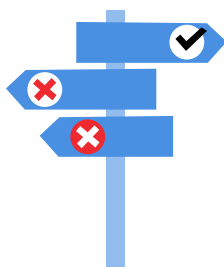


# Key steps to safely **SPEAK UP**



Are you an employee and do you believe that someone you work with or work for might be doing something they really should not be doing? Are you considering to report it? If so, you should be aware that you may have legal rights when speaking up and that you can get help when sharing your concerns.



The Dutch Whistleblower Protection Act (hereafter: the Act) came into effect in February 2023, implementing the European Whistleblower Directive and replacing the previous Whistleblowers Authority Act. The aim of the Act is preventing further harm to the public, and protect and support those who speak up, no matter whether they work for business, government or a non-governmental organisation.

So, what does this mean for you? *You will need to check that the Act applies to your particular case.* What should you do when filing a report? There are several ways to report, and you will have to determine what is best for you under the given circumstances. By taking the following three steps, you can help reduce the risks for you and your colleagues when speaking up:

## STEP 1

### Seek advice before filing a report

Make sure that you seek professional advice so you understand how to file a report in a way that minimizes risks for yourself, helps it to be taken seriously, and prepares you for what to expect in the process. The most important thing is that you make an informed decision about the steps you should take, the rights you enjoy and the potential consequences of reporting. Your employer may have a confidential advisor or operate an internal helpline. Alternatively, you can talk to an attorney, a trade union official or with an advisor of the Dutch Whistleblower's Authority (hereafter: the Authority) before speaking up.

## STEP 2

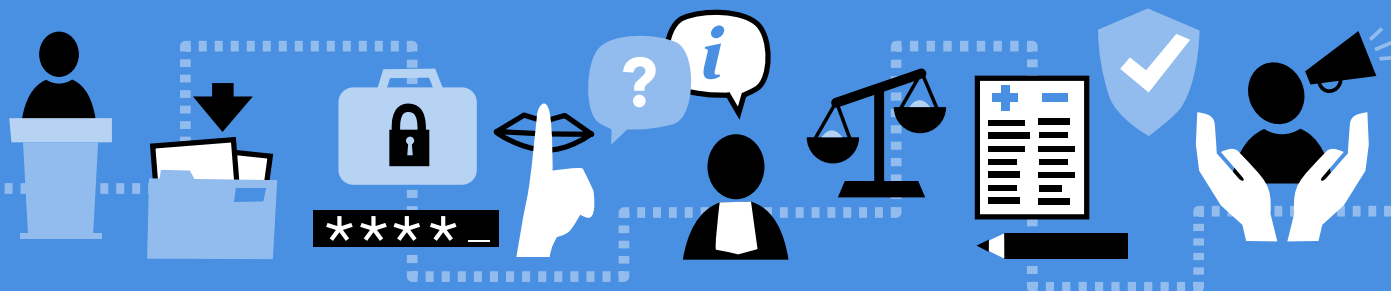
### Explain what and why you consider reporting

Make sure you can explain why you believe wrongdoing is or might be taking place and keep notes. When deciding to speak up, make sure you can explain what you are reporting and why you are sharing your concerns. Having clear, detailed notes - ideally with a timeline - can help structuring your story and clarifying your reasons for speaking up. This is particularly important when filing an anonymous report, as the investigator may not be able to contact you for clarification. Providing comprehensive information reduces the risk of unanswered questions. Keep all relevant information in a safe place and avoid sending emails with sensitive information from your work computer.

## STEP 3

### Report only when you think it is safe to do so

When you are considering speaking up, keep in mind the potential risks of filing a report. Balance how much you believe in what you have to say with what might happen if you speak up and decide whether you have the energy and resilience needed. Consider the risk of how those who have previously spoken up have been treated. And do not forget to reflect on the counterargument: What are the long-term consequences to you and others of staying silent? If you are not sure about reporting, do not hesitate to ask for more advice before you speak up.



# How to **SPEAK UP** at the workplace in the Netherlands



## YOU SUSPECT WRONGDOING



This is a situation at work where under the Whistleblower Protection Act (hereafter: the Act) *public interest* should be at stake for the Act to be applicable and for a whistleblower to be protected. You may want to discuss suspected wrongdoing with the confidential advisor of your organisation or an advisor from the Dutch Whistleblower's Authority (hereafter: the Authority).

Do you work for an organisation with 50 employees or more?

Note that for employers in certain sectors, an internal reporting procedure is necessary even if you work for an organisation with less than 50 employees.



### DECISION

After careful consideration you may decide to report. Should you report internally or externally? Under the Act you are no longer obliged to first report internally, direct external reporting is also protected. However, internal reporting remains the preference, as your employer normally is best placed to deal with suspected wrongdoing. You can *contact* the Authority before reporting, if you wish to receive advice.



### REPORT

If you decide to **report internally**, you can report to:

- A whistleblower hotline
- A confidential advisor
- Your supervisor
- Other designated person

*NB: At all times you should follow the internal reporting procedure.*

### OR

You may decide to **report externally** to a *competent authority* or, if not available, the Dutch Whistleblower's Authority. In certain cases and under strict conditions, you may decide to publicly disclose wrongdoing when internal or external reporting channels prove to be ineffective or inappropriate. If the *conditions* are met, the Act protects you also when you decide to make information public, ensuring that those who have reasonable suspicions are protected from retaliation.



### NO RETALIATION

Your employer may not *harm* you or others involved, for reporting in accordance with the Act. The employer should prove there was no retaliation as a result of the report.

*NB: Non-disclosure agreements entered into force after 18-02-2023, will be declared null and void. From then on, an employer may not prohibit you to report or disclose information*



### INVESTIGATE

After filing the report, your employer will send you a confirmation of receipt within seven days. Thereafter your employer will decide on an internal investigation. Is there indeed a suspicion of wrongdoing? Within three months after the confirmation of receipt your employer will give information of this assessment and the follow-up of the report.



### RESULT

- There is no guarantee of a positive outcome after reporting a suspicion of wrongdoing; or
- You will receive a report on the findings, potential consequences and measures.
- In theory, you are protected by the Act against harm because of your report. In practice, you may have to take legal action to obtain this protection.

*NB: This assumes that the Act is applicable.*

## YES

The Act legally obliges your organisation to have an *internal reporting procedure* for suspected wrongdoing and provide at least the following information:

- **What and when** you can report.
- **To whom and how** you can report, *both internally and externally*.
- **Your rights** to protection and *confidentiality*.
- Notification by the **organisation what happens** with your report.

**Contact the Authority in case there is no internal reporting procedure, or it does not comply with the legal standard.**

## NO

Contact an advisor from the Authority on how to report: **advies@huisvoorklokkenluiders.nl**