



# Whistleblowers procedure

## 1 Preamble

- a. The Board of Trustees and the Executive Board of KNCV Tuberculosis Foundation consider it important that employees have an effective means of reporting suspected misconduct within the organization without this having consequences for their organizational or employment law position or for their day-to-day performance in the organization. A good description of the procedure is important in this respect.
- b. This procedure is based on the model procedure as published by the "adviespunt Klokkenluiders" (Whistleblowers Advisory Centre).
- c. The procedure is explicitly not intended for the reporting of complaints by employees about their personal matters in connection with work, their colleagues or their supervisors. If an employee wishes to file such a complaint and this falls on deaf ears with his supervisor and/or the Executive Board, he can fall back on the complaints committee and the complaints procedure concerning 'Undesirable behavior' and/or the external confidential advisor appointed for this purpose.
- d. The Board of Trustees and the Executive Board trust that everyone will apply the procedure carefully and weigh all the interests involved.
- e. This procedure was adopted by the Board of Trustees in its meeting of 22 April 2008.
- f. The Works Council approved this procedure in its meeting of 5 June 2008.

## 2 Definitions

The following definitions are used in this procedure:

- a. **The employee:** the person, whether or not in the capacity of an employee, who works for the association or one of its branches abroad.
- b. **The association/employer:** KNCV Tuberculosis Foundation.
- c. **The Executive Board:** the Executive Director and/or the Director of Finance and Organization.
- d. **The Board of Trustees:** the chairman of the Board of Trustees of the association.
- e. **The supervisor:** the person charged with the immediate supervision of the employee.
- f. **Adviser:** a person who, by virtue of his/her position, has a duty of confidentiality and is consulted by an employee in confidence regarding a case of assumed misconduct;
- g. **Confidential advisor for the whistleblowers procedure:** an externally recruited expert appointed by the Board of Trustees and the Executive Board, following the approval of the Works Council, to act as a confidential advisor for the association for the purposes of the implementation of this procedure.
- h. **Whistleblowers Advisory Centre:** the advisory centre set up in response to the Provisional Decree of the Advisory Centre and Referral Agency for Whistleblowers Commission (Commissie advies- en verwijspunt klokkenluiden) (see the Netherlands Bulletin of Acts and Decrees 2011, 427 and Netherlands Bulletin of Acts and Decrees 2015, 202);
- i. **Suspected misconduct:** a suspicion, on the part of an employee that within the association in which he/she works or has worked, or within another organization with which he/she came into contact while carrying out his/her work, misconduct is taking place, in so far as:
  1. That suspicion is based on reasonable grounds arising from the knowledge acquired by the employee while carrying out his/her work or arising from the knowledge gained by the employee as a result of carrying out his/her tasks at another company or another organization, and
  2. The interests to society that are at risk involve:
    - a. an (imminent) violation of laws and regulations, including the committing of an actual (or imminent) criminal offence;
    - b. a threat (or imminent threat) to public health
    - c. a threat (or imminent threat) to personal safety
    - d. a threat (or imminent threat) of effects upon the environment
    - e. a threat (or imminent threat) to the correct operation of the organization as a result of unreasonable actions or an unreasonable failure to act
    - f. a violation (or imminent violation) of rules, not including statutory rules, including the rules of conduct that apply within the company



- g. The wasting (or imminent wasting) of government funds;
- h. The conscious withholding, destruction or manipulation of information regarding the actions named under a to g inclusive above.
- j. **A suspected irregularity:** a suspicion, based on reasonable grounds, of an inadequacy or injustice of a general, operational or financial nature that is taking place under the responsibility of the association and is sufficiently serious that it falls outside the ordinary working processes and exceeds the responsibility of the employee's direct supervisor.

### **3 Information and support**

- a. An employee may consult an advisor or confidential advisor regarding suspected misconduct or irregularity.
- b. In accordance with Article 3, paragraph a, the employee may request the confidential advisor for information, advice and support in relation to the suspected misconduct or irregularity.

### **4 Standard Procedure**

- a. Unless there is a ground for exemption as referred to in number 7 paragraph b, the employee will report all cases of misconduct internally to his/her own supervisor in the first instance. The employee is also able to report the suspected misconduct or irregularity via the confidential advisor for the whistleblowers procedure. If the employee decides to report the misconduct to the confidential advisor only, the advisor will guarantee the employee's anonymity.
- b. The confidential advisor for the Whistleblowers procedure is:  
Mrs. Gabi van Driem (lawyer), Van Driem Lawyers  
Minervalaan 54-III, 1077 PC Amsterdam  
Phone: +31(0)20 6644313  
Fax: +31(0)20 6648964  
E-mail: g.vandriem@vandriemadvocaten.nl
- c. Before the reported misconduct is formally recorded, the individual concerned will receive a copy of this procedure without delay and no later than one week later and will be notified that confidentiality will be guaranteed as much as possible.
- d. The confidential advisor for the whistleblowers procedure will assess the reported misconduct according to number 2, paragraph g within one week of it being reported, to determine whether it is actionable following the procedure below. If the confidential advisor for the whistleblowers procedure does not consider the reported misconduct actionable, she will inform the employee in writing within one week, stating the accompanying arguments. The report referred to in number 9 states how often this situation has occurred.
- e. The confidential advisor for the whistleblowers procedure will record the reported misconduct in writing, with the date on which it was received, and will have this record signed for approval by the employee within one week, who will then receive a copy of it. The confidential advisor will ensure that the Board of Trustees is informed, without delay and within one week, of any report of suspected misconduct and of the date on which it was reported, and that the Board of Trustees receives a copy of the written report.
- f. After consulting with the chairman of the Board of Trustees and one week after those consultations have taken place, the confidential advisor will send a confirmation of receipt in the name of the Board of Trustees to the employee who reported the suspected misconduct. The confirmation of receipt will refer to the original report of misconduct.
- g. The employee who has reported the misconduct and those to whom the suspected misconduct has been reported will handle the report confidentially. No information will be provided to third parties or parties outside the association without the permission of the Board of Trustees. When information is provided, the employee will not be named and the (verbal and written) information will be provided in such a way that the employee's anonymity is guaranteed as much as possible.
- h. KNCV will ensure that details of the report are preserved, in such a way that it is only accessible in physical or digital form, by those involved in the handling of the report.



## **5 Internal notification**

- a. An employee that suspects misconduct or an irregularity within the organization of his/her employer is able to report this to any supervisor who holds a more senior position within the organization than the employee. In the event that the employee has a reasonable suspicion that the most senior manager is involved in the suspected misconduct, he/she may also report this to the internal supervisory body. In that instance, the phrase "the most senior manager" that arises in these regulations be understood to refer to "the internal supervisory body".
- b. The employee is also entitled to report any suspected misconduct or irregularity within the association via the confidential advisor. The confidential advisor will forward the report, in consultation with the employee, to a supervisor in the sense of the previous paragraph, or to the internal supervisory body respectively.

## **6 Position**

- a. As soon as suspected misconduct is reported, the confidential advisor for the whistleblowers procedure will commence an investigation and report the results thereof to the Board of Trustees, the supervisor and the Executive Board. The latter two parties will only be informed in those cases in which they have been informed by the notifier.
- b. Within a four-week period from the date of the internal reporting of misconduct, the employee will be informed of the Board of Trustees' position concerning the reported suspected misconduct, in writing by or on behalf of the Board of Trustees or the confidential advisor for the whistleblowers procedure. The employee will also be informed of the steps taken in response to the reported misconduct.
- c. If the position cannot be provided within four weeks, the employee will be informed of this by or on behalf of the Board of Trustees or the confidential advisor for the whistleblowers procedure, stating the reasons why and the period within which a position can be expected.

## **7 Reporting misconduct to an external third party**

- a. The employee can report suspected misconduct to an external third party as referred to in number 5.b, subject to the provisions of number 5, if:
  1. He or she does not agree with the position as referred to in number 6;
  2. He or she has not received a position within the required period, as defined in numbers 4;
  3. In view of all circumstances, the period, referred to in number 4, is unreasonably long and the employee has objected to this with the Board of Trustees or the confidential advisor for the whistleblowers procedure, yet the Board or confidential advisor has not indicated a shorter, reasonable period;
  4. The suspected misconduct involves a member of the Board of Trustees, or;
  5. There is a ground for exemption as referred to in the following paragraph.
- b. A ground for exemption as referred to in the number 7, paragraph a, item 5 occurs in the event of the following:
  1. Acute danger, with a substantial and urgent social interest necessitates immediate external reporting of the misconduct;
  2. A situation in which the employee may reasonably fear counter measures as a result of reporting the misconduct internally;
  3. A previous internal report of misconduct in accordance with the procedure of essentially the same misconduct, which has not altered the misconduct;
  4. A clear risk of embezzlement or destruction of evidence;
  5. A statutory duty or authority to report misconduct externally immediately.
- c. For the purposes of this procedure, an external third party is any organization or representative of an organization, other than the confidential advisor for the whistleblowers procedure, to whom the employee reports suspected misconduct, because in his/her reasonable opinion the social interest is so great that, in the specific circumstances of the case in question, that interest outweighs the interest of the employer in the case of confidentiality, and who in his reasonable opinion may be deemed to be capable of directly or indirectly bringing the suspected misconduct to an end.



- d. With due observance of the provisions of number 7, paragraph e., the employee may report suspected misconduct to an external third party as referred to in the previous paragraph, if it concerns one of the five cases mentioned in paragraph 1.
- e. The misconduct is reported to the external third party who, in the reasonable opinion of the employee, is most suitable in view of the circumstances of the case, with as little damage as possible caused by that intervention in the interest of the employer, insofar as that damage does not necessarily result from the action taken against the misconduct.
- f. As the possibility of damage to the employer as a result of the reporting of misconduct to an external third party increases, the suspicion of the employee who reports the suspected misconduct to an external party must be greater.

## **8 Legal protection and social safety**

- a. The employee who, with due observance of the provisions of this procedure, has reported suspected misconduct in good faith, will not be harmed in his/her organizational position nor in his/her employment law position or in any other disadvantageous measures (as set out under number 5 of the Modelregeling Klokkenluiders (Model Regulations for Whistleblowers)) in any way whatsoever as a result of reporting this.
- b. The employee is entitled to engage legal counsel, with the costs of this legal representation, insofar as incurred within reason, will be for the account of the association.
- c. The employer is obliged to everything possible, making no omissions, in order to prevent the employee who has reported (suspected) misconduct from sustaining hindrances or damage in contacts with supervisors and colleagues during the execution of his/her duties and the accompanying social events.

## **9 Reporting**

Each year the confidential advisor for the whistleblowers procedure will give the Works Council an anonymized report from the Board of Trustees on the application of the procedure, which will be discussed in consultation with the Executive Board. With the exception of reports that turn out to be unfounded, the report will be published on KNCV's website and the internal equivalent thereof and will include information about the policy adopted, the (nature of the) reports, the outcomes of the investigations and the viewpoint of KNCV.