



Integrity Chamber Sint Maarten

Advice on the Confidential Advisor



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Summary

The appointment of the Confidential Advisor is a measure designed to promote organizational integrity and is widely utilized in the public and private sector. It is also internationally recognized as a vital component of any integrity infrastructure. The appointment of a Confidential Advisor carries with it several benefits for employees, management, and Government itself. The necessity for a Confidential Advisor is also provisioned within Articles 82 and 83 of the *National Ordinance Substantive Civil Servants Law (LMA)*.

The Integrity Chamber presents this advice on the Confidential Advisor to the Government of Sint Maarten, based on its task of rendering advice to generally promote integrity within the administrative body, and specifically as it pertains to Confidential Advisors and their role within the Government's integrity infrastructure.

In this advice, the Integrity Chamber discusses the tasks and limitations of the Confidential Advisor, the importance of a transparent selection process and other considerations, such as, appointment terms, and the qualities of the Confidential Advisor. The infrastructure and facilities necessary for the effective execution of this role, and the importance of an awareness campaign are also discussed.

The Integrity Chamber recognizes the role of the Confidential Advisor as a required component within Government's integrity infrastructure.

The Integrity Chamber advises on the appointment of Confidential Advisors as stated in the LMA, and furthermore defines the role and necessary infrastructure and facilities of the Confidential Advisor.

The Integrity Chamber advises the implementation, in the following order:

1. Establish and implement the basic general infrastructure, i.e. a Code of Conduct, other integrity-related regulations, and Integrity Trainings/Workshops.
2. Establish and implement the Confidential Advisor-specific infrastructure and facilities, as mentioned in the advice.
3. Select and appoint the Confidential Advisor.
4. Execute an awareness campaign.
5. Apply and reinforce the tasks and limitations of the Confidential Advisor.
6. Evaluate the effectiveness of the Confidential Advisor.



Preface

The Integrity Chamber is authorized to give advice and make proposals on policies to generally improve integrity throughout government and its entities. The basis for this authorization is found in Articles 16 through 18, of the *National Ordinance Integrity Chamber*.

Advice and proposals can be given on the Integrity Chamber's own initiative, or on the request of the Prime Minister, the responsible minister, or Parliament, insofar as the nature of the tasks of the Integrity Chamber allows. The Integrity Chamber is further tasked with overseeing the implementation of its advice and proposals. Advice and proposals are published in the *National Gazette*.

By giving advice and making proposals, the Integrity Chamber strives to fill gaps and address procedures aimed at bettering the functioning of government and its entities and ultimately the overall administrative infrastructure of the country.

2.1. Rationale

Pursuant to Article 16, fifth paragraph, of the National Ordinance Integrity Chamber, the Integrity Chamber is specifically tasked with rendering advice or proposals on Confidential Advisors, Compliance Officers and Whistleblowers and their role within the integrity infrastructure of the Government of Sint Maarten. The integrity infrastructure is the totality of all integrity-related legislation and regulations (policies and procedures) of the administrative body and all elements necessary for the organization of the Confidential Advisor, such as standards, guidelines, training courses, screening and reporting procedures, audits, risk assessments and oath taking, that enables government to follow a broad and positive integrity strategy.

In this advice, the Integrity Chamber advises the Government of Sint Maarten, on the role and responsibilities of the Confidential Advisor as outlined in Articles 82 and 83, of the *National Ordinance Substantive Civil Servants Law (LMA)*.

2.2. Methodology

For the purpose of this advice, the Integrity Chamber has conducted (desk) research on (scientific) literature, legislation, regulations and insights of experts, while considering the social and cultural context of Sint Maarten. This information led to the facts-based references within this advice and the conclusions of the conducted legality audit and effectivity audit.

3. Relevance

A Confidential Advisor can be defined as a person appointed by an organization, whom all employees may approach for advice and assistance as it pertains to possible integrity-related issues within said organization. The appointment of the Confidential Advisor is a measure designed to promote organizational integrity. This measure is widely utilized internationally, in the public and private sector, and is recognized as a vital component of any integrity infrastructure.

The appointment of a Confidential Advisor has several benefits. The first is the benefit to the employees¹. A Confidential Advisor provides the possibility of discussing a misconduct and receiving advice or guidance on possible ways to address the integrity-related issues, without the risk of reprimand or retaliation, as the information is kept confidential.

Secondly, management benefits from this appointment. Within every organization, there is the possibility of reporting integrity issues internally, such as to management or human resources. The Confidential Advisor adds an additional avenue to this reporting system². They provide support in the promotion of integrity within the organization and provide early signals of possible wrongdoing. They allow for the prompt internal handling of misconducts before it can damage the image of the organization. Furthermore, the appointment of a Confidential Advisor, ensures that Government meets its legal requirements.

Lastly, the Confidential Advisor allows for a feeling of trust within the civil service and contributes to a civil service culture in which employees are willing to and feel safe enough to report suspected integrity issues. This fosters an atmosphere of integrity, inwardly and outwardly.

In 2014, fourteen (14) Confidential Advisors were appointed within the Government of Sint Maarten. With the legal basis provided by Articles 82 and 83 of the LMA, these Confidential Advisors served as a point of contact where employees could bring their concerns and complaints regarding integrity. The Confidential Advisors were appointed and served for a period of two (2) years. Since the ending of their term, there have been no more appointments. The Integrity Chamber hopes that with this advice Confidential Advisors can once again play a role in the integrity infrastructure within Government.

In this advice, the Integrity Chamber strictly reference employees of Government. However, as stated in the NOIC, the Integrity Chamber is tasked with providing advice or proposals on integrity, not only to government, but to other administrative bodies and government-owned companies. The Integrity Chamber believes that this advice can also serve as a guide to these entities to improve their internal integrity infrastructure.

¹ Within this advice, the Integrity Chamber utilizes the definition made available within the LMA and the Employee Handbook (2018). The Integrity Chamber's definition of 'employees' refers to the status of 'civil servant' regulated through the LMA, appointed by the Governor for a permanent or defined period, as well as employees under 'contractual employment', regulated through the Civil Code and articles within the individual labor agreement, through a decision taken by a respective Minister for a permanent or defined period.

² It is important to note that this is meant solely to improve the level of integrity within the organization. The Confidential Advisor is not an official reporting point for possible misconducts.

4. Legality & Effectivity Audit

For the purpose of this advice, the Integrity Chamber has conducted a Legality Audit and an Effectivity Audit. The purpose of the Legality Audit is to examine all relevant legislation and regulations, in order to determine whether the role of the Confidential Advisor conflicts with the existing legal framework. The Effectivity Audit examines whether based on the relevant legislation and regulations, the effectivity of the role of the Confidential Advisors can or will be met.

4.1. Legality Audit

Provisions specifically referring to the role of Confidential Advisors can be found in Articles 82 and 83 of the LMA. These provisions describe the appointment, responsibility, and role of the Confidential Advisor. The appointment of the Confidential Advisor within Government is therefore mandatory by law.

Upon analysis of international and national legislation, no provisions were encountered that could hamper the execution of this advice. An overview of the legal and regulatory framework utilized within the analysis can be found in the attachment.

Conclusion Legality Audit

The relevant legislation and regulations do not conflict with the advice of the Integrity Chamber in establishing the role of the Confidential Advisor.

4.2. Effectivity Audit

The effectivity audit assesses whether the current legislation and regulations are sufficiently effective to achieve the intended purpose of this advice and assesses gaps within the relevant legislation and regulations that would hamper the effectivity of this advice. If gaps are found, the Integrity Chamber is authorized to render relevant advice or make recommendations or proposals to resolve those gaps.

As stated above, the only legislation found that pertains to the Confidential Advisor are the two (2) articles in the LMA, where the role of the Confidential Advisor is briefly described. The articles do not hamper the effectivity of this advice. However, the Integrity Chamber has identified the lack of a regulation detailing aspects such as the appointment, selection, roles, responsibilities and tasks of the Confidential Advisors, a separate Code of Conduct for civil servants, and other components the Integrity Chamber deems vital to the role of the Confidential Advisor.

Conclusion Effectivity Audit

The provisions on Confidential Advisors do not hamper the effectivity of this advice as it pertains to the establishment of the role of the Confidential Advisor. The Integrity Chamber, however, has identified several gaps within the integrity infrastructure necessary for the effective execution of the role. This advice will describe how these gaps can be eliminated.

5. Role of the Confidential Advisor

The Confidential Advisor serves as a trusted point of contact for employees and embodies several roles when dealing with integrity dilemmas or difficult situations within the administrative body. The Confidential Advisor should be seen as an essential part of the integrity infrastructure of the administrative body. The Confidential Advisor advises on, and therefore must also be knowledgeable, on the following categories: financial irregularities (embezzlement, fraud, etc.) and undesirable manners or behaviours (discrimination, aggression, sexual misconduct, etc.). It should be noted that the position of a Confidential Advisor is a secondary function performed within the hours of regular employment.

5.1. Tasks

A Confidential Advisor is a source of information, provides a listening ear, and gives advice and assistance on possible integrity issues.

The tasks of the Confidential Advisor can be summarized as follows:

- Providing information about their role and integrity-related issues to employees and management.
- Advising and supporting employees who suspect, have witnessed or have been a victim of misconduct.
- Providing management with advice and recommendations on integrity matters within the administrative body.
- Ensuring the confidentiality of a report of misconduct and the anonymity of the reporter.
- Assisting in and/or encouraging dialogue on possible misconducts.

5.2. Limitations

The tasks of the Confidential Advisor ensure that integrity is promoted, discussed and valued within the administrative body. The Confidential Advisor is **NOT** tasked with handling psychological, private, or personal problems of the employees, unless these problems impede the execution of their function. Confidential Advisors are also not tasked with handling personnel or human resource matters.

As it pertains to the execution of their tasks, the Confidential Advisor may **NOT** investigate integrity issues or participate in investigative committees, as they must remain neutral and independent in their role. The Confidential Advisors are not obliged to inform on contents of a report made by an employee, to supervisors or department heads, in their function as Confidential Advisor, unless the misconduct can severely harm, or hamper the functioning of, the administrative body. Examples include embezzlement, fraud and other financial misconducts. The Confidential Advisor is not obligated to report criminal misconducts to the Prosecutor's Office. However, this remains the responsibility of the reporter, and the Confidential Advisor can advise on this.

5.3. Selection

There should be a transparent selection process when selecting Confidential Advisors. A transparent selection process will promote trust in the person(s) selected and appointed for the role. Furthermore, a transparent selection process will prohibit (un)intentional conflicts between the employee's function and the tasks of the Confidential Advisor.

The function profile of the Confidential Advisor detailing their role, responsibilities, position, authorities, tasks, qualifications and required knowledge and skills, should be made public. This will allow for and encourage employees to apply for the position.

Upon their selection, the identities of the Confidential Advisor may then be communicated to the employees. This gives time for objections to the selection before the appointment of the Confidential Advisors are formalized. The selected Confidential Advisors should bear the reputation of being trustworthy, easily approachable, and with strong moral values, to ensure comfortable and uncomplicated contact with employees. The Confidential Advisor should also be aware of the organizational structure of the administrative body and should be an effective communicator with adequate knowledge of interview techniques.

It should be noted that when selecting a Confidential Advisor, their current function should not conflict in any way with their appointed role. Confidential Advisors should also not fulfil certain functions, such as management positions (department heads, supervisors, secretaries-general, etc.) or positions in the human resources department. The Confidential Advisors should have a neutral position, so that employees feel safe discussing any integrity-related issues in the workplace with them. Employees should be able to approach the Confidential Advisor without any concern for repercussion, reprimand or retaliation.

5.4. Other considerations

As stated in the LMA, Confidential Advisors are chosen for a maximum period of two (2) years. This term should be closely evaluated. The term should ensure that Confidential Advisors do not retain the position for too long, to curb the development of a biased perspective/viewpoint, insensitivity to reoccurring integrity-related issues and to safeguard their mental-wellbeing. However, the Confidential Advisors should have enough time to foster trust with the employees, to improve in the execution of their role and to play a part in effecting real change within the administrative body. A longer maximum period or the possibility for extension should therefore be considered.

It is imperative that the role and function of the Confidential Advisor within the administrative body, in keeping integrity issues to a minimum and promoting a safe and pleasant work environment, is taken seriously.

6. Infrastructure and Facilities

To effectively fulfil and execute the role of a Confidential Advisor, there must be an infrastructure in place and the necessary facilities. The Confidential Advisor cannot provide adequate assistance or execute their tasks effectively if the infrastructure is inadequate or unclear. The following elements are considered necessary and should be made available by Government. They are listed in chronological order.

6.1. Basic General Infrastructure

The general infrastructure elements given below should be in place within every organization if a Confidential Advisor is to be appointed. These elements are specifically mentioned in this advice to provide the Confidential Advisor as well as the employees with the basic information and requirements deemed necessary by the Integrity Chamber, for the role of the Confidential Advisor to be effective. The elements should be in place before the Confidential Advisor is appointed.

Code of Conduct: The Code of Conduct provides guidance to employees on prevailing or essential norms and values, their associated governing rules, and expected behaviours. The Code of Conduct also serves as a guide or shortlist for the Confidential Advisor and employees on their rights and obligations and on what behaviours are unacceptable within the workplace.

Other integrity-related regulations: Other policies and procedures within an administrative body, such as, but not limited to, executive decrees, function descriptions and employee handbooks are essential for the description of the tasks and responsibilities of the administrative body and its employees. Based on these regulations, the employee and the Confidential Advisor become aware of the limitations of the administrative body.

Integrity Trainings/Workshops: Trainings and workshops that focus on the promotion and improvement of integrity within the administrative body, where integrity issues/risks can be discussed and deliberated upon, are essential for employees in understanding the parameters of acceptable and ethical behaviours within the administrative body. This will also enable employees and management to undertake a role of correction and societal control on the work floor.

6.2. Confidential Advisor-specific infrastructure

Integrity Coordinator/Program Manager: An Integrity Coordinator should be put in place to facilitate the Confidential Advisors. The Integrity Coordinator would be responsible for the establishment and implementation of integrity related policies and serves to support the Confidential Advisor in whatever needs that may arise. The Integrity Coordinator may also host scheduled consultations for the Confidential Advisors, providing an outlet due to the strict confidentiality and the pressures associated with the role. These consultations may function as a sounding board and serves to establish uniformity within the execution of the Confidential Advisors' tasks.



Confidential Advisor profile: The function profile of the Confidential Advisor defines the role, responsibilities, position, authorities, tasks, qualifications, skills, and available facilities. This profile will clarify to supervisors, employees, and the Confidential Advisors themselves, the appointed role. This profile can also be used when requesting or selecting applications for the position. (See attachment B for example.)

Ministerial Decree for appointment: The Ministerial Decree solidifying the appointment of the Confidential Advisor describes aspects, such as function, tasks, facilities, position, (labour) protections, and the administrative body.

Overview of categorized misconducts: A categorized overview of misconducts functions as a tool for the Confidential Advisor, as well as the employees, in the determining a potential misconduct. This list may be compiled utilizing existing legislation and regulations, and prevailing norms and values. (See attachment C for example.)

Advice and Complaint procedure/policy: This procedure clarifies the role of the Confidential Advisor, which (1) serves as a point where misconducts within the administrative body can be discussed, and (2) where the employee can be advised on possible steps and obligations. Additionally, the policy should describe the twice-yearly report to the Minister of General Affairs, as stated in the LMA.

Overview of support organizations: The Confidential Advisor has the role of listening and assisting the reporter. However, if the reporter presents issues that fall outside of the scope of the responsibilities, tasks, or role of the Confidential Advisor, an overview of supporting organizations should be made available, to refer the reporter when necessary.

Evaluations: Evaluation of the effectivity of the Confidential Advisor is of the utmost importance. This allows for the determination of possible necessary adjustments to the roles, tasks, responsibilities, or procedures of the Confidential Advisor. Evaluations will also determine whether the quantity of Confidential Advisors, as provisioned in the law, should be increased, or decreased.

6.3. Facilities

The following facilities should be provided to the Confidential Advisor for the effective execution of their tasks:

Training/Courses: Training and courses are necessary for the Confidential Advisor before starting their role, and repeated refresher courses, during their term. These trainings and courses are essential to understand the tasks as well as to learn skills needed for the task. A training program should be in place and executed accordingly.

Time/hours: The position of a Confidential Advisor is a secondary function performed within the hours of regular employment. The administrative body should provide the Confidential Advisor with the time necessary to perform the secondary function properly. If needed, other provisions can be made, such as additional Confidential Advisors.



Confidential meeting space: The Confidential Advisor requires an internal and/or external location where confidential conversations can be held. The location should facilitate a feeling of privacy and discretion. When selecting a location, attention should be placed on the following aspects: activity or movement in the vicinity of the location, proximity to other offices, the ability to eavesdrop, view of the location, etc. These aspects should be taken into consideration. When necessary, it should also be possible to make use of neutral external locations, such as cafés or restaurants. A small budget should also be made available for costs related to external meetings with reporting employees, such as refreshments, etc.

Mobile phone and ICT facilities: The Confidential Advisor should be provided with a mobile phone. This will allow the Confidential Advisor to be easily accessible, however it should be used solely for the assigned tasks. A designated (secure) computer/laptop with its own (secure) e-mail address should also be provided to protect confidential information.

Safe/Vault for storage: A Confidential Advisor may require a safe/vault where confidential information can be stored.

Correspondence/letters: A system should be put in place where correspondence/letters or any other form of physical communication meant for the Confidential Advisor is received and only opened by the Confidential Advisor.

7. Awareness

In the previous chapters, the Integrity Chamber discussed the importance and role of the Confidential Advisor, the regulatory framework and the necessary infrastructure and facilities. However, the role of the Confidential Advisor would be ineffective if employees are unaware of their existence.

When appointing the Confidential Advisor, an awareness campaign is necessary. The awareness campaign should contain the following content:

- The role, responsibilities, and limitations of the Confidential Advisors.
- The appointed Confidential Advisors and the selection process.
- The availability and accessibility of the Confidential Advisors (location, available hours, mobile phones, email address).
- The integrity issues/misconduct that can be discussed.
- The advice or complaint procedure.

The awareness campaign should occur frequently across various mediums (Government's website, social media, newsletters, emails).

7.1. Infrastructure Awareness Mediums

In addition to the Confidential Advisors' specific awareness campaign, the above-mentioned content should also be incorporated as necessary in the following:

- **Code of Conduct and other Regulations**

As mentioned previously, the Code of Conduct for Civil Servants and any other integrity-related policies are important for employees to understand the rights and obligations and what is considered unacceptable behaviour. Affixing the awareness of the Code of Conduct with the role and tasks of the Confidential Advisor, will ensure that civil servants have a better understanding of the reporting possibilities in the case that they have been a witness or victim to misconduct.

- **Integrity Trainings/Workshops**

The role of the Confidential Advisor can also be affixed to currently occurring or forthcoming trainings; integrity-related or otherwise. The Integrity Chamber recommends that content concerning the Confidential Advisor be appended to already existing structures primarily. For example, information regarding the Confidential Advisor can also be included in information packages or introductory courses for new civil servants.

- **Internal Meetings**

The Confidential Advisor may also be invited to internal organizational meetings when necessary. These meetings may be used to introduce the Confidential Advisor to the organization or allow the manager to communicate their existence actively and repeatedly.

8. Advice

Within the previous chapters, the Integrity Chamber determined the relevance, role and responsibilities of the Confidential Advisor, whether the current legal framework sufficed or hampered the effectivity of the execution of this role, and the necessary infrastructure and awareness campaign.

The Integrity Chamber recognizes the role of the Confidential Advisor as a required component within Government's integrity infrastructure.

The Integrity Chamber advises the (re)appointment of Confidential Advisors within Government as stated in the LMA, and further advises that the role and tasks of the Confidential Advisor are clearly defined, and that necessary infrastructure and facilities are put in place.

The Integrity Chamber recommends the implementation of its advice in the following order:

1. Establish and implement the basic general infrastructure:

Establish and implement a Code of Conduct for civil servants and reinforce other integrity-related regulations as stated in Chapter 6. These regulations will serve as a guide for the Confidential Advisor and employees on their duties and rights and what behaviours are acceptable within the administrative body. These regulations should be followed by an Integrity Training/Workshop, to further clarify and understand the parameters of acceptable and ethical behaviours within the administrative body.

2. Establish Confidential Advisor-specific infrastructure and facilities:

The establishment of the remaining Confidential Advisor-specific elements:

Confidential Advisor Infrastructure/Facilities	
Infrastructure	Facilities
Integrity Coordinator/Program Manager	Training/Courses
Confidential Advisor profile	Time/hours
Ministerial Decree for appointment	Confidential meeting space
Overview of categorized misconducts	Mobile phone and ICT facilities
Advice and Complaint procedure	Safe/vault for storage
Overview of support organizations	Correspondence/letters
Evaluations	

3. Selection and appointment of the Confidential Advisors:

There should be a transparent selection process when selecting Confidential Advisors. A transparent selection process will promote trust in the person(s) selected and appointed for the role. Furthermore, a transparent selection process will prohibit (un)intentional conflicts between the employee's function and the tasks of the Confidential Advisor.



4. Execute an awareness campaign:

The execution of an awareness campaign on the role, responsibilities, and limitations of the Confidential Advisors. The campaign should contain information on the following:

- The role, responsibilities, and limitations of the Confidential Advisors.
- The appointed Confidential Advisors and the selection process.
- The availability and accessibility of the Confidential Advisors (location, available hours, mobile phones, email address).
- Possible integrity issues/misconduct that can be discussed.
- The advice or complaint procedure.

5. Apply and reinforce the tasks and limitations of the Confidential Advisor:

A Confidential Advisor is a source of information, provides a listening ear, and gives advice and assistance on possible integrity issues.

The tasks of the Confidential Advisor can be summarized as follows:

- Providing information about their role and integrity-related issues to employees.
- Providing management with advice and recommendations on integrity within the administrative body.
- Advising and supporting employees who suspect, have witnessed or have been a victim of misconduct.
- Ensuring the confidentiality of a report of misconduct and the anonymity of the reporter.
- Assisting in and/or encouraging dialogue on possible misconducts.

The limitations of tasks and reporting as stated in Chapter 5 should also be taken into consideration.

6. Evaluate the effectiveness of the Confidential Advisor:

Evaluation of the effectivity of the Confidential Advisor is of utmost importance. This allows for the determination of possible necessary adjustments to the roles, tasks, responsibilities, or procedures of the Confidential Advisor.

Attachment A: The legal and regulatory framework for Confidential Advisors

The following legislation was utilized:

- **The United Nations Convention Against Corruption (UNCAC), 2003**
- **The Constitution of Sint Maarten, Article 106**
- **The National ordinance substantive civil service law (LMA), Article 82, 83 and 83a (see below)**
- **The National ordinance Anti-Money Laundering and Terrorist Financing (see below)**

Because of the significance of Articles 82, 83 and 83a of the LMA, these articles are fully presented below.

Article 82, of the LMA:

1. *The Minister of General Affairs appoints a civil servant for each ministry as the confidential advisor. Depending on the need, a confidential advisor can be appointed separately or jointly for individual organizational units.*
2. *The civil servant appointed as a confidential integrity advisor functions in that capacity outside and alongside the hierarchical and functional organization.*
3. *The civil servant appointed as a confidential integrity advisor will not be disadvantaged in any way as a result of performing the duties of the reporting centre.*
4. *An appointment as a confidential integrity advisor applies for a period of no more than two years.'*

Article 83, of the LMA:

1. *The confidential integrity advisor advises the civil servant at his request on integrity issues and on the way in which he can or must deal with knowledge about possible breaches of integrity in the organization.*
2. *The confidential integrity advisor treats the information obtained in that capacity confidentially and protects the identity of persons from whom the information is obtained against disclosure to third parties. Article 61, second paragraph, does not apply to information that has come to the knowledge of the confidential integrity advisor in that capacity.*
3. *Article 200 of the Code of Criminal Procedure does not apply to the Confidential integrity counsellor insofar as it concerns crimes of which he became aware in the performance of that task.*
4. *Twice a year, before 1 March and before 1 September, the Confidential integrity advisor submits a confidential and anonymous report to the Minister of General Affairs about the number of times he was asked for advice in the previous period and the subjects of the advice, indicating which form of breach of integrity he may have become aware of.*
5. *With regard to the registration and use of the data included in a report as referred to in the fourth paragraph, further rules are laid down by the Minister of General Affairs.'*

The National ordinance Anti-Money Laundering and Terrorist Financing

Through the so-called elaboration legislation of the National ordinance Anti-Money Laundering and Terrorist Financing, the National ordinance Substantive Civil Service Law (LMA) and the National ordinance establishment and organization of the national government (LIOL) are adjusted as follows:



After article 83 of the LMA, a new article 83a shall be incorporated, stating:

Article 83a

The minister of general affairs, as well as the competent authority, as meant in article 4, under b, part ii,:

a. implements an integrity policy aimed at promoting good official action and which in any case focuses on promoting integrity awareness and preventing abuse of powers, conflicts of interest and discrimination;

b. ensures that integrity policy is an integral part of personnel policy in any case by addressing integrity in performance interviews and work consultations and by providing training and education in the field of integrity;

c. ensures the establishment of a code of conduct for good civil servant action;

d. defines how the integrity policy is accounted for annually and compliance with the Code of Conduct.'

The adjusted National ordinance substantive civil service law (LMA) and the adjusted National ordinance establishment and organization of the national government (LIOL) have entered into force on 14 June 2019.

Note: The above legislation is an English translation of the Dutch source text. In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.



Attachment B: Example Confidential Advisor Profile

Integrity among employees is important for the proper functioning of any organization. The Confidential Advisor plays an important part within the integrity infrastructure. A Confidential Advisor is a source of information, provides a listening ear, and gives advice and assistance on possible integrity issues.

The Confidential Advisor performs the following tasks:

- Providing information about their role and integrity-related issues to employees.
- Advising and supporting employees who suspect, have witnessed or have been a victim of misconduct.
- Providing management with advice and recommendations on integrity matters within the administrative body.
- Ensuring the confidentiality of a report of misconduct and the anonymity of the reporter.
- Assisting in and/or encouraging dialogue on possible misconducts.

Facilities

The role of the Confidential Advisor is a secondary function that is performed within the hours of regular employment. There is no additional payment involved. The Confidential Advisor will be given the opportunity to follow the necessary training. The Confidential Advisor will be provided with the facilities necessary for the effective and efficient execution of this role (confidential meeting space, mobile phone and ICT facilities, safe/vault, correspondence system, budget).

The Confidential Advisor has the following limitations:

- Not tasked with handling psychological, private, or personal problems of the employees.
- Not tasked with handling personnel or human resource matters.
- Not tasked with investigating integrity issues or participating in investigative committees.

The nature of the role of the Confidential Advisor ensures that:

- The execution of the role of Confidential Advisor does not conflict with the primary function of the employee.
- The Confidential Advisor remains neutral and independent in the execution of their role.
- The Confidential Advisor is not obliged to inform on contents of a report made by an employee, to supervisors or department heads, unless the report details a misconduct that may severely harm, or hamper the functioning, of the administrative body.
- The Confidential Advisor is not obligated to report criminal misconduct to the Prosecutor's Office.

The Confidential Advisor should embody the following qualities:

- Strong moral values.
- Considered trustworthy by employees and management.
- Easily approachable, social, empathetic, and accessible.



- Retains and maintains a suitable internal network.
- Operates effectively and dares to be independent.
- Has a balanced personality and knows how to deal with conflict.
- Analyses and evaluates their own behaviour critically.

Knowledge and skills:

- Aware of the organizational structure of the administrative body.
- An effective communicator with adequate knowledge of interview techniques.
- Sufficient knowledge of behaviours and relationships.
- An affinity for operational integrity.
- Has good oral and written communication skills and can communicate with employees at all levels within the organization.
- Can formulate the most effective route for a solution, with the smallest impact.
- Can effectively translate gathered information into advice and proposals for management.
- Able to give clear, concise, and interesting presentations.
- Able to maintain relationships with relevant entities, based on mutual trust.

Attachment C: Example Overview of Categorized Misconducts

The Confidential Advisor advises, and therefore must also be knowledgeable, on the following categories. This list is not exhaustive and is subject to change.

Financial irregularities
Embezzlement
Fraud
Corruption/Bribery
Theft
Conflicts of interest
Incompatible functions and activities
Misuse of organizational resources
Abuse of power/authority
Giving and receiving of gifts
Forced labour

Undesirable manners or behaviours
Discrimination
Aggression and violence
Sexual misconduct
Intimidation
Misuse and manipulation of information
Misconduct outside of work
Invasion of privacy
Violation of confidentiality
Unsafe work environment
Dereliction of duty
Union/labour violations
Violation of legislation/regulations
Environmental hazards

