



WHISTLEBLOWERS  
AUTHORITY

**Annual report** 2016



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## Foreword

It is with great pride that the Whistleblowers Authority presents its first annual report. The Whistleblowers Authority is a brand-new organisation which advises whistleblowers, carries out independent investigations and works proactively to combat abuses in the workplace.

Exciting and energetic: these are the first words that come to mind when I look back on the past period. From the moment we opened on 1 July 2016, the Authority had to deal with an exceptionally large number of requests for advice, investigation and information. That reinforces my confidence in the added value of the Authority.

Of course, in 2016 we also had to work hard on building. Not only on the structure of our organisation, but also on linking our three main tasks properly. Substantial progress was made in that area: we now have a solid basis for the future. I owe the employees and my fellow board members a great deal of gratitude in that respect.

Maintaining a balance between assistance for solving individual cases and combating abuses in a wider sense is important in our work. Building up and opening up relevant knowledge is essential to that aim, not least for employers. We are keen to help them further in this area.

This balanced approach gives us the strength which the legislator envisaged through the creation of the Whistleblowers Authority. Strength to combat whistleblowing situations on several fronts, and strength for the different disciplines in the Authority to reinforce each other in doing this. In this annual report you can read more about all the things we have achieved in this relatively short period.

**Paul Loven**, chairman Whistleblowers Authority

March 2017

## ● Working in an ethically responsible way

For the Whistleblowers Authority, working in an ethically responsible way is not just a starting point but above all, a goal. We pursue this goal together with the entire working population of the Netherlands. From the business sector to the government; we are there for anyone who wants to report an abuse at work. For employees and former employees, self-employed workers, temporary workers and volunteers. We provide them with support and advice. If necessary, we investigate reports. We also work on prevention by providing information about whistleblowing and integrity. In this way, step by step, we are creating a society in which it will become self-evident that employees and employers prevent and identify abuses early and deal with them.

## ● Whistleblowers Authority

The Whistleblowers Authority Act underlies the establishment of the Whistleblowers Authority. The Whistleblowers Authority offers confidential advice to reporters for free. At the request of the reporter, it can also carry out an independent investigation into the abuse and the treatment of the reporter. The Authority also provides information on integrity policy and achieving open organisational cultures.

The core values of the Authority are: independent, careful, just.

Our approach ties in well with two other important parts of the Act. Namely, the obligation of all employers with more than 50 employees to introduce a reporting procedure and the ban on retaliation against the reporter if he or she makes an internal report of a possible abuse, acting in good faith and in the correct way.

## ● One authority, three departments

The vision of the Authority is made clear in the three departments of our organisation.

The accent of the Advice department is on assistance and support in individual whistleblower cases. The department adheres to an 'open policy' in this respect. In other words, anybody who suspects an abuse can contact the Whistleblowers Authority about it. We do assess the situation to make sure it is work-related and fulfils the statutory definition of an abuse with a public interest. The next section provides more information on this.

On request of the reporter, our Investigation department can carry out an independent investigation into an abuse, into the treatment of the whistleblower, or a combination of the two. For this department, everything revolves around *fact finding*. Before the department starts an investigation, it will first verify whether the request is allowable and the issue can be investigated. If it passes that assessment, the investigation will start. More information about this can be found on [page 10](#).

The Research & Prevention department of the Whistleblowers Authority complements the duties of advice and investigation. It allows us to contribute to the fight against abuses in work situations. A great deal still needs to be done in that area. After all, a reporting procedure on its own is not enough to prevent abuses. An integral approach focusing on the improvement of organisational culture will generally result in a transparent organisation in which flaws can be named and tackled. See [page 13](#) for more information about this department's approach.

Of course, behind the scenes we also work hard to make sure these three departments function optimally. The section Organisation and operational management on [page 15](#) provides a concise description of the activities of the past six months and the objectives for the coming period.

### ● Statutory duty

The Advice department of the Authority is tasked with advising people who suspect an abuse at their work. The interest of the whistleblower is the first consideration for the Advice department.

When a person approaches the Advice department, they usually come into contact immediately with one of our employees. The advisor listens carefully in that first conversation. The advisor also asks specific questions to ascertain clearly whether and if so, how the Advice department can help the person making the report.

It takes a lot of time in most cases to assess whether a work-related suspected abuse (wrongdoing) is involved. In these cases, the advisor often holds extensive conversations with the reporter and studies the documents he has been sent.

If the advisor deems that the issue presented to him is a work-related suspected abuse, he can provide advice and support in reporting it.

### ● Advice in practice

The Advice department qualifies two types of case as a whistleblower case.

- 1 Cases which meet the definition of a suspected abuse of the public interest as laid down in law.
- 2 Cases in which it is not certain whether they meet the statutory definition, but for which there are good arguments to conclude that there can be a suspected abuse within the meaning of the law.

The services of the advisors for a non-whistleblower case are limited to being willing to listen and referring the person to the appropriate body.

The services for whistleblowers include advising and supporting the whistleblower to report the suspected abuse internally and/or externally in a proper manner. Furthermore, the advisor notifies the whistleblower of the risks associated with making a report and helps them to put their report down in writing effectively. The advisor can also bring the whistleblower into contact with the agency which has the authority to investigate the alleged abuse and support and guide them – also in any interviews which take place at those agencies. Moreover, we can advise and support them when an investigation of treatment and/or an investigation into the abuse is carried out through the Investigation department of the Whistleblowers Authority.

We emphasise that the whistleblower is in control of every step in the process. The advisor remains in the background; the whistleblower can fall back on him. The whistleblower decides himself or herself which step will be taken, how and when. This means that whenever a whistleblower – for whatever reason – decides not to make a report or take any follow-up steps, the advisor will respect that decision.

Whistleblowers often feel lonely and isolated, at work and in their personal situation. Colleagues regularly shut them out. Sometimes intimidation can be involved. We regularly hear from whistleblowers that they have the feeling that there is nobody to turn to, not even among the people closest to them. For many whistleblowers, the process is extremely stressful.

The continual pressure to which they are subjected results not infrequently in physical or psychological complaints. If necessary, we can bring the whistleblower into contact with a psychologist who is familiar with the psychosocial problems with which whistleblowers can be afflicted. During the reporting period, a number of cases were referred to a psychologist. The psychosocial aid will be expanded in 2017.

## ● 2016 figures

In the first six months of the Authority's existence, 532 people contacted the Advice department.<sup>1</sup> That is considerably more than anticipated by the initiators of the Act. The initiators estimated that 400 to 600 people would contact the Advice department per year, but we already reached that number in the first half year that the Whistleblowers Authority was operational.

This massive flood resulted in the Advice department having to go all out from day one so that everyone could be heard.

Of the cases in 2016 in which contact with the Advice department was sought, 33 percent involved an issue in the private sector, 32 percent in the public sector and 23 percent in the semi-public<sup>2</sup> sector. For 12 percent of the cases the sector was unknown.

### Number of requests for advice per sector

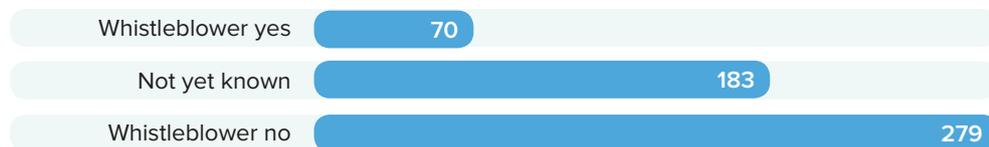


1 53 of these 532 cases are cases which were carried over from the Advice Centre for Whistleblowers. When the Whistleblowers Authority was established on 1 July 2016, the Advice Centre ceased to exist. The cases still being handled by the Advice Centre at that time were placed with the Advice department of the Whistleblowers Authority.

2 We consulted the Executives' Pay (Standards) Act in order to determine which organisations belonged to the semi-public sector. Semi-public organisations include those in care, housing corporations, etc.

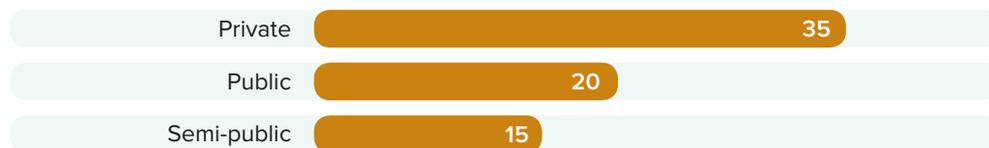
The Advice department considered 70 of the 532 requests for advice in 2016 as whistleblower cases. On 31 December 2016, it was not yet known for 183 cases whether they qualify as whistleblowing cases. In these cases, the advisor requested further information so that this could be assessed.

### Division of cases



The 70 whistleblower cases are divided across the sectors in 2016 as follows:

### Number of whistleblower cases per sector



When we look at the branches of industry, it is apparent that most of the whistleblower cases in the private sector concern alleged abuses in financial services and other services to consumers (six cases each). In the public sector, the abuses were related most often to municipalities and ministries (six cases each). Of the cases in the semi-public sector, eight cases involved the care and welfare branch (including childcare, home help, etc.).

A striking point with the abuses for which whistleblowers have requested advice is that suspicion of fraud, embezzlement or theft occurred most in the private and semi-public sectors. Suspicion of breach of regulations or rules occurred the most in the public sector in 2016.

What is striking is that the Advice department was often approached by people who had already reported their suspicions in the past and say that they experienced negative consequences because of that. Before the Whistleblowers Authority was established, these people had nowhere to turn to. The Authority can help these people now.

Of the 70 whistleblowers, five have not yet made a report. Three of the 65 whistleblowers who have made a report (internal, external or both) say they have experienced no negative consequences. For twelve whistleblowers it is unknown whether they have experienced negative consequences. The other 50 whistleblowers have indicated that they experience retaliation as a result of the report. The most common method of retaliation is dismissal or non-renewal of a contract.

The nature of the retaliation creates the following picture:

### Retaliation to whistleblowers



In 2016, 28 of the 70 whistleblower cases were closed. This was because in a number of cases the whistleblower did not wish to go further with reporting the abuse. At the end of 2016, there were 42 whistleblower cases still being handled for which we will continue to provide advice and support in the reporting process in 2017.

# 3

## Investigation

### Statutory duty

Employees can ask the Investigation department of the Whistleblowers Authority to start an investigation. This can be an investigation into a suspected abuse, but also into the way the employers treated the employees after they reported their suspected abuse. A person who submits a request for investigation with the Investigation department is called an applicant.

The Advice department can support the applicant in their submission of a request for investigation to the Investigation department. The departments do not exchange information, unless the applicant permits this. The key task of the Investigation department is performing independent investigation, in which both the applicant and the employer are the discussion partners.

### Investigation in practice

There are five situations which can form the reason for the Investigation department to start an investigation.

- 1 Investigation of a suspected abuse.
- 2 Investigation into the way the employer has behaved as a result of a report (request for investigation of treatment).
- 3 A combination of situations 1 and 2.
- 4 On the basis of several signals from the Advice department about a suspected abuse at an employer.
- 5 On the basis of previous recommendations in an investigation report to check whether these recommendations have been implemented by the employer.

The fourth and fifth possibilities have not yet been applied by the Investigation department.

The Investigation department uses a number of statutory conditions (the admissibility requirements) to assess whether it can take up the request. In addition, it must actually be possible to investigate the submitted issue. This can be difficult, for example if an organisation has gone into liquidation or if the (report of a) suspected abuse took place a long time ago. In those situations, documents can be lost or certain persons can no longer be heard. This makes it impossible to build up a good picture.

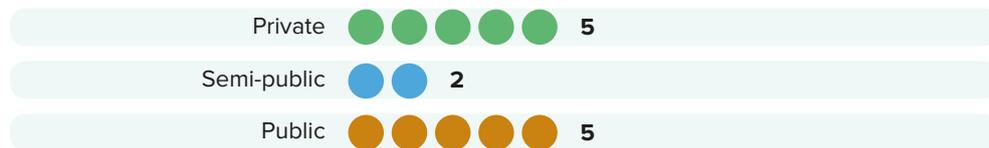
The Investigation department checks whether the submitted request requires more information from the applicant to determine whether an investigation can be started. The statutory period for determining whether a request can be handled is six weeks. This period can be extended to give applicants the opportunity to provide more information with their request. All applicants who submitted a request to the Investigation department in 2016 received a message about it within the stated period of six weeks.

Once the decision has been made to start an investigation, the investigation period starts. The Investigation department endeavours to complete the investigation within one year. When the investigation is finished, a report is drawn up. This report contains the findings and the recommendation. We release the report on the website of the Whistleblowers Authority. This publication does not contain names of persons or organisations.

## 2016 figures

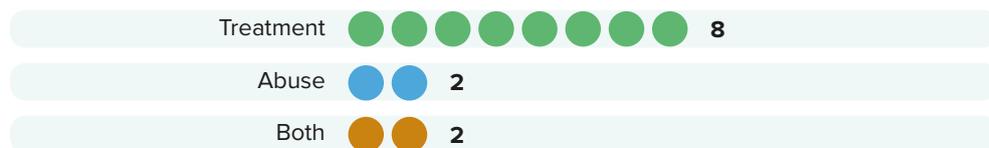
In the period 1 July 2016 to 31 December 2016, the Investigation department received twelve<sup>3</sup> requests for investigation. In two situations, two applicants submitted a request together. Similar to the Advice department, the Investigation department makes a division into three sectors: public, semi-public and private. The Whistleblowers Authority Act only identifies two sectors for the implementation of the investigative powers: the public and the private sectors. For the application of the investigative powers, we count the semi-public sector as the private sector.

### Number of requests per sector



There is no striking difference in the nature of the requests in each sector. What is noticeable is that in a large number of requests for investigation of treatment, the preceding report of the applicant dated from more than five years ago.

### Nature of the requests



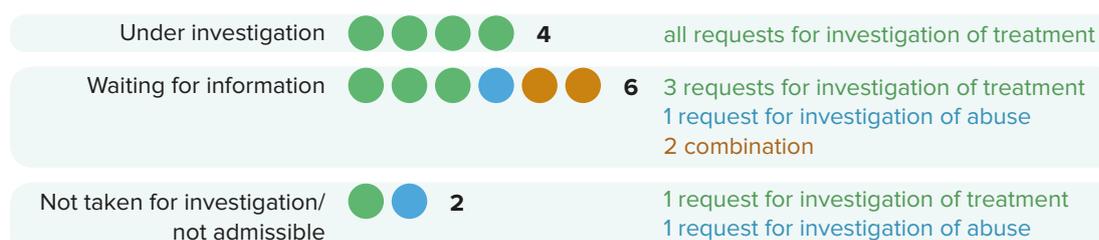
<sup>3</sup> Two messages received were not registered as requests, because they did not involve a specific request and/or the applicant did not use the possibility of adding more information or an explanation.

The issues concerned in the suspected abuse are shown below.

Classification of request	Type of investigation		
	abuse	treatment	both
Conflict of interest or personal gain		2	
Breach of regulations or rules	1	3	2
Fraud, embezzlement or theft	1		
Incorrect use of government funds		1	
Danger to health, safety or the environment		2	
<b>Total</b>	<b>2</b>	<b>8</b>	<b>2</b>

The twelve requests received in 2016 are in various stages of handling. Four requests are admissible and deemed suitable for investigation. The department is still waiting for additional information for six requests. Four applicants have been given the opportunity to supply additional information to determine the admissibility/suitability for investigation. The assessment of two requests has been deferred pending the result of an ongoing investigation by another (internal and/or external) agency. Two requests have not been accepted for investigation, because they did not meet the statutory requirements.

### Requests for investigation



In 2016 there were no investigations completed with an investigation report. The Investigation department has therefore not yet formulated any recommendations for organisations, the compliance with which it can check through investigation.

## ● Employers

Preventing abuses is an important task of the Whistleblowers Authority. There is a lot to be gained, particularly right at the front of the problem. Prevention, early identification and timely intervention reduce the risks for employees and employers. The employer has significant responsibility in this respect. Various studies have shown that an integral, coherent approach is required so that results can be realised.

We consider aspects like ethical leadership, codes, culture, screening and enforcement. Employers benefit from coherent integrity management, with various advantages such as less work stress and absence through illness among the employees, increased work motivation and work quality. And another benefit is value creation for the organisation in the long term.

Currently, however, an integral approach to integrity is not yet obvious. That is why the Whistleblowers Authority focuses on stimulating and supporting employers in their efforts to create a safe organisational culture and structure. Our attention especially targets professionals who have a specific responsibility for integrity. Examples are ethics and compliance officers, confidential integrity counsellors, legal advisors and HR managers.

The Research & Prevention department will aim primarily at small and medium-sized businesses and the healthcare sector in the coming period, because we expect that the need for information will be greatest in these sectors. The Authority's programme consists of three lines:

- 1 Distribution of practical knowledge and development of tools
- 2 Connecting professionals and networks
- 3 Research into trends and developments

## ● Practical knowledge and tools

We develop and provide access to publications with practical tips and instructions for employers. Many employers ask questions about the mandatory procedure for reporting abuses. For that reason, in 2016 we published the brochure 'Integrity in Practice: The Reporting Procedure'. This brochure meets the need for a model procedure, also for organisations with fewer than 50 employees.

We also support the further professionalisation of integrity management. We answer individual questions from employers via the telephone and email. This happened around three hundred times in the first six months. In 2017, we will meet this need for information as much as possible through generic products and instruments. We are developing an appropriate online environment for this purpose. Themes which require attention in this respect are culture, the confidential integrity counsellor, internal enforcement and ethical leadership.

## ● **Connecting professionals**

Compliance and integrity professionals have a great need to share knowledge and experience with colleagues. We gave several presentations and talks in 2016, including during the Week of Integrity of ICC Nederland and the annual congress of the Ien Dales Chair. The Whistleblowers Authority will also organise meetings for integrity professionals itself in 2017.

There is quite some interest from abroad about the way abuses are reported and how the protection of whistleblowers is organised in the Netherlands. The Authority also participates in international networks. Examples are the European Network of Integrity Practitioners (ENIP) which connects integrity and anti-corruption agencies from various European countries, and the integrity network of the Organisation for Economic Cooperation and Development (OECD).

## ● **Research into trends and developments**

The Whistleblowers Authority as knowledge institute has the task of contributing to the prevention of abuses. To that aim, we collect national and international opinions, information and studies on the themes of whistleblowing and promotion of integrity, and we make this information available. The department can also research these themes itself or commission such research.

## Background

The Whistleblowers Authority is based on the Whistleblowers Authority Act. The Authority has been designed to be an independent administrative body under the Ministry of the Interior and Kingdom Relations. A number of the minister's powers are limited in this context. For instance, the minister cannot retrieve information about the individual cases which are being handled by the Advice department or the Investigation department, or exert influence on the policy of the Authority.

## Board

Board members of the Whistleblowers Authority are appointed by Royal Decree. This is in order to give maximum effect to the independence of the Authority. The following board members were appointed for a period of four years, starting on 1 July 2016:

- Mr P.A.M. Loven, chairman
- Ms E.L. Snoeij, board member Advice, also vice-chairperson
- Ms C.A. Nooy, board member Advice
- Mr G.E.L.M. de Wit, board member Investigation
- Ms A.M. Zwaneveld, board member Investigation

The board members are each attached to the Whistleblowers Authority for a part of their time; they also hold other positions.

An incompatibility committee has been set up to test the compatibility of the (other) positions. The following committee members were appointed for a period of four years, starting on 1 July 2016:

- Mr K. van der Steenhoven, chairman
- Ms S.C. Bleker-van Eyk
- Mr H. Brouwer
- Mr T.H.J. Joustra

## Office

The board is supported by an office. In 2016, thirteen people worked in the office. They are divided across the Advice, Investigation and Research & Prevention departments. A manager runs the office and a small staff – including a secretarial office and communication advisor – take care of support.

It is now clear that the staffing level must be expanded so that we can cope with the large number of requests for advice, establish the Whistleblowers Authority properly and guarantee the quality of our services. In 2017, we will expand the office in any case with three employees (within the staffing).

For the deployment of investigation capacity we will use temporary expertise for the time being, outside the staffing. It is still too early to assess whether this will be sufficient.

For the deployment of psychosocial support, it was decided in 2016 to use external expertise. We will elaborate the structure of the psychosocial support during 2017.

## ● **Operational management**

For the implementation of its primary tasks, the Whistleblowers Authority works autonomously and independently. This is provided for by law. In view of the size of the office, however, it was decided to dovetail the operational management as much as possible with the infrastructure of the Ministry of the Interior and Kingdom Relations. When confidentiality of information is at issue, extra measures or derogation measures are taken.

Information security has extremely high priority. The Authority aims to work fully digitally before the end of 2017, using a case system with optimum security which is fully tailored to our range of tasks.

## ● **Budget and implementation**

The 2016 budget for the Whistleblowers Authority was €1.5 million. The realisation amounted to €0.8 million in the end. This has everything to do with the start-up phase of the Authority. As far as that is concerned, 2016 is not a representative year.

The major reasons for the underspending are:

- lower staff expenditure because the Authority was not yet fully staffed in 2016;
- lower expenditure for the item 'external hiring'. In 2016, the Authority had not yet implemented any investigations;
- lower expenditure for 'external communication and information'. These activities were still in the preparatory phase in 2016.

The budget of €3 million on an annual basis will be maintained in 2017. This will be sufficient on the basis of the current insights. The Authority will handle public resources carefully in this respect, although it is not possible to predict how many investigations the Authority will be faced with in 2017 and how much they will cost.

## ● **Communication**

The new organisation attracted ample media attention right from the time of opening. The Whistleblowers Authority has been approached regularly by professional media, in particular about the consequences of the Act for each sector or discipline. The Authority can generally count on good press, and the importance and usefulness of the Act and the Authority are recognised. We approach the media mainly when providing broad, general information to society on the phenomenon of whistleblowing, integrity in the workplace and the operation of the Whistleblowers Authority itself.

The design of the Authority's website aims in the first instance to inform all Dutch people who suspect abuse at their work in a simple and accessible way about the Act and the services of the Authority. We also publish completed investigation reports on this website. Following on from the prevention task of the Authority, we intend expanding the website with specific and practical information for employers.

## ● **Quality assurance**

The Whistleblowers Authority Act stipulates that the Whistleblowers Authority must establish and publish board regulations, an investigation protocol and an advice protocol.

In elaborating these protocols, the Authority logically encounters all kinds of implementation issues. The Whistleblowers Authority Act is not equally explicit on all points and it was not possible to provide for everything in the Act. The experiences of the first implementation year are necessary so that we can implement the protocols and the regulations satisfactorily. We anticipate that the protocols and the regulations will be published by mid-2017.

On the basis of these protocols we will likewise be working out the system of internal quality assurance in more detail during 2017.

## ● **Cooperation and coordination**

The Authority aims at a good relationship and coordination with inspectorates, research bodies and supervisory authorities. In some cases it can be useful to lay down agreements about cooperation and/or roles, tasks and powers.

In 2016, the Whistleblowers Authority and the National Ombudsman effected a protocol which sets out the division of roles and mutual referral.

In addition, the Authority effected a protocol with the Public Prosecution Service which provides for agreements about coordination and information exchange in the event of concurrence of investigation. Both protocols are publicly accessible via the website of the Whistleblowers Authority.

## Colophon

This is a publication of the Whistleblowers Authority.  
For more information please go to [www.huisvoorklokkenluiders.nl](http://www.huisvoorklokkenluiders.nl).

Authors: Whistleblowers Authority  
Dutch editors: [Ravestein & Zwart](#)  
Translation: [Vertaalbureau Bothof](#)  
Design: [Lauwers-C](#)

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AUTHORITY