



Whistleblower and Anti-retaliation Policy

This Policy enters into force on the date of its approval by Council.

A handwritten signature in black ink, appearing to read "M. King".

Signed: _____

Date: 26 January 2020

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WHISTLEBLOWER AND ANTI-RETALIATION POLICY

ICCROM is committed to detecting, investigating and taking action against misconduct that occurs in the course of operations. This document outlines the policy and procedures for suspecting misconduct, and the protections ICCROM affords in good faith to its Staff Members and to individuals in a direct contractual relationship with ICCROM who, in good faith, report suspected misconduct.

1. Scope and Application

The Terms of this policy apply to all ICCROM Staff Members and any individuals in a contractual relationship with ICCROM, including but not limited to, consultants, contractors, persons seconded or loaned to ICCROM, interns and volunteers.

2. Definitions

- a) Misconduct: shall include abuse of authority, fraud, corruption, the failure of one or more members of personnel to comply with his or her obligations to the Organization including under the Staff Regulations and Rules or other relevant administrative issuances, the Financial Regulations and Rules, or the Standards of Conduct of the International Civil Service or other terms of their engagement, and any request or instruction from any member of personnel to violate the above-mentioned regulations, rules, standards, issuances or terms, and other wrongdoing;
- b) Oversight activity: Any investigation, audit, or evaluation duly authorized by the Director-General, Council, or the General Assembly, or undertaken in accordance with the terms of reference of ICCROM's External Auditor;
- c) Retaliation: for purposes of this Policy means any direct or indirect detrimental action, or failure to act, that adversely affects the employment or working conditions of an individual, where such action, or failure to act, has been recommended, threatened or taken in whole or in part because an individual has cooperated with an oversight activity or made a report of misconduct. Retaliation may include direct actions, such as by way of adverse administrative action or verbal harassment, or more indirect patterns of retaliation resulting in discriminatory treatment;
- d) Complaint: shall mean an assertion by a member of personnel, as defined below, made in good faith, on the basis of submitted evidence to support a reasonable belief that misconduct has occurred, that he/she has experienced or apprehends retaliation because of cooperation with an oversight activity or because he/she reported misconduct;
- e) Complainant [Whistleblower]: is an individual, who, in good faith and on the basis of a reasonable belief that misconduct has occurred, reports suspected misconduct, or who reports retaliation or threats of retaliation, as defined in the Policy.

3. Duty to Report and Cooperate

ICCROM Staff Members and other individuals with a contractual relationship with ICCROM have a duty to promptly report suspected misconduct associated with any activity of ICCROM and to cooperate fully and truthfully in any internal or external review, audit, or investigation conducted by or on behalf of ICCROM. Failure to report and/or cooperate, including withholding material information, may result in disciplinary action, including termination of employment or contractual relationship. Individuals covered under this section may report such misconduct in any of the organization's working languages.

4. Confidentiality

It is the duty of the individual or body that receives a report of suspected misconduct to protect the confidentiality of the persons making the report and all communications in relation to the report to the

maximum extent possible. Absent the individual's consent, his or her identity should be exceptionally disclosed only if it necessary for administrative, disciplinary or judicial action or in order to ensure due process in the investigation of the allegations made.

5. Procedure for Reporting Suspected Misconduct through Internal Mechanisms

ICCROM Staff Members and other individuals with a contractual relationship with ICCROM should report suspected misconduct in the first instance to their direct supervisor. In addition, individuals may report suspected misconduct to the Office of Human Resources, which shall be available to provide informal guidance and support to an individual prior to and upon his or her decision to report. If the suspected misconduct involves the direct supervisor, or the reporting individual has reason to believe that he or she may be subject to retaliation, or the reporting individual has reason to believe that evidence of suspected conduct will be concealed, destroyed or not acted upon, the individual may report the suspected misconduct to any other senior ICCROM official. Supervisors and senior managers, in turn, shall promptly deliver all reports of suspected misconduct directly to the Office of Human Resources. Supervisors should deliver such reports to the Director-General, if the suspected conduct involves an individual from the Office of Human Resources.

If the suspected misconduct involves the Director-General or the reporting individual has reasons to believe that the Director-General may subject the individual to retaliation, or the reporting individual has reason to believe that evidence of suspected conduct will be concealed or destroyed, the individual should report the suspected misconduct to the Chairperson of the ICCROM Council whose contact information shall be made available to all Staff Members and other individuals with an employment relationship with ICCROM.

Anyone receiving such information is subject to the confidentiality requirements in Section 4 of this Policy.

6. Reporting Misconduct through External Mechanisms

Protection against retaliation will be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms, where the criteria set out in subparagraphs (a), (b) and (c) below are satisfied:

- a) Such reporting is necessary to avoid:
 - (i) A significant threat to public health and safety; or
 - (ii) Substantive damage to the Organization's operations; or
 - (iii) Violations of national or international law; and
- b) The use of internal mechanisms is not possible because:
 - (i) At the time the report is made, the individual has grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to pursuant to the established internal mechanism; or
 - (ii) It is likely that evidence relating to the misconduct will be concealed or destroyed if the individual reports to the person(s) he/she should report to pursuant to the established internal mechanisms; or
 - (iii) The individual has previously reported the same information through the established internal mechanisms in section 5, and the Organization has failed to inform the individual in writing of the status of the matter within 60 days of such a report; and
- c) The individual does not accept payment or any other benefit from any party for such report.

7. Anonymous Reporting

Individuals are encouraged to include their names or other contact information in their reports of suspected misconduct to facilitate any follow-up. The names of individuals making reports will be kept confidential to the maximum extent possible. Individuals may, however, submit reports completely

anonymously by non-ICCROM email, fax, letter or other means without personally identifiable information.

8. Information to be Included in a Report of Suspected Misconduct

Individuals submitting reports of suspected misconduct should submit all pertinent information with regard to the suspected misconduct including any documentary or other evidence. While reports of suspected misconduct may be submitted anonymously, including the name of the individual making the allegation may facilitate a more effective investigation.

9. Investigation of Suspected Misconduct

- a) Except as provided in subparagraph (b) below, the decision whether a review, audit or other investigation is warranted under the circumstances will be determined on a case-by-case basis by the Director-General. Such decision should be made within 30 days of the receipt of the report of suspected misconduct. The reporting individual will likewise be informed of whether follow-up action is being taken with respect to his or her report. If a review, audit, or other investigation is determined to be warranted, it will be referred one of the senior managers for such action. The senior manager will be provided with adequate resources to conduct an investigation and reach a conclusion. The Director-General refer the matter to an appropriate external individual or entity to conduct an investigation and submit findings.
- b) For reports submitted externally in accordance with paragraph 6 of this Policy or submitted to the Chair of the ICCROM Council, the decision whether an investigation is warranted under the circumstances will be determined on a case-by-case basis by the Chairperson of the Council. The Chairperson, if lacking expertise in investigation and audit, may refer the reports to an external qualified expert to determine whether an investigation is warranted. Such decision should be made within 30 days of the receipt of the report of suspected misconduct. The reporting individual will likewise be informed of the action being taken with respect to his or her report. If an investigation is determined to be warranted, the Chairperson of the Council will be informed in writing and will promptly determine how it should be conducted, including referring the matter to an external entity to conduct the investigation.

10. Preventative Action

Human Resources Office will inform the Appeals Committee Chair and the Director General of any report of misconduct received that Human Resources identifies as posing a retaliation risk. Human Resources Office will provide this information to the Appeals Committee Chair and the Director General only upon the consent of the individual who made the report.

When informed by the Human Resources Office of an individual who is at risk of retaliation, the Director-General will consult with the individual on appropriate retaliation prevention action. With the individual's consent, such action may include engagement by the Human Resources Office with the individual's senior management to ensure monitoring of the individual's workplace situation with a view to preventing any retaliatory action against the individual as a consequence of his or her engaging in a protected activity.

11. Action Based Reviews, Audits or other Investigations

Any disciplinary or remedial actions required to address instances of confirmed misconduct will be taken consistent with the applicable ICCROM Regulations and Rules. The reporting individual should be informed, as appropriate, of the action with respect to her or her report.

12. Making a Report in Good Faith

In order to receive protection under this Policy, individuals must make a report in good faith and have a reasonable belief that misconduct has occurred. The transmission or dissemination of unsubstantiated rumors is not considered a protected activity under this Policy. Making a report or providing information that is intentionally false or misleading constitutes misconduct and may result in disciplinary or other appropriate action.

13. Retaliation

Retaliation against individuals who participated in an oversight activity, is strictly prohibited and is misconduct. ICCROM Staff Members and other individuals with a contractual relationship with ICCROM who retaliate against any person making a report shall be subject to disciplinary measures, up to including termination of appointment or contractual relationship. Examples of retaliation include, but are not limited to:

- a) Employment actions such as termination, and denial of renewal of appointment, contract or promotion, unless otherwise justified;
- b) Other unjustified actions affecting employment such as negative evaluations, negative references, placement on administrative leave, increased oversight, changes in duties, reduction of responsibilities, denial of leave or creation of an uncomfortable physical environment; and
- c) Other actions including, but not limited to, harassment, intimidation, or assault that are intended to punish an individual for reporting alleged illegal activities or misconduct or to deter such individual from continuing to cooperate in a ongoing review, audit, or other investigation.

14. Reports of Suspected Retaliation

- a) Reports of suspected retaliation will be treated as reports of suspected misconduct under this Policy. Reports of suspected retaliation must be made as soon as possible either in accordance with paragraphs 5 or 6 of this Policy or directly to the Chair of the ICCROM Appeals Committee (the Chair) and not later than six months after the alleged acts of retaliation have taken place. Reports of retaliation received by the Office of Human Resources will be forwarded to the Chair of the ICCROM Appeals Committee.
- b) For reports made to the Chair of the ICCROM Appeals Committee, the Chair will determine if (i) the complainant engaged in protected activity and (ii) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation.
- c) The Chair will seek to make this determination within 45 calendar days of receiving the complaint of retaliation.
- d) All ICCROM Staff Members shall cooperate with the Chair and provide access to all records and documents requested by the Chair, except for medical records that are not available without express consent of the individual alleging retaliation.
- e) If the Chair finds that there is a credible case of retaliation or threat of retaliation, the Chair will refer the matter in writing to (i) the Director-General or (ii) in cases where the Director-General or Chair may have a conflict of interest, to the Chairperson of the Council for investigation in accordance with paragraph 9(b) of this Policy. Investigations should be completed within 120 days and the resulting investigation report will be submitted promptly to the Chair. If more time to complete the investigation is needed, the investigative entity will notify the Chair.
- f) Pending the completion of the investigation or the preliminary review, the Chair may recommend that the Director-General or the Chairperson take appropriate measures to safeguard the interests of the complainant, including but not limited to temporary suspension of the implementation of the action reported as retaliatory and, with the consent of the complainant, temporary reassignment of the complainant within or outside the complainant's office or placement of the complainant on special leave with full pay.
- g) Once the Chair has received the investigation report, the Chair will inform the complainant in writing of the outcome of the investigation and make its recommendations on the case to the Director-General. In the case of an investigation made pursuant to the provisions of paragraph 9(b), those recommendations will also be shared with the Chairperson of the Council. The recommendations may include disciplinary actions to be taken against the retaliator.

- h) The Director-General will promptly implement the recommended remedial measures or provide a written justification to the Chair and the complainant within two weeks of receiving the recommendations explaining why recommended measures were not implemented. In the case of recommendations following an investigation pursuant to the provisions of paragraph 9(b), the Director-General will also provide a copy of that written justification to the Chairperson of the Council.

15. Application of Normal Standards of Performance and Conduct

Complainants and those participating in the review, audit or other investigation are not exempt from the application of normal standards of performance and conduct or other ICCROM policies affecting continued employment. For example, ICCROM is not required to maintain the employment of a whistleblower or of an investigation witness when the organization has an independent basis to terminate the employment or abolish a position in accordance with ICCROM's Regulations and Rules for the disestablishment of positions. In a case where the whistleblower has alleged retaliation, the burden of proof shall rest with ICCROM to prove by clear and convincing evidence that it would have taken the same action absent the good faith report of misconduct protected by the Policy.

16. Protection of the Person Who Suffered Retaliation

- a) If retaliation against an individual is established, the Director-General shall promptly take appropriate measures aimed at correcting negative consequence suffered as a result of the retaliatory actions.
- b) The procedures set forth in this Policy are without prejudice to the rights of an individual who has suffered retaliation to seek redress through the internal recourse procedures described in ICCROM's Regulations and Rules. Moreover, an individual may use such internal recourse mechanisms to raise a violation of this Policy or to appeal a decision taken pursuant to this Policy.
- c) Complainants will be informed on a confidential basis of any disciplinary sanctions imposed for the retaliatory action.

17. Review

The Director-General shall take reasonable steps to ensure that this Policy is followed and to evaluate annually the effectiveness of this Policy in coordination with the General Counsel and the Chair of the Appeals Committee. The Office of the Director-General will maintain confidential record of all cases reported to the Director-General, Human Resources Office and the Appeals Committee Chair, including their disposition, and provide summary report annually to the ICCROM Council. This Policy may be revised as necessary and as required by any changes in any internal Regulations or Rules or procedures.