



WHISTLEBLOWERS  
AUTHORITY



# THE CONFIDENTIAL INTEGRITY ADVISER

Current Status and Future Prospects in the Netherlands



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## Summary

Employers hold primary responsibility for ensuring that employees can raise problems safely. This calls for a good internal reporting structure. Such a reporting structure avoids the need for whistleblowers to tell their story to external institutions, the Whistleblowers Authority or even the media. Confidential integrity advisers (CIAs) play a crucial role in the internal reporting structure; among other things, they ensure that employees can report wrongdoing internally, in a secure and responsible way.

So far, not enough is known about CIAs, how they function and how their professionalism can be increased in the future. The Dutch Whistleblowers Authority therefore conducted a study of the realisation of this confidential role. For that purpose, we sent a questionnaire to 159 CIAs. Prior to this, two expert sessions were organised with a total of 30 expert CIAs. The expert sessions served as input for the questions in the questionnaires and at the same time, as an explanation of the replies to the questions.

The picture that emerged is that a fair number of improvements can still be realised in relation to the position and performance of CIAs. For that reason, the Whistleblowers Authority has reached the following conclusions and recommendations (which are discussed in some more detail at the end of the report) for employers, confidential advisers and sectoral organisations:

### Conclusion 1

#### **The role of CIA is often unclear and insufficiently embedded in the internal reporting structure**

Whistleblowers deserve protection. The Whistleblowers Authority therefore stands for the right of employees to an adequate reporting procedure and professional confidential advisers. It is the responsibility of organisations to make provision for this. This avoids whistleblowers being forced to raise the wrongdoing outside the organisation.

A professional CIA serves the employee and the employer, and must be able to separate and clearly explain these different interests. The CIA offers employees a listening ear, confidential consultation on integrity issues and advice in the event of suspicions of wrongdoing. For the employer, the CIA improves the quality of the internal reporting structure and the functioning of the organisation. However, in many cases, it has been found that reporting procedures do not yet comply with the Whistleblowers Authority Act (HvK Act). The role of CIAs could also be designed more professionally. CIAs often have undesirable other positions, the job is not sufficiently formalised and they conduct relatively few interviews on an annual basis.

### **Recommendation to CIA:**

Combine the confidential advisory role for integrity and whistleblowing with the role for undesirable behaviour and sexual harassment. This has many advantages. However, do not combine these with HR, Works Council or management roles.

### **Recommendation to employers:**

Ensure that the organisation has CIAs. The combination of external and internal CIAs is ideal.

### **Recommendation to employers:**

Formally establish the confidential advisory position. Make agreements on matters including the job profile, appointment procedure and legal protection. Request the consent of the Works Council for these policies.

### **Recommendation to CIA:**

Be there for both the employees and the organisation. Give employees confidential advice. Inform the employer about trends and developments.

## **Conclusion 2**

### **The CIA must (be able to) do more to develop and maintain expertise and quality**

The role of CIA requires substantive knowledge, social skills and organisational sensitivity. The CIA must win the trust of vulnerable colleagues without losing sight of the interests of the organisation. Knowledge of wrongdoing, integrity and undesirable behaviour is required. The CIA must also advise the management, present an annual report and provide information. Nevertheless, there is often still a lack of expertise development among CIAs. Often, CIAs also conduct few interviews. This is not reassuring. CIAs who conduct few interviews also build up less expertise. More interviews and reports indicate a higher integrity awareness, a greater sense of security and greater knowledge of the existence of the CIA.

### **Recommendation to employers and CIA**

The employer must select CIAs with sufficient knowledge, skills and training. CIAs must ensure that they develop and maintain their expertise. Conducting a sufficient number of interviews is crucial here. CIAs must also actively participate in training courses, seek structural supervision and exchange ideas with other (external) CIAs. The organisation and CIAs share responsibility for this.

## **Conclusion 3**

### **Employers could make more effort for a safe culture and protection of the CIA**

CIAs have concerns about the organisational culture. In a considerable number of organisations, a sense of insecurity predominates and employees do not dare to report wrongdoing. CIAs are also concerned about their own security. Some of them feel that the role harms their career. Openness and security are necessary conditions for the willingness of employees to report wrongdoing. If no one dares to make a report, however, the wrongdoing will worsen, with all the attendant risks and consequences.

The employer has an important responsibility for a safe organisational culture and for the protection of the CIAs in particular. Both formally and informally, the CIA must feel secure enough to be able to convey confidence to the employees that it is safe and responsible to raise matters internally.

In too many organisations, the internal reporting procedures have not yet been adjusted to comply with the HvK Act. Aspects of the integrity policies also prove to be still open to improvement. Without good reporting and integrity provisions, employers run the risk of a whistleblower problem. That is damaging for the organisation, the employees and the whistleblower.

### **Recommendation to employers**

Offer the CIAs protection, formally recorded in an appointment letter, for instance, or the internal reporting procedure, and informally in the culture and day-to-day interactions. Respect the role of CIAs and do not ask for a breach of the confidentiality.

### **Recommendation to employers and CIAs**

The organisation and the CIAs share responsibility to increase the awareness and confidence of employees in the CIAs. Regularly survey the confidence in the CIAs.

### **Recommendation to employers**

Quickly improve the existing integrity provisions. For a safe culture, it is necessary to have good integrity provisions and a reporting procedure that complies with the HvK Act.

## **Conclusion 4**

### **New legislation is conceivable, but employers' organisations must make the first move**

It is conceivable to introduce laws and regulations that make CIAs mandatory, protect them and offer pardon. Employers will then have to follow fairly uniform regulations. However, employers can also opt to regulate the role of CIAs in a way that suits their own sector and to organise the job well themselves.

The Whistleblowers Authority sees a task here for employers' organisations. It is now up to them to secure integrity within their own branches or sectors. In this way, every employer, large or small, can increase the security of whistleblowers and reduce the risk of unnecessary damage.

### **Recommendation to sectoral organisations**

Play an active role. Particularly for smaller organisations, provide for support in the field of integrity, for example through the joint development of a reporting procedure, the engagement of external CIAs and the arrangement of investigation capacity on reports.



## Introduction

Things sometimes go wrong in every organisation, from minor mistakes to major integrity violations or even cases of serious wrongdoing. Thanks to whistleblowers, such problems come to light and are addressed. The sooner this happens, the better. It is therefore not fair if the employee who reports the problems suffers adverse effects (retaliation) as a result. Nevertheless, it regularly occurs that reporters are disadvantaged and have to raise the alarm with external institutions, the media or the Whistleblowers Authority. This causes damage to everyone, but the whistleblower is usually the main victim.

Only if employers are well-prepared for reports and deal with them professionally will employees dare to break their silence in time. Research shows that this calls for good reporting provisions, as part of integrity management policies.<sup>1</sup> An important element has been mandatory for every organisation in the Netherlands with more than 50 employees since 1 July 2016: the internal procedure for reporting wrongdoing.<sup>2</sup> A second crucial link in this reporting structure is the confidential integrity adviser (CIA). Time and again, Dutch experts and institutions emphasise the importance of this officer.<sup>3</sup> Many government agencies have appointed a CIA since 2006, or even before then.<sup>4</sup>

In our view, whistleblowers deserve protection. The Whistleblowers Authority therefore stands for the right of all employees to professional confidential advisers. An easily accessible confidential adviser who performs well helps to ensure that employees can report wrongdoing internally in good time, without hesitation and in a good manner. This avoids whistleblowers being forced to raise cases of wrongdoing outside the organisation, with all the attendant risks.

### Alarming signals

Unfortunately, the Whistleblowers Authority is receiving alarming signals. 'Organizational silence' often appears to dominate in organisations.<sup>5</sup> Many whistleblowers who contact the Authority speak of a culture of fear.<sup>6</sup> The 'Reporting procedures and integrity provisions of employers in the Netherlands' study (2017) also shows that of-

1 De Graaf, G., K. Lasthuizen, T. Bogers, B. Ter Schegget and T. Struwer (2013). *'Een luisterend oor' (A listening ear). Onderzoek naar het interne meldsysteem integriteit binnen de Nederlandse overheid (Research into the internal integrity reporting system within the Dutch government)*. Amsterdam: Free University (VU).

2 For more practical information on the introduction of a good reporting procedure, see: Whistleblowers Authority (2016), *Integrity in practice: The Reporting Procedure*.

3 Labour Foundation, *Declaration on dealing with suspected abuses* (2003); De Graaf, G., K. Lasthuizen, T. Bogers, B. Ter Schegget and T. Struwer (2013). 'Een luisterend oor' (A listening ear). *Onderzoek naar het interne meldsysteem integriteit binnen de Nederlandse overheid (Research into the internal integrity reporting system within the Dutch government)*. Amsterdam: Free University (VU); Hoekstra, A. and A.F. Belling (2003). The confidential adviser for integrity issues. *Public Administration*, May 2003, p. 14-17. Transparency International NL (2012), Policy paper 1, Secure reporting. OECD (2018), *Behavioural Insights for Public Integrity: Harnessing the Human Factor to Counter Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris.

4 BZK, VNG, UvW, IPO and the Netherlands Police Institute, *Modelaanpak Basisnormen Integriteit Openbaar Bestuur and Politie (Model approach to Basic Integrity Standards in Public Administration and the Police Force)* (2006).

5 See e.g. Kish-Gephart J.J., Detert, J. R., Treviño, L.K., & Edmondson, A.C., 'Silenced by fear: The nature, sources and consequences of fear at work', *Research into Organizational Behavior*, 29 (2009) 163-193.

6 Whistleblowers Authority (2018), *Annual Report 2017*.

ten, it is not yet safe to raise problems. And all in all, the implementation of reporting provisions by employers still leaves something to be desired.<sup>7</sup> No more than half of the employers actually have reporting procedures that comply with the obligations pursuant to the HvK Act. Other measures to enable safe reporting often also still prove to be missing, such as a research protocol and an integrity plan. There is also strong criticism of the performance of CIAs themselves. Although most organisations do have confidential advisers, they are not yet sufficiently visible and still enjoy little confidence.

**This study concerns the confidential integrity adviser (CIA), who is there for integrity and wrongdoing. The CIA is not the same as a confidential adviser for unacceptable behaviour like harassment, bullying, discrimination, etc. (CAUB). Organisations appoint a CAUB pursuant to the Working Conditions Act (Article 3(2)), often as a measure to protect employees against psycho-social stress at work.<sup>8</sup> These roles can be combined. This is even advisable.**

The Whistleblowers Authority receives many questions on the realisation of the confidential role. In view of the importance of the confidential adviser and all the critical findings to date, the Whistleblowers Authority commissioned a survey among Dutch confidential advisers responsible for wrongdoing and integrity. Prior to this, two expert sessions were held with a total of 30 expert CIAs. The expert sessions were used to gain a sense of the current issues among CIAs. As such, they contributed to both the development of the survey questions and to the explanation of the answers given. The study aims to obtain an insight into the performances of CIAs and the points on which improvement is still possible.

The study consists of five parts. First, a number of 'background features' of confidential advisers are described, together with how they combine their confidentiality work and how they regard their mission (2.1). We then describe how the confidential advisers are recruited and selected, which job requirements are set and whether these are formalised (2.2). The study then focuses on the current position regarding the reporting procedures and we discuss the nature and scale of the interviews that the confidential advisers conduct (2.3). The fourth part concerns the culture, the reporting climate within the organisation and the security of the confidential adviser himself/herself (2.4). Finally, we focus on the conditions that are important for good performance of confidential advisers, describe their networks and investigate how the confidentiality role is integrated within the organisation (2.5).

## **Reference framework: a professional confidentiality position**

The Whistleblowers Authority regards it as the responsibility of the employer to organise a professional confidentiality position. We make use of the full reference framework here, in which both the employer and the CIA have a professional role to play. A professional CIA is there for the employee and the employer, and must be able to clearly separate and explain these different interests. The CIA can offer employees a

<sup>7</sup> Whistleblowers Authority (2017), *Reporting procedures and integrity provisions among employers in the Netherlands*.

<sup>8</sup> There is no statutory obligation to appoint a CAUB. Organisation must pursue policies to protect their employees against psycho-social stress and can appoint a CAUB for that purpose.

listening ear, confidential consultation on dilemmas, the opportunity to raise integrity issues and advice in the event of suspicions of wrongdoing. This confidential adviser can also act as a channel for reports, as a process monitor, contact person or adviser for employees.<sup>9</sup> However, a CIA is not a representative of the reporter and cannot always offer confidentiality. There are limits to that confidentiality, for example in the case of a moral conflict, or if crimes are reported. However, the CIA will only breach confidentiality with care, after consulting a fellow CIA and with the knowledge of the interviewee. A CIA does not take over the role of reporter, nor does he or she personally investigate the report.

The CIA is also available for interviews on undesirable behaviour, sexual harassment and other trust issues. With this 'combined position' the CIA can offer employees a one-stop shop and so lower the barriers to reporting. It also allows the CIA to increase the number of interviews. This contributes to the CIA's own expertise. Furthermore, integrity and forms of undesirable behaviour are often inter-related in cases presented to a confidential adviser. In addition, a CIA must always have access to training, structural consultation and intervision with fellow confidential advisers. The role of CIA cannot be combined with other reporting-related roles such as HRM, management, internal investigations, worker consultation or that of compliance officer.

Organisations must offer a CIA. The combination of external and internal CIAs is ideal, although this is not always feasible. It is essential that a CIA can consult with other confidential advisers. This can be organised both internally and externally. Equally crucial is that CIAs receive formally established protection in the performance of the confidentiality work. CIAs must also receive sufficient resources and practical support. For the employer, the CIA improves the quality of the internal reporting structure. The CIA and the organisation work together to increase the visibility of and confidence in the confidentiality position. The CIA accounts to the management and identifies developments in the organisation. This takes place partly in the form of an annual report that is presented to and discussed with the management, the worker participation council and any other supervisory bodies. The CIA always protects the identity of reporters here, by anonymising case histories.

The Whistleblowers Authority regards it as the responsibility of the employer to organise a professional confidentiality position. This applies for all employers. Small organisations can jointly organise a confidentiality position via a sectoral organisation. In this way, every employer, large or small, can increase the security of whistleblowers and reduce the risk of unnecessary damage.

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<sup>9</sup> Labour Foundation, *Declaration on dealing with suspected wrongdoing* (2003).

In order to obtain a better insight into the performance of confidential advisers, we used different research methods. In 2017, the Whistleblowers Authority first organised two expert sessions with a total of 30 experienced confidential advisers.<sup>10</sup> The aim was to define which themes and issues are current in the confidentiality network. The expert sessions also contributed to explanation of the research results.

We then conducted a quantitative online survey among CIAs. The Panteia research agency assisted us with the set-up, implementation and reporting on this study. On commission from the Whistleblowers Authority, the I&O Research agency provided the sample survey file.

### **Target group of the study**

The survey target group consisted of confidential integrity advisers (CIAs) working in the Netherlands. The survey target group also included persons who, in addition to working as a CIA, are also confidential adviser undesirable behaviour (CAUB). External confidential advisers, i.e. CIAs who are hired externally in order to fill the position of confidential adviser but are not employed by the organisation, do not form part of the target group of this survey. For practical reasons, confidential advisers in organisations with less than 50 employees do not form part of the target group.

### **Sample survey**

There is no central register in the Netherlands in which all employed confidential advisers are required to register. As far as the Whistleblowers Authority and Panteia were able to determine, no other sample survey frameworks were available in which CIAs could be selected. The Whistleblowers Authority did have access to a file of Works Council contact persons, prepared for another study, with an a-select stratified structure. This file was compiled on commission from the study among Works Councils (Reporting procedures and integrity provisions among employers in the Netherlands), which I&O Research conducted for the Whistleblowers Authority. I&O Research contacted the gross n=993 Works Council contact persons from this study with a request to provide the name and contact details of (one of) the CIAs in their organisation. This request was initially sent by e-mail. Works Council contacts who did not respond to this were contacted by telephone. This list led to a file of the names and e-mail addresses of 344 CIAs. These n=344 CIAs form the gross sample survey of this study.

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<sup>10</sup> The Authority is supported in this by an external expert, Mr van den Boogaard, who has a great deal of experience as a confidential adviser in the public and the private sector.

## Field work and response

The gross sample survey was asked by e-mail to participate in an online study of the position of confidential advisers. The e-mail invitation contains a personal link to the online questionnaire. The field work took place in the period from 16 to 31 January 2018.

In the interim, reminders were sent twice by e-mail. Ultimately, n=159 persons completed the questionnaire in full. The response rate was 46%.

## Questionnaire

The Whistleblowers Authority and Panteia drew up a structured questionnaire for this study, consisting of about 50 mainly closed questions. The average time to complete the questionnaire was 21 minutes.

## Representativeness and weighting

No population data of CIAs in the Netherlands are available. It is therefore not possible to determine whether the survey sample is representative. The extent to which the employers represented by the 159 survey participants are representative of the employer population in the Netherlands was considered. In Table 1, the sample survey data are compared with the population in the Netherlands.

*Table 1: Sample survey vs. population*

Size	of sample survey	population *
50-249	26%	76%
250-999	33%	20%
1000+	42%	4%

Sector	of sample survey	population *
Public	44%	6%
Semi	33%	14%
Private	23%	80%

\* Source: Statistics Netherlands (CBS)

Within this group of organisations, an over-representation of semi-public and public organisations is visible. Larger organisations are also better represented than smaller organisations. In the first instance, this is due to the stratified design of the gross sample survey of the I&O Research study named under the heading 'sample survey'. In addition, we see a lower response rate from private organisations (26%). The response rate for public and semi-public organisations was almost 60%.

The Whistleblowers Authority also found a lower participation propensity from private organisations in the expert sessions organised. An explanation may be that in government agencies, the confidential adviser for wrongdoing and integrity has been common for longer (since 2003) than in the private sector. Another explanation could be that the private sector is more cautious about participation in studies of this kind, or that companies are less well aware of how confidentiality work is organised within their own organisations.

In the report and analysis of the research results, differences in outcomes between company size and sectoral categories were considered. With a majority of the survey questions, no notable difference was visible between the categories. A decision was therefore made not to weight for company size and sector. Where differences were visible, these are mentioned in the discussion of the results.

## Reporting

Where possible, the research results are illustrated with the outcomes of the aforementioned expert sessions and an earlier study conducted by the Vrije Universiteit Amsterdam among confidential advisers in Dutch government organisations: *'Een luisterend oor'* (A listening ear). *Onderzoek naar het interne meldsysteem integriteit binnen de Nederlandse overheid* (Research into the internal integrity reporting system within the Dutch government).

## Reliability

As already mentioned, no absolute certainty can be given that the group of survey participants is representative of the CIA population in the Netherlands. This is because no register or population data are available. However, the survey sample was realised in a careful and transparent manner. All CIAs employed in an organisation in the Netherlands with more than 50 employees had an opportunity to join the survey sample. Almost no notable differences are visible in the background features available in the study for which reference figures are available (sector and company size). The process of sampling, studying the results and the solid size of the net survey sample provide a significant degree of confidence that the research results form a good indication of the actual situation of CIAs in the Netherlands.

Because almost no research has yet been conducted into the phenomenon of confidential advisers, the study is of an exploratory nature. With this exploration, the Whistleblowers Authority reaches a number of conclusions and explanations of the outcomes. On this basis, we make recommendations in order to stimulate the further development of the confidential advisor role.

## 2

## Research results & analysis

### 2.1

### Background and job profile

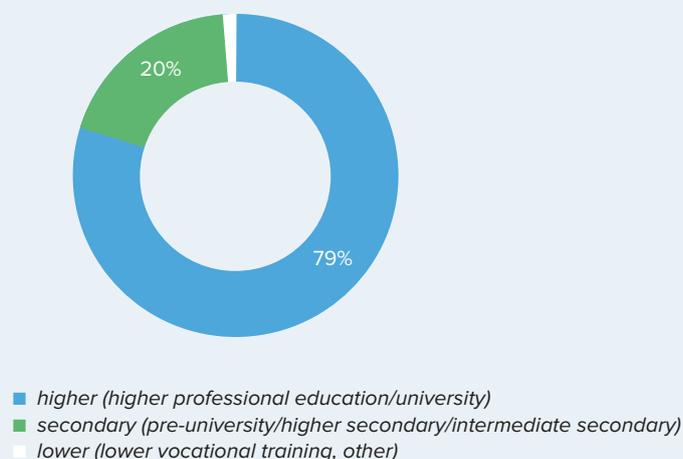
In this section, some background characteristics (age, gender, education etc.) of confidential advisers are presented. These give the target group an initial 'face'. We then focus on the way in which the confidential adviser role is designed in practice. This does not yet concern the substantive realisation of the job, but the design of the job and in particular, how this is combined with other positions.

- The confidential advisers who participated in this survey were often somewhat older (see Figure 1): 3% were younger than 35 and 17% younger than 45. A larger group of confidential advisers (36%) was aged between 45 and 55 and the largest group was older than 55 (48%).
- Women (57%) were also more strongly represented than men (43%) in this job.
- The confidential advisers proved to be relatively highly educated: some three quarters of the confidential advisers were higher professional education or university graduates (see Figure 2).
- About half of the confidential advisers had been employed by the organisation for which they served in the confidentiality role for 15 years or more.
- The survey sample was divided in terms of the number of years for which the confidential adviser has served in that position. More than 60% had worked as a confidential adviser for less than five years, with more than a quarter having worked in that position for less than two years.

Figure 1: Age structure of CIAs



Figure 2: Level of education of CIAs



- It was notable that by far the majority of confidential advisers (90%) held a combined position in which, apart from wrongdoing and integrity, they were also responsible for issues in the field of undesirable behaviour.
- The number of CIAs per employee depends heavily on company size and varies from one CIA per 50 employees to one CIA per 500 employees (see Table 2).

*Table 2: Number of CIAs per employee*

Size	Average number of CIAs	1 CIA per ... employees
< 100	1.4	+/- 50
100 - 249	2.5	+/- 70
250-1000	4.0	+/- 190
1000+	5.0	+/- 500

- One in five organisations (also) hires in external confidential advisers. These are usually professionals who work for several different organisations at the same time. The internal confidential adviser, however, usually performs this role in addition to a different main job.
- The confidential role usually remains of a relatively modest scale: 40% of the confidential advisers spent less than four hours per month on the confidential work and for a further 30%, this share was between four and eight hours per month.
- However, the confidential role combines less well with some (main) jobs, such as management and HR jobs, Works Council membership or a job involving compliance or integrity work. Nevertheless, these combinations occur with one in three confidential advisers.
- Asked about their mission, about 60% of the confidential advisers stated that they are there for both the reporter and for the organisation.
- Half of the confidential advisers stated that they must actively communicate their role within the organisation, slightly less than half (45%) stated that the role must be conveyed modestly (not too actively/not too restrained) and according to less than 5%, a restrained attitude was appropriate.

### Analysis

The confidential advisers who participated in the survey were generally experienced, relatively highly educated employees who knew their organisation well. In by far the majority of cases, they combined tasks in the field of wrongdoing and integrity with tasks in the field of forms of undesirable behaviour. This is consistent with the findings of the VU (2013). This showed that only 15% of the respondent confidential advisers disagreed with the statement that integrity/wrongdoing and undesirable forms of behaviour should be combined in a single job. The Whistleblowers Authority also recommends combining the confidentiality job for wrongdoing, integrity, undesirable forms of behaviour and sexual harassment. Employees are often unable to make the distinction between these different types of issues. It is also easier, less confusing and therefore more accessible for them to have a one-stop shop. Furthermore, 'cases' very often have elements of undesirable behaviour and of wrongdoing and/or integrity. It also allows the CIA to increase the number of interviews. This contributes towards the CIA's own expertise. However, the combined position does mean that the confidential adviser must be aware of the different procedures and the underlying regulations. The confidential adviser must also be alert to the nature of the issue and know when confidentiality cannot be guaranteed. With forms of undesirable behaviour, confiden-

tiality is usually guaranteed, while this is often different in the case of integrity issues or wrongdoing, certainly if criminal offences or (official) violations are involved.

One in five organisations (also) hires external confidential advisers. However, this share is significantly lower than that shown by an earlier study conducted by the Dutch Ministry of the Interior and Kingdom Relations in the public sector.<sup>11</sup> In that study, almost half of the organisations combined the internal and external confidential adviser position. Smaller organisations will presumably often have an external confidential adviser rather than an internal confidential adviser, while in larger organisations, this will involve an addition to the existing internal quality. In the expert sessions, the advantages and disadvantages of an internal and external confidential adviser were raised: internal advisers know the organisation far better and how things work, but are more dependent, have smaller case loads and consequently build up less experience. External 'professional' confidential advisers, on the other hand, often have more experience and expertise because they perform the confidentiality role for several organisations and can therefore build up more expertise. They are also less dependent on the organisation than internal employees. Employees with senior management or Board positions may also prefer an external confidential adviser to an internal colleague. The Whistleblowers Authority regards the combination of an internal and an external CIA as the ideal scenario. Employers can offer the best of both possibilities. The internal confidential adviser can learn a great deal from the external confidential adviser and can transfer a case if it becomes too close to home. The external confidential adviser, in turn, needs a 'sparring partner' who knows the organisation (structure and culture) well, knows the organization's language and how things work. However, it is not always feasible to offer both an internal and an external CIA. In that case, organisations would do well to design the confidential advisor position in the way in which employees have the greatest trust. This may be internal or external. In both cases, it is essential that the CIA can consult with other confidential advisers. This can take place internally if there are more than one internal CIAs, or can be organised externally, for example through regular contact with CIAs of other organisations, external CIAs or via sectoral organisations.

The confidential integrity adviser has a role of his/her own in the reporting procedure. It may then constitute a risk to mix this with other roles (conflict of interest) that also relate to reporting and integrity. These could include HRM, which also concerns labour law measures, or internal investigations, which must establish the facts regarding a report in an independent manner. Management positions also appear difficult to combine with the confidentiality role, unless the person concerned is sufficiently accessible and does not perform the confidentiality role in relation to the organisational unit for which he/she bears this management responsibility. The Whistleblowers Authority therefore recommends that the confidentiality role should not be combined with other related work, in particular not with management, worker representation and HRM. Nevertheless, such high-risk job combinations exist at present in one in three cases. Such combinations can raise the barriers to contacting the CIA. This leads to unnecessary vulnerability in the reporting procedure, for the reporter, the CIA and the organisation as a whole.

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<sup>11</sup> Ministry of the Interior and Kingdom Relations (2016), *Monitor integriteit and veiligheid openbaar bestuur (Integrity and Safety in Public Administration Monitor)*.

60% of the confidential advisers agreed that they are there for both the reporter and for the organisation. The Whistleblowers Authority endorses this 'dual role'. The preference for this combination was also reflected in the expert sessions and in the VU study.

However, in practice this means that the confidential adviser must be able to manage the gap between the interests of the reporter and those of the organisation. The organisation and the confidential adviser must also explain clearly together what this means.



**The confidential adviser provides the reporter with the best possible support and coaching by acting as a good 'sparring partner' who presents options, without becoming the reporter's representative or even the 'problem-solver' or on the other hand, by wanting to take over too much control. The challenge is therefore to remain close and to be able to maintain a distance at the same time.**

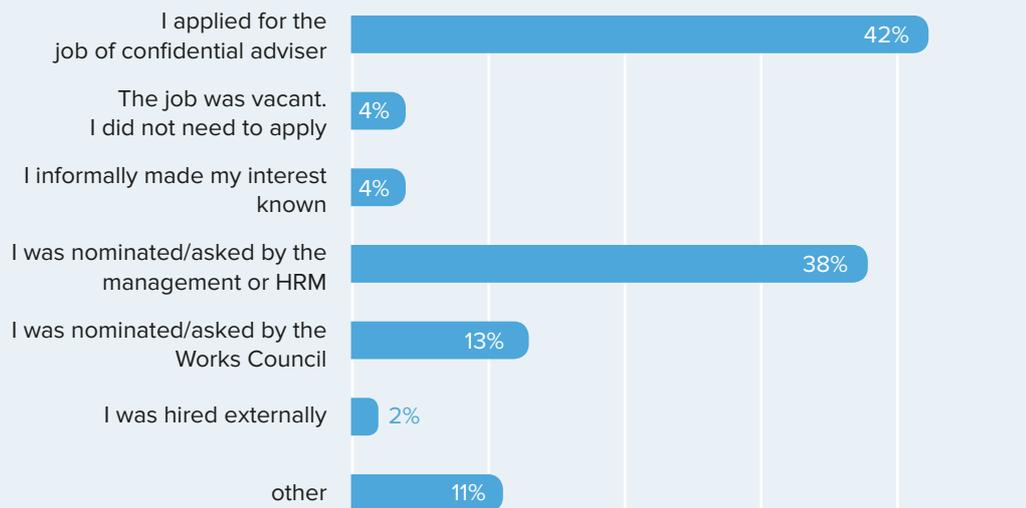
This distance is also important because confidential advisers are also appointed on the basis of the employer's responsibility and the interests of the organisation. The confidential adviser has a valuable perspective on the issues that are current in the organisation. Do employees feel safe? Are there structural risks for integrity or wrongdoing? Or are there new developments against which the organisation can take protective measures? The Whistleblowers Authority urges the CIA to advise on this and to present an anonymised annual report for this purpose to the Works Council and the management. Naturally, the identity of reporters will be protected in this report. The organisation can then learn from the signals that the CIA receives. The annual report provides management information, identifies trends and makes recommendations, without breaching the confidentiality of individual cases. In this way, the CIA can contribute towards the security of the employees and the culture in the organisation, for example by making preventive suggestions, placing new risks on the agenda or presenting recurring, worrying signals as a bundle. The CIA can also account for the activities performed in this way. It provides the management with an insight into the efforts made and the results of these. In this way, a confidential adviser shows his or her added value for the organisation. It improves relations with the management and places the spotlight on the 'business case' for a professional confidential advisor role. However, the senior executives of the organisation and the management must always be aware here that the interests of the reporter must always carry weight for the CIA.

## 2.2

### Nomination and appointment of confidential advisers

In this section, we focus on the way in which an organisation recruits and selects confidential advisers to fulfill the confidentiality role within the organisation (see Figure 3). We also discuss the question of the extent to which the organisation sets and records specific job requirements here and whether it evaluates the confidential adviser's performance. Finally, we asked the confidential advisers which qualifications they regarded as important for the performance of their job.

Figure 3: Recruitment and selection method for CIAs



- More than 40% of the respondents stated that they had to apply formally for the job of confidential adviser, while others were contacted for this job in a more informal manner. In organisations with up to 100 employees and in private companies, this percentage is slightly lower. There the CIA is asked more frequently (informally) to take this job.
- In 40% of the cases, the Works Council was involved in the selection procedure, and the Board of the organisation/the management in more than 60% of cases.
- About one quarter of the organisations did not impose any specific requirements for the job of confidential adviser. Almost 70% of the organisations prescribed a training course for confidential advisers as a requirement. Certification was imposed as a requirement by 11% of the organisations.
- In some cases, the agreements on the tasks and performance of the confidential adviser were recorded in writing in a specific job profile (50%) or via an appointment decision (37%). In about one quarter of the cases, the agreements and tasks were only discussed verbally, and in about 10% of the cases, matters of this kind were not discussed or recorded at all.
- 40% of the respondents stated that their performance was evaluated, compared with 55% who stated that this did not take place (20%) or did not take place formally (35%).

In the expert sessions, a number of skills/aspects were mentioned as being important for the proper performance of confidential advisers. The table below (Table 3) shows the extent to which the respondents qualified these aspects as (very) important in the questionnaire.

Table 3: Skills/aspects of good CIA performance

1	inspiring confidence	99%
2	possessing judgement of human nature/empathy	99%
3	knowledge of laws, regulations and procedures	89%
4	knowledge of organisation/sector	88%
5	being strong, combative and not open to influence	86%
6	being helpful	80%
7	having followed a specific CIA training course	78%
8	detecting and advising on trends and analyses	78%
9	insight into scale/nature of meetings (administrative)	72%
10	possessing networking skills	71%
11	keeping the interests of the organisation in mind	57%
12	having experience as a CIA	48%
13	certification	40%

### Analysis

The most striking point is that there is still little formalisation of the procedures relating to the selection and appointment of confidential advisers. This applies for both the application procedure and for the involvement of the Works Council in this. Both measures increase the transparency and so the basis of support of the confidential adviser in the organisation.<sup>12</sup>



Organisations far from always set specific requirements for the confidential role and do not always formally record these requirements in a job profile or an appointment decision. The absence of this contributes towards the lack of clarity regarding the role of the confidential adviser and what this function can ultimately mean for the employees. Conversely, and put more positively, clear procedures and frameworks also stimulate the organisation to formulate a more carefully-considered vision of the confidential work.

This is partly consistent with the picture emerging from the aforementioned VU study. This also showed that appointment procedures are often unclear and that the role of the confidential adviser is far from always specified in job profiles or described in reporting regulations and procedures. However, the results of our study are more positive than those of the VU study. This could indicate that the role of the confidential adviser is professionalising. Organisations more often follow formal application procedures (19% in 2013 versus 40% 2018), more frequently involve the Works Council (30% in 2013 versus 40% 2018) and have improved the 'instructions' for confidential advisers. CIAs are also now more likely to have followed specific training or education courses (70% in 2018) than in the past (40% in 2013). The Whistleblowers Authority advises employers to follow this trend and to further formalise the confidentiality role. In particular, this could include procedures for recruitment, selection and applications,

<sup>12</sup> Hoekstra, A. and A.F. Belling (2003). The confidential adviser for integrity issues. *Public Administration*, May 2003, p. 14-17.

clear job descriptions and definitions of tasks. Organisations would do well to ask the Works Council for consent to this policy.

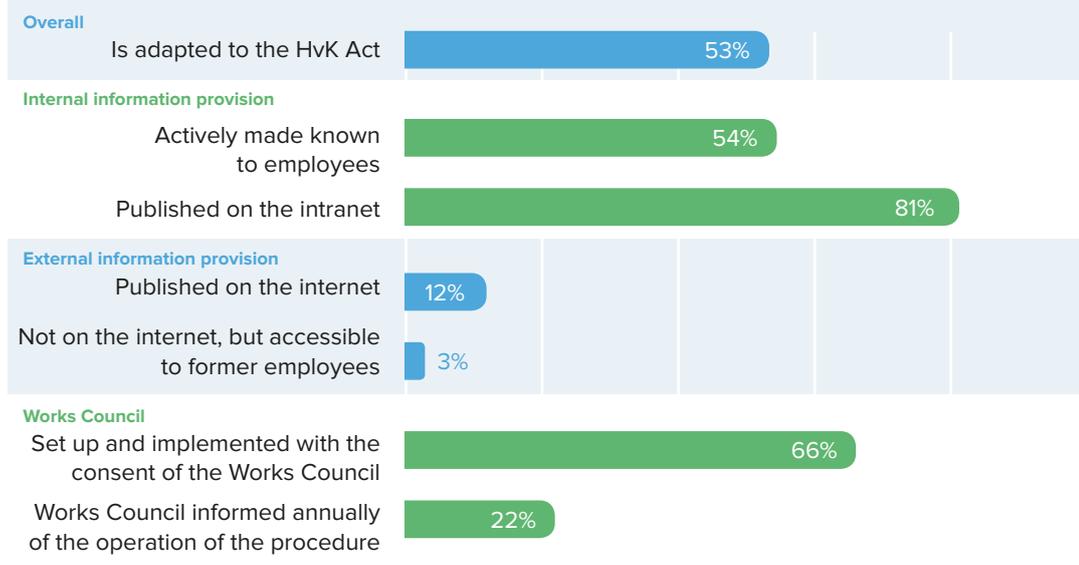
With regard to the skills or aspects that are of importance for the good performance of confidential advisers, it is notable that empathetic skills (inspiring confidence and having empathy), knowledge skills (knowledge of rules and of the organisation), role skills (being strong and helpful) and analytical skills (trends and analyses) are assigned relatively high scores. The latter is important for an organisation to be able to learn by moving beyond the individual cases. The analysis of patterns and the identification of structural or cultural organisational problems is important in order to be able to improve policy and behaviour and so to prevent wrongdoing and integrity issues. It is advisable to select CIAs who have enough knowledge, skills and training to perform the job well. It is the responsibility of the employer to offer CIAs sufficient (refresher) training and scope for intervention.

## 2.3 Reporting procedures and interviews

This section focuses on the reporting procedures and the extent to which these have already been adjusted in accordance with the HvK Act in practice. We also discuss the scope and content of the interviews that the confidential advisers conduct with employees and the reports that they receive.

- There are just as many organisations that have separate reporting procedures for the ‘subjects’ of integrity and wrongdoing as there are organisations that have combined these in an overall reporting procedure.
- We also asked the respondents to what extent these procedures already comply with a number of aspects of the HvK Act. The figure below (Figure 4) provides an insight into this. Overall, about half of the confidential advisers state that the reporting procedure of their organisation has (already) been adjusted to the HvK Act.

Figure 4: Extent to which procedures comply with HvK Act



- We also asked the confidential advisers how many interviews they conduct, on average, on an annual basis. The table below (Table 4) makes a distinction between interviews on wrongdoing, breaches of integrity and undesirable forms of behaviour. On the basis of the frequency of the answers given, the table makes a division into four reply categories (zero, one, two, two to five and more than five interviews). One in five confidential advisers (20%) stated that they did not know the answer to this question. This explains why the percentages add up to 80%. We should note here that the interviews conducted cannot automatically be equated with formal reports.

*Table 4: Subject of CIA interview*

	0	1	2 - 5	>5
Types	interviews	interview	interviews	interviews
Abuses	30%	16%	21%	13%
Breaches of integrity	28%	16%	29%	7%
Undesirable behaviour	11%	16%	21%	32%

- Employees also quite frequently contact the confidential adviser regarding matters that do not directly concern wrongdoing, undesirable forms of behaviour or integrity issues. Half of the confidential advisers stated that more than 50% of their interviews concerned conflicts with managers. A quarter of the respondents said that more than 50% of their interviews concerned feelings of insecurity in the organisation.
- Naturally, the number of interviews that confidential advisers conduct in the course of the years can fluctuate. According to about one in ten confidential advisers, the number of interviews has diminished over time. About four in ten confidential advisers stated that the number of interviews had remained unchanged and according to one in three confidential advisers, the number of interviews that they conduct each year had increased.

*Table 5: Violations reported*

	Reports on	No reports on
Discrimination/bullying	78%	15%
Sexual harassment	70%	22%
Abuse of power	60%	31%
Conflict of interest	52%	38%
Abuse/manipulation of confidential information	40%	49%
Wastage or default	33%	54%
Corruption/fraud	31%	59%
Theft	31%	57%
Default in free time	25%	61%
Unwarranted gifts, donations, promises etc.	20%	63%

- In order to obtain a picture of the type of integrity violations on which confidential advisers have received reports and how often this occurs, a widely-used overview of types of violations was presented to the respondents. In Table 5, we distinguish violations that confidential advisers receive reports on occasionally, regularly or even frequently (reports) and violations that they never face (no reports).

## Analysis

Within half of the organisations, the reporting procedure has not yet been (fully) adjusted in accordance with the HvK Act. This is consistent with the 'Reporting procedures and integrity provisions among employers in the Netherlands' study.<sup>13</sup> This is probably because the Act is still relatively new. However, this does not alter the fact that organisations must now quickly comply with legislation. Confidential advisers, integrity and compliance officers and in particular, works councils can encourage the management of the organisation to do so. The Whistleblowers Authority has developed a practical and accessible brochure, 'Integrity in Practice: Reporting procedure', which can be used for that purpose.<sup>14</sup> The figures also show that the accessibility of the reporting procedure for former employees (who, according to the Act, can still invoke the reporting procedure of the organisation) needs to be improved.



**The average number of interviews that confidential advisers conduct annually on integrity issues and wrongdoing appears to be relatively low and is consequently cause for concern. After all, no interviews or reports does not mean that there are no issues on the shop floor. The opposite appears to be more likely: more interviews indicate a higher integrity awareness and are an indication that employees are more aware of the existence of the confidential adviser and have confidence that he or she can advise them on potential integrity issues and wrongdoing.**

However, an important note is in order here, because employees do not simply contact confidential advisers with reports on wrongdoing or integrity issues, but also as sounding boards for their own dilemmas and integrity questions.<sup>15</sup> They then ask for advice on whether, for example, they can accept a certain secondary job or gift. In other words, employees not only have a need for a reporting point, but also for 'a listening ear'. According to the VU, this is because the integrity regulations of organisations are not very well-known or are often complicated to interpret.

A positive fact, in any event, is that the number of interviews with confidential advisers has increased over the years at one in three organisations. Questions on 'social integrity' (discrimination, bullying and sexual harassment) did occur more frequently in this study than questions on 'material integrity' (theft, fraud, wastage, etc.). This is consistent with the VU study (2013), which presented a similar picture. The recent media attention to themes such as bullying on the work floor and certainly also the global #Metoo discussion presumably contribute towards this. All in all, the Whistleblowers Authority urges CIAs to conduct enough interviews. Combine the different confidentiality roles for that purpose and also make the confidential adviser accessible for an exchange of ideas on moral issues.

<sup>13</sup> Whistleblowers Authority (2017), *Reporting procedures and integrity provisions among employers in the Netherlands*.

<sup>14</sup> Whistleblowers Authority (2016), *Integrity in Practice: The Reporting Procedure*.

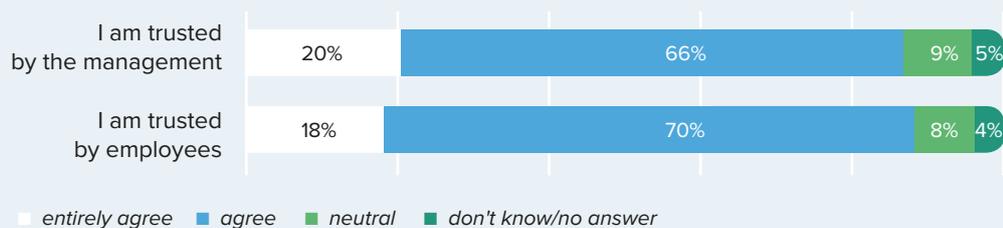
<sup>15</sup> De Graaf, G., K. Lasthuizen, T. Bogers, B. Ter Schegget and T. Struwer (2013). 'Een luisterend oor' (A listening ear). *Onderzoek naar het interne meldsysteem integriteit binnen de Nederlandse overheid (Research into the internal integrity reporting system within the Dutch government)*. Amsterdam: Free University (VU). See also: Hoekstra, A. and A.F. Belling (2003). The confidential adviser for integrity issues. *Public Administration*, May 2003, p. 14-17.

## Security and trust

In this section, we discuss in more detail the current question of the extent to which employees, according to the confidential advisers, feel safe on the work floor. These are questions that directly concern the organisational culture. The theme of security is inseparably linked to the willingness of employees to report, for the safer they feel, the more likely they are to dare to raise wrongdoing. The security of the confidential adviser himself or herself, and the extent to which he or she feels trusted by the organisation and employees, is also raised here.

- With regard to security and trust, clear sectoral differences are visible. In (semi-) public organisations, some 20% disagree or disagree entirely with the statement that a safe culture dominates in their organisation. In private organisations, that percentage is virtually 0%. Overall, 18% agree with the statement that there is a culture of fear. This percentage is also higher in public and in particular in semi-public organisations and is clearly lower in private organisations.
- In response to the follow-up question of whether employees (dare to) voice counter-arguments or criticism, a similar percentage (16%) replied that they disagreed with this.
- About one in five confidential advisers (21%) state that employees who suspect an wrongdoing or breach of integrity do not dare to report this.
- One in five confidential advisers (19%) also state that it is not clear to employees how they can report wrongdoing or breaches of integrity.
- however, 75% of the respondents stated that reports are always investigated seriously within their organisation. The problem score for all these items is slightly higher in (semi-)public institutions than in private organisations.
- Asked about their own sense of security, 85% of the confidential advisers stated that they feel fully protected by their organisation in their work as a confidential adviser, versus 4% who did not feel sufficiently protected.
- Nevertheless, 19% of the confidential advisers stated that they had sometimes had the feeling that their work as a confidential adviser could have a negative impact on their career within their organisation.
- Just under 10% even stated that they have sometimes considered giving up the confidentiality work due to feelings of insecurity.
- The expert sessions showed that the degree of confidentiality that a confidential adviser can offer is something of an issue within this professional group. Half of the confidential advisers said that they state in every initial interview that they cannot always guarantee confidentiality under certain circumstances - for example, if criminal offences and (official) violations are reported. One third of the respondents does not do this. About 15% of the respondents stated that they have had to breach confidentiality on occasion, versus just under 70% that had not (yet) done so.
- About 90% of the confidential advisers stated that they had a feeling that they were trusted by the employees, and a slightly smaller share (86%) stated that they were also trusted by the management (see Figure 5).

Figure 5: Feeling of confidence



## Analysis



The confidential advisers are fairly critical of the organisational culture: in a considerable number of organisations, a sense of insecurity and fear predominates, there is too little scope for counter-arguments or criticism and employees do not dare to report wrongdoing.

This is consistent with the critical picture that works councils have of their organisation: one in three believes that employees will dare to report wrongdoing and one in seven states that a culture of fear dominates in their own organisation.<sup>16</sup> In addition to fear and insecurity, lack of trust is a very important explanation for failure to report. This concerns the fact that employees do not expect anything to happen with their report, or have insufficient confidence in the person or institution to which the report must be made.<sup>17</sup>

Leaders and managers of organisations must devote more attention to the importance of a healthy organisational culture. Openness and security are necessary conditions for the willingness of employees to report wrongdoing. In the absence of these, employees are more likely to look away. The wrongdoing will then persist and will usually worsen ('snowballing'). If an employee nevertheless makes a report in an unsafe organisational culture, there is a risk of retaliation. Retaliation not only has a major impact on the reporter in person, but also communicates to colleagues that raising wrongdoing will not be appreciated by the organisation ('radiation'). This can ultimately lead to employees contacting the media, which usually harms the organisation (reputation). At the same time, it always proves difficult to turn the organisational culture in a positive direction. Unfortunately, there are no fast and simple solutions available. A multi-dimensional approach appears to be more appropriate.<sup>18</sup> Organisations would do well to invest in sustainable and consistent integrity measures.

The Whistleblowers Authority urges organisations to offer CIAs more security, both formally and informally. The results relating to the perception of security of the con-

<sup>16</sup> Whistleblowers Authority (2017), *Reporting procedures and integrity provisions among employers in the Netherlands*. See also: In his very recent book 'Angstcultuur: Krijg grip op angst in organisaties' (Culture of Fear: Gain a grip on fear in organisations' (2017), Peter Fijbes describes a culture of fear as: 'an organisational dysfunction in which collective, restrictive fear is prominently present and is systematically deployed to enforce loyalty, obedience and effort by employees.'

<sup>17</sup> De Graaf, G., K. Lasthuizen, T. Bogers, B. Ter Schegget and T. Struwer (2013). *'Een luisterend oor' (A listening ear). Onderzoek naar het interne meldsysteem integriteit binnen de Nederlandse overheid (Research into the internal integrity reporting system within the Dutch government)*. Amsterdam: Free University (VU).

<sup>18</sup> See for this: Whistleblowers Authority (2017), *Integrity in practice: Working on culture*.

Confidential advisers themselves are generally fairly worrying; as many as 20% believes that the CIA role could harm their career and 10% have occasionally considered giving up the confidentiality work due to a sense of insecurity. This is consistent with the outcomes of a recent survey by the National Association of Confidential Counsellors in cooperation with the De Monitor research programme. This shows that 10% of internal confidential advisers state that they have sometimes been reprimanded by their employer.<sup>19</sup> Good formal protection is therefore crucial, as is respecting the role of the CIA.

Confidentiality is the essence of the confidential adviser. Nevertheless, the confidentiality is limited. For example, what if a confidential adviser faces a moral dilemma or identifies a criminal offence or (official) violation? The confidential adviser must be entirely open about this from the very first interview: where does confidentiality end and when must the confidential adviser take action? Naturally, confidentiality is breached only in serious circumstances. The following is recommended: (1) first exchange ideas on this with a fellow confidential adviser (2) notify the reporter in advance of the intention to pass on the report (3) and to do this to the competent authority.

We asked confidential advisers whether they themselves feel trusted by the employees. Almost all confidential advisers (90%) replied 'Yes' to that question. Compared with the results of the aforementioned VU study, in which employees were asked about the extent to which they trusted the confidential adviser, the score appears to be unrealistically high. After all, this shows that less than half of the employees (45%) trust the confidential adviser. The same figure appeared in recent research, in which worker representation bodies were asked for an estimate. Only 45% of the works councils believes that the employees in their organisation trust the confidential adviser.<sup>20</sup> In order to obtain a better picture of this in each organisation, it is advisable to include questions on this in employee satisfaction surveys or in similar personnel monitors.

## 2.5

### Support and integration

In this section, we present the outcomes of a number of statements on important conditions for good performance of the confidential adviser's work. We have also defined the CIA's network and investigated how the confidentiality role is integrated with other (related) policy elements. Finally, the confidential advisers give their views on the completeness of the integrity programme of the organisation.

- Table 6 shows, in descending order, the extent that the conditions and circumstances that are important for good performance of the job or role of the confidential advisers are present within the organisation.
- The study attempts to provide an impression of the contacts that the confidential advisers have with other parts of the organisation. In Table 7, we distinguish structural and incidental contacts. The 'non-existent/not applicable' reply option (this may concern e.g. organisations that do not have an integrity officer or compliance officer) was disregarded in the count here. As a result, the rows do not add up to 100%.

<sup>19</sup> <https://www.lvv.nl/nieuws/employers-fluiten-confidential-advisers-terug-bij-hulp-aan-slachtoffers-intimidatie/11276>.

<sup>20</sup> Whistleblowers Authority (2017), *Reporting procedures and integrity provisions among employers in the Netherlands*.

Table 6: Conditions for good performance

Subject	Agree	Disagree
I receive enough support from the management to be able to perform my CIA work well	80%	4.5%
I sometimes exchange ideas with another CIA in my organisation	79%	10%
I receive enough training opportunities to be able to perform my CIA work well	75%	9%
I am given enough time to perform my CIA work well	74%	14%
There is a suitable room in which I can conduct interviews discreetly enough	67%	21%
I receive enough budget to be able to perform my CIA work well	54%	16%
I receive enough reports to be able to become/remain good at my work	51%	18%
I regularly take part in intervision meetings with other CIAs	46%	36%
The quality of the intervision is good	44%	7%
I sometimes exchange ideas with an external CIA who works for my organisation	32%	34%
I sometimes feel lonely in my role as CIA	25%	49%

Table 7: Contacts with other parts of the organisation

How do you describe the contacts with	Structural	Incidental
Other CIAs in organisation	62%	20%
MT/management/Board	41%	43%
Most senior manager/director/CEO/chairman	37%	44%
Works Council	32%	44%
HRM	24%	57%
Integrity/compliance officer	23%	28%
Other CIAs outside the organisation	23%	27%
Company doctor	19%	47%
Other managers	14%	64%
Corporate social work	12%	37%
Prevention employee	9%	37%

- We also put a set of questions to the confidential advisers which provide an insight into the degree of integration or incorporation of the confidentiality role in other related (policy) measures or activities of the organisation (see Table 8). The 'neutral', 'don't know', 'not applicable' and 'no answer' reply categories were disregarded in the counts. As a result, the rows do not add up to 100%. A division into three blocks was chosen. The first block clearly contains more 'agree' than 'disagree'. In the second block, there is less difference between the two. The third block clearly contains more 'disagree' than 'agree'.
- The confidential advisers were asked to respond to a number of statements that give us a picture of the broader integrity policies pursued by the organisation (see Table 9). The principle for these questions is that greater justice is done to the work of the confidential adviser if this is embedded in an integrity policy consisting of a number of different components. Together, the components form the integrity in-

frastructure of the organisation.<sup>21</sup> The 'neutral', 'don't know', 'not applicable' and 'no answer' reply categories were disregarded in the counts. As a result, the rows do not add up to 100%.

*Table 8: Degree of integration of confidentiality role in related policy measures*

	(Entirely) agree	(Entirely) disagree
<b>Block I</b>		
The job of the CIA is explicitly explained in the code of conduct	66%	8%
The job of the CIA is explicitly explained in the introduction/induction programme for new employees.	58%	15%
The CIA is involved in the development of integrity policy	48%	21%
The CIA is involved in drawing up the code of conduct	42%	30%
In the employee satisfaction survey or similar surveys, questions are asked about the CA	42%	25%
<b>Block II</b>		
I am sometimes invited to departmental working meetings	40%	38%
I am sometimes invited to management/Board meetings	38%	38%
I have regular meetings with other people in the integrity network within the organisation	35%	35%
The CIA personally makes an active contribution to the introduction/induction programme for new employees.	33%	36%
<b>Block III</b>		
The job of the CIA is explained as a standard in working meetings within the departments	24%	40%
The job of the CIA is explicitly explained in the oath of office session	14%	29%
The job of the CIA is explained as a standard in assessment interviews	10%	52%
The CIA attends the oath of office session	6%	51%

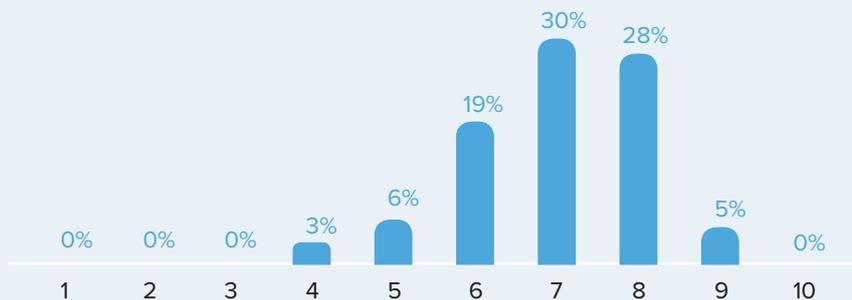
<sup>21</sup> For this, see also <https://huisvoorwhistleblowers.nl/integriteit-infrastructuur/> and the Brochure Integrity in Practice: Working on Culture (2017: p. 10).

Table 9: The broader integrity policy within an organisation

	(Entirely) agree	(Entirely) disagree
Within the organisation, there are integrity rules and procedures	87%	1%
The reporting procedures are sufficiently clear	58%	14%
The management of the organisation has a commitment to integrity management	57%	7%
There is an organisational culture of integrity	55%	8%
Sufficient attention is devoted to careful recruitment and selection procedures	53%	8%
Attention is devoted to training and communication in the field of integrity	51%	17%
The integrity policy is coordinated by an integrity officer or compliance officer	40%	25%
There are adequate investigation protocols	37%	20%
The integrity policy is evaluated regularly	33%	24%

- About 10% of the confidential advisers assigned their organisation a 'fail' score for efforts in the field of promotion of integrity. The average score was 7 out of 10. The graph below (Figure 6) shows the distribution.

Figure 6: Score assigned by the CIA for integrity promotion efforts



- Finally, we asked questions about the umbrella associations and sectoral organisations and the extent to which these support the organisation in the confidentiality work and with concrete information, tips and tools in the field of promotion of integrity. About one quarter of the respondents stated that they offer support in the field of integrity promotions, while one in ten of the respondents said that this was not the case. Four in ten respondents said that they did not know. A quarter also said that these associations and umbrella organisations support the confidentiality work, while one in five respondents said that this was not the case. One in three confidential advisers said that they did not know.

### Analysis

About one in five CIAs said that they did not have a suitable room in which they could talk to employees discreetly; the same proportion said they did not receive enough reports to develop sufficient skills with confidentiality work. Naturally, both aspects are important. Employees often experience a visit to a confidential adviser to discuss a delicate matter as stressful. This is why it is good if they can in any event make an appointment with the confidential adviser unseen by colleagues and managers. The

Whistleblowers Authority therefore emphasises that the CIA must be able to make use of a discreet meeting room.

It is also important that confidential advisers have a sufficient 'case-load'. The more interviews and reports that a confidential adviser receives, the more experience, flexibility and expertise he/she will build up. Allowing confidential advisers to combine different themes (wrongdoing, integrity and manners) will increase the interview potential. It is also important to stimulate familiarity with the confidential adviser and his or her role. This is not only a responsibility of the organisation, but also of the confidential adviser himself; it is therefore advisable to proactively profile the CIA.

The results of the study also show that for a substantial proportion of the confidential advisers, no regular intervision or exchange of ideas with an external CIA takes place or is possible. Contacts with other relevant units or officers of the organisation relevant to the confidential work also prove to be of an incidental rather than a structural nature. The lack of interaction could be an explanation for the fact that a quarter of the confidential advisers currently feel 'lonely' in the performance of their role. In functional terms, this is an undesirable situation, because it is precisely the interaction with others that enables the confidential adviser to perform his or her work more effectively. This is referred to in the following interview fragment from the VU study: *'The possibility of intervision should be incorporated. For CIA is naturally a very lonely job and very often you also face questions for yourself.' 'I think it is always good to discuss matters or to handle cases together. That means you discuss how one person does this or that, and how the other person does it. And I always find it very valuable to exchange ideas with each other on things like that.'* The Whistleblowers Authority regards it as extremely important that CIAs have regular contacts with colleagues. CIAs and organisations share the responsibility for organising structural intervision and access to sparring partners.

The expert sessions also showed that 'the CIA is not just there to provide comfort and paper over cracks, but has a broader role to address'. In that way, the CIA will be accorded more weight within the organisation and can have a broader impact. This could concern contributions to policy development, for example, the attendance of information meetings and active participation in various meetings and networks. Table 8 shows how the confidential role can be integrated with related policy elements. What is striking is that a large proportion of the confidential advisers still make no contribution to the development of the integrity policies (20%) or to the code of conduct (30%). It is also striking that in one quarter of the organisations, the experience of the confidential role is not queried and evaluated in personnel monitors or surveys. That raises the question of how seriously the confidentiality role is taken.



**It is a cause for concern that in about one in four organisations, confidential advisers are not invited to attend working and management meetings. In a general sense, the recommendation is to involve confidential advisers more closely in the organisation and to see them as part of the integral integrity policy. In that way, the organisation can make optimal use of the knowledge and experience of the CIA.**

The confidential advisers have a positive appreciation of the integrity policy of the organisations. Nevertheless, there are still a number of areas where improvement is very certainly necessary. For example, according to one in seven confidential advisers, the reporting protocol is not yet sufficiently clear to the employees, one in five confidential advisers say that there is a lack of adequate investigation protocols, the attention to training and communication in the field of integrity is below standard in one in six organisations and coordination and evaluation of the integrity policy needs to be improved in one quarter of the organisations. These signs are consistent with earlier studies conducted by the Whistleblowers Authority among works councils, which were also critical of the presence, familiarity with and quality of important integrity provisions.<sup>22</sup> Together, these form a strong exhortation for employers to improve this.

All employees in a sector deserve good whistleblower protection. The Whistleblowers Authority sees a task here for employers' organisations. It is now up to them to secure the integrity of their branch and sector. The Authority therefore calls on employers' organisations and sectoral associations themselves to provide for CIAs that function well. This can be achieved, for example, via agreements, sectoral codes and Collective Labour Agreements. Employers can also invest jointly in shared integrity provisions such as the CIA via their sectoral organisations. In this way, every employer, large or small, can increase the security of whistleblowers and reduce the risk of unnecessary damage.

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<sup>22</sup> Whistleblowers Authority (2017), *Reporting procedures and integrity provisions among employers in the Netherlands*.

This study provides more insight into the work of the CIA. The five parts of the previous section present a picture of the different sub-aspects of the present situation. The question now is: which overall picture arises if we cross reference these sub-aspects and the main recommendations? What is the relationship of the practical situation to the reference framework that the Whistleblowers Authority has for a professional confidentiality position? The overall picture shows that a fair number of improvements can be realised in the position and the performance of CIAs. For that reason, the Whistleblowers Authority addresses the following recommendations to employers, confidential advisers and sectoral organisations.

### Conclusion 1:

#### **The role of the CIA should be embedded more clearly and effectively in the internal reporting structure**

Whistleblowers deserve protection. The Whistleblowers Authority therefore stands for the right of employees to an adequate reporting procedure and professional confidential advisers. CIAs help to ensure that employees can report wrongdoing internally in a safe and responsible manner. It is the responsibility of organisations to make provision for this. This avoids whistleblowers being forced to raise the wrongdoing outside the organisation.

However, it was found that in many cases, reporting procedures do not yet comply with the HvK Act. The role of CIAs could be designed more professionally. Often, CIAs have undesirable other positions, their positions are not sufficiently formalised and they conduct relatively few interviews per year. They are also far from always invited to attend working and management meetings, when this should be an obvious step. It is therefore necessary to clarify the role of the CIA and to embed it more firmly within the organisation.

#### **Recommendation to CIA**

Combine the confidential advisory roles for integrity and wrongdoing with the role for undesirable behaviour and sexual harassment. After all, employees are often unable to make the distinction between these different issues. It is also far clearer for them to have a single central point and furthermore, 'cases' very often have elements of undesirable behaviour and of wrongdoing and/or integrity. It also allows the CIA to increase the number of interviews and his/her own expertise. Combining the confidential role of the CIA with HR, Works Council or e.g. management jobs is, however, not recommended, due to the risk of undesirable mixing of roles (conflict of interest).

#### **Recommendation to employers**

Ensure that the organisation has CIAs. The combination of external and internal CIAs is ideal. If this is not feasible, ensure that the internal or external CIA can always consult other confidential advisers.

### Recommendation to employers

Formally establish the confidential advisory position. Make agreements on the job profile, definition of role, appointment procedure, legal protection, evaluation and assessment and termination of the appointment. Request the consent of the Works Council for this policy. These formal assurances contribute towards the position of the CIA, clarity regarding his or her role and the quality of the confidential work.

### Recommendation to CIA

The CIA is a 'sparring partner' and confidential adviser for employees. But the CIA must also contribute towards the interests of the organisation by identifying trends and developments and informing and advising the management about these.

## Conclusion 2

### **The CIA must (be able to) do more to develop and maintain expertise and quality**

The role of CIA is substantial and complex. The CIA must be able to assist vulnerable colleagues, be easily accessible and win the trust of employees, without becoming a problem solver or representative. At the same time, the CIA must dare to call the management to account without losing sight of the interests of the organisation. The range of issues is wide: integrity, wrongdoing and undesirable behaviour. The CIA is also expected to play a broader role, in addition to conducting interviews and advising on reports. This includes analysing trends, for example, policy advice, accounting in an (anonymised) annual report and proactive provision of information. All in all, the role of CIA calls for substantive knowledge, social skills and sensitivity to the interests of the organisation.

Nevertheless, there is often still a lack of expertise development among CIAs. Inadequate expertise of a CIA represents a risk in the event of internal reports, for both the organisation and the whistleblower. CIAs also usually conduct few interviews. CIAs who conduct few interviews also build up less expertise. More interviews and reports indicate a higher integrity awareness, a greater sense of security and greater knowledge of the existence of the CIA. It is therefore important that CIAs and their employers together ensure that the CIA's expertise is raised to and remains at the required level. Good training courses, intervention meetings and regular contacts with professional external CIAs are important for this purpose.

### Recommendation to employers and CIA

The employer must select CIAs with sufficient knowledge, skills and training. CIAs must ensure that they develop and maintain their expertise. Conducting a sufficient number of interviews is crucial here. CIAs must also actively participate in training courses, seek structural intervention and exchange ideas with other (external) CIAs. The organisation and CIAs share responsibility for this.

## Conclusion 3

### **Employers could make more effort for a safe culture and protection of the CIA**

Another important point is that this study reveals that many CIAs have concerns about the organisational culture. In a considerable number of organisations, a sense of insecurity and fear predominates, there is too little scope for counter-arguments and criticism and employees do not dare to report wrongdoing.

Furthermore, CIAs are also concerned about their own security. Some of them believe that this role harms their careers and have therefore considered giving up the confidential work on occasion. The employer has an important responsibility for a safe organisational culture and for the protection of the CIAs in particular. CIAs can only contribute towards the security in the organisation if they feel well protected themselves. Both formally and informally, the CIA must feel secure enough to be able to convey confidence to the employees/reporters that it is safe and responsible to raise matters internally.

Openness and security are necessary conditions for the willingness of employees to report wrongdoing and so for the ability to address integrity violations and wrongdoing in a timely manner. In the absence of these, employees are more likely to look away. As a result, the wrongdoing will persist and will probably worsen, with all the attendant risks and consequences.

This study again shows that in many organisations, the internal reporting procedures have not yet been adjusted to comply with the HvK Act. Aspects of the integrity policy also prove to be still open to improvement. However, without good reporting and integrity provisions, employers run risks.

### **Recommendation to employers**

Offer the CIA protection, formally recorded in an appointment letter, for instance, or the internal reporting procedure, and informally in the culture and day-to-day interactions. Respect the role of CIAs and do not ask for a breach of confidentiality.

### **Recommendation to employers and CIA**

The organisation and the CIA share responsibility to increase the awareness and confidence of employees in the CIA. CIAs must actively make themselves known in the organisation and be visible to employees. The organisation must support this. It is also advisable to survey confidence in the CIA regularly via employee satisfaction surveys or staff monitors.

### **Recommendation to employers**

For a safe culture, it is necessary to have good integrity provisions and a reporting procedure that complies with the HvK Act. Determine whether and to what extent the organisation meets these requirements.

## **Conclusion 4**

### **New legislation is conceivable, but employers' organisations must make the first move**

It is conceivable to develop laws and regulations that make CIAs mandatory, protect them and offer pardon. Employers will then have to follow fairly uniform regulations. However, employers can also opt to design the role of CIAs in a way that suits their own sector and to organise the job well themselves. This will probably increase the effectiveness of the CIA, the security in organisations and the protection of whistleblowers.

The Whistleblowers Authority sees a task here for employers' organisations. It is now up to them to secure the integrity of the sector. In this way, every employer, large or small, can increase the security of whistleblowers and reduce the risk of unnecessary damage.

The Authority therefore calls on employers' organisations, sectoral associations, umbrella organisations, trade unions and similar institutions to provide for well-functioning CIAs themselves. This can be achieved, for example, by establishing the job via management agreements, sectoral codes and collective labour agreements (CLAs). The Whistleblowers Authority therefore recommends as follows:

### Recommendation to sectoral organisations

Take an active role in encouraging and supporting employers in the field of whistleblowing, reporting procedures, promotion of integrity and confidentiality work. Avoid wrongdoing and damage for whistleblowers in this way. Particularly for smaller organisations, provide for support in the field of integrity, for example through the joint development of a reporting procedure, the engagement of external CIAs and the organisation of research capacity on reports.

### Colophon

This report is a publication of the Whistleblowers Authority. The data collection among confidential advisers was performed by I&O Research and support for the research was provided by Panteia, both on commission from the Whistleblowers Authority. For additional information, please visit [www.huisvoorklokkenluiders.nl](http://www.huisvoorklokkenluiders.nl).

**Authors:** Alain Hoekstra, Jitse Talsma and Marijntje Zweegers

**Sample survey file:** I&O Research

**Research support and data gathering:** Panteia

**Editorial:** Ravestein & Zwart

**Design:** Lauwers-C

June 2018



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