



# REPORTING PROCEDURE SUSPICION INTEGRITY VIOLATION BY CIVIL SERVANT PUBLIC ENTITY OF ST. EUSTATIUS

## 1. Why an integrity reporting procedure?

In order to achieve compliance with the code of conduct, a structure is needed that stimulates this compliance and – if unavoidably – sanctions. In this reporting procedure you can read how and where a formal report of a (suspected) violation of integrity or abuse is made and what happens to it afterwards. But first: what is a formal report?

## 2. What is a formal report?

When you make a formal report with the Integrity Office it means that you are certain that you want the organization to assess a suspected violation of integrity. This means that even though the Integrity Office will do everything in its power to not disclose your name as a reporter within the organization, this cannot be 100% guaranteed. This is especially the case when the reporter is also the victim of the suspected violation. The outcome of the assessment cannot be predicted in advance either. You transfer control of your report to the organization when you make a formal report.

## 3. What can you report about?

You can make a formal report of (a suspicion of) an integrity violation, or abuse. There may be a violation of integrity if an employee does not act in accordance with the Code of Conduct PE or other (internal) guidelines. The Code of Conduct forms the framework for acting with integrity and covers topics such as dealing with social media, ancillary activities, dealing with confidential information and company assets, but also forms of undesirable behavior such as discrimination, bullying, intimidation and aggression. You do not have to be able to prove this suspicion, it is about determining whether what you report is plausible and/or sufficiently substantiated. Wrongdoing is about an act or omission in which the public interest is at stake. You can basically only report on what you have seen or experienced yourself.

## 4. Who can report and who could it be about?

Employees of the PE, including persons who work as consultants, temporary workers, trainees, trainees or seconded workers or any member of the general public can file a report. A report can (only) be made about an employee of the PE. This also applies to consultants, temporary workers, trainees, interns or seconded persons working for the PE<sup>1</sup>.

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<sup>1</sup> Report on Island Council member: Kingdoms representative. Report on BC member: Island Council. Report on Governor: Kingdoms representative. Report on registrar: Island Council. Report on Island Secretary: Governor. Report on Integrity advisor: Governor.



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### **5. Where and how can you report?**

It can be difficult to make a formal report. You can doubt whether the suspicion is sufficiently substantiated or be afraid of the consequences. If you have any doubts about this, it is wise to discuss them.

Be sure to discuss this with one of PE's (external) confidential advisors. They are ready to answer questions, problems or doubts about integrity, or abuses. Confidential advisors are sounding boards, advisors, supervisors and referrers. In addition, the confidential adviser can inform you about the possibilities of making a formal report and about what this can do for you as an employee and for the person(s) about whom the report is made. A confidential adviser can also help you fill in the reporting form that is needed in order to make a formal report to the Integrity Office.

Sometimes a manager is the right person to discuss a dilemma with. It is important that you make it clear whether you expect the manager to do something about it or not. The manager also makes his own assessment of the seriousness of the issue.

If you decide to make a formal report, you can:

- Directly go to the Integrity Office. A formal report to the Integrity Office is made in one of the following ways.

- o Personal > by appointment
- o Via email > [integrity.office@statiagov.com](mailto:integrity.office@statiagov.com)

A reporter is asked to fill in a reporting form prior to contact (attachement).

- Via your manager
- Via the confidential adviser

If you formally report a suspected violation of integrity through your manager or a confidential adviser, you as the reporter remain responsible for completing the reporting form.

### **6. Report confidentially or anonymously?**

A formal report is preferably made by name, so that the Integrity Office can ask questions to the source. With the exception of reports about a form of undesirable behavior, it is possible to make a confidential formal report to the Integrity Office via the confidential adviser. In the case of confidential reports, the identity of the reporter remains with the confidential adviser and additional questions from the Integrity Office are put to the reporter via the confidential adviser. It is also possible to make an anonymous report (e.g. by means of an anonymous letter).



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In that case, the identity is not known to anyone.

For both confidential and anonymous reports, assessing and investigating such a report is more complex. There is no direct contact with the reporter and no additional questions can be asked at all in the case of anonymous reports. This does not mean that an anonymous report is simply set aside. When considering whether an anonymous report is processed, the nature, seriousness and concreteness of the report play an important role.

### **7. Do you have to report?**

There is no formal obligation to report cases other than an official offence (crime committed by the civil servant). An official offence is a crime that is punishable specifically for civil servants, or for which a higher penalty is imposed if a civil servant commits it because use is made of power, position, opportunity or resources acquired through the work. Examples of this are: embezzlement of money, forgery of (cash) books, destruction of evidence, evidence, bribery or abuse of authority. Because of this obligation to report, you are also obliged to report a (suspected) official crime as a violation of integrity at the Integrity Office. In this case, the employer remains responsible for the employment law process and determining whether there is a suspicion of a violation of integrity. The island secretary will forward the report on behalf of the Executive Council to the police department (Rijksrecherche Caribisch Nederland BES).

### **8. How does the formal reporting process continue?**

#### *Reporting form*

As soon as the reporting form is received by the Integrity Office, it will be registered and the reporter will immediately receive written confirmation of receipt. The Integrity Office will make an initial assessment of the content of the reporting form.

It looks at two things

#### *- Admissibility*

Do the behaviors fall within the (influence) sphere of the organization? Is the report related to the code of conduct or other guidelines? Are there other procedures that are more appropriate, for example a complaint procedure or an appeal procedure?

#### *- Nature of the report*

For example: is the reported incident sufficiently concrete (e.g. e-mail, eyewitness, signals from several people regarding the same incident)? Has there been a violation of a standard (violation of the code of conduct or other guidelines)? Is it a criminal offence for which someone must be



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prosecuted by the Public Prosecution Service or an incident in which other authorities (such as competent authorities or inspection services) have a role?

As soon as possible but no later than within 5 working days, the reporter will receive a message in writing from the Integrity Office deciding whether the report meets the above conditions. If so, the Integrity Office will forward the report to the integrity committee with internal advice for the committee on the first next step in dealing with the report. The integrity committee will decide within 10 working days on the best way to move forward.

### *The interview with the reporter by the Integrity committee*

In most cases the first step taken by the Integrity Committee is to invite the reporter for an interview. If so, the reporter will receive an invitation from the Integrity Committee within 4 weeks. The reporter provides an explanation to and answers questions of the Integrity Committee based on the information from the reporting form and possible underlying documents. Members of the Integrity Committee include, in addition to the integrity advisor, (a representative of) the (deputy) island secretary and the legal department. In the conversation, in which the reporter can be assisted by, for example, the confidential advisor, the process is explained about the further handling of the report.

### *Assessing the report*

Based on the interview and/or other underlying documents, the Integrity Committee assesses whether there is an investigative suspicion of an integrity violation or abuse with regard to the report based on the weighting criteria below.

#### **- Seriousness of the case**

The Integrity Committee looks at the incident itself, but also at the circumstances, at the people involved, at the influence on the organization and explicitly at the social impact. The committee assesses whether any form of integrity investigation is proportionate to the seriousness of the report (proportionality) and the goal to be achieved (subsidiarity).

#### **- Validability**

Can facts and circumstances be verified? Is it possible to fix them? This is particularly important in the case of transgressive behavior in which no more than two people are involved. If the occurrence can only be reconstructed on the basis of the statements of these two people, it is not possible to determine what the facts are. An investigation will then not be able to add much to the truth, while it is burdensome for those involved.



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### **- Persons involved in the incident**

How did the reporter obtain knowledge regarding the incident that is being reported? How reliable is the reporter? Do other motives possibly play a role? Could the accused have committed the alleged violation of integrity? For example, if files were accessed without permission, but the accused was demonstrably absent at the time, then an investigation probably does not have much added value.

### **- Credibility/probability**

Is there a connection between the report and the facts as they are known? Could the incident have occurred, or can it be ruled out? Implausibility and improbability should not be seen too quickly as reasons not to start an investigation. Unlikely reports can, after investigation, turn out to be true.

### **- The topicality of a report**

When it comes to an incident from years ago, it is often very difficult to investigate. But researchers must also ask themselves whether truth-finding is still of added value for those involved and for the organization. It is also important to take into account how the violation of integrity would be assessed on the basis of the framework of standards applicable at the time.

### *Possible outcomes*

If the Integrity Committee does not consider the report worthy of any form of further investigation, or when a form of investigation does not appear to be the right means/tool to achieve the goal of the organization and/or the reporter, no form of investigation will be initiated. It is possible that the Committee advises the organization to start another process, such as a control measure or a staffing tool to discuss issues with staff and reach a result without the need for a relatively heavy tool such as an internal investigation.

If the report is deemed worthy of a form of investigation, there are three possible options on which the committee can advise the Executive Council on:

1. the initiation of an exploratory investigation with the knowledge of the person concerned
2. the initiation of an exploratory investigation without the knowledge of the person concerned
3. the initiation of a disciplinary investigation into the person concerned

More information on this can be found in the research protocol of PE. The Integrity Committee will (via the Integrity Office) will inform the reporter about the outcome.



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### **9. Privacy?**

The report and any subsequent investigation will be handled in accordance with the Personal Data Protection Act BES. In addition to the privacy of the reporter, the privacy of the employee to whom the report relates is also carefully protected. Under no circumstances will the name of the reporter be disclosed by the integrity advisor and the other members of the Integrity Committee to the person to whom the report relates. If an employee reports a violation of integrity of which he/she has also been a personal victim, for example in the case of theft, discrimination, bullying or (sexual) intimidation, it is usually not possible to prevent his/her name from becoming known. Furthermore, in the event that the case comes before the court, the judge may determine that the identity of the reporter must be disclosed.

### **10. Are you protected as a reporter?**

Regardless of where (a suspicion of) an integrity violation or abuse has been reported, you as a reporter may not be disadvantaged (penalized) in your position in any way because of your report.

Disadvantage includes, for example, the following because of reporting:

- Taking a disciplinary measure;
- Expanding or limiting the tasks (other than at your own request);
- Move or transfer (other than at your own request);
- Withholding salary increases, promotions or other compensation;
- Granting dismissal or not renewing a temporary employment contract (other than at your own request).

The protection means that the employment of the reporter cannot be terminated on the basis of the report made without permission from the Executive Council. The Executive Council is advised by the integrity advisor.

This protection does not apply if:

- The employee has intentionally made a report for the sole purpose of discrediting someone;
- You were involved in the integrity violation or abuse you reported (if you have reported this yourself, the integrity advisor will take this into account in his advice).



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### **11. How long is a report kept?**

The reporting form will be destroyed after one year if no integrity investigation is conducted. If an integrity investigation does take place, the file will be destroyed after 7 years. Archiving takes place in the secured digital environment of the Integrity Office.

### **12. Complaints?**

If you are not satisfied with the way in which the Integrity Office dealt with you during the reporting process, you can make this known to the Complaints Committee.