signature. The reporter will receive a copy of this.
2. The researchers can also hear others. The investigators shall ensure that this is recorded in writing, and shall submit this record to the person who has been heard for approval and signature. The person who has been heard shall receive a copy of the hearing.
3. The investigators can inspect and request all documents within the employer's organization that they reasonably deem necessary for conducting the investigation.
4. Employees may provide the investigators with any documents that they reasonably deem necessary for the investigators to take note of in the context of the investigation.
5. The investigators draw up a draft investigation report and give the reporter the opportunity to comment on it, unless there are serious objections to this.
6. The investigators then adopt the investigation report. They will send a copy to the reporter, unless there are serious objections to this.
7. Trade secrets received in the context of the report may not be used for any purpose other than to follow up on the report.

Article 13. Employer's point of view

1. Within eight weeks of the report, the senior management informs the reporting person in writing of the substantive position with regard to the reported suspicion of an irregularity, wrongdoing or a breach of EU law. It also indicates the steps to which the report has led.
2. If it becomes clear that the opinion cannot be given within the prescribed period, the senior management will inform the reporting person in writing. This will indicate the period within which the reporter can expect to receive the opinion. If, as a result, the total period is more than twelve weeks, it will also be indicated why a longer period is necessary.
3. After completion of the investigation, the highest management assesses whether an external body should be informed of the internal report of a suspicion of wrongdoing or violation, as well as of the investigation report and the employer's position. If the employer informs an external body, he will send the reporter a copy of this, unless there are serious objections to this.
4. The persons to whom the report relates shall be informed in the same way as the reporting person, unless the interest in investigation or enforcement may be harmed as a result.

Article 14. Adversarial hearing with regard to investigation report and employer's position

1. The employer gives the reporter the opportunity to respond to the investigation report and the employer's position.
2. If, in response to the investigation report or the employer's opinion, the reporting person substantiates that the suspicion of an irregularity, wrongdoing or a breach of EU law has not been effectively or properly investigated, or that the investigation report or the employer's position contains substantial inaccuracies, the employer will respond substantively and, if necessary, initiate a new or additional investigation.
3. If the employer informs or has informed an external body, it will also send the aforementioned response of the reporter to the investigation report and the employer's position to that external body. The reporter will receive a copy of this.

Article 15. Internal and external investigation into detriment to the reporter

1. The reporter or the persons concerned under Article 8 of these regulations who believe that there has been prejudice in connection with the reporting of a suspicion of an irregularity, wrongdoing or violation, may request the highest management to investigate the way in which he is treated within the organisation.
2. The reporter may also request the investigation department of the House for Whistleblowers to conduct an investigation into the way in which the employer has behaved towards him, following the report of a suspicion of an irregularity, wrongdoing or violation.

Article 16. Publication, reporting and evaluation

1. The senior manager ensures that this scheme is published on the common Teams channel (intranet) and made public on the employer's website.
2. Senior management prepares an annual report on the policy on dealing with the reporting of suspected irregularities, abuses or breaches of EU law and the implementation of this regulation. This report shall include at least:
 - a. information on the policy pursued in the past year with regard to the reporting of suspected wrongdoing, infringements and irregularities and the policy to be pursued in this area in the coming year;
 - b. information on the number of reports and an indication of the nature of the reports, the results of the investigations and the views of the employer;
 - c. general information about the experiences with countering disadvantage to the reporter;
 - d. information on the number of requests for investigations into disadvantage in connection with reporting suspected wrongdoing and an indication of the results of the investigations and the views of the employer.
3. The senior management sends the draft report referred to in the previous paragraph to the works council for discussion, after which it is discussed in a consultation meeting with the works council.
4. The highest management gives the works council the opportunity to express its position on the policy regarding the reporting of suspected abuses, violations and irregularities, the implementation of this regulation, and the reporting. The highest management ensures that the position of the works council is incorporated in the report, and submits this processing to the works council for approval.

Article 17. Entry into force of the scheme

1. This regulation will enter into force on 17-12-2023.
2. This regulation is referred to as the regulation for dealing with the reporting of a suspected irregularity, wrongdoing or a breach of EU law.

Explanation

Article 1. Definitions

Paragraph 1(a). Employee

Who is an employee?

In the Wbk, the term 'employee' does not only refer to workers with an employment contract, but also to others who perform work in a subordinate relationship for remuneration. As a result of this obligation to pay compensation, trainees and volunteers are only counted as employees if they receive compensation for their work.

Employee of another organization

Under the Wbk, this regulation applies not only to employees of the employer who has established the scheme, but also to employees of another organisation who have come into contact with the organisation of this employer through their work. These can be temporary workers or seconded workers, but also, for example, consultants, workers, cleaners, etc. In addition, this group includes employees of another organisation who, through cooperation with this employer, have become aware of a suspected irregularity, wrongdoing or infringement at this employer. The group of employees of another organisation may also include civil servants.

Own employee and employee of another organization

In this regulation, the term 'employee' refers to both types of employee.

Paragraph 1(b). Employer

The definition of employer is in line with the definition in the Whistleblower Protection Act. However, when these regulations refer to employers, they refer specifically to the employer who has adopted them.

Paragraph 1(d). Abuse

Social importance

When an abuse is of social importance, it means that the situation does not only affect individual people, but a broader group or society as a whole. This has to be assessed on a case-by-case basis. Here are some points that indicate when something is of social importance:

1. **Severity:** The situation is serious enough to affect more than just the people directly involved.
2. **Size:** Many people are affected by the abuse.
3. **Structural:** The abuse does not just happen once, but is a recurring problem.

An abuse of social importance therefore goes beyond individual problems and touches on broader social issues.

Paragraph 1(f). Directive

This is the EU directive that forms the basis for the Wbk. The Netherlands has only made a few additions to this directive in the Wbk.

Paragraph 1(g). Suspicion of (imminent) wrongdoing

From the point of view of preventing the occurrence of abuses, it is desirable that an employee can also make a report in the event of imminent wrongdoing. For example, the situation in which the decision that will lead to the occurrence of the suspected abuse has already been taken but this decision has not yet been implemented. The Wbk only refers to the suspicion of wrongdoing. The addition of 'threatening' is therefore optional.

Reasonable grounds

The suspicion of wrongdoing must be based on reasonable grounds. This means that the reporter does not have to prove that there has been wrongdoing, but he must be able to substantiate his suspicion to some extent. The suspicion must be sufficiently concrete and based on your own observation or documents (e.g. e-mails, reports, letters, photographs, etc.). Hearsay, for example, are not enough.

Paragraph 1(h). Suspicion of irregularity

General

Compared to the Wbk, the possibility to report a suspected irregularity internally has been added. This addition is optional.

Less severe

An irregularity is less serious than an abuse or an infringement. An irregularity is an imperfection or injustice that is not so serious that the public interest is at stake.

Reason for addition

The possibility to report internally a suspected irregularity has been added:

- because it is in the interest of both employer and employees if employees can report this internally, so that the employer is able to solve the problem in question; and
- Because it is in accordance with the right to freedom of expression in the workplace for the employer to offer an employee who wishes to report a suspected irregularity internally the opportunity to do so and to protect him against disadvantage in his employment position.

No external reporting possible

If the report relates only to a suspicion of an irregularity and not to a suspicion of wrongdoing or infringement of EU law, this regulation does not provide for the possibility of making an external

report. The reason for this is that in the event of a mere suspicion of an irregularity, the public interest is not at stake.

Reasonable grounds

The definition requires, among other things, that the presumption be based on reasonable grounds.

Paragraph 1(m). Confidential counsellor

The confidential adviser is the person who has been appointed to act as a confidential adviser for the employer's organisation. The appointment of a confidential adviser is not mandatory under the Wbk. Depending on the nature and size of the organisation, the employer can choose an internal confidential adviser and/or an external confidential adviser.

Paragraph 1(n). Senior Executives

The highest manager, i.e. the body or person who is in charge of the employer's organisation on a day-to-day basis, is often the Board of Directors, management or director of the employer's organisation.

Paragraph 1(o). Internal supervisory body

If the employer's organisation has an internal supervisory body, i.e. a body that supervises the most senior management within the employer's organisation, this is often the Supervisory Board, the Supervisory Board or, for example, the Board of Governors.

Paragraph 1(p). Contact

The Wbk does not prescribe the appointment of a contact person. The inclusion of a provision on this is therefore optional. Especially in larger, complex organizations, it is advisable to appoint a contact person to prevent the reporter from being disadvantaged.

These regulations stipulate that the highest management will appoint a contact person as soon as possible after receipt of the report, in consultation with the reporter, with a view to preventing the reporter from being disadvantaged.

This can be a confidential adviser or an employee who holds an equal or higher position within the organisation than the reporter. It is important that the contact person is someone in whom the reporter has confidence. That is why the contact person is appointed in consultation with the reporter.

Because disadvantage can occur at an early stage, it is advisable that the contact person can start work as soon as possible after receiving the report.

Paragraph 1(r). The person who assists a reporter

The Wbk stipulates that the employee has the opportunity to consult an advisor in confidence about a suspicion of wrongdoing. The consultant must be a person who has a duty of confidentiality.

Paragraph 1(t). Competent authorities

The reporting person may submit the external report to an external body that is most appropriate.

Paragraph 1 under you. Advisory Department of the House for Whistleblowers

The services provided by the House's Advisory Department are confidential, independent and free of charge. The employee can request the advice department of the House for Whistleblowers for information, advice and support regarding the suspicion of wrongdoing.

Paragraph 1(v). Researchers

Senior management entrusts the investigation to investigators who are independent and impartial, and in any case does not have the investigation carried out by persons who may be or have been involved in the suspected wrongdoing, breach of EU law or irregularity.

Paragraph 1(w). Research Department of the House for Whistleblowers

The reporter can make the external report to an external body, including the investigation department of the House for Whistleblowers (competent authority).

The reporter can also request the investigation department of the House for Whistleblowers to conduct an investigation into the way in which the employer has behaved towards him in response to the report of suspected wrongdoing.

Article 2. Information, advice and support for the employee

An employee who thinks that there may be an irregularity, wrongdoing or a breach of EU law has the opportunity to discuss this with an advisor, the confidential counsellor and the advice department of the House for Whistleblowers.

Paragraph 1

The confidential adviser is the person who has been appointed to act as a confidential adviser for the employer's organisation. Depending on the employer's choice, this can be an internal confidential adviser and/or an external confidential adviser.

Paragraph 2

An adviser is a person who, by virtue of his position, has a duty of confidentiality and who is consulted in confidence by an employee about a suspicion of wrongdoing. This includes at least the confidential advisor, an advisor from the advice department of the House for Whistleblowers, a lawyer, a lawyer from a trade union, a lawyer from a legal expenses insurer and a company doctor.

Paragraph 3

The services provided by the House's Advisory Department are confidential, independent and free of charge. More information can be found at www.huisvoorklokkenluiders.nl.

Article 3. Internal report by an employee of the employer

Paragraph 1

This provision is in accordance with the Wbk and, depending on the seriousness and extent of the suspected (imminent) irregularity, abuse or violation of EU law and depending on who is involved, offers its own employee the opportunity to decide for himself where and at what level within the organisation he can best make the report.

The manager to whom the report is made does not have to be a (direct) supervisor in the line.

Paragraph 2

Paragraph 2 regulates the possibility for one's own employee to submit the internal report via the confidential advisor. The confidential counsellor will then act as a conduit, which will further guarantee the confidential handling of the identity of the reporter. This means that in that case, the confidential adviser through whom the report was made will ensure that a written record of an oral report or an oral explanation thereof. The confidential counsellor will discuss with the employee to which manager the report will be forwarded.

The confidential counsellor is there for the employee and is therefore not involved in the handling of the report. That is why the report cannot be made to, but via the confidential advisor.

Article 4. Internal report by an employee of another organization

This provision is in accordance with the Wbk.

Paragraph 1

Paragraph 1 offers an employee of another organisation, depending on the seriousness and extent of the suspected abuse and depending on who is involved, the opportunity to decide for himself where and at what level within the employer's organisation he can best make the report.

Paragraph 2

Paragraph 2 regulates the reporting to an internal supervisory body. If there is no internal oversight body, you can remove this member.

Paragraph 3

Paragraph 3 regulates the possibility for an employee of another organisation to make the internal report via the confidential adviser.

Article 5. Reporting to an external authority

The Wbk stipulates that a report of a suspicion of wrongdoing or violation of EU law can also be made directly to a competent authority. This does not apply to a suspicion of an irregularity. The reporter can only report this internally.

Article 6. Protection of the reporter against detriment

Ensuring proper protection of the reporting person against detriment is one of the basic prerequisites for properly and carefully dealing with the reporting of a suspected irregularity, wrongdoing or breach of EU law.

Disadvantage occurs if the reporting person is treated worse than he would have been treated if he had not made a report. This disadvantage can also take place in the phase prior to the notification. This is the stage where the future reporter has become aware of the issue and has started to ask questions about it internally or express their opinion on it.

Protection against disadvantage does not only mean that the employer refrains from taking prejudicial measures. The employer also has the responsibility to ensure that supervisors and colleagues do not actually disadvantage the reporter through certain behaviour.

Protection against disadvantage is not limited to a certain period of time. What matters is that the reporter is not disadvantaged in connection with making a report.

For the sake of completeness, it should be noted that the protection against disadvantage relates to one's own employee in two distinct situations.

- In the first situation, the suspected irregularity, abuse or violation takes place at the employer's own premises and the employee reports the incident to this employer.
- In the second situation, the suspected irregularity, wrongdoing or infringement takes place at another organisation, with which the employee has come into contact with the employer's organisation through his work. In that case, the employee can report the incident to that

other organization. The report itself will then be handled by that other organisation. Even then, however, your own employer may not disadvantage the reporter as a result of making a report to that other organisation.

In addition, the protection against disadvantage applies to the employee of another organisation who reports a suspicion of wrongdoing or violation to this employer. After all, this employer may not disadvantage an employee of another organization as a result of making a report. In practice, this protection is especially important for employees who are dependent on this employer for their employment position, such as temporary workers and seconded workers.

Paragraph 2

Paragraph 2 requires, as does the protection provision in the Wbk, that the employee makes the report in good faith and properly. This means that the reporter makes the report in accordance with these regulations and that the reporter does not make a false or false report. The reporter does not have to prove that he is acting in good faith.

Paragraph 3

Paragraph 3 gives examples of measures that constitute disadvantage if the employer takes them in connection with the good faith and proper reporting of a suspicion of wrongdoing or irregularity. This list is not exhaustive.

Paragraph 5

The obligation to state reasons is a precautionary measure that helps the employer to prevent the reporting person from being disadvantaged by his supervisors. If the proposed measure is not related to the making of the report, the supervisor will be able to indicate without any objection why this measure is necessary.

Paragraph 6

Paragraph 6 expresses that the obligation to behave as a good employer implies that the employer has a duty of care and is obliged to actively protect the reporting person against disadvantage as a result of the actual conduct of managers and colleagues.

Paragraph 6

Paragraph 6(c) refers to the situation in which an investigation, speaking, workplace and/or contact ban is not explicitly imposed, but the supervisor makes a request to that effect, for example, in a conversation and then considers it to be an agreement made.

Paragraph 7

Paragraph 7 expresses that the obligation to behave as a good employer implies that the employer is, where appropriate, obliged to take active enforcement action. Depending on the seriousness of the disadvantage and the role played by the employee in question, the employer will have to assess which course of action will be sufficient to effectively implement the protection of the reporter against disadvantage.

Article 7. Countering disadvantage of the reporter

As soon as possible after receipt of the report, the highest management, in consultation with the reporting person, appoints a contact person with a view to preventing the reporting person from being disadvantaged. This can be a confidential adviser or an employee who holds an equal or higher position within the organisation than the reporter. It is important that the contact person is someone in whom the reporter has confidence. That is why the contact person is appointed in consultation with the reporter.

Because disadvantage can occur at an early stage, it is important that the contact person can start work as soon as possible after receiving the report.

There will be a risk of disadvantage if there is a risk that the reporter's immediate supervisors and/or direct colleagues will speak negatively about the fact that someone has made a report or will blame the reporter for having made the report. This risk is real, for example, if one or more of them are directly or indirectly involved in the suspected wrongdoing or if they are friends with or otherwise loyal to one or more employees who are directly or indirectly involved in the suspected wrongdoing.

The best way to reduce the risk of harming the reporter will depend on the situation as it arises within the organisation. In the event of a situation such as the one described above, the employer could indicate to the employees concerned what attitude and what manner the employer expects from them in this situation and what attitude and what way of behaving the employer does not find acceptable in this situation.

Article 8. Protection of other data subjects against detriment

In addition to the reporter, employees who assist him or play a role in any other way may also be at a disadvantage. The employer must also provide protection for this.

Persons who report or disclose breaches in the course of their work, regardless of the nature of their work, are protected if they are likely to be harmed by the organisation to which the report relates.

It must therefore be information that has been made available to the reporting person in the course of his or her work. If there is no work-related power imbalance, there is no need for protection,

because there is no possibility of disadvantage. The disadvantage can be in the economic sphere, but it can also be negative employment references, no longer using services and reputational damage.

This includes not only employees, civil servants, self-employed persons, trainees and temporary workers, but also (persons who work under the responsibility of) suppliers, contractors and subcontractors and persons in management bodies, such as members of a supervisory board. The directive also mentions shareholders as individuals who may be subject to forms of intimidation, harassment and reputational damage and therefore deserve protection.

The reporting of information obtained in an already terminated working relationship or in the pre-contractual phase, where a (potential) working relationship has not yet commenced (as is the case for job applicants), is also protected by the Directive.

Article 9. Confidential handling of the identity of the reporter

Paragraph 1

If supervisors and/or colleagues know who made the report and blame them for it, this can lead to disadvantage of the reporter. It is therefore important that the identity of the reporting person is treated as confidentially as possible. In concrete terms, this means that the group of persons who know who the reporter is may not be larger than is necessary for the proper implementation of this regulation. This also applies to indirect information that may lead to the disclosure of the identity of the reporting person.

The identity of the reporting person is required for the identity of the reporting person to be disclosed outside this group of persons. This declaration of consent will have to specify to whom or to which group of persons the identity of the reporting person may be disclosed.

Paragraph 2

If the report is made via the confidential adviser and the reporter does not give permission to reveal his identity, only the confidential adviser will know who the reporter is. This is ensured by having all correspondence about the report go through the confidential advisor.

Paragraph 3

Confidentiality of the identity of the adviser and the third party concerned is important for both the reporting person and the adviser and the third party concerned. That is why the identity of the consultant and the third party concerned is subject to express written consent. This declaration of consent will have to specify to whom or to which group of persons the identity of the adviser may be disclosed.

Article 10. Recording, forwarding and acknowledgment of receipt of the internal report

Paragraphs 1 and 2

There are no formal requirements attached to reporting a suspicion of wrongdoing or irregularity. Submitting a report is free of form and can be done both verbally and in writing.

Paragraphs 1 and 2 stipulate that the content of the report must be recorded in writing. This prevents differences of opinion from arising at a later stage.

Paragraph 3

The handling of the report is the responsibility of the highest management. That is why the supervisor must forward the report to him as soon as possible.

Paragraph 6

The obligation to set up a register is set out in the Whistleblower Protection Act.

Article 11. Handling of the internal report by the employer

Paragraph 1

In principle, an investigation is always initiated in response to a report of a suspicion of wrongdoing, infringement or irregularity. There are two exceptions to this.

The first exception (under a) is that the presumption is not based on reasonable grounds.

The second exception (under b) is the situation in which it is clear in advance, i.e. without conducting an investigation, that the report does not relate to a suspicion of wrongdoing, infringement or irregularity. This is the case if it is clear in advance:

- that there is nothing wrong with the reported behaviour or events, or
- that the reported conduct or events are not serious enough to constitute a suspicion of wrongdoing, infringement or irregularity.

Paragraph 3

General

An internal report of a suspicion of wrongdoing may be a reason for the employer to inform an external authority of this report. This can arise from a duty to report, but can also be motivated by the employer's own interest or from the point of view of corporate social responsibility. Paragraph 3 stipulates that this assessment is also made at the stage of processing the report.

Serious objections

The phrase 'unless there are serious objections' expresses that this will only be the case in an exceptional situation. When considering whether this is the case, the employer will have to take into account:

- that the reporting person has a legitimate interest in being able to verify that the notification to the external body is made properly and diligently, and
- that the reporting person has a duty of confidentiality vis-à-vis the employer and that the employer may expect the reporting person to handle all data and documents related to the report with care.

If, however, there are serious objections to sending a copy to the reporting person, the employer shall send the reporting person a summary omitting the information against which the serious objections exist.

Article 12. The conduct of the study

The employer must appoint impartial persons or departments to investigate or take action in response to the report. These can be the same officials who handle the reports and maintain communication with the reporter.

In addition, the requirements set for the reporting channels apply. This concerns the obligation of confidentiality, the obligation to record reports of breaches of Union law and the processing of personal data.

Article 13. Employer's point of view

Paragraphs 1 and 2

The first period laid down in those provisions, which is in principle eight weeks, for sending a substantive opinion to the reporting person and the obligation to indicate why, if it is going to take longer than twelve weeks, ensure that the handling of the report and the investigation into the suspected wrongdoing or irregularity is carried out expeditiously.

Paragraph 3

This provision stipulates that this assessment is also made after the investigation has been completed.

Article 14. Adversarial proceedings

This article gives the reporter the opportunity to respond to the substantive assessment of the report.

Article 15. Internal and external investigation into detriment to the reporter

Paragraph 1

Ensuring proper protection of the reporter and other parties involved against disadvantage is one of the basic conditions for properly and carefully dealing with the reporting of a suspicion of wrongdoing or irregularity. This includes that the reporter who believes that there has been a disadvantage can request the employer to investigate the way in which he is treated within the organisation.

Paragraph 2

This provision refers to the possibility for the reporter to also request the investigation department of the House for Whistleblowers to conduct an investigation into the way in which the employer has behaved towards him. This possibility is regulated in Section 4(1)(b) of the Wbkr. Submitting such a request to the House Investigation Department is not subject to the condition that the reporter must first have made such a request internally.

Article 16. Publication, reporting and evaluation

Paragraph 1

Under the Wbkr, the employer is obliged to provide the persons who work for him with a written or electronic statement of the procedure for dealing with the reporting of suspected wrongdoing within his organisation.

However, former employees, employees of the employer who perform work other than as an employee and employees of another organisation usually do not have access (anymore) to the employer's intranet. That is why this regulation also prescribes that the scheme must be made public on the employer's website.

Paragraphs 3 and 4

The works council or employee representative body has the right to consent to the whistleblower reporting procedure. If there is no works council, the employer needs the consent of more than half of the employees. Consent is not required insofar as the content of the procedure is regulated in a collective labour agreement.