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## Whistleblower Policy

Hearthside Europe attaches great importance to pursuing a sound integrity policy and, as part of this, to a good whistleblower policy and has established the following regulations in this regard;

### Article 1. Definitions

1. In these regulations, the following definitions apply:
  - a. whistleblower: the person who performs or has performed work pursuant to an employment contract under civil law or an appointment under public law, or the person who performs or has performed work other than through employment;
  - b. employer: Hearthside Europe, which, pursuant to an employment contract under civil law, has work performed or has had work performed or has work performed or has had work performed other than from employment;
  - c. suspicion of wrongdoing: the suspicion of a whistleblower who has committed wrongdoing within the organization in which he works or has worked or at another organization if he has come into contact with that organization through his work, insofar as
    - 1st. the suspicion is based on reasonable grounds, arising from the knowledge acquired by the whistleblower at his employer or arising from knowledge acquired by the whistleblower through his work at another company or organization, and
    - 2nd. the public interest is at stake when:
      - i. the (imminent) violation of a statutory provision, including an (imminent) criminal offence,
      - ii. an (imminent) danger to public health,
      - iii. an (imminent) danger to the safety of persons,
      - iv. an (imminent) threat to the environment,
      - v. an (imminent) danger to the proper functioning of the organization as a result of an improper act or omission,
      - vi. an (imminent) violation of rules other than a statutory regulation,
      - vii. an (imminent) waste of public money,
      - viii. (a threat of) knowingly withholding, destroying or manipulating information about the facts mentioned under i to vii above
  - d. 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 organization and is so serious that it falls outside the regular work processes and exceeds the responsibility of the direct supervisor;
  - e. adviser: a person who, by virtue of his position, has a duty of confidentiality and who is consulted in confidence by a whistleblower about a suspected wrongdoing;
  - f. confidential counselor: the person designated to act as such for the employer's organization;
  - g. Advice department of the House for Whistleblowers: the advice department of the House, as referred to in Article 3a, paragraph 2 of the WHvK;

- h. report: the report of a suspected wrongdoing or irregularity on the basis of these regulations;
- i. reporter: the whistleblower who has reported a suspicion of malpractice or irregularity on the basis of these regulations;
- j. senior manager: the body or person that has the day-to-day management of the employer's organization;
- k. internal supervisory body: the body that supervises the most senior manager within the employer's organization;
- l. chiefly responsible: the internal supervisory body or, if the employer's organization does not have an internal supervisory body, the most senior manager;
- m. contact person: the person who has been designated by the senior manager after receipt of the report, in consultation with the reporter, as contact person with a view to combating disadvantage;
- n. investigators: those to whom the most senior manager instructs the investigation into the abuse;
- o. external body: the body that, in the reasonable opinion of the reporter, is most eligible to add to the external report of the suspected wrongdoing;
- p. external third party: any organization or representative of an organization that, in the reasonable opinion of the reporter, may be deemed capable of directly or indirectly solving the suspected abuse or having it resolved;

2. investigation department of the House for Whistleblowers: the investigation department of the House, as referred to in Article 3a, paragraph 3 of the House for Whistleblowers Act; 2. Where the he-form is used in these regulations, the side-form should also be read.

### **Article 2. Information, advice and support for the whistleblower**

1. A whistleblower can consult an adviser in confidence about a suspicion of wrongdoing.
2. In accordance with paragraph 1, the whistleblower may request the confidential counselor for information, advice and support regarding the suspected wrongdoing.
3. In accordance with paragraph 1, the whistleblower may also request the Advice Department of the House for Whistleblowers for information, advice and support regarding the suspected wrongdoing.

### **Article 3. Interne melding door een klokkenluider van de werkgever**

1. A whistleblower who suspects malpractice or irregularity within his employer's organization can report this to any manager who occupies a higher hierarchical position than he is within the organization. If the whistleblower has a reasonable suspicion that the senior manager is involved in the suspected misconduct or irregularity, he can also report this to the internal

supervisory body. In that case, in these Regulations, “the most senior manager” should also be read as “the internal supervisory body”.

2. The whistleblower can also report the suspicion of malpractice or irregularity within his employer's organization via the confidential adviser. The confidential counselor forwards the report, in consultation with the whistleblower, to a manager as referred to in the previous paragraph, or the internal supervisory body, respectively.

#### **Article 4. Internal reporting by a whistleblower from another organization**

1. A whistleblower from another organization who has come into contact with the employer's organization through his work and who suspects wrongdoing within the employer's organization can report this to any manager within the employer's organisation. hierarchically holds an equal or higher position than he. If the whistleblower from another organization has a reasonable suspicion that the senior manager is involved in the suspected wrongdoing, he can also report this to the internal supervisory body. In that case, in these Regulations, “the most senior manager” should also be read as “the internal supervisory body”.

2. The whistleblower of another organization as referred to in the previous paragraph can also report the suspicion of malpractice within the employer's organization via the confidential adviser. The confidential counselor forwards the report, in consultation with the whistleblower, to a manager as referred to in the previous paragraph, or the internal supervisory body.

#### **Article 5. Protection of the reporter against disadvantage**

1. The employer will not disadvantage the reporter in connection with reporting in good faith and properly a suspicion of malpractice or irregularity to the employer, another organization, an external body as referred to in Article 14 paragraph 3 or an external third party. under the circumstances referred to in art. 14 paragraph 4.

2. Disadvantage as referred to in paragraph 1 is in any case understood to mean taking an adverse measure, such as:

- a. granting dismissal, other than at its own request;
- b. the premature termination or non-renewal of a temporary employment contract;
- c. not converting a temporary employment contract into a permanent employment contract;
- d. taking a disciplinary measure;
- e. imposing an investigation, speaking, workplace and/or contact ban on the reporter or colleagues of the reporter,
- f. the imposed appointment to another position;
- g. expanding or limiting the reporting person's duties, other than at his own request;
- h. moving or transferring the reporter, other than at his own request;
- i. refusing a request to move or transfer the reporter;
- j. changing the workplace or refusing a request to do so;
- k. withholding a salary increase, incidental compensation, bonus, or award of benefits;
- l. withholding promotion opportunities;
- m. not accepting a sick report, or leaving the whistleblower registered as sick.

n. rejecting a leave request;

o. granting leave, other than at one's own request;

1. Disadvantage as referred to in paragraph 1 also exists if there are reasonable grounds to hold the whistleblower liable for his performance or to take an adverse measure as referred to in paragraph
2. Against him, but the measure taken by the employer does not reasonable proportion to that land. 2. If the employer takes an adverse measure as referred to in paragraph 2 towards the reporter within the foreseeable future, he will substantiate why he considers this measure necessary and that this measure is not related to the goods. faithfully and duly reporting a suspicion of wrongdoing or irregularity.
3. The employer will ensure that the reporter's supervisors and colleagues refrain from any form of prejudice in connection with reporting in good faith and properly a suspicion of wrongdoing or irregularity, which could affect the professional or personal functioning of the reporter. detector hinders. In any case, this means:
  - a. bullying, ignoring and excluding the reporter;
  - b. making unfounded or disproportionate accusations with regard to the functioning of the reporter;
  - c. the actual imposition of an investigation, speaking, workplace and/or contact ban on the reporter or colleagues of the reporter, in whatever way it is formulated;
  - d. intimidating the reporter by threatening with certain measures or behavior if he goes through with his report.

The employer will hold whistleblowers who are guilty of defrauding the whistleblower and may impose a warning or disciplinary measure on them.

#### **Article 6. Preventing disadvantage of the reporter**

1. The contact person designated on the basis of Article 9, paragraph 6, immediately discusses, together with the reporter, which risks of prejudice are present, how those risks can be reduced and what the whistleblower can do if he believes that of disadvantage. The contact person will ensure that this is recorded in writing and will submit this document 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 immediately 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 will ensure that this is recorded in writing and will submit this document to the reporter for approval and signature. The contact person immediately forwards the report to the senior manager. The reporter will receive a copy of this.
3. The most senior manager ensures that measures necessary to prevent disadvantage are taken.

#### **Article 7. Protection of other stakeholders against disadvantage**

1. The employer will not penalize the adviser who is employed by the employer for acting as adviser to the reporter.
2. The employer will not disadvantage the confidential counselor for performing the duties described in these regulations.
3. The employer will not disadvantage the contact person for performing the duties described in these regulations.
4. The employer will not penalize researchers who are employed by the employer because of the performance of the duties described in these regulations.

5. The employer will not penalize a whistleblower who is heard by the investigators in connection with making a statement in good faith.
6. The employer will not penalize a whistleblower in connection with the provision by him to the investigators of documents that in his reasonable opinion are important for the investigation.
7. Article 5, paragraphs 2 to 6, shall apply mutatis mutandis to disadvantage of the persons referred to in paragraphs 1 to 6.

**Article 8. Confidential handling of the report and the identity of the reporter**

1. The employer shall ensure that the information about the report is stored in such a way that it is only physically and digitally accessible to those who are involved in handling this report.
2. All those involved in the handling of a report will not disclose the reporter's identity without the reporter's express written consent and will treat the information about the report confidentially.
3. If the suspicion of malpractice or irregularity has been reported via the confidential counselor and the reporter has not given permission to disclose his/her identity, all correspondence about the report will be sent to the confidential counselor and the confidential counselor will immediately forward this to the reporter.
4. All those involved in the handling of a report will not disclose the identity of the consultant without the express written consent of the reporter and the consultant.

**Article 9. Recording, forwarding and acknowledgment of the receipt of the internal report**

1. If the whistleblower reports a suspected wrongdoing or irregularity orally to a manager or provides a written report with an oral explanation, this manager, in consultation with the reporter, will ensure that this is recorded in writing, and this record for approval and signature for the reporter. The reporter will receive a copy of this.
2. If the whistleblower reports a suspicion of malpractice or irregularity orally via the confidential counselor or provides a written report with an oral explanation, this confidential counselor, in consultation with the reporter, ensures that this is recorded in writing and record for approval and signature for the reporter. The reporter will receive a copy of this.
3. The manager to whom the report has been made immediately forwards the report to the most senior manager within the employer's organisation.
4. If the reporter or the manager to whom the report has been made has a reasonable suspicion that the most senior manager is involved in the suspected misconduct or irregularity, the manager will immediately forward the report to the internal supervisory body within the employer's organisation. In that case, in these Regulations, "the most senior manager" should also be read as "the internal supervisory body".
5. The senior manager immediately sends the reporter confirmation that the report has been received. The acknowledgment of receipt contains at least a business description of the report, the date on which it was received and a copy of the report.
6. After receipt of the report, the senior manager, in consultation with the reporter, will immediately appoint a contact person with a view to combating disadvantage.

- Time-line; The receipt of the notification will be confirmed within the period of no later than 7 days; Within a period of no later than 3 months after the report, an update on the progress of the report will be provided to the whistleblower.

#### **Article 10. Handling of the internal report by the employer**

1. The most senior manager will investigate the reported suspicion of malpractice or irregularity, unless:
  - a. a. the suspicion is not based on reasonable grounds, or
  - b. it is clear in advance that the reported does not relate to a suspicion of wrongdoing or irregularity.
2. If the most senior manager decides not to initiate an investigation, he will inform the reporter of this in writing within two weeks of the internal report. It shall also be stated on the basis of which the senior manager is of the opinion 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 wrongdoing or irregularity.
3. The most senior manager assesses whether an external body as referred to in Article 14 paragraph 3 must be informed of the internal report of a suspected abuse. If the employer notifies an external body, the senior manager will send the reporter a copy, unless there are serious objections to this.
4. The senior manager assigns the investigation to investigators who are independent and impartial, and in any case does not have the investigation conducted by persons who may be or have been involved in the suspected wrongdoing or irregularity.
5. The most senior manager immediately informs the reporter in writing that an investigation has been initiated and who is conducting the investigation. The most senior manager will send the reporter a copy of the investigation order, unless there are serious objections to this.
6. The senior manager shall inform the persons to whom a report relates about the report and about informing an external body as referred to in paragraph 3, unless this could harm the interests of the investigation or enforcement.

#### **Article 11. The execution of the investigation**

1. The investigators give the reporter the opportunity to be heard. The investigators will ensure that this is recorded in writing and submit this document to the reporter for approval and signature. The reporter will receive a copy of this.
2. The researchers can also hear others. The researchers will ensure that this is recorded in writing and will submit this document to the person who has been heard for approval and signature. The person who has been heard will receive a copy of this.
3. The investigators can inspect and request all documents within the employer's organization that they reasonably consider necessary for conducting the investigation.
4. Whistleblowers may provide investigators with any documents that they reasonably consider necessary for investigators to take cognizance of in the context of the investigation.
5. The investigators draw up a draft investigation report and give the reporter the opportunity to make comments, unless there are serious objections to this.
6. The researchers then adopt the research report. They will send the reporter a copy of this, unless there are serious objections to this.

#### **Article 12. Point of view of the employer**

1. The most senior manager informs the reporter in writing within eight weeks of the report about the substantive position with regard to the reported suspicion of wrongdoing or irregularity. It also indicates which steps the notification has led to.
2. If it becomes clear that the standpoint cannot be given within the set term, the senior manager will inform the reporter about this in writing. It is also indicated within which period the reporter can expect the position. If the total term is therefore more than twelve weeks, it will also be stated why a longer term is necessary.
3. After completion of the investigation, the highest management will assess whether an external body as referred to in Article 14, paragraph 3, must be informed of the internal report of a suspected wrongdoing and of the investigation report and the position of the employer. If the employer notifies an external body, he will send the reporter a copy, unless there are serious objections to this.
4. The persons to whom the report relates will be informed in the same way as the reporter pursuant to paragraphs 1 to 3, unless the interests of the investigation or enforcement could be harmed as a result.

#### **Article 13. Hearing with regard to the investigation report and the position of the employer**

1. The employer will give the reporter the opportunity to respond to the investigation report and the position of the employer.
2. If, in response to the investigation report or the position of the employer, the reporter substantiated that the suspicion of an irregularity or misconduct has not actually or not been properly investigated or that there are material inaccuracies in the investigation report or the position of the employer, the employer will respond substantively to this and, if necessary, initiate a new or additional investigation. Articles 10 to 13 apply mutatis mutandis to this new or additional investigation.
3. If the employer notifies or has informed an external body as referred to in Article 14 paragraph 3, he will also send the aforementioned response from the reporter to the investigation report and the position of the employer to that external body. The reporter will receive a copy of this.

#### **Article 14. External report**

1. After making an internal report of a suspected abuse, the reporter can make an external report if:
  - a. the reporter does not agree with the standpoint as referred to in Article 12 and is of the opinion that the suspicion has been wrongly disregarded;
  - b. the reporter has not received a position within the period referred to in Article 12, paragraph 1 or paragraph 2.
2. The reporter can immediately make an external report of a suspected wrongdoing if making an internal report first cannot reasonably be expected of him. This is in any case the case if this arises from any statutory provision or if there is:
  - a. acute danger, where an important and urgent social interest necessitates immediate external notification.
  - b. a reasonable suspicion that the highest responsible person within the employer's organization is involved in the suspected wrongdoing.
  - c. a situation in which the reporter can reasonably fear countermeasures in connection with making an internal report.



- d. a clearly identifiable threat of embezzlement or destruction of evidence.
- e. a previous report in accordance with the procedure of the same abuse, which has not removed the abuse.
- f. a duty to report directly externally.

3. The reporter can make the external report to an external body that, in the reasonable opinion of the reporter, is the most suitable. An external body is in any case understood to mean:

- a. an authority charged with investigating criminal offences;
- b. a body charged with supervising compliance with the provisions of or pursuant to any statutory regulation;
- c. another competent authority to which the suspected wrongdoing can be reported, including the investigation department of the House for Whistleblowers.

4. If, in the reasonable opinion of the reporter, the public interest outweighs the employer's interest in confidentiality, the reporter can also make the external report to an external third party who, in his reasonable opinion, may be considered capable of directly or indirectly to be able to remedy or have remedied the suspected wrongdoing.

#### **Article 15. Internal and external investigation into disadvantage of the reporter**

1. A reporter who believes that there has been a disadvantage in connection with reporting a suspected wrongdoing can request the senior manager to investigate the way in which he is treated within the organization.

2. Articles 10 to 13 shall apply mutatis mutandis.

3. Paragraphs 1 and 2 apply mutatis mutandis to the persons referred to in article 7, paragraphs 1-6.

4. The whistleblower can also request the investigation department of the House for Whistleblowers to investigate the way in which the employer has behaved towards him as a result of the report of a suspected wrongdoing.

#### **Article 16. Publication, reporting and evaluation**

1. The most senior manager ensures that these regulations are published on the intranet and made public on the employer's website.

2. The most senior manager prepares an annual report on the policy regarding dealing with reporting suspicions of abuses and irregularities and the implementation of these regulations. This report contains at least:

- a. information about the policy pursued in the past year with regard to reporting suspected abuses and irregularities and the policy to be pursued in this area in the coming year;
- b. information about the number of reports and an indication of the nature of the reports, the results of the investigations and the positions of the employer;
- c. general information about the experiences with counteracting disadvantage of the reporter;
- d. information about the number of requests for an investigation into disadvantage in connection with reporting a suspected wrongdoing and an indication of the results of the investigations and the positions of the employer.

3. The senior manager sends the draft for the 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 most senior manager will give the Works Council the opportunity to make known its position on the policy with regard to reporting suspected abuses and irregularities, the implementation of these regulations and the reporting. The senior manager is responsible for incorporating the views of the Works Council in the report and submits this processing to the Works Council for approval.

## **Explanation of whistleblower scheme**

### **Article 1. Definitions**

Paragraph 1 under a. Whistleblower In accordance with the House for Whistleblowers Act (hereinafter the WHvK), this regulation means whistleblower:

- i. the person who performs or has performed work pursuant to an employment contract under civil law or under public law; and
- ii. the person who performs or has performed work other than from employment. Who is whistleblower Whistleblowers who 'perform or have performed work other than through employment' (see under ii above) include in any case self-employed persons, trainees and volunteers. Whistleblower from other organization Pursuant to the WHvK, this scheme does not only apply to whistleblowers from the employer that has adopted the scheme, but also to whistleblowers from another organization who have come into contact with this employer's organization through their work. These can be temporary workers or secondments, but also consultants, workmen, cleaners, etc. This group also includes whistleblowers from another organization who, through collaboration with this employer, became aware of suspected wrongdoing at this employer. The group of whistleblowers from another organization may also include civil servants.

### Own whistleblower and whistleblower from other organization

In these regulations, whistleblower always refers to both types of whistleblower. Only Articles 3 and 4 specifically relate to a whistleblower from this employer and a whistleblower from another organization, respectively.

Paragraph 1 under b. Employer The definition of employer is in line with the definition in the House for Whistleblowers Act. However, when reference is made to employer in this scheme, this specifically refers to the employer who has established this scheme: Hearthside Europe. Paragraph 1 under c. Suspicion of wrongdoing The WHvK speaks of a 'suspicion of wrongdoing'. The following additions have been made to this model regulation in relation to the definition of suspected wrongdoing in the WHvK. These additions can be adopted at your own choice: - under 2e sub i to viii (a variant of) the word "(threatening)" is always added, and - the descriptions under 2nd sub vi to viii have been added as forms of abuse. The additions are in line with many existing model schemes, including the model scheme of the Labor Foundation (STAR) and the model scheme of the Joint Sector Organizations Care (BOZ).

From the point of view of preventing the occurrence of abuses, it is desirable that a whistleblower can make an internal report even in the event of an imminent abuse. This could include, for example, the situation in which the decision that will lead to the suspected wrongdoing has already been taken, but this decision has not yet been implemented.

### **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 an abuse, but he must be able to substantiate his suspicion to some extent. The suspicion must be sufficiently concrete and based on own observations

or documents (e.g. e-mails, reports, letters, photos, etc.). Hearsay stories, for example, are not enough.

### **Social importance**

When the public interest is at stake in the event of an abuse, it cannot be said in general terms and will have to be considered on a case-by-case basis. In principle, this concerns situations that transcend the level of one or a few personal cases, for example because there is a certain degree of seriousness or scope or of a structural character. An example to illustrate. Theft of a few things by one individual is not an abuse in which the public interest is at stake. However, the public interest can be jeopardized when it comes to multiple thefts or expensive items, especially if the thefts are committed by whistleblowers whose task it is to guard those goods or if the thefts are tolerated by the management of the company or the leadership itself shares in the spoils.

Paragraph 1 under d. Suspicion of an irregularity General Compared to the WHvK, the option has been added to internally report suspected irregularities. Less severe An irregularity is less serious than an abuse. An irregularity is an imperfection or injustice that is not so serious that the public interest is at stake.

### **Reason for addition**

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

- because it is in the interests of both the employer and whistleblowers if whistleblowers 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 that the employer offers a whistleblower who wants to report a suspected irregularity internally the opportunity to do so and protects him against disadvantage in his employment position.

No external notification possible If the report only relates to a suspicion of an irregularity and not to a suspicion of wrongdoing, these regulations do not provide for the possibility of making an external report. The reason for this is that the social interest is not at stake in the event of a mere suspicion of an irregularity.

### **Reasonable grounds**

The definition requires, among other things, that the suspicion is based on reasonable grounds. See further the explanation to paragraph 1 under c. Paragraph 1 under e. Counselor The WHvK stipulates that the whistleblower has the opportunity to consult an adviser in confidence about a suspected wrongdoing. The advisor must be a person who has a duty of confidentiality. This includes at least the confidential adviser, an adviser from the advice department of the Whistleblowers Authority, a lawyer, a lawyer from a trade union, a lawyer from a legal aid insurer and a company doctor. The role of the adviser is regulated in Article 2 paragraph 1 and Article 8 paragraph 4.

Protection against disadvantage of the adviser who is employed by the employer is regulated in Article 7 paragraph 1 and 6. Paragraph 1 under f. confidant The confidential counselor is the person designated to act as a confidential counselor for the employer's organization. The appointment of a confidential counselor is not mandatory under the WHvK.

Depending on the nature and size of the organization, the employer can choose an internal confidential adviser and/or an external confidential adviser. The confidential counselor can play a role in advising and supporting the whistleblower (see Article 2 paragraph 2) and in making the report (see Article 3 paragraph 2, Article 4 paragraph 2, Article 8 paragraph 3 and Article 9 paragraph 2) .

Hearthside Europe has 3 confidential advisers, described in the 'Confidential adviser' policy. Protection against prejudice to the confidential counselor is provided for in Article 7, paragraphs 2 and 6.

Paragraph 1 under g.

Advice department of the House for Whistleblowers The advice department of the House for Whistleblowers has been established at the WHvK.

The services of the Advisory Department of the House are confidential, independent and free of charge. The whistleblower can request the advice department of the House for Whistleblowers for information, advice and support regarding the suspicion of wrongdoing (see article 2 paragraph 3). Paragraph 1 under j.

#### Most senior manager

The most senior manager, i.e. the body or person in charge of the employer's organization on a day-to-day basis. Within Hearthsides Europe this concerns the Managing Director. The role of the most senior manager is regulated in article 6 paragraph 3 and article 9, 10, 12, 15 and 16. Paragraph 1 under k.

#### Internal supervisory body

If the employer's organization has an internal supervisory body, or a body that supervises the most senior manager within the employer's organization, this is often the Supervisory Board, the Supervisory Board or, for example, the foundation board. The role of the internal supervisory body is regulated in Articles 3 and 4 and Article 9(4). Paragraph 1 under m.

#### Contact person

Article 9 (6) provides that the most senior manager will designate 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 counselor or a whistleblower who has an equal or higher position within the organization 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 already occur at an early stage, it is recommended that the contact person can start work as soon as possible after receiving the report. That is why Article 9 paragraph 6 prescribes that this contact person is appointed as soon as possible, ie on the same day or within one or a few days. Article 6 regulates what this contact person and the most senior manager do to prevent disadvantage of the reporter. Protection against prejudice to the contact person is provided for in Article 7, paragraphs 3 and 6.

Paragraph 1 under n.

#### Researchers

The senior manager assigns the investigation to investigators who are independent and impartial, and in any case does not have the investigation conducted by persons who may be or have been involved in the suspected wrongdoing or irregularity (see Article 10 paragraph 4). the researchers is further regulated in Article 11. Paragraph 1 under o. External body

The reporter can make the external report to an external body that is most suitable for this (Article 14, paragraph 3). An external body is in any case understood to mean:

- a. an agency that is involved in the investigation of criminal offences;
- b. a body that monitors compliance with laws and regulations;
- c. another competent authority to which the suspected wrongdoing can be reported, including the investigation department of the House for Whistleblowers.

The role of the external body is further regulated in article 5 paragraph 1, article 10 paragraph 3, article 12 paragraph 3 and article 13 paragraph 3. The explanation to Article 14, paragraph 3, discusses the possibility for the whistleblower to file an external report of a suspected wrongdoing to the investigation department of the House for Whistleblowers. Paragraph 1 under p.

#### External third party

Under certain circumstances, the reporter can also inform a third party, who is not an external body, of the suspected wrongdoing. Such an external third party could be, for example, a minister, members of the House of Representatives or a civil society organization, and in extreme cases this could be the media. The conditions for taking this step and the role of the external third party are regulated in Article 14 paragraph 4. For further details, see in particular the explanation to Article 14 paragraph 4. Paragraph 1 under q.

#### Investigation 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 (see article 14 paragraph 3 under c). This possibility is discussed in the explanation to Article 14 paragraph 3. The whistleblower can also request the investigation department of the House for Whistleblowers to investigate the way in which the employer has behaved towards him as a result of the report of a suspected wrongdoing (see Article 15 paragraph 4). See further the explanation to article 15 paragraph 4.

### **Article 2.**

Information, advice and support for the whistleblower A whistleblower who thinks that there could be an abuse has the opportunity to discuss this with an adviser, the confidential adviser and the advice department of the House for Whistleblowers.

The adviser is a person who, by virtue of his position, has a duty of confidentiality and who is consulted in confidence by a whistleblower about a suspected wrongdoing (see Article 1 paragraph 1 under e). This includes at least the confidential adviser, an adviser from the advice department of the Whistleblowers Authority, a lawyer, a lawyer from a trade union, a lawyer from a legal aid insurer and a company doctor.

#### Paragraph 2

The confidential counselor is the person designated to act as a confidential counselor for the employer's organization (see Article 1, paragraph 1, under f). Depending on the employer's choice, this can be an internal confidential adviser and/or an external confidential adviser. Paragraph 3 The advice department of the House for Whistleblowers has been established at the WHvK. The services of the Advisory Department of the House are confidential, independent and free of charge. More information can be found at [www.huisvoorklokkluiders.nl](http://www.huisvoorklokkluiders.nl)

The House for Whistleblowers Act came into effect on 1 July 2016. In that case, the advisory and referral function will be taken over by the advisory department of the Whistleblowers Authority (see Article 1, paragraph 1, under g), into which the advisory center will be incorporated.

### **Article 3.**

Internal reporting by an employer whistleblower

This provision is in accordance with the WHvK (see article 6 paragraph 1 under e and f WHvK) and offers a whistleblower, depending on the seriousness and extent of the suspected wrongdoing or irregularity and depending on who is involved, the option to consider where and at what level within the organization he can best make the report. The manager to whom the report is made need not be a (direct) line manager. There are no formal requirements for reporting a suspected wrongdoing or irregularity.

Making a report is free of form and can be made either verbally or in writing. If the whistleblower makes the report orally or provides a written report with an oral explanation, the manager to whom the report was made will ensure that it is recorded in writing (Article 9 paragraph 1).

In the event of a reasonable suspicion that the senior manager is involved in the suspected misconduct or irregularity, the internal report can be made to the internal supervisory body. If there is a suspicion of malpractice and there is no internal supervisory body or if there is no involvement in the suspected misconduct, the reporter can immediately make an external report (see Article 14, paragraph 2, under b).

### **Paragraph 2**

Paragraph 2 provides for the possibility for a whistleblower to make the internal report via the confidential adviser. The confidential counselor then acts as a conduit, whereby the confidential handling of the identity of the reporter will be additionally guaranteed (see further article 8 paragraph 3). This means that in that case the confidential counselor through whom the report has been made will ensure that an oral report is recorded in writing or an oral explanation is given (Article 9 paragraph 2).

The confidential counselor is there for the whistleblower (see also Article 2, paragraph 2) and is therefore not involved in handling the report. That is the reason that the report cannot be made to the confidential adviser, but via the confidential adviser. The confidential counselor consults with the whistleblower to which manager the report will be forwarded.

### **Article 4.**

Internal reporting by a whistleblower from another organization

This provision is in accordance with the WHvK. After all, it follows from the definition of 'suspicion of wrongdoing' in the WHvK that a whistleblower from another organization who has come into contact with the organization of this employer through his work must also report a suspected wrongdoing to this employer. can do.

Paragraph 1 offers a whistleblower from another organization, depending on the seriousness and scope of the suspected wrongdoing and depending on who is involved, the opportunity to weigh up for himself where and at what level within the employer's organization he should report the matter. can do the best. Because the group of whistleblowers from another organization is such a broad group, it was decided to only offer them the opportunity to report of a suspicion of wrongdoing. The possibility to report suspected irregularities is limited to the employer's own whistleblowers. See further the explanation to article 3 paragraph 1.

## Paragraph 2

Paragraph 2 regulates the possibility for a whistleblower from another organization to make the internal report via the confidential adviser. See further the explanation to article 3 paragraph 2.

## Article 5.

Protection of the reporter against disadvantage Ensuring that the reporter is properly protected against disadvantage is one of the basic conditions for properly and carefully reporting a suspected wrongdoing or irregularity. There is disadvantage if the reporter is treated worse in connection with making a report than he would have been treated if he had not made a report. This disadvantage can also take place in the phase preceding the notification. This is the stage where the prospective reporter has become aware of the matter and has started internally asking questions or expressing their views. Protection against disadvantage does not only mean that the employer refrains from taking disadvantageous measures. The employer also has the responsibility to ensure that supervisors and colleagues do not actually disadvantage the reporter through certain behaviour. The protection against disadvantage is not limited to a certain period of time. What matters is that the whistleblower 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 the own whistleblower in two distinct situations.

- In the first situation, the suspected abuse takes place at the employer's own employer and the whistleblower reports to this employer.

- In the second situation, the suspected abuse takes place at another organization with which the whistleblower came into contact with the employer's organization through his work. In that case, the whistleblower can report the matter to that other organization.

The report itself will then be handled by that other organization. Even then, however, the own employer may not disadvantage the reporter as a result of making a report to that other organization. In addition, the protection against prejudice applies to whistleblowers from another organization who reports suspected wrongdoing to this employer (see the explanation of Article 4 paragraph 1). After all, this employer may not disadvantage a whistleblower from another organization as a result of making a report. In practice, this protection is especially important for whistleblowers who depend on this employer for their employment position, such as the temporary worker and the seconded person.

1. The WHvK includes provisions to protect civil servants and whistleblowers against disadvantage.

Paragraph 1 is broader because it provides protection against disadvantage for all reporters, including, for example, self-employed persons, trainees and volunteers. The words "in connection with" in paragraph 1 express that the obligation to behave as a good employer entails that the employer must also protect the whistleblower against disadvantage in the phase preceding the report. Paragraph 1 requires, like the protection provision in the WHvK, that the whistleblower 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 untruthful report. The reporter is not required to demonstrate that he is acting in good faith.

In relation to the protection provision in the WHvK, it has been added that protection against disadvantage also applies when reporting a suspected irregularity (see the explanation of Article 1 paragraph 1 under d). Furthermore, compared to the protection provision in the WHvK, it has been added that protection against disadvantage also applies when reporting to an external third party under the circumstances referred to in art. 14 paragraph 4 (see further the explanation to that provision).



#### Paragraph 2

Paragraph 2 gives examples under a to o of measures that constitute disadvantage if the employer takes these in connection with reporting in good faith and properly a suspected wrongdoing or irregularity. This list is not exhaustive. For the sake of completeness, it should be noted that the taking of a measure as referred to in paragraph 2 by a supervisor is directly attributed to the employer. If this involves disadvantage, this constitutes a violation of Article 5 paragraph 1.

#### Paragraph 3

Paragraph 3 makes it clear that disadvantage also applies if there are reasonable grounds for calling the reporter to account on his performance or taking a measure against him, but the employer takes a more serious measure in connection with making a report than is reasonably justified, or the employer takes a more severe measure against the reporter than it would take under comparable circumstances against others who have not made the report.

#### Paragraph 4

The obligation to state reasons included in paragraph 4 is a precautionary measure that helps the employer to prevent the reporter from being disadvantaged by his superiors. If the intended measure is not related to making the report, the manager will be able to indicate without any objection why taking this measure is necessary.

#### Paragraph 5

Paragraph 5 expresses that the obligation to behave as a good employer entails that the employer has a duty of care and is obliged to actively protect the reporter against disadvantage as a result of actual behavior by supervisors and colleagues. Paragraph 5 gives examples under a to d of actual conduct of supervisors and colleagues in which there is a question of disadvantage. Paragraph 5 under c refers to the situation in which an investigation, speaking, workplace and/or contact ban is not imposed in so many words, but the supervisor makes a request to that effect in an interview, for example, and then regards this as an agreement that has been made.

#### Paragraph 6

Paragraph 6 expresses that the obligation to behave as a good employer entails that the employer is, where appropriate, obliged to take active enforcement action. Depending on the seriousness of the disadvantage and the role of the whistleblower concerned, the employer will have to assess which manner of action will be sufficient to actually effectuate the protection of the whistleblower against disadvantage.

### **Article 6.**

Preventing disadvantage of the reporter Article 9(6) provides that the most senior manager will designate 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 counselor or a whistleblower who has an equal or higher position within the organization 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 already occur at an early stage, it is important that the contact person can start work as soon as possible after receiving the report. That is why Article 9 paragraph 6 prescribes that this contact person is appointed without delay, ie on the same day or within one or a few days.



Article 6 regulates what this contact person and the most senior manager do to prevent disadvantage of the reporter. Member 1 Paragraph 1 is important to prevent disadvantage to the reporter as much as possible and to react as quickly and adequately as possible if disadvantage does occur. There will be a risk of disadvantage if there is a risk that direct supervisors and/or direct colleagues of the reporter 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 abuse or if they are friends with or otherwise loyal to one or more employees who are directly or indirectly involved in the suspected abuse. How the risks of disadvantage to the reporter can best be reduced will depend on the situation as it occurs within the organization. In a situation as described above, the employer could indicate to the employees in question what attitude and behavior the employer expects from them in this situation and what attitude and behavior the employer finds unacceptable in this situation.

#### **Article 7.**

Protection of other data subjects against prejudice.

Paragraphs 1 to 4 express that the obligation to behave as a good employer entails that the employer is also obliged to provide the adviser employed by the employer, the confidential adviser, the contact person and the researchers employed by the employer. employer against disadvantage due to the performance of the role assigned to them. Naturally, the persons referred to here are obliged to behave as a good whistleblower.

#### Paragraph 5

Paragraph 5 expresses that the obligation to behave as a good employer means that the employer is also obliged to protect a whistleblower who has been heard by the investigators against prejudice in connection with making a statement in good faith.

#### Paragraph 6

Paragraph 6 expresses that the obligation to behave as a good employer entails that the employer is also obliged to have a whistleblower who provides the investigators with documents that he may reasonably consider necessary for the investigators to take cognizance of in the context of the investigation. , to protect against disadvantage in connection therewith.

#### Paragraph 7

Paragraph 7 expresses that the obligation to behave as a good employer entails that the protection against disadvantage as regulated in article 5 paragraphs 2 to 6 inclusive applies mutatis mutandis to the persons referred to in article 7 paragraphs 1 to 6.

#### **Article 8.**

Confidential handling of the identity of the reporter

#### Paragraph 1

If supervisors and/or colleagues know who made the report and if they blame him, this can lead to disadvantage for the reporter. It is therefore important that the identity of the reporter is treated confidentially as much as possible. In concrete terms, this means that the group of people who know who the reporter is may not be larger than is necessary for the proper implementation of this regulation. Explicit written consent is required for disclosing the identity of the reporter outside this

group of persons. This declaration of consent must specifically state to whom or to which group of persons the identity of the reporter may be disclosed.

#### Paragraph 2

If the report is made via the confidential counselor and the reporter does not give permission to disclose his/her identity, only the confidential counselor will know who the reporter is. This is guaranteed by having all correspondence about the report go through the confidential adviser.

#### Paragraph 3

Confidential treatment of the adviser's identity is important for both the reporter and the adviser. That is why the explicit written consent of both is necessary for disclosing the identity of the consultant. This declaration of consent must specifically state to whom or to which group of persons the identity of the consultant may be disclosed.

### **Article 9.**

Recording, forwarding and confirmation of receipt of the internal report Paragraph 1 and 2

For the options for making an internal report, see Articles 3 and 4. There are no formal requirements attached to reporting a suspected wrongdoing or irregularity. Making a report is free of form and can be made either verbally or in writing.

Paragraphs 1 and 2 provide that the content of the notification is recorded in writing. This prevents a difference of opinion about this at a later stage.

Paragraph 3 The handling of the report is the responsibility of the senior manager. That is why the manager to whom the report has been made must forward the report to him as soon as possible.

Paragraph 4 This provision guarantees that the reporter is informed substantively of the receipt of the internal report by the senior manager. After all, the reporter has a legitimate interest in being enabled by the employer to check whether the report is being handled properly and carefully.

Paragraph 5 For a description of the role of the contact person in these regulations, see the explanation to Article 6.

### **Article 10.**

Handling of the internal report by the employer Member 1 In principle, an investigation is always initiated following a report of a suspected wrongdoing or irregularity. There are two exceptions to this. The first exception (under a) is that the presumption is not based on reasonable grounds. For what this means, see the explanation to Article 1, paragraph 1, under c.

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 or irregularity. That is the case if it is clear in advance:

- that there is nothing wrong with the reported behavior or events, or
- that the reported behavior or events are not serious enough to be regarded as a suspicion of wrongdoing or irregularity.

#### Paragraph 2

General An internal report of a suspected wrongdoing can be a reason for the employer to inform an external body of this report. This may result from a duty to report, but may also be prompted by the employer's own interest or from the point of view of corporate social responsibility.

Paragraph 3 arranges 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 consider:

- that the reporter has a legitimate interest in checking whether the notification to the external body is made properly and carefully, and
- that the reporter has a duty of confidentiality towards the employer and that the employer may expect the reporter to handle all data and documents related to the report with care. If, nevertheless, there are serious objections to sending a copy to the reporter, the employer will send the reporter a summary in which the information against which the serious objections exist is omitted.

#### Paragraph 4

If the reporter has indications that the investigators are not independent and impartial or would even be or have been involved in the suspected abuse or irregularity, he can inform the senior manager of this. The senior manager will then have to assess whether the researchers meet the requirements of paragraph 4.

#### Paragraph 5

For the exceptional situation in which serious objections exist, see the explanation to paragraph 3.

#### **Article 11.**

Conducting the investigation

#### Paragraph 1 to 4

For whistleblowers who become involved in the investigation, see the protection provisions in Article 7, paragraphs 4 to 6.

#### Paragraph 5 and 6

For the exceptional situation where there are serious objections, see the explanation to Article 10 paragraph 3.

#### **Article 12.**

Position of the employer

#### Paragraph 1 and 2

The first term of eight weeks, in principle, laid down in these provisions for sending a substantive point of view to the reporter and the obligation, if it will take longer than twelve weeks, to indicate why this is the case, guarantee that the handling of the complaint report and the investigation into the suspected wrongdoing or irregularity is carried out expeditiously.

### Paragraph 3

See the explanation to Article 10 paragraph 3. This provision stipulates that this assessment is also made after the investigation has been completed.

### **Article 14.**

#### External report Paragraph 3

Paragraph 3 is in accordance with the WHvK (see in particular article 6 paragraph 1 under d WHvK). Under a to c, the provision gives examples of what is meant by an external body. Paragraph 3 under c refers, among other things, to the possibility for the whistleblower to submit an external report of a suspected abuse to the investigation department of the House for Whistleblowers. This option is provided for in Article 4 paragraph 1 under a of the WHvK. Article 6 paragraph 1 of the WHvK regulates the requirements for handling an external report to the investigation department of the House. Article 6, paragraph 1, preamble and under d of the WHvK provides that the investigation department of the House will not conduct an investigation if it finds that “the suspected wrongdoing is at the discretion of administrative bodies or services charged with the investigation of criminal offenses or with supervising compliance with the provisions of or pursuant to any statutory regulation or another competent authority where the suspicion of malpractice can be reported and the administrative authority, the service or the other competent authority properly handles the suspicion of malpractice or has treated.” The investigation department of the House therefore has a sort of residual and catcher function with regard to the external reporting of a suspected wrongdoing. The House's Investigation Department investigates external reports if other external authorities are not authorized and if they do not or have not dealt with the report properly. For the sake of completeness, it should be noted that the possibility of making an external report of a suspected wrongdoing to the investigation department of the House for Whistleblowers (article 14 paragraph 3 under c) is limited to a suspected wrongdoing as defined in the WHvK. The additions in the definition used in this model regulation are not included. For what has been added compared to the definition in the WHvK, see the explanation to Article 1, paragraph 1, under c. When making an external report to another external third party or external body, the limitations of the definition in the WHvK do not apply.

#### Paragraph 4

This provision expresses that under certain circumstances the reporter can also inform a third party, who is not an external body, of the suspected wrongdoing. This provision is in line with the right to freedom of expression vis-à-vis the employer. The condition for making an external report to such an external third party is that paragraph 1 or 2 has been complied with and that the reporter makes a reasonable assessment of whether the public interest in making that external report outweighs the interests of the employer. in secrecy. Such an external third party could be, for example, a minister, members of the House of Representatives or a civil society organization. In extreme cases, the reporter may have the right to publicize the suspicion of wrongdoing, for example through the media. A condition for reporting to an external third party is that the reporter does so in a proportionate manner and does not cause unnecessary damage to the employer.

### **Article 15.**

Internal and external investigation into prejudice to the reporter Paragraph 1 and 2 Ensuring that the reporter is properly protected against disadvantage is one of the basic conditions for properly and carefully reporting a suspected wrongdoing or irregularity. This includes that the reporter who believes that there is a disadvantage, can request the employer to investigate the way in which he is treated within the organization.

For the handling of this request, paragraph 2 refers to the provisions that apply to the handling of an internal report of a suspected wrongdoing or irregularity.

#### Paragraph 3

The persons referred to in Article 7 paragraphs 1 to 6 are also entitled to protection against disadvantage. This stems from the obligation to behave as a good employer. They can therefore also, if they believe that there is a question of disadvantage, request the employer to investigate the way in which they are treated within the organization.

#### Paragraph 4

This provision refers to the possibility for the whistleblower 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 Article 4 paragraph 1 under b of the WHvK. Making such a request to the Investigation Department of the House is not subject to the condition that the reporter must first have made such a request internally.

#### **Article 16.**

Publication, reporting and evaluation Member 1 Pursuant to the WHvK, the employer is obliged to provide the persons who work for him with a written or electronic statement of the procedure for dealing with reporting a suspected wrongdoing within his organization. This procedure is therefore part of the Personnel Handbook.