

The International Atomic Energy Agency

Whistle-blower Policy

Introduction

1. The International Atomic Energy Agency (IAEA) has zero tolerance for fraud, corruption or other forms of misconduct in its programmes and activities, and is committed to good governance and transparency.
2. The Director General has established a Whistle-blower Policy to:
 - a. Provide the means for staff members, persons engaged under Part II, Section 11 of the Administrative Manual (AM.II/11) and external persons to report fraud, corruption or other forms of misconduct, and to protect them against identity disclosure; and
 - b. Protect staff members and persons engaged under AM.II/11 against retaliation for making such reports or for cooperating with audits and investigations.
3. This Policy applies to:
 - a. All staff members, regardless of their type of appointment or its duration; and
 - b. Persons engaged under AM.II/11 — such as consultants or interns — and external persons — such as vendors or contractors — having information on fraud, corruption or any other forms of misconduct involving the IAEA's programmes and activities.
4. Anyone who has any information indicating that fraud, corruption or other forms of misconduct are occurring or have occurred within the Agency's programmes and activities is, in the case of staff members, required¹ to report the information, and, in the case of persons engaged under AM.II/11 and external persons, urged to report the information. Such a report may be made anonymously.
5. The Director of the Office of Internal Oversight Services (DIR-OIOS) is designated as the responsible officer to implement this Policy.
6. This reporting line is separate from, and an alternative to, the already established channel for submitting reports of misconduct to the Director of the Division of Human Resources (DIR-MTHR) and does not replace the latter.
7. This Policy will be shared with all staff, as well as with persons engaged under AM.II/11 and external persons that may be concerned. Furthermore, this Policy will be incorporated into ethics training and posted on a publicly accessible website.

What to Report

8. Staff members, persons engaged under AM.II/11 and external persons may report concerns relating to fraud, corruption or other forms of misconduct. Misconduct includes, but is not limited to,

¹ As per paragraph 19 of the *Standards of Conduct for the International Civil Service*, reproduced in Appendix A to Part II, Section 1 of the Administrative Manual (AM.II/1): "It must be the duty of international civil servants to report any breach of the organization's rules and regulations to a higher level official, whose responsibility it is to take appropriate action. An international civil servant who makes such a report in good faith has the right to be protected against reprisals or sanctions."

theft, misuse or abuse of funds, coercion, harassment, retaliation, discrimination, abuse of authority and other acts described in Staff Rule 11.01.1 (B).

9. The report should provide as much detail as possible concerning the information on fraud, corruption or other forms of misconduct. The whistle-blower is encouraged to include his/her contact details (name, address and/or phone number), so that clarifications may be sought, if necessary. However, the whistle-blower may also remain anonymous.

10. This channel for reporting shall not be used to transmit unsubstantiated rumours or false allegations of misconduct. Staff members and persons engaged under AM.II/11 are reminded that the making of unsubstantiated rumours or deliberately false allegations of misconduct is a form of misconduct as defined by Staff Rule 11.01.1(B). In such cases, staff members and persons engaged under AM.II/11 are not entitled to the protection provided by this Policy and they may themselves be the subject of disciplinary procedures.

How to Report

11. Staff members, persons engaged under AM.II/11 and external persons may report concerns relating to fraud, corruption or other forms of misconduct directly to DIR-OIOS using any of the options described below, or in person.

12. Staff members and persons engaged under AM.II/11 may use any of the following options to make a report:

- a. **Telephone** — A dedicated telephone line (ext. 26111) has been set up in the office of DIR-OIOS to receive telephone reports and messages and is accessible only to authorized OIOS staff;
- b. **Email** — A dedicated email account (whistleblower@iaea.org) has been set up and is accessible only to authorized OIOS staff;
- c. **Facsimile** — A dedicated fax machine (ext. 29126) has been set up in the office of DIR-OIOS and is accessible only to authorized OIOS staff;
- d. **Internal mail** — Written reports should be placed in an envelope, sealed and marked “Confidential to be opened by the addressee only”. The envelope should be addressed to DIR-OIOS (room A2723);
- e. **External mail** — Written reports should be placed in an envelope, sealed and marked “Confidential to be opened by the addressee only”. The envelope should be addressed to the Director of the Office of Internal Oversight Services, IAEA, Vienna International Centre, PO Box 6, 1400 Vienna, Austria.

13. External persons may use any of the following options to make a report:

- a. **Telephone** — A dedicated telephone line (+43-1-2600-26111) has been set up in the office of DIR-OIOS to receive telephone reports and messages and is accessible only to authorized OIOS staff;
- b. **Email** — A dedicated email account (whistleblower@iaea.org) has been set up and is accessible only to authorized OIOS staff;
- c. **Facsimile** — A dedicated fax machine (+43-1-2600-29126) has been set up in the office of DIR-OIOS and is accessible only to authorized OIOS staff;

- d. **External Mail** — Written reports should be placed in an envelope, sealed, and marked “Confidential to be opened by the addressee only”. The envelope should be addressed to the Director of the Office of Internal Oversight Services, IAEA, Vienna International Centre, PO Box 6, 1400 Vienna, Austria.

Confidentiality

14. The identity of a whistle-blower is kept confidential and only disclosed with the consent of the whistle-blower or for compelling reasons such as legal obligations or obvious misconduct of the whistle-blower. In the latter case, DIR-OIOS is accountable for the decision to disclose the identity of whistle-blowers.

15. OIOS is responsible for safeguarding all information received from a whistle-blower. The intentional, unauthorized disclosure of whistle-blower information or identity by any staff member, and in particular OIOS staff members, who have been provided with such information for official purposes, may constitute misconduct for which, if established, disciplinary measures may be imposed.

Implementation

16. DIR-OIOS receives, logs, reviews, and takes action on all incoming reports. Each report is screened to assess its reliability and whether there is sufficient information or a need to contact the whistle-blower, if contact information has been provided. DIR-OIOS will seek to complete the preliminary review within 45 working days of receiving the complaint of retaliation or the report of fraud, corruption or other forms of misconduct.

17. Should DIR-OIOS determine that a whistle-blower report warrants an investigation, OIOS will conduct the investigation in accordance with its investigation procedures². All investigations are carried out with complete independence and confidentiality and the due process rights of affected staff members or persons engaged under AM.II/11 are respected throughout the investigation. DIR-OIOS makes all efforts to ensure that investigations are conducted in the most efficient and effective manner and completed in the shortest possible time, given the resources available.

18. OIOS investigators must be objective and independent, both organizationally and personally. If there is a possibility that this independence or objectivity may be called into question during a particular investigation, DIR-OIOS, after reviewing the facts, may take any action necessary to ensure that the provisions of the OIOS Charter³, with respect to independence and objectivity, are applied.

19. DIR-OIOS reports periodically to the Director General on the volume and nature of whistle-blower reports and the results of investigations undertaken.

20. Based on investigation results and recommendations, the Director General, following MTHR action under Appendix G to the Staff Rules, may initiate disciplinary proceedings against staff members in accordance with the provisions of the Administrative Manual, or take other appropriate actions against persons engaged under AM.II/11, or other external persons.

21. Prior to issuance of a final report on the alleged misconduct reported by the whistle-blower and/or retaliation, DIR-OIOS may recommend that the Director General take immediate interim measures to safeguard the interests of the whistle-blower, including, but not limited to, suspension of implementation of the allegedly retaliatory action, temporary reassignment or transfer of the alleged retaliator with no loss of pay, grade or benefits, and, with the consent of the whistle-blower, temporary

² See Part III, Section 4 of the Administrative Manual (AM.III/4).

³ Reproduced in Part III, Section 1 of the Administrative Manual.

reassignment or transfer of the whistle-blower within or outside the work unit concerned with no loss of pay, grade, or benefits.

22. In the event that the identity of the whistle-blower is not disclosed to a staff member or a person engaged under AM.II/11 suspected of misconduct, no administrative decision or disciplinary measure will be taken unless there is sufficient, reliable and probative evidence that provides a factual foundation for the action proposed. Such evidence must be disclosed to the staff member or the person engaged under AM.II/11 suspected of misconduct and he/she must have the opportunity to respond to it.

23. DIR-OIOS, at his/her discretion, may provide an update on the outcome of an investigation to a whistle-blower if requested, without disclosing confidential information.

Retaliation

24. Staff members or persons engaged under AM.II/11, regardless of their type of appointment or its duration, who have provided information under this Policy in good faith, or who have cooperated with audits and investigations, are entitled to protection from retaliation⁴. Retaliation means any direct or indirect detrimental action recommended, threatened or taken against an individual engaged in an activity protected by this Policy.

25. Retaliation against individuals who have reported misconduct or who have cooperated with audits or investigations violates the fundamental obligation of all staff members or persons engaged under AM.II/11 to uphold the highest standards of efficiency, competence and integrity, and to discharge their functions and regulate their conduct with the best interests of the Agency in view. Retaliation is by itself a form of misconduct, which will be investigated⁵ and, if established, will lead to disciplinary action according to Staff Rule 11.01.2.

26. Staff members or persons engaged under AM.II/11 who believe that they have been threatened by retaliation or that retaliatory action has been taken against them may report their complaint to DIR-OIOS.

27. If DIR-OIOS finds that there is a credible case of retaliation or threat of retaliation, he/she will begin an investigation and immediately notify the complainant in writing that the matter is being investigated. DIR-OIOS will seek to complete the preliminary review within 45 working days of receiving the complaint of retaliation or report of misconduct.

28. Following a determination by DIR-OIOS that a *prima facie* case of retaliation or threat of retaliation exists, the IAEA shall have the burden to prove that it would have taken the same challenged action if no previous whistle-blowing or cooperation with audits and investigations had taken place. Accordingly, for protection purposes, the investigation shall determine if there is evidence that the IAEA would have undertaken the same challenged action if no previous whistle-blowing or cooperation with audits and investigations had taken place. A finding of retaliation will follow if the Agency is unable to discharge this burden of proof. DIR-OIOS will seek to complete the investigation and submit a report within 120 working days.

29. OIOS will conduct the investigation in accordance with its investigation procedures⁶. Where appropriate, OIOS will refer the results of the investigation to DIR-MTHR for further action. DIR-

⁴ *Standards of Conduct for the International Civil Service*, reproduced in Appendix A to Part II, Section 1 of the Administrative Manual (AM.II/1).

⁵ Staff Rule 11.01.1(B)(6).

⁶ AM.III/4.

OIOS may advise DIR-MTHR of any ongoing investigation, should he/she believe retaliation could take place before any such investigation is completed. Based on investigation results and recommendations, the Director General, following MTHR action under Appendix G to the Staff Rules, may initiate disciplinary proceedings against staff members in accordance with the provisions of the Administrative Manual, or take appropriate actions against persons engaged under AM.II/11, or external persons.

30. Protection against retaliation will be extended to staff members and persons engaged under AM.II/11 who report fraud, corruption, or other forms of misconduct to an entity or individual outside the established internal Agency mechanisms, where the criteria set out below in paragraphs 31 and 32 are satisfied.

Reporting outside the established internal Agency mechanisms

31. Staff members or persons engaged under AM.II/11 may report fraud, corruption, or other forms of misconduct to an entity or individual outside the established internal Agency mechanisms in the following cases:

a. When such reporting is necessary to avoid:

- i. a significant threat to public health and safety; or
- ii. a substantive damage to the Agency's operations; or
- iii. violations of national or international law.

and

b. When the use of internal mechanisms is not possible because:

- i. at the time the report is made, the staff member or person engaged under AM.II/11 has grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to pursuant to the established internal mechanisms; or
- ii. it is likely that evidence relating to the misconduct will be concealed or destroyed if the staff member or person engaged under AM.II/11 reports to the person(s) he/she should report to pursuant to the established internal mechanisms; or
- iii. the staff member or person engaged under AM.II/11 has previously reported the same information through the established internal mechanisms, and DIR-OIOS has failed to inform the individual in writing of the status of the matter within six months of such a report.

32. Staff members or persons engaged under AM.II/11 shall not accept payment or any other benefit from any party for such reports referred to in paragraph 31.