

SER Committee advisory report

EMPLOYEES SHOULD BE ABLE TO REPORT MALPRACTICE WITHOUT FEAR OF REPRISAL

Employees who suspect malpractice in the company they work for should be able to report their suspicions in a safe and satisfactory manner, for instance by reporting them to an independent intermediary or organisation. The code of practice drawn up by the Labour Foundation eighteen months ago on this topic merits follow-up. An independent committee such as that found in the public sector is not necessary for the private sector. Similarly, employers and employees should not be made responsible for developing compensatory measures or creating a fund for whistleblowers.

These were the main conclusions of an advisory report presented by the Committee on Work, Enterprise and Employee Participation (*Commissie Arbeid, Onderneming en Medezeggenschap*) on behalf of the Social and Economic Council of the Netherlands (SER). Chaired by Professor P.F. van der Heijden, the Committee drew up the advisory report in response to a request for advice from the Minister of Social Affairs and Employment, Mr A.J. De Geus.

The Minister requested the SER's advice on the creation of a committee for the private sector that would be comparable to the public sector's Committee for Government Integrity. Civil servants in central government can contact the Committee for Government Integrity when other means of disclosure fail. The SER Committee does not believe there is reason to create such a committee for the private sector. Following the development by the Labour Foundation of a code of practice for the disclosure of malpractice in June 2003, the SER Committee believes that it is important that the relevant parties continue to develop guidelines for whistleblowing at a decentralised level, based on the example set by the code of practice. The Committee feels it is as yet too soon after the establishment of the code of practice to present new proposals concerning the reporting of suspected malpractices, and recommends waiting until the Foundation's code of practice has been evaluated in 2006.

The SER Committee is of the opinion that a situation should be pursued whereby all employees who suspect malpractice within the company they work for should be able to report this in a safe and satisfactory manner. The Committee explicitly states that employees should be able to turn to an independent intermediary or organisation.

The Minister also requested advice on whether the parties involved should be made responsible for establishing compensatory measures or a whistleblowers' fund for the private sector. The SER Committee does not support this proposal and therefore endorses the Cabinet's opinion on the matter. An employee who reports malpractice in accordance with the code of practice established by the Labour Foundation is assured protection. Employees who are discriminated against by their employer as a result of raising concerns can claim compensation under existing regulations, which provide

various reference points for this. It is the government's responsibility to resolve any problems that may arise in this connection.

Translation: Baxter Communications, Hilversum