

***Safe Reporting***  
**Study**  
**Ministry of Foreign Affairs**  
**October 2022**

## Safe Reporting

### Executive summary

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Integrity is part of organisational development and calls for a constant, systematic focus on compliance (including both preventive and repressive policies) on the one hand, and on the moral learning process (moral deliberation and the development of moresprudence / moral knowledge ) on the other. The procedures put in place for reporting and follow-up are part of the repressive apparatus. A well-functioning system for reacting to integrity violations is characterised by a high level of willingness to report; integrity violations are prevented as far as possible and those that do occur are reported at an early stage. A prerequisite for this is a safe and supportive working environment, with protection for the person reporting and everyone involved, and a reporting and follow-up procedure that is transparent, predictable and fair.

In recent years the Ministry of Foreign Affairs (BZ) has taken major steps to strengthen integrity and has stated its ambition to continue developing and improving its policy on integrity wherever necessary. This reflects the great importance the organisation attaches to integrity, to providing a safe and supportive working environment, and to being a reliable partner. The task at hand, which is to produce a critical assessment of the factors influencing BZ employees' willingness to report integrity-related issues, should be viewed in that light: BZ is not content with a standard reporting system, but aspires to one that has maximum effectiveness and accessibility. This is an important, praiseworthy aspiration. In addition, over the past few years the ministry's senior management has prioritised a policy focused on diversity and inclusion, as key components of a safe and supportive working environment. In ordering the 'Safe Reporting' study, BZ asked Governance & Integrity to respond to the following two main questions:

1: What factors influence the current level of willingness among BZ's employees to report integrity-related issues?

2: Taking all these factors into consideration, what steps might be recommended to increase this willingness?

BZ asked us to focus on aspects of the organisational culture that influence employees' willingness to report, and also to present our views on whether that willingness is influenced by BZ's procedures for handling reports.

- **Our main findings regarding factors affecting employees' willingness to report**

To start with, BZ's specific mission, its nature as a career organisation, and the type of work it does combine to produce an organisation-wide approach to integrity that is strongly focused on maintaining the good reputation of the country, the organisation, and the employees themselves. The existence of multiple codes

of conduct – with differences between them – creates uncertainty, while employees who are considering making a report often seek clarity.

This lack of clarity, combined with the lack of clear rules on some sensitive issues, especially regarding interpersonal violations, reduces willingness to report. In addition, the missions abroad are poorly connected to the reporting system: for local employees in particular, the reporting system is less accessible – and less safe, given their vulnerable position. Within the reporting channel, willingness to report is hampered by inconsistencies in information and perceptions on how and to whom reports should be made. Managers receive insufficient training and support in their role, which prevents this reporting channel from functioning as it should. There is no external channel for reporting on all types of violations. This is particularly problematic with regard to inappropriate behaviour complaints about ‘undesirable behaviour’, both because of the lack of clear standards, and because of the existence of a separate and highly legalised procedure for this type of violation. As for factors relating to the way reports are followed up, in particular the strong focus on investigation and the limited range of instruments available to the Central Integrity Coordinator (CCI) have a detrimental effect on employees’ willingness to report. There is a strong perception that these investigations are burdensome for all concerned, including the person reporting, and that they can sometimes be disproportionate.

- **Our main recommendations to increase willingness to report integrity-related issues**

Link the commitment to integrity to the ministry’s goal, as stated in its mission, of contributing to a more just world. Avoid references to reputation. In line with this mission and the specifics of BZ, develop a code of conduct for BZ based on the Central Government Code of Conduct. Ensure that BZ’s senior management makes it absolutely clear to managers and all employees that commitment to integrity – and reporting any violations at an early stage – helps achieve BZ’s mission.

Professionalise the career policy. Given the obstacles inherent in a career-oriented organisation such as BZ, base this policy on a meritocratic assessment system, thus limiting the importance of having a strong network.

Strengthen the legal status of local employees and provide them with the same protections from dismissal as a result of labour disputes or reporting integrity-related issues. Break with the organisation’s dominant homogeneous culture and continue the efforts for greater diversity in recruiting new staff, increase visibility of successful employees who differ from the dominant monoculture, and strengthen diversity – including diversity of opinions – at management level and among senior officials. As part of this, translate the ministry’s commitment to diversity and inclusion into clear agreements on inappropriate behaviour, with a focus on sexual harassment, discrimination and bullying. Maintain and reinforce the low threshold for approaching the confidential advisers for employees throughout the organisation, but position them clearly at the first stage of the reporting system, with a clear role and a good understanding of their responsibility.

Improve the accessibility of the reporting system for reports from overseas missions, especially those submitted by local employees.

For a complete overview of the conclusions and recommendations, see chapter 7.

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## 1. Introduction

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In recent years the Ministry of Foreign Affairs (BZ) has taken major steps to strengthen integrity and has stated that it plans to continue developing and improving its integrity policy. This is not a task that can be completed within days, weeks or even months. After all, the integrity system is not simply the sum total of processes, structures, roles and associated tasks and responsibilities, let alone a matter of ticking off a to-do list. It requires continuous attention.

BZ is constantly working on improving its integrity system. This reflects the great importance the organisation attaches to integrity, to providing a safe and supportive working environment, and to being a reliable partner. The task at hand, to critically assess BZ's reporting system, should be viewed in that light: BZ is not content with a standard reporting system, but aspires to create the most effective and accessible reporting system possible. This is an important, praiseworthy aspiration. In addition, over the past few years the ministry's senior management has prioritised a policy focused on diversity and inclusion, as key components of a safe and supportive working environment.

In commissioning the 'Safe Reporting' study, BZ asked the researchers to focus mainly on the aspects of the ministry's organisational culture that influence employees' willingness to report integrity-related issues. They also asked the team to assess the influence of the way BZ handles such reports.

Two main research questions were formulated.

1. What factors influence the current level of willingness among BZ's employees to report integrity-related issues?
2. Taking all these factors into consideration, what steps might be recommended to increase this willingness?

### *Methodology*

For the entire study, the reporting methods and the entire process of handling reports, from beginning to end – including communication – were examined in relation to the job, duty station, legal status and background of the person potentially making a report. The Governance & Integrity (G&I) research team consisted of six senior advisers, selected for their mutually reinforcing skills, international experience and language skills.

To answer the research questions, we chose an efficient combination of several research methodologies.

In the research design agreed with the ministry, the methodologies partly overlapped, enabling the team to constantly draw on multiple sources and also to make it possible to arrive at a clear picture, even if some interviewees might be more reticent.

The research was conducted in the period from October 2021 to February 2022.

- *Desk research*

To conduct desk research, the project involved collecting and studying dozens of documents, regulations and protocols as well as a number of drafts. This provided insight into the setup of the reporting system as well as those aspects of it that help to inspire trust and a sense of security in the person making the report and all those involved. The desk research is included in Appendix 1.

- *Interviews with specialists, managers and staff members at embassies and at the ministry*

Twenty interviews were conducted with officials professionally involved in the reporting system, including staff of the Security, Crisis Coordination and Integrity Department (VCI), confidential advisers, the Human Resources Department (HDPO), the Communications Department, employment lawyers and the Secretary-General (SG). A total of 55 managers and staff from across the organisation were interviewed. The embassy staff who were interviewed work at the embassies in Bogota, Madrid, Kyiv and Washington DC. These four embassies were selected on the basis of geographical location, size and the ratio of local employees to staff posted abroad. As the COVID-19 crisis made it impossible to visit the Madrid, Kyiv and Washington embassies in person, these interviews were conducted online.

- *Analysis of the report files and interviews with those who had made reports*

We also chose and studied a selective sample of eight complete report files. Where possible, we subsequently interviewed several of those who had made reports.

- *Group simulations with staff*

Finally, group simulations were conducted, four of them at the above-mentioned embassies. In addition to standard questions, these drew on fictitious case histories to gain insight into factors that influence the willingness to report an integrity violation.

### *Format of the report*

We start by describing the reporting system as it is currently set up (chapter 2). We then examine the factors that influence the willingness among BZ staff to report integrity violations: factors relating to the culture and nature of the organisation (chapter 3), factors relating to the reporting system itself (chapter 4) and factors relating to the way reports are handled (chapter 5). We also examine the influence of the ministry's wider integrity policy (chapter 6). This is because the reporting system is part of an integrity system that embraces more than simply reporting and following up suspected violations. Just as no integrity system is complete without a reporting system, no analysis of a reporting system would be complete without taking a broader

look at the overall integrity system. Finally, chapter 7 contains our conclusions and recommendations based on this research.

*Acknowledgements*

Many thanks are due to all the staff members we interviewed for their openness and helpful cooperation. In particular, we wish to thank the Central Integrity Coordinator (CIC) and her team for their cooperative attitude and amicable collaboration.

## 2. The reporting system at BZ

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### 2.1 Introduction

This chapter describes the current reporting system at the Ministry of Foreign Affairs. Within the framework of the integrity system, the reporting system is part of the compliance practice. Preventing violations as much as possible is one of the objectives that organisational integrity demands. The aim of a reporting system is to ensure that any violations that nonetheless occur are reported at the earliest possible stage. The following components of the reporting system are discussed below:

- code of conduct;
- confidential advisers;
- reporting channels.

### 2.2 The codes of conduct

BZ staff are expected to abide by two codes of conduct. The Central Government Code of Conduct on Integrity 2016, revised in 2020, applies to everyone who works for central government. It sets out a minimum framework that applies across the entire central government sector and describes what it means to be a good employer and a good civil servant. It explains the values that constitute integrity (independence, impartiality, reliability, diligence and personal responsibility) and the standards and rules that apply to conflicts of interest, information and communication and treating people and resources with care. In addition, the code of conduct highlights the importance of enabling discussion of integrity with the manager or confidential adviser in the case of a suspected violation, and reporting such cases with reference to the organisation's own internal rules. With regard to inappropriate undesirable behaviour, it states that complaints of this kind should be submitted to an Inappropriate Undesirable Behaviour Complaints Committee. This central government-wide code of conduct also includes a section relating to employees abroad, which was developed along the lines of the BZ Code of Conduct on Integrity.

Besides the Central Government Code of Conduct, BZ staff are also subject to the BZ Code of Conduct on Integrity ('Think Before You Act', 2012, revised in 2018). This code of conduct highlights the possible damage to the ministry's reputation and Dutch interests abroad that could be caused by unethical conduct. It consists of ground rules organised around a number of values, partly overlapping with, and partly different from, the central government-wide code: independence, transparency, being beyond reproach, openness and confidentiality. The BZ Code of Conduct on Integrity also gives a clear description of the reporting procedure – whether to one's manager or to the Central Integrity Coordinator (CCI) – and the possibility of speaking confidentially with and obtaining advice from a confidential adviser. In the case of inappropriate behaviour, a report should be made in the form of a complaint to HPDO, which then appoints a complaint handler or, if preferred, forwards it to a six-member complaints committee.

Finally, there are also specific codes of conduct for missions abroad. A tool is available via intranet with a format for a workshop in which such a code can be developed together with all the mission's staff. It includes specific values and rules for foreign missions and two examples of best practice from which to draw inspiration.

### 2.3 Confidential adviser

BZ has five confidential advisers (one of whom is external), and there is at least one at most foreign missions. Staff at the missions may also contact the confidential advisers at the ministry. The Factsheet on Reporting and the Ministry of Foreign Affairs protocol on workplace investigations of individuals explain the option of going to a confidential adviser with questions, problems or doubts about integrity issues. Confidential advisers are advisers, coaches and referrers who listen to employees' concerns and help them decide what steps to take next. With the complainant's consent, the confidential adviser may also make an official report to VCI (see also 2.4 Reporting channels). The current Inappropriate Behaviour Complaints Procedure<sup>1</sup> states that in a case of inappropriate behaviour, the employee may choose to make a report in confidence via the confidential adviser.

The confidential advisers submit an annual, anonymised joint report to the Senior Management Board. They also have periodic meetings with the SG and VCI. The issues discussed are included in the joint report as notifications of inappropriate behaviour. A new feature is a summary of confidential advisers' contacts at foreign missions.

### 2.4 Reporting channels

BZ staff who want to report an actual or suspected abuse or integrity violation have four different channels through which to do so. They can go to:

- their manager
- a confidential adviser (internal or external)
- the reporting point (managed by the Central Integrity Coordinator (CCI))
- the Whistleblowers Authority (external)

The Factsheet on Reporting, the infographic that visualises the reporting procedure and the protocol on workplace investigations of individuals all refer to these four channels. For integrity violations other than abuses defined by the whistleblower regulations, there is no external reporting office.

The Factsheet on Reporting encourages staff to start by discussing issues and concerns of this kind with each other. If this is impossible or inappropriate, they can report in the management line – that is, to their own manager, their manager's superior or ministry senior management.

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<sup>1</sup> At the time of this study, a new complaints procedure was being developed.

The manager's role in handling reports is described only in general terms. Managers are obliged to forward serious reports to senior management. A manager may also conduct his or her own investigation, although this does not constitute an official investigation of the facts under the protocol on workplace investigations of individuals.

It is unclear how managers are to consider what action to take if they see something or something is brought to their attention. Managers can contact the Central Integrity Coordinator (CCI) or a confidential adviser for information and advice.

The second channel for staff wishing to report an integrity-related issue is the confidential adviser. The employee can ask a confidential adviser to report the issue on his or her behalf to the Integrity Reporting Office/CCI. Finally, employees can choose to go straight to the Integrity Reporting Office/CCI.

At the Ministry, within VCI the Central Integrity Coordinator (CCI) heads up a team that also includes an Integrity Policy Officer, two Safe and Supportive Working Environment Coordinators, an Integrity/Safe and Supportive Working Environment Officer, four Investigators, the Secretary of the Inappropriate Behaviour Complaints Committee, and the Sexual Exploitation, Abuse and Harassment (SEAH) Expertise Unit. There is a complaints procedure for inappropriate behaviour, based on the Ministerial Inappropriate Behaviour Complaints Procedure for BZ. This procedure prescribes that in the case of serious complaints, a complaints committee is appointed, which currently falls under the responsibility of HDPO. The complaints procedure dates from 2006, is based on the General Administrative Law Act, and has a strong legal character.

It was recently decided to transfer responsibility for the Inappropriate Behaviour Complaints Committee to the CCI, thus creating a one-stop shop for all violations. This will introduce greater clarity and may lower the threshold for reporting inappropriate behaviour, especially in combination with the plans to strengthen the CCI by supplying more expertise in the field of SEAH. A new complaints procedure is under preparation. For an extensive assessment of both the protocol and the new complaints procedure, see the desk review report (Appendix 1).

### 3. The influence of the organisation's culture and nature on the willingness to report

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#### 3.1 Introduction

The previous chapter outlined BZ's reporting system. The following three chapters describe the factors that influence access to – and the accessibility of – this reporting system or the willingness to make a report. Chapters 4 and 5 examine factors relating to the reporting system itself (4) and factors relating to the way reports are followed up (5). The present chapter will start by examining influences that stem from the nature and organisation of BZ. These factors are embedded in both the culture and structure of the ministry. They are partly the result of structural decisions and partly inherent to BZ's task and mission, and therefore amenable to change to only a limited degree. The following closely-interrelated factors are discussed below:

- the mission and nature of the work of the Ministry of Foreign Affairs and their implications for the approach to integrity in general;
- the infrastructure, consisting of the headquarters in the Netherlands, which crucially influences the organisation as a whole, and a large number of missions in dispersed locations around the world;
- the nature (structure and culture) of a career organisation, in which some staff members in certain positions change jobs regularly and not all jobs are equally popular;
- the historically rooted overrepresentation of staff from similar backgrounds (referred to by interviewees themselves as privileged, white, socially liberal centrists and largely male) and the resulting institutionalised dominant culture;
- the weaker position of local employees – which has become customary – leading to structural inequality not only in influence and income, but also in opportunities for development, protection from dismissal and vulnerability in relation to integrity issues.

Section 3.7 provides an overview, showing for each of the factors examined whether or not they affect a) access to the reporting system, b) actual or perceived accessibility or c) willingness to report.

#### 3.2 The mission and nature of BZ's work and their consequences

The Ministry of Foreign Affairs is an exceptional organisation. For several reasons it is not comparable to other ministries or other international organisations. Its work both in The Hague and at the missions is comple, and is (not infrequently) conducted in crisis situations. The interests and rights of (Dutch) citizens and organisations are almost always at stake.

BZ often makes decisions of great importance to individual citizens and to geopolitical relations. Many officials feel that they are under considerable pressure from the House of Representatives.

The work involves sometimes unavoidable collaboration with a variety of local networks and personal relationships deemed to be important, in diverse cultural contexts, each with its own customs, laws and values. Promoting Dutch interests requires customised solutions, rapid reorientation and sometimes

unconventional actions, a difficult balancing of interests, and ties with people and parties whose ways of operating differ from what is considered normal or acceptable in the Netherlands and by Dutch people. This makes the organisation in general, and the foreign missions in particular, vulnerable to temptations that could compromise integrity. Not only heads of mission but also lower-ranking staff – often local employees – may face social pressure, threats and temptations of various kinds. Power differentials among staff, dependencies and cross-cultural differences also make missions in particular vulnerable to lighter and more severe interpersonal violations.

At the same time, the bar is set high. BZ – and especially the foreign missions – are always under scrutiny. Staff say it feels as if they are working in a glass house. Accusations, whether justified or not, can cause harm with far-reaching repercussions: for themselves, for the mission, for BZ and for Dutch interests. Reputation, reliability and local acceptance are key to fulfilling the ministry's diplomatic responsibilities. It is therefore almost second nature for the organisation to deal with potentially damaging incidents, including those involving integrity, in a way that protects the Netherlands' reputation and interests, the work of the embassy and, to a lesser extent, the position of the head of mission. This emphasis on protecting the Netherlands' reputation and promoting Dutch interests is sometimes explicitly mentioned in policy documents. In the introductory dossiers for new ministers and state secretaries at BZ, including those recently appointed, the mission is formulated in words to the effect of: 'It is the mission of the Ministry of Foreign Affairs (BZ) to make the Kingdom of the Netherlands safer and more prosperous and to support Dutch nationals abroad. Together with our partners, we work towards achieving a just world. The ministry's core values are cooperation, taking responsibility and achieving results.' Chapter 1 of the BZ Code of Conduct on Integrity ('Think Before You Act') defines moral responsibility in the following terms: 'The reputation of the Ministry of Foreign Affairs depends on the conduct of its staff – in other words, on each and every one of us. If we do not act with integrity, it will damage the ministry and Dutch interests abroad.'

The consequences of this approach for the design and accessibility of the integrity system, the reporting system and the way reports are followed up can be found in the relevant chapters of this study.

With regard to willingness to report, it can be assumed, partly on the basis of the interviews conducted with staff and specialists at BZ, that staff who have been trained or socialised in this organisation will almost always take into account perceived reputational damage, damage to Dutch interests, or what are seen as key objectives when considering whether and how to voice any suspicions. Those who care about the Netherlands, BZ and the work being done at international level have a sense that there is a professional hurdle to be taken before causing unrest. Many see reporting suspicions as a last resort.

There is also an expectation that, if a person makes a report that eventually leads to an uproar, major or avoidable reputational damage or a loss of credibility, or harms the work in the country in question, the person making the report will be held accountable by their colleagues. This expectation is consistent with the frequently described tendency, particularly at the foreign missions, to refer as little as possible to The Hague, to solve any problems themselves and to not make 'a big deal' out of them.

Staff are aware, or are made aware by others, that reports of suspected violations can lead to reputational damage and complicate the important work of the mission or of BZ. This inhibits willingness to report and places a burden on the shoulders of those who are considering submitting a report. They may feel partly responsible for any damage and repercussions of a suspected violation and for a follow-up process over which they have no control.

### 3.3 Infrastructure: central versus local

In matters of integrity, Dutch government organisations tend to work with benchmarks, guidelines and baselines. BZ, as a participant in the Interministerial Platform on Integrity Management (IPIM), also compares itself to other ministries and the standards that apply there. For example, BZ implemented the Central Government Code of Conduct on Integrity and adapted the reporting procedure in accordance with the baseline for workplace investigations of individuals after an integrity or security incident (BIPO). Where possible or necessary, it is good to adopt and implement interministerial policies. But in the case of BZ, it seems that at times too little attention is paid to this ministry's highly distinctive nature. BZ's headquarters in The Hague may be comparable to other ministries. However, even here, the close cooperation with foreign parties, international legislation, the importance of diplomacy, the ministry's nature as a career organisation and its demographic features have unique consequences. BZ is more than its headquarters in The Hague. At many, often small foreign missions in decentralised locations around the world, the work is done and decisions are made by a team made up of local employees (often remaining in the same job for many years) and Dutch staff posted abroad from the Netherlands (often remaining for a more limited time). These teams operate according to a rigid hierarchy, and have the specific vulnerabilities described in the previous section.

If BZ wants to introduce an accessible reporting system and maximise staff willingness to report integrity-related issues, each part of the system and all communication on these issues must take into account the specific features of the ministry's infrastructure and its international nature. The analysis of the reporting system in the next chapter will make clear in more detail that this has not been done adequately up to now. This has had a negative impact on access to and the accessibility of the reporting system and on staff willingness to report. In some cases, basic necessities are missing: accessible, available translations reflecting the local situation, a proper understanding of the work done by local employees, and the availability of internet and email, for instance. In addition, insufficient attention appears to be paid to the cultural context of reporting and what is required, outside the Netherlands, to make a report. The system is simply not designed to be used by and to support local drivers, cleaners or staff at the ambassador's residence. It is difficult or impossible for them to access.

The dominant Dutch culture is not only built into the reporting system, but also into the rest of the integrity system, sometimes in unexpected ways. The problems outlined in the Code of Conduct reflect Dutch culture (a great emphasis on conflicts of interest, little on corruption or on interpersonal violations). Awareness-

raising meetings, at which all staff members exchange views, are often ineffective outside the Netherlands for lower-level staff, especially in strictly hierarchical cultures. In addition, translations call for more cultural sensitivity: the word 'report', for instance, can be interpreted in different ways and means different things in different cultures. Naturally, all this affects the willingness to report.

Local employees are not infrequently denied information that could be crucial in deciding whether to report something. This may stem from a lack of clarity concerning the Code of Conduct and the reporting procedure (What can I report? Where? What will happen after I have reported something?), or concerning the possible consequences for their own position or their safety and protection. Furthermore, these staff members may simply interpret it as a demotivating signal from the organisation if they have to go to great lengths and cannot find any intelligible information, and if no account is taken of the opportunities they have, of time differences or of culture or language. In these circumstances, staff may in any case be hesitant to report and may in fact perceive it as unsafe. That reduces willingness to report for all staff at foreign missions, but especially for local employees at locations that are culturally further removed from the Netherlands.

#### **3.4 Career organisation: strong emphasis on career development, conformity and interdependency**

Although this is not always true today and certainly not for all staff, BZ has traditionally been a 'career organisation'. This is a term with various definitions, but generally speaking it means that an above-average number of people today, and certainly in the history of BZ, work there 'for life'. BZ was (and still is, relatively often) intentionally their only or main employer throughout their career: 'BZ was where their future lay'. Not infrequently, even today, working at BZ is an important part of a person's identity. As a career organisation, BZ has a culture that is characterised by three features that remain manifest even though it is no longer a career-long employer for all staff: a strong emphasis on career development, a tendency towards conformity and interdependence.

Staff who are recruited to BZ through the policy officer basic training course generally aspire to rise through the ranks to become an ambassador or high-level official. This, combined with the system of periodic transfers to new positions, not all of which are considered equally of interest or important to advancing one's career, means that both the ministry and its staff pay a great deal of attention to career development, personnel matters and looking forward to or 'securing' the next job. If you want to fulfil your ambitions, a good reputation and the right contacts in both formal and informal networks within BZ are important.

As a career organisation, BZ is characterised by a general tendency among staff to conform to the dominant culture of success. If you want to hold your own and aspire to rapid advancement, adaptability is a desirable quality. Although the ministry has explicitly committed itself to a more diverse recruitment and selection policy for several years now, new staff members tend to adapt to the prevailing – unwritten – rules within a few years. They are often reluctant to stand out, for instance by dissenting from a majority opinion, because of the anticipated consequences for their careers. Interviewees stated they were unaware of many examples

of successful dissenters. Young staff members are also strongly influenced by the tone set by senior management and statements made by their immediate superiors.

Given the system of periodic transfers, some staff members are likely to encounter each other regularly and continually (sometimes throughout their career) in different positions and at different locations. The relationship of authority may fluctuate in the course of their careers, with one being the 'boss' at one time and the other at another time. Even without such changes, disrupting relationships is something many staff members seek to avoid at all costs. That is partly because of the great value placed on diplomacy, building strong networks and making the right contacts, but also because fractured relationships may have negative long-term consequences at different points in one's career. All this means that it is not customary at BZ for colleagues to call each other to account, to question each other critically about mistakes made, or to communicate openly about weaknesses.

Even at management level, it is not customary within the organisation to provide an objective, and if necessary critical, assessment of others' actions. Partly for this reason, personnel files are not developed adequately, if at all. Added to this is the fact that some (not all) staff of the Human Resources Department (HDPO) also participate in the career organisation. This means they may find themselves working with colleagues about whom they previously had to make recommendations while serving in a different capacity. Staff, including those whose performance is below par, remain in the organisation for many years and are rotated like others in the periodic transfers. Judgments formed by staff about each other and each other's performance do not often find their way through official channels into files and performance monitoring.

Instead, staff members describe the existence of an informal information circuit, or as some call it, a flourishing gossip culture. It is generally recognised that informal judgments, and certainly gossip, can have a negative impact on both interpersonal relationships in the team and on the individual staff member's sense of safety and job satisfaction. Interviewees recognise and acknowledge this effect in the way things work at BZ.

The limited insight that exists into staff performance due to failure to properly compile personnel files can also foster unsafe and unhealthy working relationships – in some cases to the point that situations escalate in the workplace. Managers are also insufficiently equipped to intervene adequately at an early stage of an emerging conflict, for example caused by inappropriate behaviour, and to resolve it.

People will only feel able to call each other to account if they feel a certain degree of social safety. Staff must feel sufficiently safe and protected from any potential negative social repercussions of calling each other to account, for example. Where staff perceives social safety as lacking within BZ, they will not take the first, low threshold to voice suspicions of a violation. Since poor performance, poor working relationships or inappropriate behaviour are not identified and addressed in a timely manner, there is an increased risk of a toxic atmosphere developing and conflicts escalating in the workplace. In all cases where a report on an integrity-related issue coincides with the looming threat of dismissal due to unsatisfactory performance (or a

working relationship that has broken down), the absence of a comprehensive personnel file will be detrimental. In these situations in particular, it is absolutely vital that any action that is taken and all communication is meticulous and substantiated.

Feelings of dependence on the organisation and on each other may become mutually reinforcing in cases in which employment and private relationships are intertwined: marriages between BZ staff, families that accompany them to new postings, relationships and families that are formed or take root abroad. In other senses, too, a person's career, the next posting, professional success and family life are closely linked: the place where their children grow up, the excitement – or in some cases burden – of frequent moves or moves to distant parts, and the restrictions or privileges that apply in a foreign country to their partners and children are all factors that play a role. In consequence, staff members feel the importance, both professionally and in their private life, of watching their step, taking care of themselves and adapting where necessary. There is always the risk of falling out of favour, with the result that one's career may suffer a setback due to an unfavourable posting or no posting at all.

The focus on career, feelings of interdependence and conformist tendencies means that staff, as they say themselves, are aware or at any rate bear the possibility in mind that by making a report they are gambling with their good standing. It could damage their treasured informal reputation. In view of the anticipated negative impact on reputation and career, the reluctance to report issues is strongest when the person involved is in the staff member's immediate network or is senior to them. In these circumstances, they say they prefer to 'sit it out', partly because there is often a clear end to the working relationship in sight. Here again the inequality is manifest: making a report about a local employee at a foreign mission can often be done without any negative consequences for one's own career.

In short, the nature of BZ as a career organisation, with its ingrained customs and culture, reduces the overall willingness to report integrity-related issues. This applies most to staff in a weaker position (local employees, those in a lower pay scale, new employees) and to reports involving an immediate colleague or someone in a more senior position.

### **3.5 One-sided overrepresentation and the dominant culture**

Reference has been made above to the ministry's efforts to build a more mixed, more inclusive and more diverse workforce. Numerous initiatives can be identified which embody these efforts. For example, diversity is addressed in recruitment for the policy officer basic training course, and as part of its curriculum. It is considered one of the responsibilities of line managers; BZ has two Diversity and Inclusion advisers; and a 'Safe and Supportive Working Environment' narrative has been developed for all employees. Staff are becoming increasingly critical and endorse the importance of diversity. At various times in recent years, specific appointments and the process leading to them have been questioned. The strategic desire for diversity is understandable: a one-sided workforce has major disadvantages, especially for an organisation that operates internationally whose core mission is diplomacy. The dissatisfaction expressed here and there,

both in the interviews and elsewhere, is understandable. Observable diversity, especially at the foreign missions, continues to lag behind the stated ambitions.

BZ has an overrepresentation of staff from similar backgrounds, which has grown over time. Many staff members recognise this, and – characteristically for those who fit into or with the dominant group in a monoculture – it is often described as ‘positive’, a ‘given’ or ‘appropriate to our mission’. The characteristics of the typical BZ staff member, described by colleagues who usually – though not always – fit this image are: mostly white, well-educated men and to a lesser extent women, with socially liberal, centrist attitudes and with a Dutch background. Political extremes, whether on the right or the left, activism and conflict are avoided. The typical BZ staff member is not necessarily from a wealthy family, but the predominant background is middle-class and privileged in terms of education, opportunities and culture. This entrenched overrepresentation, among those recruited and especially those in successful and senior positions, has led to an institutionalised, dominant culture, to which new staff tend to conform quickly and uncomplainingly. This defines BZ’s view of the world. BZ staff, who are expected to be pre-eminently ‘citizens of the world’, with an international orientation, inclusive attitudes and multicultural awareness, come from, live and work largely in this ‘bubble’. This applies not only in The Hague, but also at the foreign missions, where in some cases it is even more entrenched. Although there is contact at the missions between staff posted from the Netherlands and local employees, the dominant culture in The Hague pervades here too. Staff say that in their experience, local employees who conform to and follow ‘Dutch’ mores, or who have a similar (privileged) background, are better understood, are more highly valued and are better able to fulfil their potential and ‘grow’ in their positions.

It has already been noted that the reporting policy does not always take sufficient account of non-Dutch cultures, and that Dutch policy and customs are translated literally and without cultural sensitivity. The disadvantages of overrepresentation and dominant values apply not only to the foreign missions, but to the entire organisation. See for example the annual report for 2020 prepared by the Safe and Supportive Working Environment Coordinator, which draws particular attention to the large number of burn-outs and premature departures among lateral-entry staff and ‘expert hires’ – while they are particularly crucial to the desired culture change.

What we see is a self-perpetuating phenomenon: the behaviour of the dominant group is rewarded, leads to success and is therefore imitated. The example set, the tone adopted by senior management and conformity all play a role here. Institutionalisation occurs when the dominant culture has long been crucial in determining the direction of the organisation, its priorities and policies, its rules – and for those who do not fit in, ‘hire and fire’. In terms of integrity, this has pervasive effects. It leads to the development of reporting systems that fits the background and perceptions of this group. Communication takes place in a way that is understood by the dominant group, and rules are made from this dominant frame of reference for the issues it faces. Meanwhile, problems associated with deviations from that norm, and which are experienced by a non-dominant group – such as interpersonal violations including discrimination, abuse of power and inappropriate behaviour – are neglected.

The willingness to report an integrity-related issue is directly proportional to the safety and perceived accessibility of the reporting system, and can therefore be expected to be lower for those who do not belong to the dominant group. Moreover, in an organisation with long-entrenched overrepresentation and a strongly dominant culture, a limited willingness to report such issues can be expected across the board, when suspicions may affect successful members of this dominant culture. Even those who do belong to the dominant culture will hesitate before making such a report.

### 3.6 The vulnerable position and legal status of local employees

When asked, staff describe the ministry's culture – alongside the other aspects described above – as that of a family. They highlight the great sense of loyalty, pride and dedication to BZ and its mission. At the same time, they note that it is a family that is organised hierarchically and in which not all are considered equal members. There is a nucleus, formed by the civil servants who are trained as international policy officials in the policy officer basic training course – 'the chosen ones' – and a larger group surrounding them, including the lateral-entry staff.

In the above description of the organisational factors that potentially reduce the willingness to report integrity-related issues within BZ, several references have been made to inequality, which has a particularly negative impact on local employees in lower pay scales. For them, the bottom line is that reporting issues is more difficult and unsafe – and they are therefore less inclined to do so. Whereas conversely, reporting an issue relating to a local employee is easier, has a lower threshold and is less risky – partly because there is little chance of encountering that local employee later in one's career.

This inequality is often the unintended result of the institutionalised dominant norm described above. For a complete picture, we also need to look at other inequalities that affect local employees, and which separately or in combination affect this group's willingness to report.

First, it has become customary to offer local employees employment contracts that reflect local conditions, with certain exceptions. Salaries are based on local standards. This sometimes leads not only to pay gaps, but also to inequality in other conditions of employment, such as overtime, holiday and allowances. Local employees have limited opportunities for advancement. Certain positions are out of their reach. At foreign missions, this inequality of income and opportunities appears to be accepted and uncontroversial. However, it is easy to imagine how this affects the accessibility of the reporting system and willingness to report: power differentials always make it harder and less safe to report issues, especially by someone in a lower position about a superior, and greatly reduce their willingness to do so.

What further reduces the willingness to report is legal status. The contracts issued to local employees make their position vulnerable: they can easily be dismissed – in reality and in their own experience – on grounds that may or may not be factual. For these employees, protection afforded to whistleblowers and others

reporting integrity-related issues is mostly theoretical. The head of mission can usually terminate the contract at any moment, possibly by making up a reason – for instance, right after the employee reports someone, or after a certain amount of time has elapsed. A subtler response might be to halt the person’s career, renege on previous commitments, and hence ensure that the person experiences negative consequences from having spoken out. In most cases this can be done without any performance monitoring or objectively substantiated assessment. Whether a head of mission would actually do that, or whether it has happened in the past, is of limited relevance. The perceived dependency and limited protection against dismissal contractually afforded to local employees is often enough to inhibit willingness to report. This is especially true when employees are eager to keep their jobs because they have no alternatives, for example because they are single parents or sole breadwinners, especially in countries where unemployment is high and social security is substandard.

### 3.7 Summary of effects

The following table gives a schematic overview of the features of the ministry described above that influence employees’ willingness to report.

Structural features of the ministry that influence willingness to report <ul style="list-style-type: none"> <li>• <span style="color: red;">Red</span> = strong influence</li> <li>• <span style="color: orange;">Orange</span> = limited influence</li> <li>• <span style="color: green;">Green</span> = little or no influence</li> </ul>	Poses an obstacle to		
	Access	Accessibility	Willingness to report
BZ’s mission and its consequences			
Infrastructure: headquarters in the Netherlands and missions in dispersed locations worldwide			
BZ’s nature as a career organisation			
One-sided overrepresentation and dominant culture			
Disadvantaged position of local employees in the broadest sense			

## 4. The influence of the reporting system on the willingness to report

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### 4.1 Introduction

An increase in the number of reports, as paradoxical as this may seem, should be seen as a positive development. As a rule, it does not mean that more violations are being committed, but that a higher percentage are being reported. It means that people know how to use the system and are more willing to report incidents. In that context, the increase in the number of reports within BZ since 2017 should be viewed in a positive light. The CCI lists 76 official reports of incidents in the annual figures for 2019, 45 of which were substantiated. The years 2020 and 2021 do show a significant fall in numbers (to 41 and 30, respectively), probably largely because many staff were working at home due to COVID-19 restrictions. In the 2019 report the CCI noted the relatively few instances of inappropriate behaviour that had been reported, and suggested that it was possible that staff members did not dare or want to report such matters, or that problems were resolved in some other way. In total, nine instances of inappropriate behaviour were reported to the CCI and six of sexual harassment in 2019, and two official complaints of inappropriate behaviour were settled through the complaints procedure.<sup>2</sup> These numbers seem extremely low, measured by the nature and size of the ministry, compared to other organisations and the stories that have been recorded.

The reason for these low numbers can be found in the organisation (Chapter 3) and the way reports are followed up (Chapter 5), as well as in the reporting system itself – the subject of the present chapter. Below, the factors that exert influence are described in more or less chronological order, for each part of the reporting system.

- Code of Conduct:
  - inconsistencies and lack of clarity because of multiple codes
  - lack of attention to inappropriate behaviour and interpersonal violations
  - the Dutch cultural bias of the code
- Confidential advisers:
  - unfamiliarity with confidential advisers, and at some foreign missions a too great distance from them
  - interpretations of their role by some confidential advisers that may pose an obstacle to reporting
- Reporting to managers, the Integrity Reporting Office or elsewhere:
  - inconsistencies in information and one-sided impressions of reporting and reporting channels
  - lengthy procedure and silo mentality, especially in complaints concerning inappropriate behaviour

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<sup>2</sup> At the time of this study, a new complaints procedure was being developed.

- little account taken of the international nature of the ministry and the dispersed locations of foreign missions
- lack of clarity regarding the role of managers

A summary is included at the end of each section, indicating for each factor whether it influences a) access to the reporting system, b) perceived or actual accessibility and c) willingness to report.

## 4.2 Codes of conduct

Whereas an organisation's mission statement defines its main responsibilities and objectives, and its guiding principles (or values) define the obligations arising from the rights of key stakeholders, standards define specific acts as punishable violations. For a staff member considering whether to report a suspected integrity violation committed by a colleague, it is crucial that the organisation is clear about which acts are impermissible and considered punishable. The Code of Conduct is an important preventive tool in this respect. Clear rules ensure that the organisation and staff alike are protected from unknowingly violating rules because of lack of sufficient understanding of their character. In this way, the code lays the foundations for preventive and repressive policies.

Clear rules make enforcement possible, beginning with calling people to account for their behaviour. In addition, the code has a positive effect on the accessibility of the reporting system and the willingness to report suspected violations.

Below are several aspects of BZ's codes of conduct that may impede this positive effect:

- inconsistencies and a lack of clarity due to the existence of more than one code
- lack of attention to inappropriate behaviour and violations in the interpersonal sphere
- the Dutch cultural bias of the code

At the end of this section, the effects of these features on accessibility and willingness to report are summarised schematically in a table.

### 4.2.1 *More than one code*

For staff members who are considering whether to report a suspected violation, or who are trying to get to grips with what they have experienced or seen or suspicions they have, the code of conduct is important.

With its code of conduct, the organisation makes clear what actions it considers unacceptable and punishable. Staff can use it to assess their suspicions: is what they suspect a violation? Has a rule potentially been violated? What is the organisation's position? To have a preventive effect but also to serve as a starting point for enforcement, it is of paramount importance that the code is clear about the rules and their application in practice. The rules must be expressed clearly, and be congruent and not contradict each other.

Clarity matters to all staff, and especially to anyone who is considering reporting a suspected violation. As described in Chapter 2, there are two codes of conduct within BZ. In addition to the Central Government Code of Conduct on Integrity, BZ has its own code of conduct: the BZ Code of Conduct on Integrity ('Think Before You Act'). The table below outlines some of the differences between the two codes.

Central Govt. Code of Conduct	BZ Code of Conduct
<ul style="list-style-type: none"> <li>• Available on the internet and intranet in Dutch and English</li> <li>• Based on the Central and Local Government Personnel Act (<i>Ambtenarenwet</i>)</li> <li>• For all ministries, not specifically for BZ and notably not for foreign missions</li> <li>• Focus is on values, conflicts of interest and appropriate and inappropriate behaviour</li> <li>• Conflicts of interest described at length, including gifts, dealing with lobbyists, use of official vehicles, etc.</li> <li>• Different kinds of inappropriate behaviour defined, but in far less detail than conflicts of interest</li> </ul>	<ul style="list-style-type: none"> <li>• Available on the internet in Dutch and English</li> <li>• Made specifically for BZ</li> <li>• More accessible in terms of its language but also less detailed</li> <li>• Parts of the code are specific to BZ, with for example a section on consular processes</li> <li>• Much repetition or summarising of the Central Government Code of Conduct, especially on conflicts of interests and misuse of resources such as official vehicles, private and official trips and use of airline bonus points</li> <li>• Even less detail on interpersonal violations; refers to sexual and other harassment and bullying, but neither discrimination nor sexual violations are referred to explicitly or explained.</li> <li>• Moreover, objectionable behaviour and failure to adhere to working hours are listed under the same heading as interpersonal (inappropriate behaviour) and not as job performance problems or as misuse of resources</li> </ul>
<ul style="list-style-type: none"> <li>• Both codes define the difference between integrity violations and misconduct, and refer to confidential advisers, the possibility of speaking to one's manager, etc.</li> </ul>	

- Given that the codes are very similar in terms of content and that BZ's code of conduct is even less detailed, it is reasonable to question the added value of having two codes. It would make more sense to have two separate codes if BZ's code adapted the content of the Central Government Code to the reality of BZ's work and, in particular, the situation at the foreign missions (as in the chapter on consular processes in BZ's code).

In addition to the above codes of conduct, managers at the foreign missions are encouraged to work with their staff to develop their own code of conduct based on the values formulated in the BZ code (see Tool, Mission-Specific Code of Conduct, 'Organising a workshop?') This reflects the realisation within BZ that the code of conduct is not well adapted to the local situation at foreign missions: it is formulated too broadly and it is less accessible and applicable for the missions. In that respect, it is good that the ministry is encouraging Dutch embassies to pay attention to cultural differences and how those differences relate to the provisions of the code of conduct, especially if this results in additions with explanations and examples that are specific to the location and local culture. However, the risk of entirely mission-specific codes of conduct is that they further detract from the desired clarity about what will not be tolerated and what should be reported (punishable behaviour). The examples presented as 'best practices' show that each embassy has its own completely individual interpretation of this. In fact, these examples do not establish rules at all, but rather a set of values that can be broadly interpreted and do not guide behaviour or potential reporting. In short, the problem is identified correctly, but the proposed solution is inadequate.

In a general sense, at various points in our investigation, we ascertained that BZ does not make a clear distinction between rules and moral values, or guiding principles. Rules define in clear and unambiguous terms the baseline; violations of rules are punishable. While BZ's mission statement sets out its main responsibilities and objectives, its guiding principles are the obligations for the organisation arising from the rights of key stakeholders. Where principles conflict, moral constraints arise – conflicts or dilemmas, matters that should not be treated as violations but as part of a process of moral deliberation (see also Chapter 6).

The existence of two codes, with differently worded values and rules, plus the emergence of mission-specific codes, creates ambiguity for staff and managers, in enforcement, and for anyone considering making a report.

#### *4.2.2 Scant attention paid to inappropriate behaviour*

Most codes of conduct define three clusters of violations:

- Violations relating to abuse of power: corruption, conflicts of interest, leaking information, culpable negligence;
- Financial violations: fraud, theft, misuse of goods or services placed at the employee's disposal, culpable waste;

- interpersonal violations: discrimination, intimidation, humiliation, bullying, sexual harassment and other forms of inappropriate sexual behaviour.

In the BZ Code of Conduct on Integrity, interpersonal violations are only touched on very briefly. Anyone searching for interpersonal violations such as intimidation and bullying, for instance, will find them under the heading of ‘cooperation’.

The BZ Code of Conduct on Integrity is inadequate above all in setting clear standards relating to the different forms of sexual violations.

Virtually no attention is paid to discrimination. This is a serious omission for any organisation, government or otherwise. It is particularly serious in the case of BZ, where – given its international core mission, its career structure and the many dispersed locations with local employees – one would expect these themes to receive particular attention.

Moreover, the lack of attention for discrimination and sexual violations in the Code of Conduct is not in keeping with the commitment of senior ministry management to diversity and inclusion and a safe and supportive working environment (see also 3.5).

#### 4.2.3 *Dutch cultural bias of the code(s)*

The Central Government Code of Conduct on Integrity pays scant attention to the international context. Even the BZ Code of Conduct on Integrity has a strong Dutch cultural bias. Violations deemed important in Dutch society, such as conflicts of interest and misuse of funds, are amply covered, whereas inappropriate behaviour is largely neglected.

Interviews with staff at a few foreign missions revealed that they consider subjects such as unwanted intimacy, bullying, smearing someone’s reputation and gossip to be important, not just as topics of discussion but above all as matters for which standards need to be established. The existing code of conduct does not address this adequately. In addition, other violations that play an important role abroad, such as various forms of corruption, are not addressed in any detail.

The codes of conduct are currently only available online. The Central Government Code of Conduct on Integrity and the BZ Code of Conduct on Integrity are available in Dutch and English. For local employees with limited access to email and internet and/or an inadequate command of the English language, this makes the code of conduct difficult to read, which negatively impacts the accessibility of the reporting system and willingness to report.

Even those for whom the Dutch version or the English translation does suffice will find that the code of conduct does not ‘translate’ the applicable rules to the work at foreign missions or the prevailing culture

there. Instead of developing a new code or formulating other – potentially inconsistent – rules, a culturally sensitive explanation and recognisable examples from international practice could be added to make the code of conduct more accessible to both Dutch and non-Dutch staff at foreign missions.

#### *4.2.4 Consequences for the willingness to report*

The coexistence of several codes of conduct with differences between them creates a lack of clarity, while clarity is precisely what people who are considering reporting an issue often seek. This lack of clarity, compounded by the absence of straightforward rules on some sensitive topics, undeniably diminishes the willingness to report. The lack of attention paid to issues such as sexual violations and discrimination severely limits access and accessibility for anyone considering reporting issues in these categories. This may well be a key reason for the very low numbers of reports in these categories.

Something similar applies to the absence of rules on topics that seem to be of particular importance to the missions in an international context, some examples of which were mentioned above. The accessibility of the code of conduct at locations abroad is further reduced by the absence of hard copies and the limited number of languages in which it is available, as well as by the lack of examples drawn from practice at the foreign missions and of culturally specific explanations.

The following table gives a schematic overview of the problems described above:

Structural features of the ministry that influence willingness to report <ul style="list-style-type: none"> <li>• <b>Red</b> = strong influence</li> <li>• <b>Orange</b> = limited influence</li> <li>• <b>Green</b> = little or no influence</li> </ul>	Poses an obstacle to		
	Access	Accessibility	Willingness to report
Inconsistencies and lack of clarity due to the coexistence of more than one code of conduct			
Very little attention paid to inappropriate behaviour and interpersonal violations			
Strong Dutch cultural bias of the code of conduct			

### 4.3 Confidential adviser

Confidential advisers are meant to fulfil a gateway role to enable easy access to the reporting system. Their task is to provide first-line support to employees who suspect, have witnessed or are victims of a violation. Proximity, a sense of safety and expert support are key here. A conversation with someone in this position is completely confidential and serves several purposes.

First and foremost, it gives the staff member an opportunity to tell their story. Second, the conversation should clarify whether the issue is a conflict in the workplace, a moral protest or moral doubt, or an integrity violation. Third, it should address possible next steps and the best way to proceed. The confidential adviser should be guided by the interests of the witness and/or the victim.

Fourth, the staff member concerned must be supported in deciding whether or not to take further steps. Finally, the confidential adviser will refer the employee to, for example, the reporting system for actual or suspected integrity violations, HDPO, the Central Government Desk for Advice and Mediation in Labour Affairs (RABA), or an in-house medical officer or staff welfare officer. Under no circumstances can a confidential adviser act as a reporting channel within the integrity system. That would make it impossible for staff members to decide against making a report after discussing a matter with a confidential adviser.

Regarding the BZ confidential adviser, the following factors were found to have an influence, and are further elaborated below:

- unfamiliarity with and distance from confidential advisers, particularly at some foreign missions;
- certain confidential advisers interpret their role in a way that can pose an obstacle.

At the end of this section is a table with a schematic review of the effects these factors' have on the accessibility of the reporting system and on willingness to report.

#### *4.3.1 Unfamiliarity with and distance from confidential advisers (particularly at the foreign missions)*

BZ has appointed five confidential advisers (one of whom is external) at the ministry in The Hague, and at least one at most foreign missions. However, not everyone at the missions knows who the confidential adviser is.

People are reportedly less likely to go to the confidential adviser at small missions because of the lack of confidentiality, and some small missions do not have one at all. In all cases they can instead choose to approach the confidential adviser at the ministry, and in practice they do so with some regularity.

The confidential advisers in The Hague will be too far removed for most staff at foreign missions who are considering reporting or need a sympathetic ear. The physical distance can be an issue because of time differences, for example, which may mean employees have to wait to tell their story or leave a message. But distance could also pose a problem for some people because meeting in person may be important. If this is impossible, it may create barriers in terms of language, mutual understanding, a sense of safety and trust.

The confidential advisers at the ministry are listed with their photos, names and contact information on the intranet. Only the external confidential adviser, appointed for employees working for external partners, is listed on the internet, for third-party reports about BZ. The majority of the current internal confidential advisers combine their role as confidential adviser with a senior managerial position and a wealth of experience in positions at multiple levels of the organisation. This enhances their visibility, expertise and the trust that people place in them, but it may have an inhibiting effect on employees in lower positions.

While the interviews were ongoing, recruitment was under way for an existing vacancy for a confidential adviser; ensuring the new appointee was easily accessible to this group of employees was identified as an area of concern.

#### *4.3.2. Some confidential advisers may interpret their role in a way that poses an obstacle*

The Factsheet on Reporting describes the possibility for employees to go to a confidential adviser with questions, problems or doubts about integrity. The Inappropriate Behaviour Complaints Procedure states that in cases of inappropriate behaviour, too, staff members may choose to make a confidential report to a confidential adviser. With the consent of the staff member concerned, the confidential adviser may make an official report to VCI's Integrity Reporting Office. Both the factsheet and the infographic that visualises the reporting procedure suggest that confidential advisers are part of the reporting system, when in fact they are meant to be a *gateway* to that system. At foreign missions, confidential advisers are often confused with, or referred to as, reporting channels – in one case also as the integrity coordinator. All in all, staff who

talk to a confidential adviser may have the impression that they have officially reported an incident or suspicion when that is not the case. Furthermore, there may be a lack of clarity about the extent to which they can still change their mind: once a matter has been reported this is no longer possible, whereas after a conversation with a confidential adviser the person can always do so.

The interviews with staff also show that confidential advisers, both in The Hague and at foreign missions, play an important role as interlocutors and counsellors for staff who are considering reporting an incident. For many people, the confidential adviser is the most familiar and visible part of the integrity system. At the same time we observe a connection between a confidential adviser's conception of their role and the number of incidents reported to VCI. Both in The Hague and at the embassies, confidential advisers often view a report to VCI as a last resort. Instead of guiding staff members who make their own well-considered choices, and when appropriate helping staff make a report through the best channel, confidential advisers often advise staff who approach them not to submit a report, warning of what they view as an unavoidable and difficult investigation with unknown consequences.

With the argument that the person who came to see them wants the issue to be resolved, confidential advisers often take up an issue themselves, mainly by talking to the person's manager, the director of their regional or policy theme department or – depending on the nature of the issue – by asking the Inspection, Risk Analysis and Advisory Unit (ISB) or the Financial and Economic Affairs Department (FEZ) to take it up during the next inspection or additional audit. While this course of action is probably well-meaning and intended to be protective, it has major drawbacks. Staff may decide against reporting on the basis of biased and in many cases non-factual information. They are dependent for follow-up on the confidential adviser, often operating alone, and their competences, while this person is not specifically equipped for this purpose. The way individual confidential advisers deal with these matters, especially at the foreign missions, is therefore subject to the individual adviser's discretion and variable in quality. Systematically opting to deal with matters locally, with minor or informal measures, gives offenders the opportunity to violate with impunity, perhaps more than once, or even over and over again. This practice, which is often justified by saying it offers protection and safety, may thus actually lead to insufficient safety and protection.

#### *4.3.3 Consequences for the willingness to report*

When staff do not turn to or sufficiently trust confidential advisers, this reduces the accessibility of the reporting system and employees' willingness to report issues. This effect is compounded in cases where confidential advisers, for reasons of their own and often with good intentions, opt to systematically discourage reporting and instead make a practice of frequently resolving cases in informal ways without any report being made – even when there is no well-founded reason for this approach. This practice directly compromises willingness to report, and with it the accessibility of the integrity system in which help is available that might be broader or more appropriate than that provided by an individual confidential adviser.

The following table gives a schematic overview of the problems described above:

Structural features of the organisation that influence willingness to report <ul style="list-style-type: none"> <li>• <b>Red</b> = strong influence</li> <li>• <b>Orange</b> = limited influence</li> <li>• <b>Green</b> = little or no influence</li> </ul>	Poses an obstacle to		
	Access	Accessibility	Willingness to report
Unfamiliarity with and too great a distance from confidential advisers, particularly at some foreign missions			
Some confidential advisers' interpretation of their role, which may pose an obstacle			

#### 4.4 Reporting issues to managers, the Integrity Reporting Office or elsewhere

In the case of an actual or suspected integrity violation or misconduct, staff should be able to make a report safely and effectively within the organisation. This will boost their willingness to report. A well-designed reporting system has at least three different channels:

1. The first channel to which violations can be reported is management: to one's own manager or another manager either at same the level or a higher level. The identity of a staff member who reports an issue to management cannot be protected.
2. If reporting through the line management channel is not an option, a second possibility is to report the issue directly to an internal reporting office specifically designated for this purpose. In this case, the staff member's identity can be protected to some extent.
3. In addition, a third channel should be created outside the organisation. This would make it possible for staff members to make a report even when they do not trust the management or the internal reporting office. For BZ, the Whistleblowers Authority should serve as this third reporting channel.

The reporting procedure should be inviting and accessible, dispel any reluctance to report an issue, and protect all involved, especially the person making the report and the person accused. Clarity, predictability and the availability of information on safety and protection are key to boosting staff willingness to report. Several factors were identified in BZ's reporting channels that exert an influence in this respect. These are further elaborated below:

- inconsistencies in information and one-sided perceptions of reporting and reporting channels;
- a lengthy procedure, a silo mentality and perceptions of complaints of inappropriate behaviour;
- lack of attention to BZ's international nature and foreign missions in dispersed locations;
- lack of clarity regarding the role of managers.

#### 4.4.1 Inconsistencies in information and one-sided views of reporting and reporting channels

On the intranet BZ staff are referred to the Factsheet on Reporting for information on how to report an issue and the details of the reporting procedure. There they will find a concise and clear description of the procedure. A more comprehensive description of the reporting procedure can be found in the recently introduced protocol on workplace investigations of individuals, which is a BZ-specific elaboration of the central government-wide baseline for workplace investigations of individuals after an integrity or security incident (BIPO). Also available on the intranet, this protocol replaces the protocol on fact-finding investigations.

The Factsheet on Reporting and the infographic that visualises the reporting procedure have yet to be revised in line with this new protocol. However, the Factsheet, the infographic and the protocol all describe three channels for reporting, with the first and main channel being the manager.

Alternatively, the person reporting an issue can ask a confidential adviser to report to the CCI Integrity Reporting Office on their behalf, or go directly to the reporting office. There is no external reporting point for integrity violations other than abuse within the meaning of the whistleblower regulations. The information in the factsheet and protocol contribute to the confusion that might arise from the existence of different codes of conduct concerning how integrity violations are defined and whether they should be reported.

The Factsheet on Reporting states that there is no list specifying every kind of behaviour that could be considered an integrity violation. It then gives examples, ranging from violations of BZ rules (for example, on reporting sick or other leave) to conflicts of interest and misconduct outside working hours. The protocol on workplace investigations of individuals defines an integrity violation as an instance in which ‘a staff member (whether incidentally or systematically) acts in breach of the applicable moral values and norms and related rules’ referring to the Central Government Code of Conduct on Integrity and the BZ Code of Conduct on Integrity as providing ‘a framework for acting with integrity’. No unambiguous definitions are given. The jumble of terms like ‘rules’ and ‘moral values’ aggravates this ambiguity. It might be wrongly taken to suggest that an investigation of an individual or a reactive investigation could be launched on the basis of a morally wrong decision without any rule having been violated. Moral deliberation, which is an appropriate investigative method for such a situation, is nowhere mentioned or made available within BZ. What then should be done in a situation in which a person’s actions were morally correct but violated a rule?

The lack of clarity goes further. While the BZ Code of Conduct on Integrity states that all staff have a duty to report suspected integrity violations, the Factsheet on Reporting warns in advance that if a report is made to the CCI, an investigation is likely to be launched: ‘You should bear in mind that the CCI is required to follow up on your report, for example by asking the Security, Crisis Management and Integrity Department (VCI) to conduct an integrity investigation.’

Moreover, the schematic overview of the reporting procedure in the Factsheet gives the impression of an escalation chain, in which the person reporting an issue must go through each step, with reporting to the CCI as a last resort, rather than presenting the different reporting channels as equal options.

The protocol on workplace investigations of individuals also emphasises that any investigation is taxing and far-reaching for both parties. In giving these warnings, both the factsheet and the protocol further confirm what many employees are already likely to be feeling and will make them even more hesitant to report an issue.

In the experience of many, the communication on this issue has created the impression, possibly based on real-life examples, that reporting an issue in general, and certainly reporting it to the CCI, will always lead to the launch of an investigation, and that such an investigation is always taxing. The communication pays too little attention to other forms of follow-up (see also the next chapter). Furthermore, little is said about the positive effects of reporting and investigation, for the person making a report, their colleagues and the organisation as a whole.

#### *4.4.2 Lengthy procedure and one-sided perceptions of complaints of inappropriate behaviour*

For inappropriate behaviour there is a complaints procedure, based on BZ's Inappropriate Behaviour Complaints Procedure. It provides that in the event of a serious complaint, a complaints committee will be formed, still currently the responsibility of HDPO. The existing complaints procedure dates from 2006, is based on the General Administrative Law Act and has a strong legal character. A new complaints procedure is being developed. Under the current procedure, complaints take a very long time to be processed (up to a year or more), partly due to a lack of capacity among the members of the complaints committee, which is currently not operating at full strength.

The sanctions policy in cases of proven inappropriate behaviour is not described. This creates uncertainty about the outcome among those reporting issues and others involved and undermines the preventive effect of the compliance system. It is the HDPO director who advises the SG on sanctions to be imposed. This places the HDPO director in a somewhat awkward position, with three responsibilities (handling complaints, sanctions policy and human resources policy).<sup>3</sup>

We have already observed that the code of conduct is insufficiently clear with regard to interpersonal violations, especially in the areas of sexual violations and discrimination. The prospect of long-drawn-out legal proceedings with unclear consequences for everyone involved is also seen by officials with responsibilities in this area as one of the explanations for the lack of reports of inappropriate behaviour. Even the Factsheet on Reporting, which describes the existence of the Inappropriate Behaviour Complaints

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<sup>3</sup> The HDPO director too has drawn attention to this concentration of functions and the need to 'wear three hats' as undesirable. This is one of the factors that led to the drafting of a new complaints procedure, which was ongoing at the time of this study.

Procedure, discourages people from reporting such behaviour: ‘The official complaints procedure is carried out with great care, but it is generally felt to be taxing.’ This is followed by references to less taxing options, such as mediation or a discussion with the other person under the guidance of a human resources staff member.

This distinction between inappropriate behaviour and other integrity violations has often been made in the past. For instance, for many years the Netherlands had separate confidential advisers on integrity and inappropriate behaviour.

This distinction has major drawbacks and has since been abandoned by many (government) organisations. Where it still exists, the accessibility of the system and employees’ willingness to report almost always comes under pressure. Starting with the practical question: ‘Is what happened to me inappropriate behaviour or an integrity violation?’

Specialists know that violations of these two categories often go together. Having a separate silo, reporting channel or procedure actually creates a barrier for the person considering making a report, and sometimes also for the specialists working on both of these types of violations. At BZ, the confusion is exacerbated by the distinction that is made between ‘complaints’ and ‘serious complaints’. Finally, it is important to note the disadvantages of setting up a complaints procedure that often fails to offer managers and those who witness inappropriate behaviour a clear way to proceed. This is particularly problematic in combination with the subjective term ‘inappropriate behaviour’ (in Dutch ‘*ongewenst gedrag*’, literally ‘undesirable behaviour’). This term raises the question of whether the behaviour that has been experienced (by the person reporting it or by someone else) can be classified as ‘inappropriate’ (or ‘*ongewenst*’), and if so by whom.

The term ‘inappropriate behaviour’ puts pressure on the victim, who has to put into words what it is about the other person’s behaviour that makes it inappropriate. In many situations this is too much to ask. While managers (and colleagues) can take responsibility for raising suspected conflicts of interest if this arises, this is often much harder for them to do in cases of suspected bullying or sexual harassment in an organisation with an inappropriate behaviour complaints procedure. This limits the procedure’s accessibility, and presents the risk that unwanted situations will go unpunished and may continue.

#### *4.4.3 Lack of attention to BZ’s international nature and foreign missions at dispersed locations*

In general, the reporting procedure seems to have been developed without much regard for the international nature of the organisation. The embassies seem to be insufficiently connected to the reporting system, and where that connection does exist the available information is substandard. When asked, local employees say they would have to report issues to their superior – the head of mission at small missions – or to the confidential adviser. They say reporting an issue relating to a manager or the ambassador would be difficult. They expect to find information on how to report an issue on the intranet, but when they search for

it, it is either impossible to find or takes a long time to track down, and the available text is in English or hard to understand. Some do not see it as a real option to enlist the help of the confidential adviser, especially at small missions, since they would not feel safe doing so and have insufficient trust in the colleague's discretion.

This is sometimes explained by the position of the confidential adviser (close to management) and sometimes with reference to the specific individual (for instance, that person's lack of discretion or lack of empathy with low-status support staff).

All this has adverse implications for the safety and protection of the group described above: all local employees at embassies, especially those at the bottom of the job classification system and those with poor proficiency in reading English. In this regard, one previously unmentioned group is particularly vulnerable: staff at ambassadors' residences. They are employed by the ambassador, rarely if ever visit the embassy, and therefore have no access to the confidential adviser or other managers at the mission, let alone access to the reporting office in The Hague.

#### 4.4.4 *Lack of clarity regarding the role of managers*

Suspecting a violation within their own team sometimes gives managers a sense that they have failed. They may feel angry and/or tempted to deal with the problem themselves, at least at first. There are plenty of examples in civil service organisations of managers who conduct their own investigations for this reason, or who temporarily or permanently suppress suspicions and reports they receive. Managers at all levels, especially immediate supervisors, should therefore be properly supported in fulfilling the duties of reactive enforcement. This will protect them from taking well-intentioned but wrong decisions and help them focus on the important task that is within their mandate: taking care of the person who has reported an issue, as well as the person named in that report and the other members of the team. BZ's Factsheet on Reporting encourages employees to discuss issues and concerns with each other in the first instance, but if that is either impossible or inappropriate, they can report to the line manager – that is, to their immediate supervisor, that person's superior or the ministry's senior management. The manager's role in dealing with reports is described only in general terms and should be described in greater detail. For example, it is stated that that manager is obliged to report serious incidents to the ministry's senior management. That seems a very drastic step to take. And what constitutes a 'serious incident'? There is no mention of a duty to forward a report to the CCI's office, a more accessible body, where knowledgeable staff could listen, provide advice and register the report. All this means that suspicions may linger, temporarily or permanently, and hampers the development of a broad insight into all reports and trends.

From information in the protocol on workplace investigations of individuals (BIPO, 2.3), we understand that managers may conduct a preliminary investigation into certain matters. It remains unclear how managers are to decide what steps to take when they witness something or something is brought to their attention. At what point do they decide to conduct their own investigation?

How and when do they decide to consider an issue as a report about which the CCI should be notified? At what point should the ministry’s senior management be informed? In general, the question arises as to whether managers are well enough equipped to implement this policy. Interviews with managers reveal that they sometimes struggle with this lack of clarity and do not feel well equipped to deal with these issues.

Although managers in The Hague and at the foreign missions are often aware that they can turn to the CCI as part of the Security, Crisis Coordination and Integrity Department (VCI) for information and advice, some indicate a need for more support in the form of training, guidance and advice.

4.4.5 Consequences for willingness to report

Within the reporting channel, willingness to report (and access to and the accessibility of the reporting system) is hampered by inconsistencies in, and perceptions of, the information on how and where to report. This especially discourages complaints about inappropriate behaviour: the picture presented of reporting is unfavourable and the procedure is perceived as lengthy and damaging. Those most likely to be held back include those wanting to report suspicions about inappropriate behaviour, those working in the international arena, and staff at foreign missions. Broadly speaking, the reporting system takes too little account of them. Across the board, the role of managers is unclear and there is too little support for this reporting channel to work as fully as it should.

The following table gives is a schematic overview of the problems described above:

Structural features of the organisation that influence willingness to report <ul style="list-style-type: none"> <li>• <b>Red</b> = strong influence</li> <li>• <b>Orange</b> = limited influence</li> <li>• <b>Green</b> = little or no influence</li> </ul>	Poses an obstacle to		
	Access	Accessibility	Willingness to report
Inconsistencies in information and one-sided perceptions of reporting and reporting channels			
Lengthy procedure, silo mentality and one-sided perceptions of complaints of inappropriate behaviour			
Lack of attention to BZ’s international nature and foreign missions in dispersed locations			
Lack of clarity regarding the role of managers			

## 5. Factors stemming from the way reports are followed up

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### 5.1 Introduction

The previous chapter described factors in BZ's reporting system that influence access to and the accessibility of the reporting system and people's willingness to report integrity-related issues. This chapter focuses on the way reports are followed up and the factors in this context that influence access, accessibility and willingness to report. Below, the factors that exert influence are described for each component of the follow-up system, starting from the moment a report is made:

- a limited set of follow-up options, with a particular emphasis on investigation;
- perceptions of the possibly 'taxing' and disproportionate course of an investigation;
- past experience of poor communication and aftercare during and after processing a report.

Please note: More attention has been paid to this in recent years. Section 5.5 provides an overview showing whether or not the factors described in this chapter influence a) access to the reporting system, b) the actual or perceived accessibility of the reporting system or c) the willingness to report.

### 5.2 A limited set of follow-up options, with a particular emphasis on investigation and punishment

Of the reporting channels described in the previous chapter, the route through the CCI and VCI is the best developed and most likely to yield results. Where weaknesses are noted, they are largely outside the sphere of influence of the CCI's office: in the influx of reports, due in part to the impediments described above relating to the code(s) of conduct, confidential advisers and the lack of an effective obligation to pass on reports. Reports that are received by the CCI are handled by experienced professionals who know the organisation while having a sufficient distance from the operational side. What impediments can be identified in the follow-up steps taken by the CCI relate to perceptions within BZ of the VCI's task and its quantitative capacity. Reports relating to inappropriate behaviour are handled elsewhere. The CCI has a limited range of follow-up options, with a strong emphasis on disciplinary investigations. In addition, it suffers from a degree of understaffing.

#### *Triage*

Reports that reach CCI are filtered using a triage process. Those that can be easily resolved by the manager are referred back, and those that involve a conflict in the workplace or a performance problem end up at HDPO. Where there is doubt, interdisciplinary consultations are held.

#### *Inappropriate behaviour dealt with elsewhere*

Reports made by victims that are purely about inappropriate behaviour – which is not always easy to establish – are forwarded to HDPO for processing in accordance with the Inappropriate Behaviour Complaints Procedure.

Separating integrity reports into those dealing with inappropriate behaviour and other issues presents disadvantages for accessibility and willingness to report. At BZ, siphoning some reports off into the Inappropriate Behaviour Complaints Procedure also has disadvantages for continuity and speed of follow-up. In terms of quality, continuity and throughput time, it is preferable for all types of reports (and combinations of them) to be dealt with by a professionally qualified unit. Furthermore, unambiguous routing fosters accessibility and willingness to report.

### *Strong emphasis on investigation*

The remaining reports are assessed by the CCI on the basis of a number of criteria to determine whether they merit investigation. Where it is deemed necessary, a preliminary investigation is conducted first. The protocol on workplace investigations of individuals was developed in accordance with the central government baseline for workplace investigations of individuals (BIPO). It is a significant improvement over the protocol on fact-finding investigations in that it provides a clear description not only of the reporting system but also of the procedures for processing reports at BZ. For example, it contains a set of criteria for arriving at decisions on subsequent steps, and prescribes principles of proportionality and subsidiarity to be used in making such decisions. It is up to the SG to decide, based on the CCI's advisory report, whether to launch a full disciplinary investigation, and whether to approve the plan of action with the proposed investigative methods. The course of action provided for investigations is transparent and fairly robust.

However, the description also reveals that the appraisal process as part of CCI's handling of reports is heavily weighted towards investigation. An additional factor is that BZ has a limited range of measures to take in response to reports. There is a lack of less burdensome, and in some situations more appropriate paths such as moral deliberation, risk analysis and – a particularly unfortunate omission where inappropriate behaviour has played a role – instruments geared towards reparation. The CCI's current triage procedure appears rather black and white – to investigate or not to investigate – whereas to do justice to all kinds of reports, a more extensive range of solutions is needed.

In addition, a preliminary investigation and possibly a recommendation to the SG in that case should not focus on whether or not to investigate and the criteria for doing so, but should appraise and advise on the best solution. The Factsheet on Reporting places too one-sided an emphasis on person-specific investigations, while not considering at all how reports might be tackled and resolved in other ways. Because of the focus on investigation, essential questions are missing from the set of criteria that are applied.

Especially in relation to the issue of safe reporting, this involves questions like: 'What does the person making this report want?' (particularly important in the case of inappropriate behaviour), 'How damaging would an investigation be to all concerned, and how should this be weighed against the interests of the organisation and the rights of all concerned?', and 'What alternative instruments and steps could be considered to deal with a specific issue?' People who are not reporting a violation but are troubled by a moral issue should have the opportunity to request moral deliberation. In addition, a report could prompt a

risk analysis (perhaps at micro level) or policy analysis, as in the case study at one of the embassies, where working with cash and poor supervision tempted local employees to pocket part of the advances received for catering.

Broadening the CCI's mandate, both to cover inappropriate behaviour and to include a wider range of follow-up alternatives, would enhance the accessibility of the reporting system as well as the professionalism and predictability of follow-up – which would in turn increase the willingness to report. See also Appendix 2 for a diagram of the repressive system, including the importance of careful triage and preliminary investigations when following up reports.

### *Understaffing*

The CCI's professionals spent most of their time processing, and in particular investigating, reports. In addition, they give training and integrity workshops, as well as advice at the request of managers. They observe that this leaves too little time to work on the further development of integrity policy and on drafting their own reports. Because of its limited capacity, the CCI's office also has little involvement in developing preventive policies on integrity. In addition, no moral learning process has yet been launched at the ministry, despite the CCI's efforts in that direction.

### **5.3 Perceptions of the possibly 'taxing' and disproportionate course of investigations**

Interviews reveal that staff are often reluctant to make a report because of the potential repercussions for the individual involved, when all they want is for the behaviour to stop or the issue to be resolved. In a number of cases, those who had reported an issue said that while they felt the investigation had been conducted professionally and carefully by the CCI, they wondered if it was out of proportion to what they had reported. They described the investigation of the report as taxing and potentially damaging for both parties. This was especially true of staff posted to foreign missions, and particularly those at the many small missions. They said the arrival of an investigative team from The Hague after they had made an official report was experienced as a far-reaching step and an 'unnecessary escalation', with consequences for the working atmosphere that persisted afterwards. Managers posted to foreign missions also expressed frustration about the fact that a report was necessary, with the subsequent arrival of an investigative team from The Hague, when the facts were clear and their previous warnings to the ministry about existing risks – transmitted through other channels, such as ISB or HDPO – had been in vain. Occasionally, a report of inappropriate behaviour was taken up for further investigation against the wishes of the person who had reported it. In another case, someone was registered as having made a report without even being aware of it: he had only asked for advice. The experience of an inordinate response, the feeling of disproportionality, of overreaction and of far-reaching repercussions, and the sense of events spinning out of control after submitting a report, as communicated by those who had made reports, can greatly reduce other people's willingness to report.

#### 5.4 Perceived lack of appropriate communication and aftercare

Communication surrounding investigations and reports calls for accuracy and for balancing the various interests involved. In the protocol on workplace investigations of individuals, the ministry acknowledges this importance of open and transparent communication about actual or suspected integrity violations, both for ensuring that unethical conduct can be discussed and for learning from violations. The protocol also prescribes that ‘in open and transparent communication, a balance must always be struck between the desired openness and discretion in relation to those involved: confidential where necessary, open where possible, and this also applies to deciding who should receive information, including the reporting party.’ The protocol provides a clear description of the manner of communication and the provision of care and aftercare for the person making the report as well as the person who is the subject of it and the unit concerned, at the start of, during and after the handling of a case. Agreements about communication and spokespersons are made in the consultations between the SG, HDPO, VCI and the in-house medical officer. The person who made the report is updated on the progress of the case to the extent permissible under the General Data Protection Regulation (GDPR). The GDPR is regularly invoked as predominantly impeding communication, which is not always justified. The GDPR is more concerned with the storage and management of data. Protection of privacy, which seems to be the main issue when invoking the GDPR, is of course a legitimate principle that should be safeguarded – especially, for instance, while it has not been proven that the subject of the report actually committed any violation. The focus on privacy protection and employee confidentiality is presumably also driven by the risk of reputational damage. The importance of a good reputation in a career organisation such as BZ has been discussed above. The weight attached to reputational damage should be reassessed once it has been proven that a violation of some seriousness has been committed.

After all, reputational damage and privacy may be outweighed by the opportunities afforded by transparent communication to build trust in the reporting system, to demonstrate its effectiveness, to show that reporting integrity violations ‘serves a purpose’ – in short, to increase accessibility and willingness to report.

According to those involved, cautiousness has led, especially in the past, to virtually nothing being communicated about the handling of a report. As a result, the perception within the organisation that a matter is ‘ongoing’ or ‘inconclusive’ can persist for an unnecessarily long time.

Officials involved in handling reports say things are shifting in this regard; changes are being effected in communication strategy as part of aftercare. This is also reflected in the attention paid to communication in the recently introduced protocol on workplace investigations of individuals. However, many of those interviewed, largely those involved in cases from before this change, still refer to the lack of transparency about the results of reports (whether well-founded or not) as ‘problematic’. They say it leads to gossip with harmful consequences – not only for all involved, but also for perceptions of the usefulness of reporting. In some places, this had helped to create the impression that what happens to the subject of a – well-founded – report depends in part on his or her position and contacts within the ministry. In addition, stories circulate – both in The Hague and at the foreign missions – about staff who had made reports being dismissed, while

the subjects of the reports were given a new position. Information from senior management that these cases also involved poor job performance or a dismissal that had been announced previously for other reasons failed to counter the narrative. Once a relationship between reporting and dismissal has been suggested, such important nuances go unheeded.

Poor communication about reports and especially their results likely reduces willingness to report. Those considering reporting have little insight into the process and are not familiar with any good examples, and the stories they do hear are – rightly or wrongly – often negative and demotivating.

The protocol on workplace investigations of individuals prescribes that a public overview of all reports be published each year, with anonymised information on the type of violation, the manner of resolution and the sanction imposed. In 2019 the CCI provided for the first time an external publication to account for the ministry's integrity policy, including anonymised information on numbers and types of reports and manner of resolution from a list of options. It also included complaints about inappropriate behaviour that go through the Complaints Committee, and the number and nature of conversations conducted by confidential advisers. A similar external publication reporting on 2020 was not yet available due to lack of capacity at the CCI's office. On the basis of the interviews conducted, the researchers gained the impression that few people at the ministry know about this report. This appears to be a missed opportunity to convey the message to employees that reports are welcome, that it is possible to report integrity issues safely, and that it serves a purpose to do so.

The protocol on workplace investigations of individuals includes a section on care and aftercare for the person making the report as well as the person who is the subject of it, both during and after the investigation. According to the protocol, it is VCI's task to actively promote the availability of support from staff welfare officers or the in-house medical officer. The protocol also dwells at length on the importance of aftercare in the form of discussions within the unit concerned after an investigation in response to a report. In these areas too, it would appear that practice – or at least perceptions based on practice – lags behind agreements recorded in the recently developed protocol.

From the confidential advisers' most recent annual report, we know that when an integrity violation is reported, it has a negative effect on feelings of safety within the unit or team that persists long after the issue has been addressed or resolved. Those who had made such reports told us in interviews that they had not been offered aftercare. However, staff welfare officers and the in-house medical officer do actively offer care to local employees both during and after the procedure.

## **5.5 Consequences for the willingness to report**

In the way reports are followed up within BZ, several factors can be identified that further reduce access to and the accessibility of the reporting system as well as willingness to report. These are chiefly the strong emphasis on investigation and the limited range of options afforded to the CCI's office – which, it must be

said, performs well despite being understaffed. Furthermore, the willingness to report inappropriate behaviour is significantly limited by the fact that such reports are dealt with in a separate channel – the Inappropriate Behaviour Complaints Procedure – which takes a long time, scarcely provides any continuity and is little used.

The general perception within the organisation, particularly among people who have previously dealt with investigations and others around them, is that investigations are taxing and a disproportionate response for everyone involved, including the person making the report, with unclear results. This perception has an inhibiting effect on the willingness to report, especially when this perception is not contradicted – because of the often highly guarded approach to communicating about reports and investigations – and the aftercare for many of those involved leaves much to be desired.

As far as aftercare is concerned, this primarily means regular and timely communication during and after the often lengthy post-reporting procedure, both to the person who made the report and the accused, and help in restoring relationships between these parties and/or within the team.

The following table gives a schematic overview of the problems discussed above:

Structural features of the organisation that influence willingness to report <ul style="list-style-type: none"> <li>• <span style="color: red;">Red</span> = strong influence</li> <li>• <span style="color: orange;">Orange</span> = limited influence</li> <li>• <span style="color: green;">Green</span> = little or no influence</li> </ul>	Poses an obstacle to		
	Access	Accessibility	Willingness to report
A limited range of follow-up options, with a particular emphasis on investigation			
Inappropriate behaviour dealt with in a lengthy and little-used complaints procedure outside the CCI			
Strong emphasis on investigation, lack of alternative follow-up steps			
Understaffing at the CCI's office			
Perceptions of possibly 'taxing' and disproportionate investigation procedure			
Perceived lack of appropriate communication and aftercare			

## 6. The influence of the integrity system on the willingness to report

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### 6.1 Introduction: The reporting system as part of the integrity system

BZ has made significant strides in recent years in relation to integrity. The organisation is steadily building up a better system. This reflects the great importance the organisation attaches to integrity, to providing a safe and supportive working environment, and to being a reliable partner.

The task at hand, of subjecting BZ's reporting system to critical examination, should be viewed in that light: BZ is not content with just any reporting system, but aspires to create the most effective and accessible reporting system possible. This is an important, praiseworthy aspiration, but at the same time it is a partial objective. After all, the reporting system is part of an integrity system that goes beyond simply reporting and following up suspicions. Just as an integrity system is not complete without a reporting system, an analysis of a reporting system is not complete without a broader view of the integrity system as a whole. This chapter sets out conclusions regarding this overall system. Before looking in more detail at reactive enforcement, other forms of prevention and moral learning, it is fitting to make some remarks on the mission and approach of the integrity system as a whole.

### 6.2 The integrity system and BZ's mission

Chapter 3 outlined the inherent problem with treating safeguarding the ministry's reputation as a guiding principle in integrity policy. In highlighting this, we were implicitly pointing out the great importance of the connection between the organisation's mission and guiding principles on the one hand and the approach of its integrity policy on the other. In order to further develop the integrity system of BZ as a whole, it is essential to forge sound connections between BZ, its mission and its integrity policy. A functional integrity system is inextricably linked to BZ as an organisation and will therefore differ in essential ways from the systems of most comparable organisations, if only because of the unique nature of its work, its character as a career organisation, and the presence of local employees in locations worldwide. What this means in concrete terms is that to further increase the willingness to report integrity-related matters, it must be absolutely clear to all staff that the integrity system – or more precisely, early reporting of suspected violations – contributes to fulfilling BZ's mission.

### 6.3 Repressive compliance: more clarity in investigations and record-keeping

It has already been noted that the CCI reporting channel is the best developed and the most likely to yield results. It is precisely here that major steps have already been taken and that further development and investment are worthwhile. Improvements should include greater capacity and a wider range of follow-up options for dealing with the integrity violations for which staff can already turn to the CCI, and preferably for interpersonal violations as well – now often referred to as inappropriate behaviour. This requires not only

quantitative but also qualitative expansion, an investment well worth making given the need to improve the handling of these reports in particular.

Although it would go beyond the scope of this analysis to pass judgment on the quality of investigative activities, it must be noted that recent improvements as set out in the protocol on workplace investigations of individuals represent important steps forward. Once investigative capacity can also be used for suspected violations in interpersonal violations, it will be better still. With more numerous investigations comes the need to further improve uniformity in the development of personnel files – for example, by introducing a system in which daily journal notations, deliberations and investigative activities can be included securely and simply and made searchable. Although the quality of files kept by the CCI generally seemed adequate, significant differences were apparent between the personnel files of different staff members. More uniform document management could significantly improve reporting and accountability, transparency, continuity and, ultimately, trust in the integrity system.

#### **6.4 Preventive compliance: better protection from temptations and violations by third parties**

The main objective of an effective integrity system is to reduce the number of violations and to ensure that if violations nonetheless occur as many as possible are reported. Preventive enforcement focuses on the former: reducing violations. Within VCI, small-scale experiments have been carried out in the past with preventive risk analyses. The aim was to systematically identify vulnerabilities in processes and recommend pre-emptive improvements, before any violations have occurred.

A preventive analysis also has the advantage of increasing familiarity with the organisation and its staff in an accessible way, and raising their awareness of and involvement with the task of working on integrity at a moment when no violations are occurring or investigations are under way.

Besides generating more support among the workforce, a risk analysis has the advantage that, in contrast to information about investigations and reports, it can be communicated freely. This not only increases the organisation's robustness and staff awareness of and support for integrity issues, but also sends a positive message to the rest of the organisation. The same preventive impetus can be expected from preventive policies against specific forms of integrity violations: sexual harassment, bullying and exclusion, discrimination and information security breaches. This policy is still largely nonexistent. In addition, there is too little reference to integrity in HR tools: in recruitment, selection, screening, onboarding, disciplinary interviews, job performance interviews, promotion, management development, and personal development and training courses. As a result, integrity is still left too much to specialists and too little a logical, inseparable part of operational management and leadership.

### **6.5 A moral learning process to provide support with the most difficult decisions and moral doubts**

The picture that emerged from the interviews, in particular with personnel at various foreign missions, was one in which questions about integrity do not revolve solely around rules and violations, but at least as often relate to difficult decisions and moral doubts arising from the complex work performed at the missions. Should this or that group be consulted or not, should this or that law be expressly opposed or not, would it be wise to attend a particular meeting or not? People expressed in varying terms that ‘a good talk’, ‘ethical peer coaching’ or regular debates about such situations would be important and instructive. They would appreciate it if such matters, which they referred to as dilemmas or ‘softer’ integrity issues, were part of training, coaching and customary practice. Some even said that learning ways of broaching these difficult issues with each other should be part of the initial in-house training.

Besides its importance in dispelling people’s own doubts, preventing errors of judgment and creating a more unified approach, such a process would also help staff better understand each other’s views and explain decisions better. A moral learning process gives employees a regular opportunity to discuss difficult issues in a safe and structured way, to learn from each other and to invite dissenting opinions. It also prevents people from struggling with lingering doubts and from reporting those doubts when they do not concern actual violations. An effective integrity system consists not only of an compliance practice (of which the reporting system is part) but also of a moral learning process.

### **6.6. Focus on integrity in the HR cycle and training courses**

To achieve an effective integrity system, all staff must be prepared for their own role in working on integrity. Integrity should be an integral part of training and the HR cycle (recruitment, selection, assessment and promotion). This is especially important in the case of managers because of their role in the reporting system and the demands made on them to uphold integrity in leadership. Several interviews revealed that managers are not selected for, or assessed on, their leadership skills. More attention has been paid to this in recent years. HDPO looks at these qualities, as does the inspection service ISB, in their four-yearly visits to embassies. For the past few years, BZ has amplified the content on integrity and leadership skills in its training courses. All managers are offered Leadership Sessions, which include a 65-minute module on integrity and a 60-minute module on creating a safe and supportive environment. As part of these sessions, an explanation is given of the integrity infrastructure and of the role of managers in a setting resembling peer coaching. In addition, training courses on integrity and social safety (in Dutch and English) have been developed for staff and managers (2 x 3 hours). These courses appear to focus on making it possible to broach integrity issues and ensuring a safe and supportive working environment in team discussions, fostered by the manager’s influence, and to inform attendees about BZ’s infrastructure for reporting matters relating to integrity and social safety.

As far as we can tell from the scripts we have seen of these courses, both appear to do too little to emphasise the importance of reporting suspected violations. Nor do they draw a clear distinction between violations – impermissible and punishable actions – and moral dilemmas that can be discussed in the team. It

also remains unclear to what extent they highlight the manager's specific role in the reporting system, or the support they can enlist from VCI. Nor do they appear to explain how managers are trained in the skills that leading with integrity requires, or how they can contribute to BZ's mission by exercising them.

### **6.7 Consequences for the willingness to report**

In the past few years BZ has taken major strides to improve its integrity system. The reporting system is part of that system. The structure and comprehensive nature of the integrity system may influence the accessibility of the reporting system and staff willingness to report integrity issues. The first step is to link the integrity system to BZ's mission. To further increase staff willingness to report, it must be completely clear to them how the early reporting of integrity issues helps BZ fulfil its mission.

Adding a preventive impetus, by further developing the instrument of risk analysis and preventive policy, which is still largely absent at present, can in time create awareness, support and a positive image of this issue – something largely missing at present – in the rest of the organisation. A greater emphasis on integrity and leadership integrity in the selection and assessment of staff and as a mandatory part of training courses can add to this. A moral learning process can normalise discussions of difficult issues, prevent errors of judgment and invite dissenting opinions. It can also prevent employees from struggling with lingering doubts or reporting those doubts when they do not concern actual violations.

## 7. Conclusions and recommendations

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In recent years the Ministry of Foreign Affairs (BZ) has taken major steps to strengthen integrity and has stated that it plans to continue developing and improving its integrity policy. This reflects the great importance the organisation attaches to integrity, to providing a safe and supportive working environment and to being a reliable partner.

The task at hand, which is to produce a critical assessment of BZ's reporting system, should be viewed in that light: BZ is not content with just any reporting system, but aspires to create the most effective and accessible reporting system possible. This is an important, praiseworthy aspiration. In addition, over the past few years the ministry's senior management has prioritised a policy focused on diversity and inclusion, as key components of a safe and supportive working environment.

In commissioning this 'Safe Reporting' study, two main research questions were formulated:

- 1: What factors influence the current level of willingness among BZ's employees to report integrity-related issues?
- 2: Once all these factors are taken into consideration, what steps might be recommended to increase this willingness?

With our research and the report presented here, we have tried to answer these questions. Our conclusions and recommendations are summarised below.

### 7.1 Conclusions relating to factors that influence the willingness to report

#### 7.1.1 *Significant factors stemming from the culture and nature of the organisation*

Several factors were identified within BZ and its organisational culture that reduce staff willingness to report suspected integrity violations. First of all, BZ's mission and the nature of its work lead to an approach to integrity in general that focuses strongly on preserving the ministry's reputation. In addition, the still manifest nature of a career organisation, in which strong dependencies develop, diminishes the accessibility of the reporting system and undermines willingness to report. Both of these inhibiting factors apply more or less throughout the organisation. In addition, a number of factors have a particularly negative effect on the foreign missions and the local employees working there: a less well-developed reporting infrastructure at the missions, overrepresentation and resulting dominance of Dutch culture, and the entrenched inequality and weaker position of local employees. All these factors combine to make local employees vulnerable. For them, the reporting system is less accessible and less safe.

### 7.1.2 *Significant factors stemming from the reporting system*

Within the reporting channel, the willingness to report issues (and access to and the accessibility of the reporting system) is hampered by inconsistencies in and perceptions of the information about how and where to report. This has a particularly strong effect on complaints about inappropriate behaviour: perceptions of reporting are unfavourable and the procedure is perceived as lengthy. In addition, employees working in the international arena and at foreign missions encounter more obstacles in making reports: on the whole too little account is taken of them in the reporting system.

Across the board, the role of managers is not clear and there is too little support for this reporting channel to work as it should. The CCI, too, could play a greater role here.

### 7.1.3 *Significant factors stemming from the follow-up to reports*

In the way reports are followed up within BZ, certain factors can be identified that further reduce access to and the accessibility of the reporting system and willingness to report.

In particular, these factors are the strong emphasis on investigation and the limited range of options afforded the CCI's office – which otherwise performs well despite its limited capacity. Another significant disincentive to reporting inappropriate behaviour is the Inappropriate Behaviour Complaints Procedure, which is lengthy, offers little continuity and is little used. The general perception within the organisation, particularly among people who have previously dealt with investigations and those around them, is that investigations are taxing and a disproportionate response for everyone involved, including the reporting party, with unclear results. This perception has an inhibiting effect on the willingness to report, especially because the often highly guarded approach to communicating about reports and investigations makes it difficult to contradict or disprove this perception.

### 7.1.4 *The effects of the integrity system*

The structure and comprehensive nature of the integrity system can influence the accessibility of the reporting system and people's willingness to report. The first factor is the linkage of the integrity system to BZ's mission. To further increase employees' willingness to report, it must be completely clear to them how the early reporting of integrity issues helps BZ to fulfil its mission. For managers it must be clear why leadership integrity and their role in the reporting system are so important to that mission.

Adding a preventive impetus, by further developing the instrument of risk analysis and preventive policy, which is still largely absent at present, can in time create awareness, support and a positive image of this system – something largely missing at present – in the rest of the organisation. A greater emphasis on integrity and ethical leadership in the selection and assessment of employees and as a mandatory part of training courses can add to this. A moral learning process can normalise discussions of difficult issues, prevent errors of judgment and invite dissenting opinions. It can also prevent employees from struggling

with lingering doubts, which causes moral stress, or actually reporting those doubts when they do not concern actual violations, but may concern decisions that are morally wrong.

## **7.2 Recommendations to increase willingness to report**

### *7.2.1 Recommendations with respect to specific features of the organisation that influence willingness to report*

- **Strengthen the ethos of the organisation**

Forge a connection between efforts to promote integrity and the objective formulated in BZ's mission to work towards achieving a just world. Ensure that the ministry's senior officials convey to managers and all staff an absolutely clear message that working to maintain integrity and reporting any integrity violations at an early stage supports BZ's mission.

In all communications about integrity, avoid undue emphasis on the risk of reputational damage to the Netherlands or the ministry, since this reinforces the already strong concern for reputation that is felt throughout the organisation and hence inhibits employees' willingness to report.

- **A healthy, just and transparent careers policy**

In view of the disincentives to reporting (inherent in the ministry's nature as a career organisation), there is a need to develop sound, transparent and equitable careers policies based on a meritocratic assessment system.

Strengthen the role, position and expertise of HDPO as well as managers in relation to the assessment system. Although managers are ultimately responsible for keeping meticulous personnel files, HDPO too has an important role to play, for example by guiding them in this task.

In doing so, consider no longer having HDPO managers take part in the career organisation. This will strengthen HDPO's independent expertise within the organisation.

- **Strengthen the position of local employees**

Strengthen in all respects the legal status of local employees: they should be given equal treatment, as far as possible, to that of Dutch nationals, and the same protection under employment law against dismissal as a result of conflicts in the workplace or reporting an integrity issue.

- **Shake up the ministry's homogeneous culture**

Continue striving for diversity in the recruitment of new employees, raise the profile of successful staff who are not part of the dominant homogeneous culture, and make room for greater diversity and unconventional thinkers in leadership positions and senior management.

#### *7.2.2. Recommendations in relation to the reporting system*

- **Code of conduct**

Develop a single code of conduct for BZ which states in clear terms what the rules are and what is considered punishable behaviour. Base this code on the Central Government Code of Conduct but ensure that it is consistent with the specific mission and characteristics of the Ministry of Foreign Affairs, such as the international nature of the organisation and its workforce.

As part of this, translate the ministry's commitment to diversity and inclusion into clear agreements regarding inappropriate behaviour, focusing particularly on sexual violations (harassment, exploitation and abuse), racism, discrimination and bullying.

Make the code of conduct and information on the reporting procedure for suspected violations available in languages other than Dutch and English, both online and as hard copy.

Send regular communications about the subject to all staff, in multiple languages, and discuss it as part of onboarding and team meetings.

- **Confidential advisers – the gateway to the reporting system**

Maintain and strengthen the approachability of confidential advisers for staff at all levels of the organisation. Position them clearly as the gateway to the reporting system. Strengthen them in their role as advisers with whom it is easy to make an appointment to have a confidential conversation about suspicions of any type of violation. Make it clear that they can also advise staff on the next steps to take with their manager, the CCI or HDPO, but that they do not take any action themselves, other than reporting confidentially to the CCI at the request of the person concerned and issuing periodic reports on the number and nature of signals received.

Strengthen the expertise of confidential advisers in dealing with reports of inappropriate behaviour, such as discrimination and sexual violations.

Create ways for confidential advisers at foreign missions to collaborate and exchange ideas and experiences with their regional counterparts. Ensure that all staff at all foreign missions and residencies are able to speak

to a confidential adviser who is known personally to them, either at their own mission or one in the same region. Create a ‘continuous learning community’ for the entire body of confidential advisers.

Offer regular training and peer coaching for all confidential advisers throughout the organisation, and make use of the resources available online.

- **Structure of the reporting system**

Strengthen the reporting system so that there are three reporting channels for reports of all types of violations (including reports about inappropriate behaviour):

Channel 1: manager

Make it easier for all employees to report concerns safely and close to their location. To this end, strengthen the day-to-day operational responsibility of each member of the line management for the integrity of the organisation.

Define key elements of this responsibility and include them in the job description. Make this part of the HR cycle (selection, assessment and staff transfer). As part of this, make it clear that managers must always forward any report to the CCI, even those that are less serious. It is up to the CCI to decide, based on the triage procedure, whether to look into the report or to refer the matter back to the manager with a request to deal with it (more on this below). Provide training for managers on how to encourage discussion about integrity and how to handle, assess and resolve reports, and provide adequate support in the form of available expertise and capacity at the CCI’s office.

Channel 2: Integrity Reporting Office and the CCI

Strengthen the capacity of integrity officers:

- Consolidate the experience that most integrity officers now have in handling reports and conducting conversations in which the person reporting an issue is actively offered confidentiality, in which the right questions are asked and the various options discussed. In addition, specifically strengthen their expertise in accepting and discussing reports of inappropriate behaviour (interpersonal violations) such as sexual harassment and discrimination.
- Ensure that each report is written up with care and in unambiguous language using a form, followed by registration.

Channel 3: external reporting office

Create an accessible, easily approachable reporting centre for vulnerable groups and, in particular, local employees, specifically for those who do not have confidence in the way the manager would handle a report. This reporting centre should be available for the reporting of any integrity violation whatsoever. See also Appendix 2 for a schematic overview of the reporting system as part of the reactive enforcement system.

### 7.2.3. Recommendations relating to the rest of the reactive enforcement system

- **Triage**

It is recommended that the CCI's triage procedure be further developed. As part of this procedure, the CCI should ascertain whether the report has reached the right place, make a careful decision and determine how the report is to be handled. This means answering at least the following questions: Does this report concern a suspected violation, or a morally wrong decision, a conflict in the workplace or poor job performance? The CCI then decides whether the matter should be referred to line management or a different department (HDPO, FEZ or ISB), or whether the CCI's office should take up the matter. In the latter case the CCI should explain, giving reasons, how the report will to be dealt with.

- **The preliminary investigation**

Strengthen the preliminary investigation, as a means of arriving at a measured decision on how the report should be dealt with.

Start by examining whether the report merits investigation. A report does not merit investigation if the preliminary investigation shows that no rule has been violated, if an investigation would be a disproportionate measure, or if the facts are already known and therefore investigation is unnecessary. Another possibility is that there is insufficient scope for investigating the matter.

Make and preserve a transparent, reasoned record of this assessment, so that it is clear why some form of investigation was or was not initiated.

- **Expand the set of instruments for resolving reports**

Launch a disciplinary investigation in the case of a report identified in the preliminary investigation as one that merits investigation. In all other cases, consider risk assessments (perhaps at micro level) or other preventive measures, restorative measures, a discussion with the other person under the guidance of a human resources staff member, mediation, or other forms of restorative justice, such as compensation of expenses or apologies.

Ensure that in workplace investigations of individuals and sanctions policies the principles of proportionality and subsidiarity are carefully applied, and demonstrate that this was done to the person who made the report and all concerned.

Communicate this widely throughout the organisation, independently of specific cases, and make it clear that reports may be dealt with in a variety of ways, depending on the nature and severity of the violation: minor violations will incur minor sanctions; serious violations will not go unpunished.

- **Improve the way reports on interpersonal violations are followed up**

Expand the CCI's office to include professionals in the field of sexual violations. Deploy them to develop appropriate instruments to deal with all forms of such behaviour, and to provide managers with guidelines and help them develop their expertise. This should include developing skills in focusing attention on other forms of inappropriate behaviour, in encouraging discussion about them in order to break the silence, and in dealing with reports by victims.

- **Put in place a transparent and fair sanctions policy and communicate about its application**

Besides ensuring that violations are defined in an unambiguous way, also formulate a clear, proportionate and fair sanctions policy, without regard to person or position. Ensure that the ministry's senior management communicates with the workforce transparently and regularly about the number and nature of reports and the way they were dealt with, for example when the CCI's annual report is published.

- **Communication, care and aftercare**

When making decisions on how to communicate about individual cases, a careful assessment of the interests involved should take into account not only the privacy of all those concerned, but also the importance of conveying to all staff the message that reporting is effective, and the fact that the entire organisation can learn from a violation.

When communicating how violations have been dealt with, show that it is possible to report safely, without repercussions for the person reporting a violation, and that where violations are committed, just and proportionate sanctions will follow. Actual or potential reputational damage should never be used as a reason not to impose sanctions.

In cases concerning interpersonal violations, involve the person reporting the violation – if they are a victim – in all decisions about what steps to take in the process. In addition, provide aftercare in the form of reparation such as a discussion with the other person under the guidance of a human resources staff member or rehabilitation. Furthermore, aftercare should also include measures to prevent recurrence of the violation.

#### 7.2.4. Other recommendations relating to BZ's integrity system

- **Strengthen the preventive cycle**

Use the periodic reports issued by confidential advisers as well as reports of integrity-related issues made through line management or to the reporting system as a form of early warning, to prevent recurrence or larger-scale or more severe violations.

As part of the focus on integrity, have all department heads and heads of mission describe the vulnerable processes and jobs in their unit or mission and identify integrity risks. Develop preventive and protective measures in consultation with them.

- **Strengthen the ministry's moral learning process**

Train employees in making moral judgments and ensure that moral deliberations on difficult issues are held at frequent intervals. Organise moral reconstructions of difficult decisions from the past. Use the insights derived from moral deliberations to develop moral knowledge and management information.

- **Expand the CCI team**

Expand the CCI team with capacity to support regular integrity risk assessments and to formulate preventive policies. In addition, assign the task of coordinating the moral learning process to the CCI. See also Appendix 3 for a diagram of the entire integrity system and the position of the reporting system within it.

## Appendix 1: desk review report

*Desk review report (including an appraisal of recent or proposed changes) of procedures and regulations on reporting and following up integrity-related issues*

### Codes of conduct

There are three parallel codes of conduct within the Ministry of Foreign Affairs. There is the Central Government Code of Conduct on Integrity 2016, revised in 2019, which applies to everyone working for central government. It sets out the minimum framework that applies across the entire central government sector, and includes descriptions of what it means to be a good employer and a good civil servant; the values that constitute integrity (independence, impartiality, reliability, meticulousness and personal responsibility); the standards and rules that apply to conflicts of interest, information and communication; and treating people and resources with proper respect. In addition, the code of conduct highlights the importance of encouraging discussion of integrity with the manager or confidential adviser in cases of suspected violations, and reporting such cases with reference to the ministry's own internal rules. With regard to inappropriate behaviour, it states that complaints of this kind should be submitted to an Inappropriate Behaviour Complaints Committee. This central government-wide code of conduct also includes a section relating to staff abroad, which was developed along the lines of the BZ Code of Conduct on Integrity.

Besides the government-wide code of conduct, BZ staff are also subject to the BZ Code of Conduct on Integrity ('Think Before You Act' 2012, revised in 2018). This code of conduct consists of ground rules organised around a number of values, partly overlapping with, and partly different from, the government-wide code: independence, transparency, being beyond reproach, openness and confidentiality. The BZ Code of Conduct on Integrity also gives a clear description of the reporting procedure – whether to one's manager or to the Central Integrity Coordinator (CCI), and the possibility of speaking confidentially with and obtaining advice from a confidential adviser. In the case of inappropriate behaviour, a report should be made in the form of a complaint to HPDO, which then appoints a complaint handler or, if preferred, forwards it to a six-member complaints committee.

Finally, there are also specific codes of conduct for missions abroad. A tool is available via intranet with a format for a workshop in which such a code can be developed together with everyone working at the mission. It includes specific values and rules for foreign missions and two examples of best practice from which to draw inspiration. It appears to be intended primarily to make it possible to broach the subject of integrity as a shared responsibility. The examples we have seen show that missions interpret this in very different ways. One of the two examples is actually not a code of conduct at all, but rather an open letter in which the personnel at the mission acknowledge that they have a constant problem with gossip and commit to putting a stop to this behaviour.

The other is a list of 10 statements (commandments?) that are largely about values and say very little about rules. The use of such 'mission-specific' codes of conduct is intended to solve the problem that the general code of conduct fails to embrace the nature and specific setting of each foreign mission.

However, the result is that missions develop weak versions of a code of conduct that are not enforceable and fail to cover all aspects of integrity. This makes it unclear how an employee is to know which code of conduct must be followed.

It is also unclear how management is to monitor compliance with these codes, how the CCI should tackle 'violations' of a mission-specific code, and how the CCI should monitor the quality of these codes. The coexistence of these mission-specific, BZ-specific and central government-wide codes of conduct could lead to a lack of clarity as to the important principles and rules by which all employees must abide. Worse still, it could lead to disciplinary action being taken for 'violations' that are ill-defined and in reality do not meet the threshold of an integrity violation. Disproportionate measures of this kind would have a harmful effect on the entire system.

### **Reporting procedure**

The reporting procedure is set out in the Factsheet on Reporting, and at greater length and in more detail in the protocol on workplace investigations of individuals (September 2021). Anyone considering making a report is referred in the first instance to the Factsheet on Reporting.

- **Integrity violations**

The Factsheet states that there is no list specifying every kind of behaviour that could be considered an integrity violation. It then gives examples of things that might fall under that heading, ranging from violations of BZ rules (for example on reporting sick or taking holiday leave) to conflicts of interest and misconduct outside working hours. The protocol on workplace investigations of individuals defines an integrity violation as an instance in which 'a staff member (whether incidentally or systematically) acts in breach of the applicable moral values and standards and related rules'. It cites the Central Government Code of Conduct on Integrity and the BZ Code of Conduct on Integrity as providing 'a framework for acting with integrity'.

- **Procedure for reporting integrity violations**

In general:

- Whether intentionally or not, the procedure somewhat discourages those thinking of making a formal report to the CCI from doing so. It emphasises the taxing nature and inevitability of an investigation once an issue is reported to the CCI. See also the flowchart: the CCI is presented as the last resort in an escalation chain.

- The roles of the manager and confidential adviser in the reporting procedure need some clarification; the blurred distinction appears to lead to some blurring of the roles in practice.
- The Factsheet should pay more attention to the protection of the person reporting an issue. In addition, customised procedures should be introduced for the special circumstances of local employees who wish to make a report.
- It is unclear whether the care provided by staff welfare officers and in-house medical officers during and after the procedure is also available to local employees.
- A striking point: local employees who are accused of a violation can be suspended and dismissed by the head of mission (in the case of all other staff such action can only be taken by the SG).

- **Procedure at each stage**

BZ encourages colleagues to discuss issues and concerns with each other in the first instance. If that is not possible, they can report them to their line manager.

If someone is unable or unwilling to go to the manager, it is possible to go to that person's superior, the ministry's senior management or a confidential adviser. Staff can also choose to make a report directly to the CCI. If they report a matter to their manager, the manager must notify the CCI. In the case of potentially 'serious' violations, the manager must report the matter to the ministry's senior management. There is no clear explanation of what constitutes a 'serious' violation.

The protocol on workplace investigations of individuals states: 'The confidential adviser can also inform the CCI or the ministry's senior management about any actual or potential adverse impact on the person who made the report. This could apply if the person had to leave their position as a direct result of making a report or because of a damaged working relationship, and/or the person is not considered for a new position. If the ministry's senior management intervenes in that situation, this could reduce reluctance to report an issue.'

The identity of those who make a report is in principle protected, but reports are not anonymous. The CCI may receive anonymous reports and does not automatically disregard them, but will carefully weigh the possibility of acting on them, recognising that this is sometimes impossible.

According to the protocol, the person who makes a report receives an acknowledgment of it by email and is informed of the subsequent procedures. The person's right to certain protective measures is recognised. The reporting procedures outlined in the protocol on workplace investigations of individuals are clearly established, well-written and thorough.

The Factsheet on Reporting needs to be revised in line with the protocol, especially to reflect the added focus on protection, care and aftercare for both the person making the report and the subject of the report.

A draft updated Factsheet on Reporting (September 2021) meant to respond to the new developments does not yet contain sufficient improvements to the existing version.

- **Inappropriate Behaviour Complaints Procedure (2006)**

A complaint about inappropriate behaviour will be dealt with through the complaints procedure (either by complaint handlers or by the committee in the case of more serious or complex cases). According to the procedure, the Inappropriate Behaviour Complaints Committee has six members (in practice there are three members, who do this in addition to their regular job) and deals with the more serious cases, on the basis of hearings. Complaint handlers and the Complaints Committee both fall under the responsibility of HDPO – this in contrast to VCI, which is directly accountable to the ministry’s senior management. We can imagine that it may be unclear to someone wanting to report an integrity-related issue where to turn, to HDPO or VCI. VCI says it refers complaints about interpersonal violations (whether from victims or witnesses) to HDPO, unless the report also involves other integrity-related issues. However, this does not seem to be entirely clear, even to the professionals concerned.

- **Draft complaints procedure to replace the current version from 2006**

The draft of the new complaints procedure for inappropriate behaviour contains some clear improvements: more effort is made to define the specific types of violations that come under the heading of ‘inappropriate behaviour’; there is a move towards accepting that the Central Integrity Coordinator has – and should have – a part to play, since such behaviour also constitutes an integrity violation; there is an attempt to recognise that other measures may be more appropriate (although this needs further elaboration); and witnesses of inappropriate behaviour are also included as persons who may make a report.

Transferring responsibility from HDPO to the SG is a positive step. The question remains why such reports (and these should be called reports, not complaints – see below) do not go through the same channel as other integrity violations.

The option of reporting directly to the SG is a legal right, but not an obligation – the Central Integrity Coordinator (CCI) may receive these reports directly and that is the more appropriate route, since the CCI receives its mandate from the SG.

The use of complaints committees instead of the integrity coordinator for inappropriate behaviour is in fact inadvisable. If these kinds of behaviour are considered integrity violations, there is no reason to investigate them any differently from other integrity violations. Once a person reporting this behaviour is viewed as someone reporting an integrity violation, the CCI’s team (as trained professionals) can follow the same process as with other integrity violations: triage, preliminary investigation, disciplinary investigation and/or other reparation. This is in fact a more appropriate way to deal with a report than through an ad hoc committee whose members are not professionally qualified in this field.

Part of this problem stems from a misunderstanding of the principle of hearing both sides. The complaints committee's formulation wrongly interprets this as a method of investigation, rather than as a guiding principle that is part of due process in any disciplinary investigation. As a result, there is a tendency to pit parties against each other as 'complainant' and 'complainee' rather than viewing them as a person reporting a colleague's behaviour and that colleague.

A second reason lies in the distinction between the use of the term 'person making a report' ('*melder*' in Dutch) to refer to a witness (previously, such a description was used only when the person spoke to the confidential adviser), and the term 'complainant' ('*klager*' in Dutch) to refer to the person who had experienced the behaviour. The word 'complainant' implies a degree of subjectivity that makes handling such a violation much more complicated. Committees are then established to decide whether this subjective experience that certain behaviour was inappropriate is reasonable given the prevailing social norms, instead of whether or not it is a violation of the code of conduct and thus an integrity violation. If a person *reports* a violation of the code of conduct, this dilutes the implication of subjectivity to some extent.

One could also argue that the threshold is much higher in terms of perception if one has to become a complainant rather than a reporter. Last but not least, article 5 provides that there is 'no obligation to deal with a complaint'. This is completely incorrect. What is correctly set out is a list of conditions under which a complaint/report will then be dealt with. But the obligation to consider and adequately handle all reports remains. What 'adequate handling' means must be defined: triage, preliminary investigation and appropriate follow-up action. This applies to every report that is received by the SG (eventually the CCI). It does not mean that every report is immediately investigated, but it does mean that there is a careful assessment and a decision on the best way to proceed.

- **Follow-up measures**

The procedures for investigation and disciplinary measures described below do not apply to the complaints procedure.

### **Preliminary investigation**

The protocol on workplace investigations of individuals provides for a preliminary investigation. On the basis of the findings from that preliminary investigation, the CCI makes a recommendation to the ministry's senior management on whether or not to launch an investigation. Senior management (the SG) then takes the decision.

'A report is assessed on the basis of a number of criteria:

- The nature of the act reported
- Admissibility
- Seriousness of the case

- Verifiability
- Position of the person making the report (external or internal, the person's knowledge on the basis of their job, etc.)
- Position of the subject of the report (what is expected of a manager is different from what is expected of a lower-ranking staff member or trainee.)
- Credibility/probability'

When choices are made about investigative methods, the principles of proportionality and subsidiarity must be taken into account. Additional advice may be sought. Reports that raise a reasonable suspicion of an integrity violation on the basis of these criteria are registered in accordance with the uniform registration system (URI).

Certain factors are missing from this list, namely:

- If this violation is proven, would it warrant disciplinary measures and, if so, what measures?
- What is the desired outcome?
- Does this case concern an interpersonal violation and, if so, what does the victim want to happen? What harm could an investigation do? How should this be weighed against the interests of the ministry and the rights of the parties involved (that is, in determining the investigative methods, not in general)?

The list seems more like a series of boxes to check than a deliberative process. The text also states that a conversation will take place with the person making the report 'if necessary'.

### **Investigation**

The protocol on workplace investigations of individuals gives a clear description of the procedures and roles with regard to initiating an investigation, launching and conducting it, and drafting the final report. The roles and responsibilities, rights and obligations of the subject of the report, the person making the report, the manager, the ministry's senior management, investigators, the CCI and HDPO are all clearly described and take the GDPR into account. The protocol also includes the duty of notification and disclosure in relation to the subject of the report, the latter's right to rectification, and care during and after the investigation for both the person reporting and the subject of the report. Investigative capacity is to be drawn from the CCI team; other internal experts may also be consulted. The duration of the investigation should not exceed 14 weeks in total (4 weeks for the preliminary investigation and 10 weeks for an investigation of the facts).

### **Disciplinary measures**

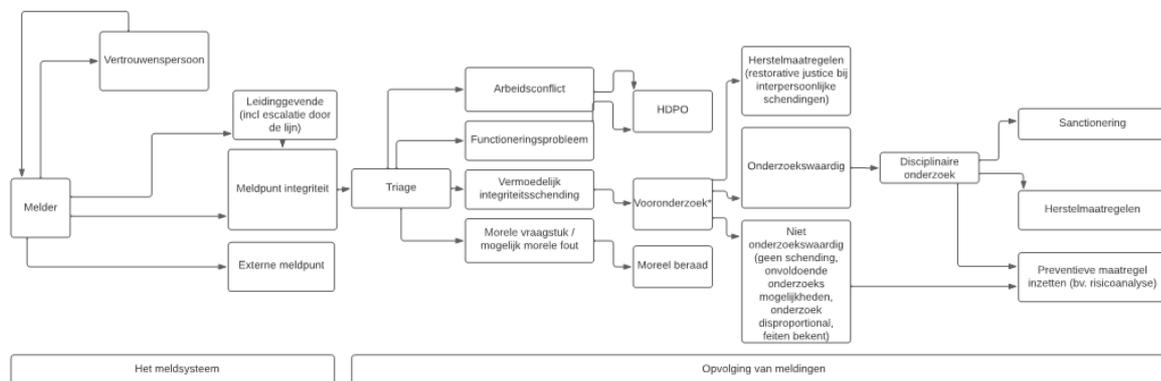
The SG decides whether the report should lead to disciplinary action. HDPO advises the SG on this matter. The person concerned may submit an objection against the decision and the disciplinary action to the Central Government Disputes Committee, and then, in relation to the disciplinary action, lodge an

application for judicial review with the limited jurisdiction judge. No information is given on the nature of disciplinary action, except that it must be proportional, logical and coherent .

**Communication and care (in relation to cases)**

The protocol also gives a clear description of the communication with, and care for, the subject of the report, the person reporting and the unit – and gives the line of communication about cases as well as proactive communication in the form of Annual Reports on the reports received. The protocol appears to leave it up to the person reporting and the subject of the report to take the initiative in deciding whether care or aftercare is required.

## Appendix 2: diagram of reactive system



Schema: Het repressief apparaat

## [binnen diagram]

Melder = Person reporting

Vertrouwenspersoon = Confidential adviser

Leidinggevende (incl escalatie door de lijn) = Manager (incl. escalation through line management)

Meldpunt Integriteit = Integrity Reporting Point

Extern meldpunt = External reporting point

Triage = Triage

Arbeidsconflict = Workplace conflict

Functioneringsprobleem = Job performance problem

Vermoedelijke integriteitsschending = Suspected integrity violation

Morele vraagstuk / mogelijk morele fout = Moral question

HDPO = HDPO

Vooronderzoek = Preliminary investigation

Onderzoekswaardig = Merits investigation

Niet onderzoekswaardig (geen schending, onvoldoende onderzoeksmogelijkheden, onderzoek disproportioneel, feiten bekend) = Does not merit investigation (no violation, insufficient investigative resources, disproportionate, facts known)

Disciplinair onderzoek = Disciplinary investigation

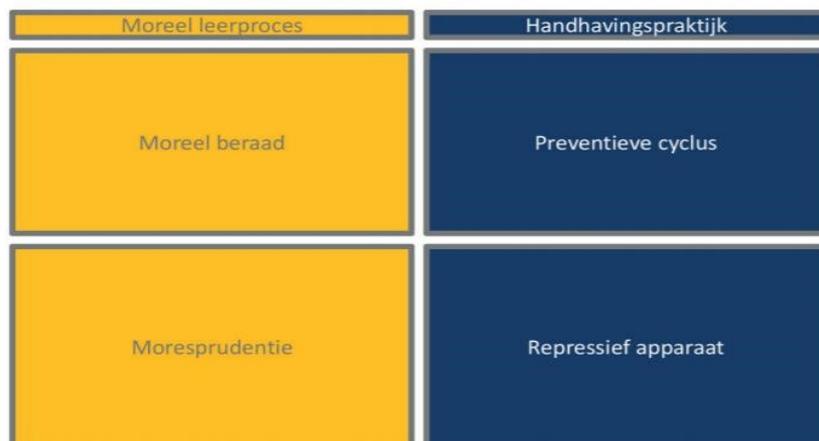
Sanctionering = Sanctions

Herstelmaatregelen = Restorative measures

Preventieve maatregelen inzetten (bv risicoanalyse) = Preventive measures (e.g. risk analysis)

**Appendix 3: Diagram of the integrity system and the position of the reporting system**

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Moral learning process

Compliance Practice

Moral deliberation

Preventive cycle

Mores prudence (Moral Knowledge)

Repressive apparatus

#### Appendix 4: Programme of requirements

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Excerpt from the programme of requirements:

The purpose of this study is to survey and evaluate the way in which BZ deals with reports of suspected integrity violations (including inappropriate behaviour) and how this is influenced by cultural factors. This takes in the entire process, from the submission of a report to legal or other resolution and aftercare, and the entire system of departments and officials involved.

More specifically, the researchers are asked:

- To study how BZ handles, investigates and resolves reports of suspected integrity violations (including inappropriate behaviour).
- To also examine the reporting system and the way it functions (including in relation to complaints of inappropriate behaviour), the process after a report is made through to resolution, including care and aftercare for, and communication with, those reporting and the subjects of a report.
- To give an appraisal of the communication about the above matters within – and where applicable, outside – BZ in a general sense.
- To study staff members' experiences, perceptions and expectations of reporting and cultural factors that influence their willingness to report integrity-related issues.
- To study the confluence of reports with performance problems and/or workplace conflicts and ways of dealing with them.
- To give an appraisal of the improvements/changes BZ has introduced in recent years in dealing with suspected integrity violations.
- To make recommendations to improve the safety of reporting and to increase staff willingness to submit reports, and any other recommendations concerning the matters mentioned above.