



# Policy on dealing with reports concerning suspicion of misconduct or irregularities (Whistleblower policy)

## Foreword

PAX is committed to fostering a culture of integrity. It is an interest that is closely aligned with its mission. It is also a measure of the ethical principles that govern PAX as an organisation. We assume that the employees, volunteers and interns who are closely involved with our PAX organisation feel an innate sense of responsibility to report incidents or suspicion of incidents of misconduct or irregularities. This policy, as described in this appendix, reinforces the integrity policy of PAX. It provides effective protection to whistleblowers who report misconduct.

## Why this policy?

PAX assumes that the work we do and the cooperation we foster is always done with as much integrity as possible. This policy provides protection to all PAX employees, volunteers and interns who report serious misconduct which cannot be addressed through the normal channels. This means that in circumstances where 'whistleblowing' is required, PAX is fully committed to:

- causing the least possible damage to the whistle blower, all involved and the organisation;
- apply due care.

Reports involving disagreements on the political positions, choices or actions of PAX are not covered by this policy. For reports involving issues of a political nature, the whistleblower may, if he sees fit, use the regular complaints scheme posted on <http://www.paxvoorvrede.nl/contact/klachtenregeling>.

## For whom?

The essence of a whistleblowing scheme is that it provides legal protection to a PAX employee, volunteer and intern, who has grounds to believe that his job in that organisation is at stake if it becomes known that he is the person who has exposed a serious misconduct. It is also essential that a whistleblower deliberately violates the standards (i.e. those of loyalty, confidentiality and solidarity) in order to serve a higher standard (the need to combat serious misconduct). A whistleblower puts a lot on the line: his livelihood, that of others and possibly of the entire organisation: Thus protection through effective policy is necessary in this case.

## Legitimate governments

Incidents of misconduct may also be reported in other countries, given the fact that PAX operates internationally. This policy addresses incidents of misconduct, including criminal offences and violations of laws and regulations (ref. Procedure, Article 1, paragraph 2). The PAX policy requires compliance with the laws and regulations of states with a legitimate government and with laws and regulations that meet the standards and values of international law on peace and security, sustainable development, respect for human dignity and human rights. In repressive states, for example, many of the activities that PAX supports or carries out may be considered a criminal offence under their laws, which often seek to restrict or prohibit the political activities of civil society. However, according to the principles that PAX abides by, these are simply illegitimate laws and regulations. Committing a criminal offence in such cases is not a priori an instance of misconduct under this policy.

## Safety and security

Because PAX operates in conflict zones, safety and security are a top priority. Any act in which employees ignore the safety and security policy and put themselves or others at risk is also considered as misconduct and can be reported through this policy, if the regular channels prove ineffective or are inappropriate in the circumstances.



### Procedure

#### ARTICLE 1. DEFINITIONS

1.

- a. **employee:** any person who carries out or has carried out work for PAX under an employment contract governed by civil law or a public appointment and/or any volunteer and intern who carries out or has carried out work for PAX under an internship or volunteer contract;
- b. **employer: PAX**, which has work carried out or has previously had work carried out under an employment contract governed by civil law and/or has work carried out or has previously had work carried out under an internship or volunteer contract;
- c. **suspicion of misconduct:** suspicion by an employee that there is an instance of misconduct within the organisation in which he works or has worked or at another organisation if he comes into contact with that organisation due to his activities, to the extent that:  
1st. the suspicion is based on reasonable grounds arising from the knowledge acquired by the employee in working for his employer or from the knowledge acquired by the employee through work at another company or organisation, and 2nd. the public interest is at stake in the case of:
  - i. (potential) violation of a statutory provision, including a (potential) criminal offence;
  - ii. (potential) risk to public health;
  - iii. (potential) risk to public safety;
  - iv. (potential) damage to the environment;
  - v. (potential) risk to the proper functioning of the organisation as a result of an improper act or negligence;
  - vi. (potential) breach of rules other than a statutory provision;
  - vii. (potential) squandering of government funds;
  - viii. (potential) deliberate withholding, destruction or manipulation of information about the facts referred to in under (i) to (vii) above;
- d. **suspicion of irregularities:** suspicion based on reasonable grounds about a deficiency or injustice of a general, operational or financial nature, which occurs under the responsibility of the organisation and which is of such serious nature that it does not fall under the standard operating procedures and exceeds the responsibility of the immediate manager;
- e. **integrity officer:** a person who has a duty of confidentiality by virtue of his position and who is consulted by an employee in confidence about a suspected instance of misconduct;
- f. **confidential counsellor:** the person appointed to act as confidential counsellor for the employer's organisation;

#### **Confidential Counselor**

- See intranet for name and telephone number
- (2016: 06 – 432 392 93 Ingeborg Lagewaard of Arbodienst Perspectief)

- g. **Advice Centre for Whistleblowers:** the Advice Centre established by the Temporary Decree on the Advice and Referral Centre for Whistleblowers Committee (see Bulletin of Acts, Orders and Decree 2011, No. 427 and Bulletin of Acts, Orders and Decree 2015, No. 202);

#### **House for Whistleblowers**

- Employees can contact the House for Whistle blowers for free counsel and coordination: <https://huisvoorklokkenluiders.nl/>
- Tel: 088 – 371 30 30



- h. **report:** a report concerning suspicion of misconduct or irregularities pursuant to this policy;
  - i. **whistleblower:** the employee who has reported a suspected instance of misconduct or irregularities pursuant to this policy;
  - j. **head executive:** the body or person responsible for the daily management of the employer's organisation, i.e. the general manager of PAX;
  - k. **internal supervisory body:** the body within the employer's organisation responsible for the internal supervision of the head executive, i.e. the Supervisory Board;
  - l. **competent authority:** the internal supervisory body, i.e. the Supervisory Board;
  - m. **contact person:** the person who, in consultation with and after receiving the report from the whistleblower, is appointed as contact person by the head executive to prevent unfair treatment;
  - n. **investigators:** the persons appointed by the head executive to carry out the investigation into the misconduct;
  - o. **employee of another organisation:** employee of another organisation, including a self-employed person, with whom the employer has a working relationship and who carries out joint activities with one or more employees of the employer.
  - p. **external body:** the body to which the whistleblower reasonably believes it is most appropriate to make an external report of his suspicion of misconduct;
  - q. **external third party:** any organisation or representative of an organisation whom the whistleblower reasonably believes to be capable of directly or indirectly resolving or bringing about the resolution of the suspected incident of misconduct;
2. Article 1(c) and (d) do not apply if the disagreements or differences of opinion concern the substantive political positions of PAX.
  3. Where this policy refers to 'he', 'him' or 'his' this is intended to include reference to 'she' or 'her' as appropriate.

### **ARTICLE 2. INFORMATION, ADVICE AND SUPPORT FOR THE EMPLOYEE**

1. An employee may consult the integrity officer in confidence about a suspected incident of misconduct.
2. In accordance with paragraph 1, the employee may ask the confidential counsellor for information, advice and support with respect to the suspected incident of misconduct:
3. In accordance with paragraph 1, the employee may also ask the Advice Centre for Whistleblowers for information, advice and support with respect to the suspected incident of misconduct.

### **ARTICLE 3. INTERNAL REPORT BY AN EMPLOYEE OF THE EMPLOYER**

1. An employee who suspects misconduct or irregularities within his employer's organisation may make a report of this to any manager holding a higher position within the organisation's hierarchy than his own or to the integrity officer. If the employee has a reasonable suspicion that the head executive is involved in the suspected incident of misconduct or irregularities, he may also make the report to the internal supervisory body. In that case, the term "head executive" in this policy should be understood to mean "internal supervisory body".
2. The employee may also report the suspected incident of misconduct or irregularities within the organisation of his employer to the confidential counsellor. The latter shall then send the report to a manager or to the integrity officer as described in the previous paragraph or to the internal supervisory body, as and when agreed with the employee concerned.



### **ARTICLE 4. INTERNAL REPORT BY AN EMPLOYEE OF ANOTHER ORGANISATION**

1. An employee of another organisation who has come into contact with the employer's organisation through his work activities and suspects that there is an instance of misconduct within the employer's organisation may report this to any manager who holds a position within the hierarchy of the employer's organisation that is equivalent to or higher than his own position or to the integrity officer. If the employee of another organisation has a reasonable suspicion that the head executive is involved in the suspected incident of misconduct, he may also report this to the internal supervisory body. In that case, the term "head executive" in this policy should be understood to mean "internal supervisory body".
2. The employee of another organisation, as described in the previous paragraph, may also report the suspected incident of misconduct within the employer's organisation to the confidential counsellor. The latter shall then send the report to a manager or to the integrity officer as described in the previous paragraph or to the internal supervisory body, as and when agreed with the employee concerned.

### **ARTICLE 5. PROTECTING THE WHISTLEBLOWER AGAINST UNFAIR TREATMENT**

1. The employer shall not treat the whistle blower unfairly in connection with a report made in good faith and according to the proper procedure for reporting suspected incidents of misconduct or irregularities in the employer's organisation, another organisation, an external body within the meaning of Article 14.3 or an external third party in the circumstances described in Article 14.4.
2. Unfair treatment, as referred to in paragraph 1, shall in any case include taking any unfair measures, such as:
  - a. dismissal of the whistleblower, other than at his own request;
  - b. early termination or non-renewal of a temporary contract;
  - c. failure to convert a temporary employment contract into a permanent contract;
  - d. taking a disciplinary measure;
  - e. imposing an investigation, speaking, workplace and/or contact ban on the whistleblower or his colleagues;
  - f. compulsory appointment to another position;
  - g. extending or limiting the whistleblower's duties, other than at his own request;
  - h. moving or relocating the whistleblower, other than at his own request;
  - i. rejecting a request by the whistleblower for a move or relocation;
  - j. changing the whistle blower's workstation or rejecting a request to do so;
  - k. withholding a salary increase, incidental remuneration, bonus or awarding of allowances;
  - l. withholding opportunity's for promotion;
  - m. rejecting illness absence requests or recording the employee as being on sick leave;
  - n. rejecting leave requests;
  - o. placing the whistleblower on forced leave;
3. Unfair treatment as referred to in paragraph 1 also applies if there are reasonable grounds to speak to the whistleblower about his performance or to take an unfair measure against him, as referred to in paragraph 2, but the measure taken by the employer is disproportionate to those grounds.
4. If the employer proceeds to take an unfair measure against the whistleblower, as referred to in paragraph 2, within a short period following a report being made, he shall give justification as to why he considers this measure necessary and why this measure is not connected with reporting in good faith and in accordance with proper procedure.
5. The employer shall ensure that the whistleblower's managers and colleagues refrain from any form of unfair treatment in connection with reporting in good faith and in accordance with proper procedure, which interferes with the whistle
6. blower's ability to function either professionally or personally.

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This includes:

- a. bullying, ignoring and excluding the whistleblower;
  - b. making unfounded or disproportionate accusations about the performance of the whistleblower;
  - c. imposing an investigation, speaking, workplace and/or contact ban on the whistleblower or his colleagues, regardless of how it is presented;
  - d. intimidating the whistleblower by threatening to take specific measures or actions if he proceeds with his report.
7. The employer shall speak to employees who treat the whistleblower unfairly about their conduct and may give them a warning or take disciplinary action against them.

### **ARTICLE 6. PREVENTING UNFAIR TREATMENT OF THE WHISTLEBLOWER**

1. The contact person appointed under Article 9.6 shall immediately discuss with the whistleblower the risks of unfair treatment that exist, how those risks can be reduced and what the employee can do if he believes that he is being treated unfairly. The contact person shall record this in writing and present it to the whistleblower for approval and signature. A copy of the record will be given to the whistleblower.
2. If the whistleblower believes that he is being treated unfairly, he can discuss this immediately with the contact person. The contact person and the whistleblower shall also discuss the possible measures that can be taken to prevent unfair treatment. The contact person shall record this in writing and present it to the whistleblower for approval and signature. The contact person shall then send this record to the head executive without delay. A copy of the record will be given to the whistleblower.
3. The head executive shall ensure that the measures necessary to prevent unfair treatment are taken.

### **ARTICLE 7. PROTECTING OTHERS INVOLVED AGAINST UNFAIR TREATMENT**

1. The employer shall not treat the counsellor employed by the employer unfairly due to his role as counsellor to the whistleblower.
2. The employer shall not treat the confidential counsellor unfairly due to his carrying out the duties described in this policy.
3. The employer shall not treat the contact person unfairly due to his carrying out the duties described in this policy.
4. The employer shall not treat any investigators employed by the employer unfairly due to their carrying out the duties described in this policy.
5. The employer shall not treat an employee who is interviewed by the investigators unfairly in connection with making a statement in good faith.
6. The employer shall not treat an employee unfairly in connection with his provision to the investigators of documents that he reasonably believes to be relevant to the investigation.
7. Articles 5.2 to 5.6 shall be of corresponding application to any unfair treatment of the persons referred to in paragraphs 1 to 6.

### **ARTICLE 8. DEALING CONFIDENTIALLY WITH THE REPORT AND THE IDENTITY OF THE WHISTLEBLOWER**

1. The employer shall ensure that the information concerning the report is stored in such a way that it is only physically and electronically accessible to the persons involved in dealing with this report.
2. No person involved in dealing with a report shall disclose the identity of the whistleblower without the explicit written consent of the whistleblower and each such person shall deal confidentially with the information concerning the report.

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3. If the suspected incident of misconduct or irregularities is reported via the confidential counsellor and the whistleblower has not given permission for his identity to be disclosed, all correspondence regarding the report shall be sent to the confidential counsellor and shall immediately be passed on to the whistleblower by the confidential counsellor.
4. No person involved in dealing with a report shall disclose the identity of the counsellor without the explicit written consent of the whistleblower and the counsellor.

### **ARTICLE 9. RECORDING, PASSING ON AND CONFIRMING RECEIPT OF THE INTERNAL REPORT**

1. If the employee makes an oral report of a suspected incident of misconduct or irregularity to a manager or gives an oral explanation of a written report, that manager shall, in consultation with the whistleblower, record this in writing and present it to the whistleblower for approval and signature. A copy of the record will be given to the whistleblower.
2. If the employee makes an oral report of a suspected incident of misconduct or irregularity via the confidential counsellor or gives an oral explanation of a written report, that confidential counsellor shall, in consultation with the whistleblower, record this in writing and present it to the whistleblower for approval and signature. A copy of the record will be given to the whistleblower.
3. The manager to whom the report is made shall immediately pass the report on to the head executive within the employer's organisation.
4. If the whistleblower or the manager to whom the report is made has reasonable grounds to believe that the head executive is involved in the suspected incident of misconduct or irregularity, the manager shall immediately pass the report on to the internal supervisory body within the employer's organisation. In that case, the term "head executive" in this policy should be understood to mean "internal supervisory body".
5. The head executive shall immediately send the whistleblower an acknowledgement of receipt of the report. The acknowledgement of receipt shall include a brief description of the report, the date on which it was received and a copy of the report.
6. Following receipt of the report, the head executive shall, in consultation with the whistleblower, immediately appoint a contact person with the aim of preventing unfair treatment.

### **ARTICLE 10. ACTIONS BY THE EMPLOYER TO DEAL WITH THE INTERNAL REPORT**

1. The head executive shall set up an investigation into the reported suspicion of misconduct or irregularities, unless:
  - a. the suspicion is not based on reasonable grounds, or
  - b. it is clear at the outset that the matter reported does not involve suspicions about misconduct or irregularities.
2. If the head executive decides not to instigate an investigation, he shall inform the whistleblower of this in writing within two weeks following the internal report. This communication shall also state the reasons why the head executive believes that the suspicion is not based on reasonable grounds or that it is clear at the outset that the matter reported does not involve suspicions about misconduct or irregularities.
3. The head executive shall decide whether an external body within the meaning of Article 14.3 needs to be informed about the internal report about suspicion of misconduct. If the employer informs an external body, the head executive shall send the whistleblower a copy of this communication, unless serious objections exist to oppose this.
4. The head executive shall assign the investigation to investigators who are independent and impartial and shall not have the investigation conducted by persons who may be or may have been involved in the suspected incident of misconduct or irregularities.

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5. The head executive shall inform the whistleblower immediately in writing of the instigation of an investigation and the identities of the persons conducting the investigation. The head executive shall enclose with this communication a copy of the investigation assignment, unless serious objections exist to oppose this.
6. The head executive shall inform the persons that are the subject of the report about the report and about the fact that an external body, as referred to in paragraph 3, has been informed of this, unless this could have a detrimental effect on the investigation or on enforcement.

### **ARTICLE 11. CONDUCTING THE INVESTIGATION**

1. The investigators shall give the whistleblower the opportunity to voice his concerns. The investigators shall record this in writing and present it to the whistleblower for approval and signature. A copy of the record will be given to the whistleblower.
2. The investigators may also interview other persons. The investigators shall record this interview in writing and present it to the person interviewed for approval and signature. A copy of the record will be given to the person interviewed.
3. The investigators may consult and request all documents within the employer's organisation that they reasonably consider to be necessary to conduct the investigation.
4. Employees may provide to the investigators any documents which they consider reasonably necessary for the investigators to use in the context of the investigation.
5. The investigators shall prepare a draft investigation report and give the whistleblower the opportunity to read and respond to its findings, unless serious objections exist to oppose this.
6. The investigators shall then finalise the investigation report. They shall send the whistleblower a copy of that report, unless serious objections exist to oppose this.

### **ARTICLE 12. POSITION ADOPTED BY THE EMPLOYER**

1. The head executive shall inform the whistleblower in writing within eight weeks of the report concerning the specific position adopted with respect to the suspected incident of misconduct or irregularities reported. This communication will also state the steps taken as a result of the report.
2. If it becomes clear that it will not be possible to communicate the position adopted within the specified period, the head executive shall notify the whistleblower of this in writing. This communication will state the period within which the whistleblower can expect to be informed of the position adopted. If as a result of this extension the total period exceeds twelve weeks, it will also state the reasons why a longer period is necessary.
3. Following the conclusion of the investigation, the head executive shall decide whether an external body within the meaning of Article 14.3 needs to be informed about the internal report about a suspected incident of misconduct and about the investigation report and the position adopted by the employer. If the employer informs an external body, he shall send the whistleblower a copy of this communication, unless serious objections exist to oppose this.
4. The persons who are the subject of the report will receive notifications corresponding to those received by the whistleblower under paragraphs 1 to 3, unless this could have a detrimental effect on the investigation or on enforcement.

### **ARTICLE 13. HEARING BOTH SIDES WITH RESPECT TO THE INVESTIGATION REPORT AND THE POSITION ADOPTED BY THE EMPLOYER**

1. The employer shall give the whistleblower the opportunity to read and respond to the investigation report and the position adopted by the employer.
2. If in response to the investigation report or the position adopted by the employer the whistleblower states, giving reasons, that the suspected incident of irregularities or misconduct have not actually been investigated or have not been investigated properly or that there are fundamental inaccuracies in the investigation report or the position adopted by the employer, the employer shall respond to these specific points and if necessary instigate a new or

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additional investigation. Articles 10 to 13 shall be of corresponding application to this new or additional investigation.

3. If the employer informs or has previously informed an external body within the meaning of Article 14.3, he shall also send a copy of the whistleblower's response to the investigation report and the position adopted by the employer, as referred to above, to that external body. A copy of the record will be given to the whistleblower.

### **ARTICLE 14. EXTERNAL REPORT**

1. After making an internal report about a suspected incident of misconduct, the whistleblower may make an external report if:
  - a. the whistleblower disagrees with the position referred to in Article 12 and believes that the reasons for finding the suspicion unfounded are incorrect;
  - b. the whistleblower has not been notified about the position adopted within the period referred to in Article 12.1 or 12.2.
2. The whistleblower may make an external report about a suspected incident of misconduct immediately if he cannot reasonably be required to make an internal report first. The situations in which this applies include situations provided for by statutory provisions or if there is:
  - a. immediate danger, where a significant and urgent public interest necessitates an immediate external report;
  - b. a reasonable suspicion that the competent authority within the employer's organisation is involved in the suspected incident of misconduct;
  - c. a situation in which it is reasonable for the whistleblower to fear reprisals in connection with making an internal report;
  - d. a clearly identifiable threat of falsification or destruction of evidence;
  - e. an earlier report about the same misconduct made in accordance with the procedure that did not put an end to the misconduct;
  - f. a duty to make an immediate external report.
3. The whistleblower may make the external report to the external body that is the most eligible in the reasonable opinion of the whistleblower. The term external body shall be understood to include:
  - a. a body responsible for investigating criminal offences;
  - b. a body responsible for monitoring compliance with any requirements imposed by statute or under statutory authority;
  - c. any other competent body to which suspected incidents of misconduct can be reported.
4. If the whistleblower reasonably believes that the public interest outweighs the employer's interest in confidentiality, the whistleblower may also make the external report to an external third party that is capable of directly or indirectly resolving or bringing about the resolution of the suspected incident of misconduct in the reasonable opinion of the whistleblower.

### **ARTICLE 15. INTERNAL {{AND EXTERNAL}} INVESTIGATION INTO UNFAIR TREATMENT OF THE WHISTLEBLOWER**

1. A whistleblower who believes that he has been unfairly treated in connection with reporting a suspected incident misconduct may request the head executive to conduct an investigation into the way in which he is treated within the organisation.
2. Articles 10 to 13 shall be of corresponding application.
3. Paragraphs 1 and 2 shall be of corresponding application to the persons referred to in Articles 7.1 to 7.6.



### **ARTICLE 16. PUBLICATION, REPORTING AND EVALUATION**

1. The head executive shall ensure that this policy is published on the intranet and made publicly available on the employer's website.
2. The head executive shall prepare an annual report concerning the approach to dealing with reports about suspected incidents of misconduct and irregularities and the implementation of this policy. This report shall include:
  - a. information about the approach taken over the past year to deal with reports concerning suspected incidents of misconduct and irregularities and the planned policy approach for the coming year;
  - b. information about the number of reports and an indication of the nature of the reports, the outcomes of the investigations and the positions adopted by the employer;
  - c. general information about the experiences with prevention of unfair treatment of the whistle blower;
  - d. information about the number of requests for investigation of unfair treatment in connection with reporting suspected incidents of misconduct and an indication of the outcomes of the investigations and the positions adopted by the employer.
3. The head executive shall send a draft of the annual report described in the previous paragraph to the Works Council for discussion and it will then be discussed with the Works Council at a consultation meeting.
4. The head executive shall give the Works Council the opportunity to express its views on the policy approach to dealing with reports about suspected incidents of misconduct and irregularities, the implementation of this policy and the report. The head executive shall ensure that the views of the Works Council are incorporated in the report and shall present the revised report to the Works Council for approval..