



## AHK Whistle-blower Procedure

### *Preamble*

Whistle-blowing can be defined as the external notification by a member of staff (the whistle-blower) of suspicions of illegal or immoral practices, which take place under the responsibility of the employer and in which a major interest of society or of the institute is at stake, to persons who might be able to take action against them.

Whistle-blowing can have serious consequences. The organisation concerned can be discredited and harmed. Whistle-blowing can also put serious pressure on the relation between the member of staff and the organisation. All the same, it is important for the executive to be timely informed about (suspicions of) abuses in the organisation so that measures can be taken. Members of staff must be able to have confidence that reporting (suspicions of) abuses will not affect their organisational position. In view of this, it is important for both the organisation and the member of staff to determine how (suspicions of) abuses in the organisation are to be dealt with. This is laid down for the AHK in the present procedure.

Reporting (suspicion of) abuses as envisaged in this procedure must be proportional. This means that not every report of (the suspicion of) an abuse is covered by the present procedure. In principle it concerns abuses of serious importance for society or the institute. The specific circumstances of the particular case may also play a role. So the nature and seriousness of the abuse influence the way in which it can be reported. A member of staff may be expected as a rule to first raise his or her suspicion of an abuse inside the organisation itself, if necessary with the confidant; the organisation must be given the opportunity to first pass its own judgement on the (suspected) abuse before taking the matter in hand if necessary.

If a member of staff reports an abuse externally, he or she may be expected to approach the most appropriate instance. The member of staff should on the one hand bear in mind the effectiveness with which that instance can intervene and has the power to (help to) remove the abuse. On the other hand the member of staff must bear the interest of the organisation in mind in causing as little damage as possible as a result of that intervention. It thus goes without saying that as a rule the reporting of an abuse outside the organisation will be made to the appropriate instances.

Members of staff who as (potential) whistle-blowers raise (suspicions of) abuses in accordance with this procedure are protected. The (potential) whistle-blower who raises (suspicions of) abuses without following this procedure will have to make a plausible case for believing that he or she had good reason to depart from the present procedure. Whistle-blowers who have reported (the suspicion of) an abuse should realise that the way in which they have done so is also taken into account when it comes to judging their actions.

## Chapter 1 Introductory provisions

### Article 1.1 Definitions

1. The following definitions apply in these regulations:
  - member of staff: a person who works for the Amsterdam School of the Arts on the basis of an employment contract with or a posting to the Amsterdam School of the Arts. The chairperson of the Executive Board is not a member of staff as defined in this procedure.
  - Superior: the person who is immediately in charge of the member of staff



- Confidant: one of the 'undesirable behaviour confidants' who are appointed in that capacity by the Executive Board
- External notification centre: a notification centre appointed by the Executive Board and consisting of members who are not linked with the AHK
- Suspicion of abuse: a suspicion of an abuse within the Amsterdam School of the Arts based on reasonable grounds and concerning:
- a. (the risk of) a punishable act
  - b. (the risk of) a serious violation of regulations
  - c. a serious health, security or environmental risk
  - d. (the risk of) deliberately supplying incorrect information to public bodies
  - e. (the risk of) deliberately holding back, destroying or manipulating information about these facts.

## Article 1.2 Coverage of procedure

This procedure does not cover:

- The reporting of personal complaints by members of staff about matters of personal concern to them in connection with their work
- The reporting of conscientious objections in connection with the performance of normal entrepreneurial activities
- The criticism of policy choices made by the employer.

## Chapter 2 Internal procedure

### Article 2.1 Internal notification

1. Unless there are exceptional grounds as specified in article 3.2, section 2 or the situation specified in section 5 of this article, a member of staff who suspects an abuse reports that suspicion internally
  - to his superior, or
  - if he does not consider notifying his superior desirable, to his director, or
  - if he does not consider notifying the aforementioned desirable, to the secretary of the school.<sup>i</sup>
2. The person as specified in section 1 who receives a notification records it in writing together with the date of receipt, has that registration signed for agreement by the member of staff (who receives a copy), and ensures that the Executive Board<sup>ii</sup> is immediately notified of the report of the suspicion of an abuse.
3. Upon receipt of the notification, the Executive Board immediately initiates an investigation.
4. The Executive Board sends a confirmation of receipt to the member of staff who has reported the suspicion of an abuse.
5. In the event of the suspicion of an abuse in which the Executive Board or one of its members is involved, the member of staff reports that suspicion directly to the Supervisory Board. The Supervisory Board deals with any report that it receives as closely as possible in accordance with the provisions of the present procedure, taking the words 'Executive Board' to stand for 'Supervisory Board' in the relevant provisions.

### Article 2.2 Bringing in a confidant

1. If the member of staff does not (yet) consider it desirable to notify the persons specified in article 1, he or she can first discuss the matter and ask for advice from one of the confidants before deciding whether to go ahead with the notification or not.



2. If after discussing the matter with a confidant the member of staff decides to go ahead with internal notification, he or she notifies one of the persons specified in article 2.1 or notifies a confidant directly. Notifying a confidant can also be done in combination with notifying one of the persons specified in article 2.1.
3. If the member of staff decides to notify a confidant, that confidant informs the Executive Board, or – in the situation specified in the fifth section of article 2.1 – the Supervisory Board of the notification in a way and at a time agreed on with the member of staff. Section 3 and section 4 of article 2.1 apply accordingly.
4. The confidant has the right to decline.

### **Article 2.3 Standpoint of the Executive Board**

1. Within a period of ten weeks from the moment of the internal notification, the member of staff is informed in writing by or on behalf of the Executive Board of its standpoint regarding the report of the suspicion of an abuse. The Executive Board also indicates which steps have been taken in the light of the notification.
2. If the standpoint cannot be given within ten weeks, the member of staff is informed of this by or on behalf of the Executive Board with an indication of when a standpoint can be expected.

## **Chapter 3 External procedure with the external notification centre**

### **Article 3.1 The external notification centre**

1. The Executive Board appoints one or more persons to form the notification centre. The appointment of the member(s) of this notification centre is in principle for a period of five years, which may twice be extended by another five years.
2. The members of the notification centre are independent of the AHK; they do not have any relation of employment with the AHK, nor is there question of any relation of authority between the AHK and the members of the notification centre.
3. If the notification centre consists of more than one person, the Executive Board may appoint a chairperson and a secretary.
4. At the request of the notification centre, the AHK provides it with secretarial assistance.
5. The task of the external notification centre is to investigate the notification of the suspicion of an abuse by the member of staff and to advise the Executive Board on the matter in question.
6. If the notification concerns the suspicion of an abuse involving (a member of) the Executive Board, the external notification centre makes its recommendation to the Supervisory Board. In that case the words 'Executive Board' must be taken to stand for 'Supervisory Board' in the provisions contained in this chapter.

### **Article 3.2 Notifying the external notification centre**

1. The member of staff can notify the external notification centre of the suspicion of an abuse within a reasonable period of time if:
  - a. he or she disagrees with the standpoint as specified in article 2.3;
  - b. he or she has not received a standpoint within the time limits set in article 2.3.



2. The member of staff can request the external notification centre not to reveal his or her identity. This request can be revoked at any time.
3. If weighty considerations form an obstacle to the application of the internal procedure, the member of staff can depart from the procedure specified in articles 2.1 and 2.2 and notify the external notification centre directly of the suspicion of an abuse.

### **Article 3.3 Confirmation of receipt and investigation**

1. The external notification centre confirms the receipt of a notification of the suspicion of an abuse to the member of staff who has reported the suspicion.
2. If the external notification centre considers it necessary for the performance of its task, it can initiate an investigation.
3. With regard to the investigation of a report of the suspicion of an abuse, the external notification centre is empowered to obtain all the information necessary for the formation of its recommendation from the Executive Board. The Executive Board provides the external notification centre with the information requested.
4. The external notification centre can entrust the investigation or parts of it to one of the members or to an expert.
5. If the content of certain information provided by the Executive Board is exclusively for the attention of the external notification centre, this fact is communicated to the external notification centre. The external notification centre prevents unauthorised persons from gaining access to information of a confidential nature.

### **Article 3.4 Non-admissible / unfounded**

The external notification centre declares the notification inadmissible if:

- a. the member of staff has not followed the procedure as specified in Chapter 2 and article 3.2 is not applicable, or
- b. the member of staff has followed the procedure as specified in Chapter 2, but the time limits set in Chapter 2 have not yet been reached;
- c. the notification is not done within a reasonable time limit.

The external notification centre declares the notification unfounded if:

- d. the abuse is not sufficiently serious.

### **Article 3.5 Recommendation of the external notification centre**

1. If the reported suspicion of an abuse is admissible, within six weeks the external notification centre puts its findings regarding the report of the suspicion of an abuse in a recommendation to the Executive Board. The external notification centre sends a copy of the recommendation to the member of staff, taking into consideration the possibly confidential nature of the information given to the external notification centre.
2. If the recommendation cannot be made within six weeks, the time limit can be extended by the external notification centre by a maximum of four weeks. The external notification centre informs both the Executive Board and the member of staff of this in writing.
3. Unless there are serious grounds not to do so, the recommendation is communicated in a manner considered suitable by the external notification centre in an anonymous form, taking into consideration the possibly



confidential nature of the information given to the external notification centre and the relevant legal restrictions.

## **Article 3.6 (Further) standpoint of the Executive Board**

1. Within two weeks of receipt of the recommendation as specified in article 3.5, the Executive Board informs the member of staff and the external notification centre in writing of its (further) standpoint, indicating which steps and/or measures have been taken on the basis of the recommendation.
2. In the case in which the member of staff has requested the external notification centre not to reveal his or her identity, the further standpoint is communicated via the external notification centre.
3. If the (further) standpoint differs from the recommendation, the reasons for doing so are given.

## **Chapter 4 Legal protection**

### **Article 4.1 Non-applicability of the obligation to secrecy by virtue of the Collective Labour Agreement**

The obligation to secrecy of the employee is not applicable

1. If the employee asks for advice or notifies the confidant and
2. if in notifying the external notification centre he or she satisfies the conditions contained in Chapter 3.

### **Article 4.2 Legal protection**

1. The member of staff who has observed the provisions contained in this procedure in reporting the suspicion of an abuse suffers no detriment at all in his or her position as a result of having reported the suspicion.
2. A confidant as defined in article 1 who works at the Amsterdam School of the Arts is in no way disadvantaged as a result of functioning as such by virtue of this procedure.

## **Chapter 5 Concluding provisions**

### **Article 5.1 Coming into effect**

These regulations come into effect on 15 December 2009.

### **Article 5.2 Title for citation**

These regulations can be cited as the 'AHK Whistle-blower procedure'.

This procedure was laid down at the meeting of the Supervisory Board on 15 December 2009

---

<sup>i</sup> A written notification goes directly to the secretary of the school if the name and function of the secretary are indicated on the envelope and the words 'confidential and personal' are clearly stated.

<sup>ii</sup> The superior thus reports directly to the Executive Board, and not via the dean or director.