

VAN HALL LARENSTEIN UNIVERSITY OF APPLIED SCIENCES – WHISTLEBLOWING PROCEDURE

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CHAPTER I GENERAL

PROVISIONS

Article 1.

Definitions

<i>Executive Board:</i>	the executive board of the Van Hall Larenstein Foundation and the University of Applied Sciences;
<i>Student Counselling Office:</i> office;	the University of Applied Sciences' student counselling office;
<i>University of Applied Sciences:</i>	the Van Hall Larenstein university of applied sciences maintained by the Van Hall Larenstein Foundation;
<i>Superior:</i> superior;	someone who serves as a Staff Member's immediate superior;
<i>Staff Member:</i>	someone who works or used to work for the Van Hall Larenstein Foundation or the University of Applied Sciences;
<i>Whistleblower:</i>	a person who reports an irregularity, actual or suspected misconduct or infringement of EU law. This may be a Staff Member, student, independent party, volunteer, intern, former Staff Member or job applicant;
<i>Participation Council:</i>	the participation council referred to in Article 10.17 of the WHW [Higher Education and Research Act].
<i>Counsellor/Adviser:</i>	any person whom the whistleblower trusts and who is subject to a duty of non-disclosure;
<i>Supervisory Board:</i> and University of Applied Sciences;	the supervisory board of the Van Hall Larenstein Foundation
<i>Procedure:</i>	this whistleblowing procedure of Van Hall Larenstein;
<i>In Writing / Written</i>	by means of a letter, email or a message which is transmitted through some other generally accepted means of communication and which can be received electronically or in writing, provided that it is possible to establish the sender's identity with a sufficient degree of certainty;
<i>Student:</i>	a person referred to in Article 7.32 et seq. of the WHW who is registered as a student at the University of Applied Sciences to attend education or who has studied at it;
<i>Van Hall Larenstein Foundation:</i>	which was incorporated on 27 September 2002 and whose articles of association were last amended on 10 January 2018;
<i>Confidential Counsellor:</i>	an independent external official whom a whistleblower may approach with an irregularity, actual or suspected misconduct or an infringement of EU law;

WHW

the Higher Education and Scientific Research Act
[*Wet op het hoger onderwijs en wetenschappelijk
onderzoek*] as applicable now;

Wherever the term he (him, his and so forth) is used in these regulations, it shall also be deemed to refer to she (her and so forth).

Article 2.

Scope of application of procedure

1. This procedure sets out the options for and protection of any person who wishes to report an irregularity, any actual or suspected misconduct or the possibility of an infringement of EU law.
2. This procedure is not intended for:
 - a. reporting personal complaints concerning personal matters pertaining to work or studies;
 - b. reporting any conscientious objections to conducting normal business operations;
 - c. the expression of criticism of policy decisions made by the University of Applied Sciences.

Article 3.

Irregularities

For the purposes of this procedure an irregularity refers to an error in the performance, structure, processes or procedures with the University of Applied Sciences which is so serious that it exceeds a superior's responsibility.

Article 4.

Misconduct and infringements

For the purposes of this procedure misconduct refers to an incident within the University of Applied Sciences which has major or social implications in that it involves dangerous, immoral or illegal practices which occur under the University of Applied Sciences' responsibility.

The procedure deems an infringement of EU law to refer to a potential infringement within the following domains:

- public tenders;
- financial services, products and markets, the prevention of money laundering and combatting terrorism;
- product safety and conformity;
- transport safety;
- the protection of the environment;
- radiation security and nuclear safety;
- the safety of foodstuffs and animal feeds, health and welfare;
- public health;
- consumer protection;
- personal data protection.

Article 5.

Suspected misconduct

This procedure deems suspected misconduct to refer to a whistleblower's suspicion that misconduct has occurred in the University of Applied Sciences in which they work or used to work or in another organisation in the event that they come into contact with such organisation through their work in so far as:

1. the suspicion is based on reasonable grounds which follow from the knowledge which the whistleblower has acquired in the University of Applied Sciences or from the knowledge that the whistleblower has acquired through their work for another business or organisation; and

2. the public interest is compromised in the case of a contravention of the law, a danger to public health, a danger to the safety of people, a danger of the environment being affected, a danger to the proper functioning of the University of Applied Sciences as a result of an improper way of acting or failing to act.

CHAPTER II

INTERNAL PROCEDURE

Article 6.

Reporting procedure

1. A whistleblower may report an irregularity, misconduct or suspicions of such misconduct based on reasonable grounds or a potential infringement of EU law to their superior or, should they deem it to be inadvisable to do so, to the Executive Board. A student may report an irregularity, misconduct or suspicions of such misconduct based on reasonable grounds or a potential infringement of EU law to the Student Counselling Office or, should they deem it to be inadvisable to do so, to the Executive Board.
2. A report may be submitted to the Executive Board along with a report to the Staff Member's superior or the Student Counselling Office.

Article 7.

Reporting requirements

1. A report shall preferably be made in writing but may also be made verbally (on the telephone or through another voice messaging system or an on-site chat).
2. Although it is advisable to submit a report internally first, it is possible to lodge an external report immediately with the competent authorities, for example, the house for whistleblowers, the inspectorate and the Dutch Data Protection Authority. A report may also be submitted directly to an external confidential counsellor.
3. A written report shall be signed by the whistleblower or their authorised representative and shall contain at least:
 - a. the whistleblower's name and address;
 - b. the date;
 - c. a description of the irregularity, the actual or suspected misconduct, including where possible the name of the person or organisational unit that is the subject of such suspicion;
 - d. the grounds on which a suspicion of misconduct is based.
4. The relevant Staff Member's superior or the Student Counselling Office referred to in Clause (1) shall personally ensure that the chair of the Executive Board is notified of the report and the date on which it is received by means of a written statement from the whistleblower.
5. The chair of the Executive Board shall send the whistleblower (provided that they have disclosed their identity) notice of confirmation of receipt including the date on which the report has been received. Where the identity has not been disclosed to the Executive Board, the relevant Staff Member's Superior or the Student Counselling Office shall issue a notice of confirmation of receipt.
6. Although a report may never occur anonymously, the whistleblower may ask their superior or the Student Counselling Office not to disclose their identity to the Executive Board.
7. A whistleblower within the organisation shall be entitled to:
 - a. notice of confirmation of receipt within seven (7) days;
 - b. information about any subsequent steps within three (3) months after such notice of confirmation;
 - c. non-disclosure. Their identity may not be disclosed without their consent;
 - d. protection against being disadvantaged.

Article 8. Counsellor / Adviser

Before reporting an irregularity, actual or suspected misconduct or a potential infringement of EU law, a whistleblower may discuss their suspicions with a Counsellor or other Adviser to request advice. Such Counsellor or Adviser shall not be disadvantaged as a result.

Article 9.

Executive Board's position

1. The Executive Board shall launch an investigation immediately in response to a report of an irregularity or actual or suspected misconduct.
2. Within a period of three (3) months as of the time of the internal report, the whistleblower shall be apprised in writing by or on behalf of the chair of the Executive Board of its substantive position concerning the report, while indications shall also be provided concerning any steps to which the report has led.
3. Should it be impossible to express a position within three (3) months, the whistleblower shall be notified of this by or on behalf of the chair of the Executive Board and informed of the period within which they may expect to see a position.

Article 10.

Reporting to the Supervisory Board

1. The whistleblower shall submit a report to the chair of the Supervisory Board in the event that:
 - a. they disagree with the position adopted by the Executive Board as provided for in Article 9 of this procedure;
 - b. they have not received a statement of its position by the stipulated deadline referred to in Article 9(2) and (3);
 - c. given all of the circumstances, the deadline referred to in Article 9(3) is unreasonably long and the whistleblower has submitted an objection to it to the chair of the Executive Board;
 - d. a report of misconduct involves a member of the Executive Board.
2. The report must be submitted in writing along with reasons to the chair of the Supervisory Board.
3. The chair of the Supervisory Board shall confirm receipt of a report and shall notify the Executive Board of the report.
4. The Supervisory Board shall immediately launch an investigation into the grounds for the report.

Article 11.

Supervisory Board's position

1. Within a period of eight (8) weeks as of the time of the report, the whistleblower shall be apprised in writing by or on behalf of the chair of the Supervisory Board of its substantive position concerning the report.
2. Should it be impossible to express a position within eight (8) weeks, the whistleblower shall be notified of this in writing by or on behalf of the chair of the Supervisory Board and informed of the period within which they may expect to see a position.

Article 12.

Admissibility

1. The chair of the Executive or Supervisory Board shall be responsible for assessing the admissibility of the report. A report shall be declared to be inadmissible and shall not be dealt with any further in the event that:
 - a. the provisions of Article 7(3)(a) of this procedure governing the status of the whistleblower in relation to any deadline or the definition of actual or suspected misconduct are not complied with;
 - b. the provisions of Article 7(3)(c) and (d) governing the reporting requirements are not complied with or complied with clearly inadequately;
 - c. other specific procedures are envisaged for dealing with the relevant case in the University of Applied Sciences or where the report solely or primarily concerns the outcome of such procedures which have already been conducted.
2. In the event that the aforementioned chair rules in favour of an inadmissibility statement, the whistleblower shall be notified of this in writing along with the reasons for this by or on behalf of this chair.
3. Should a decision be taken in favour of admissibility, the relevant chair shall be responsible for beginning to deal with the report immediately.

Article 13.

Confidentiality

The whistleblower and anyone to whom an irregularity, actual or suspected misconduct or a potential infringement of EU law has been reported, shall deal with the report in confidence. No information shall be provided to another party within or outside the University of Applied Sciences without the consent of the chair of the Executive or the chair of the Supervisory Board where a report has been submitted to them. Where information is supplied, the whistleblower's name shall not be mentioned in so far as this is reasonably possible. For that matter, such information shall be provided in such a way that the whistleblower's anonymity is secured in so far as it is possible to do so.

CHAPTER III

EXTERNAL REPORTING

Article 14.

External reporting centre

1. The Van Hall Larenstein Confidential Counsellor shall serve as an external reporting centre. An external report may also be lodged immediately with the competent authorities, for example, the house for whistleblowers, the inspectorate and the Dutch Data Protection Authority.
2. The Confidential Counsellor shall also have a duty to investigate a report of an irregularity, actual or suspected misconduct or a potential infringement of EU law which has been submitted to the Executive Board by a whistleblower in accordance with Article 6 or to the Supervisory Board in accordance with Article 10 and to provide the Executive Board with advice in this respect. The Confidential Counsellor may also receive a report directly.

Article 15.

Confirmation of receipt and investigation by the Confidential Counsellor

1. The Confidential Counsellor shall provide the whistleblower who has reported a suspicion with confirmation of the receipt of the relevant report.
2. The Confidential Counsellor shall conduct an investigation should they deem this to be necessary for the performance of their duties.
3. For the purposes of their investigation, the Confidential Counsellor shall be entitled to obtain all requisite information from all of the staff and students of the University of Applied Sciences. The Confidential Counsellor may require the inspection of all documents and correspondence which they deem to be important for the purposes of

- assessing the relevant report.
4. The Confidential Counsellor may delegate an investigation or parts of one to an expert. The University of Applied Sciences shall be liable for the reasonable costs involved.
 5. Where the substance of specific information supplied by the Executive Board needs to remain confined to cognisance by the Confidential Counsellor because of its confidential nature, the latter shall be informed of this.
 6. The Confidential Counsellor shall ensure that unauthorised individuals are unable to take cognisance of such information.

Article 16.

Confidential Counsellor's recommendation

1. Within six (6) weeks the Confidential Counsellor shall present their findings concerning the relevant report in a recommendation for the Executive Board and shall send a copy of their recommendation to the whistleblower in accordance with the confidential nature of the information supplied to the Confidential Counsellor where relevant.
2. Where it is impossible to provide a recommendation within six (6) weeks, the Confidential Counsellor may extend the deadline by no more than four (4) weeks. The Confidential Counsellor shall notify the Executive Board and the whistleblower of this in writing.
3. Unless compelling reasons constitute an obstacle to this, the recommendation shall be publicly disclosed in an anonymised form subject to the confidential nature of the information supplied to the Confidential Counsellor where relevant and the legal provisions applicable in this respect in a manner which the Confidential Counsellor deems to be appropriate.

Article 17.

Executive Board's (more considered) position

1. Within two (2) weeks after receiving the recommendation referred to in Article 16.1, the Executive Board shall notify the whistleblower and the Confidential Counsellor of its (more considered) position. In this respect it shall indicate the steps and/or measures to which the recommendation has led.
2. Reporting on the more considered position shall be effected through the Confidential Counsellor to the relevant Staff Member, their superior, their Confidential Counsellor or the student who has asked the Student Counselling Office or Confidential Counsellor not to disclose their identity.
3. Additional reasons shall be cited for a (more considered) position which derogates from the recommendation.

CHAPTER IV

LEGAL PROTECTION

Article 18.

Legal protection

1. The duty of non-disclosure pursuant to the CAO [collective labour agreement] shall not apply in respect of a Staff Member who files an internal report with their Superior, the Supervisory Board or Confidential Counsellor, thereby complying with the applicable terms and conditions stipulated in Articles 6, 7 and 12.
2. A Staff Member who reports an irregularity, or actual or suspected misconduct in accordance with the provisions of this procedure shall not in any way be disadvantaged in relation to their position as a result of reporting it for two (2) years after a ruling to the effect that it is reasonable to assume that an irregularity or misconduct has occurred, unless it can be shown that they acted in bad faith.
3. A Confidential or other Counsellor or Adviser, a Staff Member's Superior or Student

Counselling Office referred to in Article 1 shall in no way be prejudiced as a result of serving as such in accordance with this procedure for two (2) years after a ruling to the effect that it is reasonable to assume that an irregularity or misconduct has occurred, unless it can be shown that they acted in bad faith.

CHAPTER V

FINAL PROVISIONS

Article 19.

Short title and effective date

This procedure may be referred to as the 'Van Hall Larenstein Whistleblowing Procedure' and shall come into effect on 1 September 2022.

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