

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

# SPEAK UP

Council of Europe Policy on reporting  
wrongdoing and protection from retaliation

## Introduction

1. This Policy sets out the Council of Europe's internal framework for the reporting of wrongdoing affecting the public interest and the protection which will be accorded by the Organisation to those who report such wrongdoing. Together with the Code of Conduct and the Policy on respect and dignity in the Council of Europe, this Policy forms part of the Organisation's ethical framework. It should also be read in conjunction with the Staff Regulations and Staff Rules.
2. The Council of Europe is a values-based international organisation which promotes democracy, human rights and the rule of law. As such, it is vital that the Organisation functions in a manner which upholds these values. As a publicly funded organisation, it is crucial that both the Council of Europe and its staff are irreproachable in their actions and perceived as such by the public. However, all organisations face the risk of something going seriously wrong or of unknowingly harbouring illegal or unethical behaviour, and the Council of Europe is no different. For these reasons, the Council of Europe has put in place a framework by which suspected wrongdoing affecting the public interest, which is contrary to the Organisation's values and its obligations, can be reported so that it can be effectively and promptly addressed. This framework is intended to inspire confidence in everyone, both internal and external to the Organisation, that the Council of Europe is committed to achieving the highest possible ethical standards in all of its activities and to promoting a culture of openness in which concerns can be raised, discussed and addressed.
3. In order to encourage speaking up and to ensure that those who report do not suffer negative consequences as a result of doing so, an essential element of this framework is the protection from retaliation. Retaliation is explicitly prohibited by the Code of Conduct and its Staff Regulations. This Policy sets out in detail the steps that the Council of Europe will take to protect those who report wrongdoing, and others, from retaliation.
4. It is not disloyal to colleagues or to the Organisation to report, where there is a good faith belief that wrongdoing affecting the public interest has occurred, is occurring, or may occur. The Council of Europe encourages freedom of speech on the part of its staff and others, and views reporting as a positive act that can make a valuable contribution to the Council's effective functioning and its long-term success in achieving its aims.

## Scope

5. This Policy applies to all current and former Secretariat members of the Council of Europe, as well as to: members of its organs, bodies, committees and working groups; persons involved with the Organisation's activities; and consultants and other contractors. Persons external to the Council of Europe may also use the reporting mechanism provided by the Policy, should they become aware of or suspect that wrongdoing affecting the public interest has occurred in the context of Council of Europe activities.
6. The Policy is designed to ensure that wrongdoing affecting the public interest, which is defined in the following paragraphs, is reported. It is not intended to cover grievances against the Organisation, inter-personal issues or minor breaches of the internal legal framework. More detail on what is excluded from this Policy and where to find more information on how to deal with such situations is given below.

## Wrongdoing affecting the public interest

7. As noted above, this Policy is designed to encourage the reporting of wrongdoing affecting the public interest. Indeed, staff members of the Council of Europe have the obligation, by virtue of Article 1.6 of the Staff Regulations, to report such wrongdoing. The other persons to whom this Policy applies are also expected to, and members of the public are encouraged to, report such wrongdoing should they become aware of it. It is therefore crucial to understand what constitutes wrongdoing affecting the public interest.
8. As set out in its Code of Conduct, the Council of Europe strives to uphold its ethos of professionalism, integrity and respect and the values that underpin this ethos, namely independence, trustworthiness, responsibility, dignity, diversity and discretion. Conduct which runs contrary to these values will amount to wrongdoing affecting the public interest. For example, a staff member breaching the Code of Conduct, and in particular the value of independence, by accepting instructions from a representative of a government or another third party, would be committing wrongdoing affecting the public interest. Such behaviour should be reported under this Policy. Other examples of wrongdoing affecting the public interest include: accepting a bribe; abusing the status of staff member of the Council of Europe or the privileges or immunities that attach thereto; failing to disclose a major conflict of interest; or corrupt behaviour by a Council of Europe contractor.
9. As well as constituting criminal offences under national laws, fraud and corruption represent particularly grave breaches of the Council of Europe's internal legal framework, because of the standards which the Organisation promotes within its member states and the public nature of its funding. Fraud and corruption are therefore treated as gross misconduct by the Organisation and any suspicion thereof should be reported immediately. The failure by a Secretariat member to report fraud or corruption of which they have knowledge or a reasonable suspicion will be considered, in itself, as wrongdoing which can entail disciplinary consequences.
10. Conduct must affect the public interest to constitute wrongdoing that should be reported under this Policy. As such, some actions may breach the Code of Conduct or other applicable internal legal instruments or contractual provisions, but should not be reported under this Policy as they do not affect the public interest. Examples of such behaviour would be: minor offences under national laws such as minor traffic offences; or minor breaches of the Council of Europe's internal legal framework such as occasional tardiness or failure to wear a badge. Conversely, actions which are not necessarily covered by the Organisation's Code of Conduct but are clearly contrary to the public interest should be reported under this Policy – for example, actions or omissions which pose a danger to public health or to the environment.
11. The Council of Europe recognises that it is not always entirely clear whether an act or omission constitutes wrongdoing affecting the public interest or not and that, in particular, it can be difficult to decide whether wrongdoing reaches the requisite threshold of severity. Secretariat members, as well as other persons, can seek advice from the Ethics Officer if in any doubt as to whether a matter should be reported under this Policy or not.
12. Harassment amounts to a sui generis type of wrongdoing under the Council of Europe's internal legal framework. It is starkly contrary to the Council of Europe's values, breaches the Code of Conduct, and constitutes gross misconduct when perpetrated by a staff member. It is also in the public interest to combat harassment wherever it is found. However, the Council of Europe has a dedicated Policy on respect and dignity which regulates the manner in which harassment, as well as other disrespectful behaviour, is handled within the Organisation. As such, reports of harassment – or complaints, by the victim of alleged harassment – should be made in line with that Policy.
13. Staff members' grievances against the Organisation, or management decisions with which they disagree, do not constitute wrongdoing affecting the public interest and should not be reported under this Policy; the appropriate means of challenging such decisions are set out in the Staff Rule on grievances. Similarly,

inter-personal issues with other Secretariat members, such as a conflictual situation or disrespectful behaviour falling short of harassment, should be handled using the means set out in the Policy on respect and dignity rather than being reported under this Policy. Where there is doubt as to whether a particular situation constitutes a grievance, an inter-personal issue or a legitimate suspicion of wrongdoing affecting the public interest, again, the advice of the Ethics Officer can be sought.

## Other definitions

14. The concept of “wrongdoing affecting the public interest” is explained above. For the purposes of this Policy, the following definitions also apply:
  - a) “Secretariat members” means permanent and temporary staff, trainees, seconded officials and study visitors of the Council of Europe.
  - b) “Members of the Council of Europe’s organs, bodies, committees and working groups” include, but are not limited to, Ministers’ Deputies; members of the Parliamentary Assembly of the Council of Europe or of the Congress of Local and Regional Authorities; judges of the European Court of Human Rights; the Commissioner for Human Rights; members of specialised independent monitoring bodies or of intergovernmental committees and subordinate bodies set up by the Committee of Ministers; judges or deputy judges of the Administrative Tribunal of the Council of Europe; and the Data Protection Commissioner.
  - c) “Person involved in Council of Europe activities” means any person who is not a member of the Organisation’s organs, bodies, committees or working groups nor a member of the Secretariat, but who participates or is otherwise involved in any projects, sessions, meetings, events or social functions related to Council of Europe programmes and projects.
  - d) “Reporting” means any oral or written communication of information about wrongdoing, made through the channels established by this Policy.
  - e) A “reporting person” means any person falling within the scope of this Policy who reports wrongdoing through the channels established herein.
  - f) “Retaliation” means any detrimental action or omission, direct or indirect, against a specific person or persons, motivated in whole or in part by a desire to intimidate, penalise, silence, obstruct or punish because a report of wrongdoing has or is believed to have been made or an investigation into alleged wrongdoing has been conducted.
  - g) “Protection from retaliation” means the protection afforded by the Council of Europe to Secretariat members who report wrongdoing, make a complaint of harassment, or carry out or cooperate with a preliminary assessment or investigation into wrongdoing, or who are believed to fall into any of these categories, as more fully described in the section “Protection from retaliation” below.
  - h) “Fraud” means any illegal act or omission characterised by deceit, concealment or violation of trust, perpetrated to obtain money, property or services; to avoid payment or loss of services; or to secure personal or business advantage, irrespective of the application or threat of violence or of physical force.
  - i) “Corruption” means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof.

- j) “Harassment” is any unwanted, offensive, or abusive conduct or behaviour (including methods of work organisation) which is repeated, sustained or systematic and which, intentionally or unintentionally, is prejudicial to the dignity, integrity, well-being or job security of the person to whom it is directed, and/or creates a humiliating, intimidating or hostile work environment; the repeated, sustained or systematic character is not required in order to qualify unwanted, offensive, abusive conduct or behaviour or advances of a sexual nature as sexual harassment.

## Reporting

- 15. Reports of wrongdoing affecting the public interest on the part of a current or former Secretariat member; a person involved in the Council of Europe’s activities; a member of the Council of Europe’s organs, bodies, committees and working groups; or a contractor or their employee or subcontractor, whether such wrongdoing is known or suspected, should be made to the Directorate of Internal Oversight (DIO). The DIO’s independent status safeguards reporting channels from undue influence and permits the impartial examination of all reports.
- 16. Reports of wrongdoing on the part of the Director of Internal Oversight should be made to the Secretary General, who will decide whether or not the opening of an investigation is justified. Any investigation into such allegations of wrongdoing will be carried out by an investigator external to the Organisation in accordance with the Rule on investigations.
- 17. To report any other wrongdoing, reporting persons are encouraged to use the Speak Up Platform. The Speak Up Platform is designed, set up and operated in a secure manner. The platform ensures that the identity of the reporting person and any third party mentioned in the report is confidential and prevents access by non-authorised persons.
- 18. Reporting can also be done using any of the means indicated by the DIO on their website (including by mail, email, telephone, meeting, etc.).
- 19. The Council of Europe encourages all persons, whether Secretariat members or external to the Organisation, to use the above-mentioned reporting channels. External parties that enter, or seek to enter, into a contract with the Organisation, or participate in its activities, should be made aware as soon as reasonably possible that they may use the above-mentioned channels to report suspected wrongdoing.
- 20. Reporting persons should provide relevant details which permit an assessment as to whether the report has merit. In particular, reports should specify where possible:
  - a) What type of wrongdoing is being reported;
  - b) Where and when the events occurred or are likely to occur;
  - c) Who is involved or has knowledge of the reported facts;
  - d) A description of the acts and/or omissions and why they are considered to be wrongdoing.
- 21. Secretariat members’ obligation not to tarnish the Council of Europe’s reputation, as well as the discretion required of them by the Code of Conduct, requires that they report via the above-mentioned channels rather than sharing their concerns by spreading rumours, via mass e-mails, social media, or the press. Such actions may result in disciplinary sanctions. Any non-Secretariat members with knowledge or suspicion of wrongdoing are also expected to use the above-mentioned channels to report, and not to divulge their knowledge or suspicion by other means.

22. Reporting wrongdoing does not require Secretariat members to seek any prior hierarchical or other form of authorisation. To ensure the level of protection guaranteed by this Policy, Secretariat members must report via the channels referred to herein. This does not, however, prevent a Secretariat member from seeking advice from their manager should they wish, but seeking advice in this manner will not be deemed to be reporting for the purposes of this Policy.
23. Should a Secretariat member who is involved in wrongdoing or becomes aware of wrongdoing via irregular or unethical means report such wrongdoing, the fact that they have reported may be taken into account in any subsequent disciplinary proceedings as mitigating circumstances.
24. Malicious or intentionally false reports will not be tolerated; such actions will be dealt with swiftly by the Council of Europe and may result in disciplinary proceedings.

## Procedure following a report

25. Upon receipt of a report of wrongdoing, the DIO will, in accordance with the Rule on investigations, carry out a preliminary assessment to establish whether an investigation must be opened. Where sufficient reasons are found, the DIO will open and conduct an investigation. If there are findings demonstrating that wrongdoing has occurred, the DIO will draw up an investigation report and submit it to the Secretary General. If the wrongdoing involves a personal data breach, the DIO will also inform the Data Protection Officer. Where the perpetrator of the wrongdoing is a Secretariat member, the Secretary General will decide on the appropriate disciplinary follow-up in accordance with the Staff Rule on discipline. Where the perpetrator is not a Secretariat member, the Secretary General will determine whether any appropriate measures can be imposed upon them.
26. If a report of alleged wrongdoing concerns members of the Council of Europe's organs, bodies, committees and working groups, and is found by the DIO's preliminary assessment to justify an investigation, the DIO will inform the Secretary General and will forward the preliminary assessment report and any related information to the ethics board of each respective organ, body or committee of which the alleged wrongdoer is a member, or, in the absence of such a board, to the chairperson or president of that organ, body or committee.
27. If a report of alleged wrongdoing concerns the Secretary General or Deputy Secretary General, the DIO will record it and forward the report and any related information to the Chair of the Ministers' Deputies.
28. In each case, identifiable reporting persons will be promptly provided with an acknowledgement of receipt of their report and, where applicable, will receive information on staff support mechanisms. They will also be informed in writing of the conclusions of any preliminary assessment or investigation.

## Non-disclosure

29. The Council of Europe will protect the anonymity of the reporting person and ensure that their identity is not disclosed, without their explicit consent, to anyone other than the authorised Secretariat members competent to receive or follow up on reports. This will also apply to any other information from which the identity of the reporting person may be directly or indirectly deduced.
30. By way of exception to the principle set out in the previous paragraph, the identity of the reporting person, and/or other information from which the identity may be deduced, may be disclosed in the context of

investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person subject to investigation or judicial proceedings. Such disclosure will be subject to appropriate safeguards. In particular, reporting persons will be informed before their identity is disclosed, unless such information would jeopardise the related investigations or judicial proceedings. When informing a reporting person, the Organisation will provide them with a written explanation of the reasons for the disclosure of the confidential data concerned.

31. Unauthorised breach of confidentiality constitutes a breach of this Policy and may lead, in the case of Secretariat members, to disciplinary proceedings. This should not be interpreted as preventing transmission of information between the relevant persons when such transmission is considered necessary to address allegations.

## Anonymous reports

32. The Council of Europe is committed to protecting Secretariat members from retaliation. To ensure that targeted protective measures can be deployed quickly and decisively, reports of wrongdoing made by Secretariat members must include their name. Named reports also safeguard Secretariat members by evidencing that their obligation to report wrongdoing has been discharged. The provision of their name will not affect the confidentiality of the procedure, which will be upheld as detailed above.
33. Reporting persons who are not Secretariat members may choose to report wrongdoing anonymously. However, they should be aware that anonymous reporting does not enable the Council of Europe to efficiently protect them from the outset. Furthermore, when the information reported anonymously is not adequate to enable the Organisation to determine whether an investigation is warranted, it may not be possible to take the report further without the assistance of the reporting person.

## Protection from retaliation

34. Secretariat members who report under this Policy will not be sanctioned, treated adversely, or lose their employment because they raised concerns in good faith. Good faith does not necessarily mean that the reporting persons are right in their assessment of an action or omission as wrongdoing. It means that the reporting person sincerely believes that wrongdoing has occurred or might occur. A Secretariat member's right to be protected from retaliation does not depend upon the Organisation concluding that wrongdoing occurred as that person alleged.
35. Retaliation is explicitly prohibited by the Council of Europe. In the context of this Policy, the following persons shall be protected from retaliation:
  - a) A reporting Secretariat member;
  - b) Persons who are closely related to a reporting Secretariat member;
  - c) Secretariat members who make a complaint of harassment in accordance with the provisions of the Policy on Respect and Dignity;
  - d) Secretariat members who carry out or co-operate with preliminary assessments or investigations.



36. Protection against retaliation will be given by the Council of Europe to all of its Secretariat members at any level and in any position or capacity, irrespective of their grade and type of contract, and whether or not they are on a probationary period.
37. Attempts by persons alleged to have committed wrongdoing to identify a reporting person by subjecting colleagues to questioning or intimidation fall under the definition of retaliatory action and should be notified to DIO.
38. Detrimental action against a person who does not fall into any of the categories listed above will still amount to retaliation if it is taken due to an erroneous belief that the person has reported wrongdoing, complained of harassment or co-operated with a preliminary assessment or investigation.
39. Retaliation and the risk thereof may exist even when an assessment or investigation has concluded that wrongdoing did not take place. Protective measures will therefore not be denied on the sole ground that the alleged wrongdoing has not been established.
40. Malicious or false allegations or recklessly making false representations in respect of the matters that are reported, cannot justify retaliatory action, which is prohibited under any circumstances.

## Detrimental action

41. The concept of detrimental action is key to the definition of retaliation. Direct or indirect detrimental action is any action and/or omission negatively affecting, or intended to negatively affect, a person or group of people as set out in paragraph 35 of this Policy, and may consist of and/or result in:
  - a) harassment, threats, unfair or discriminatory treatment;
  - b) non-renewal or termination of an employment contract;
  - c) loss of career opportunities;
  - d) unjustified negative appraisals or references for future employment;
  - e) deterioration of working conditions;
  - f) transfers, re-assignments of duties or reorganisation of work methods which are punitive in nature;
  - g) spreading of malicious rumours.
42. The list above is not exhaustive and nothing in this Policy is to be interpreted as restricting in any way the Council of Europe's right to qualify as detrimental acts or situations not set out above.
43. Detrimental action is retaliatory if the detrimental actions or omissions have been motivated, in whole or in part, by a desire to intimidate, penalise, silence, obstruct or punish because a report of wrongdoing has or is believed to have been made or an investigation into alleged wrongdoing has been conducted.
44. Retaliatory action does not necessarily need to be carried out by the person(s) in respect of whom the Secretariat member has made the report. Conspiring with or unduly influencing third parties into taking retaliatory action, or taking adverse action on someone's behalf, also constitutes retaliation.



## Prevention of retaliation

45. Reports of wrongdoing will be scrutinised by the DIO to assess whether there is a risk of retaliation. If it appears to the DIO that a Secretariat member is at risk of retaliation, or that retaliation against a Secretariat member is ongoing, they will inform the Director of Human Resources (DHR) in order that appropriate protective measures may be implemented and, if necessary, recommend to the Secretary General that other interim measures be taken. The views of the Secretariat member targeted by the alleged retaliation will be considered when formulating protective measures and they will be informed of any measures to be taken. The DHR may request advice from the Ethics Officer in this respect.
46. At any stage, a Secretariat member who has made a report of wrongdoing should notify the DIO without delay if they believe that retaliatory action is being taken against them, or that they are at risk of retaliation.
47. Secretariat members who are found to have engaged in retaliation will be subject to disciplinary proceedings. Non-Secretariat members who are found to have engaged in retaliation will be subject to appropriate consequences. Where retaliation is found to have taken place against a Secretariat member, in addition to disciplinary proceedings or consequences imposed on the perpetrator, the Council of Europe will take steps to redress the impact that the retaliation has had on the victim.

## Processing of personal data

48. Any processing of personal data carried out pursuant to this Policy will be carried out in accordance with the Council of Europe Regulations on the Protection of Personal Data. In particular, personal data collected and processed will be adequate, relevant, and not excessive in relation to the purposes for which they are processed.

## Final provisions

49. This Policy will enter into force on 1 June 2023.
50. Any report of wrongdoing submitted after the date of entry into force of this Policy will be dealt with in accordance with the procedures set down herein.

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Secretary General of the Council of Europe  
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