

2023

WHISTLEBLOWER POLICY

Whistleblower System and Protection of Whistleblowers from Retaliation



Contents

1. Introduction	3
2. Definitions	3
3. Principles	6
4. Objective	6
5. Scope	6
6. Activities covered by this Policy	6
7. Activities not covered by this Policy	7
8. The Whistleblower System	7
9. Whistleblower Protection	7
10. Good Faith	8
11. Duty to Report and Cooperate	8
12. How to report Violations and Misconduct	8
13. Form of Complaints	8
14. Anonymous Complaints	8
15. Using the Whistleblower System	9
16. Investigation of Complaints	10
17. Investigation of Retaliations	10
18. Sanctions and Remediation of Retaliations	10
19. Special Measures to Assist a Whistleblower	10
20. Confidentiality	11
21. Collaboration	11
22. Review	11
23. Oversight and Implementation	11
24. Entry into Force and Administrative Review	12
Annex I	13
Investigation Process	13
1. Submission of a Complaint	13
2. Screening	13
3. Assessment	13
4. Investigation	14

5. Reporting..... 14

Annex II 16

Review of a Complaint of Retaliation..... 16

Action if a Prima Facie Case exists 16

1. Introduction

The Caribbean Export Development Agency (Caribbean Export) adheres to the highest standards of integrity, compliance, transparency and accountability while exercising zero tolerance for fraud, corruption, money laundering, the financing of terrorism and any other corrosive conduct.

The Agency follows a comprehensive Internal Control Framework (ICF), which operationalizes and manages Compliance and Accountability within the Agency and its operations, and has established the Investigation and Compliance Committee (ICC) to investigate all reported cases of wrongdoing.

2. Definitions

For the purposes of this Policy:

Accountability	means ‘operations-related’, and specifically, ‘project-related accountability,’ which is the extent to which the Agency should prevent, monitor and resolve, the adverse environmental and social impacts of its projects.
Allegation	means an unproved assertion against someone related to suspected wrongdoing.
Code of Conduct	means the Code of Conduct for Staff and/or for the Board of Directors and any other Codes of Conduct issued by the Agency.
Complaint	means a formal Allegation or expression of discontent, concern or suspicion submitted to the ICC regarding any suspected violation, wrongdoing or presumed misconduct.
Complainant	means the Person who has submitted a Complaint to the ICC.
Compliance	means the Agency’s adherence to a policy and procedures which adopt relevant rules, regulations, standards, codes and norms to combat money laundering and financing of terrorism, and for monitoring in order to avoid violations of financial sanctions.
Conflict of Interest	means any situation in which a person has interests that could improperly influence that person’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.
Director	means a member of the Agency’s Board of Directors. Every reference to a “Director” means the Director and his/her alternate.
Ethics	means adherence by relevant persons to any Code of Conduct, or rules and regulations issued by the Agency for its Directors and Staff.
Ethics Violation	means a violation of any ethical principle, rule or standard of conduct applicable to Staff and Directors as provided for in a Code of Conduct.

Environmental and Social Safeguards

means protection afforded by the operational policies and procedures issued by the Agency to minimise or mitigate any adverse environmental or social impacts from projects executed or implemented by the Agency.

Integrity

means ‘institutional integrity’ and includes but is not limited to the prohibition of wrongdoing related to fraud, corruption, collusion, coercion (known as Prohibited Practices) and other corrosive practices like theft, bribery, conflicts of interest, deception, forgery, extortion, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, misconduct and any interference with, or obstruction of, investigations undertaken.

Integrity Violation

means any violation related to Integrity, compliance and ethics including a violation of this policy.

Investigation

means the process designed to gather and analyze information and to determine whether a violation has occurred and if so, the person or persons responsible. An Investigation is deemed to commence from the date of receipt of a complaint by the ICC and ends only when the ICC has made a determination in writing that it has ended.

Misconduct

means the failure by any person to observe the rules of conduct or standards of behaviour as prescribed by the Agency and includes a breach of any provision in the Code of Conduct and any act of Retaliation against a Whistleblower whether such failure or act occurs within or outside of the Agency’s premises.

Person

means any individual or entity and shall include a Director, a member of staff, a stakeholder, and any entity legally recognised as having the capacity to contract.

Prohibited Practices are the following: ¹

- (a) *A Corrupt practice* is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

¹ As defined by The International Financial Institutions Anti-Corruption Task Force – Uniform Framework for Preventing and Combating Fraud and Corruption.

- (b) *A Fraudulent practice* is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (c) *A Coercive practice* is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party, to influence improperly the actions of a party; and
- (d) *A Collusive practice* is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

Project	means any activity which the Agency has financed or committed to finance from its financial resources, such as donor funding or counterpart contributions.
Retaliation	means any direct or indirect detrimental action that adversely affects the employment or working conditions of a staff member for the purpose of punishment or intimidation following a protected activity.
Safeguards Violation	means the violation of Environmental and Social Safeguards.
Staff	means the management, (including the Executive Director and Deputy Executive Director), technical and support staff, temporary employees, other contracted employees, consultants, secondees and interns without regard to their position, rank, title, duration of contract with, or length of service to, the Agency.
Violation	means an Integrity Violation, an Ethics Violation, a Safeguards Violation or Misconduct.
Whistleblower	means any person who makes a complaint, submission, report or disclosure of a suspicion, concern, or allegation or provides any information concerning any violation with respect to the Agency’s systems and operations or in any project or financing, in the knowledge or good faith belief that the complaint, submission, report or disclosure is true.
Whistleblower System	means the Agency’s processes, procedures and systems for secure receipt and handling of all complaints, submission, reports and disclosures from Whistleblowers and witnesses as provided for in this Policy and any procedures issued pursuant to this Policy.
Whistleblowing	means the act of a Whistleblower in making a complaint, submission, report or disclosure through the Whistleblower System.
Witness	means a person who is not subject to an investigation but who voluntarily offers, or from whom the ICC requests, information or evidence regarding an

Investigation or who is otherwise providing assistance to the ICC for the conduct of any contemplated or ongoing Investigation.

3. Principles

The following four principles underpin this Policy:

- (a) integrity;
- (b) accountability;
- (c) excellence; and
- (d) transparency.

4. Objective

This Policy is intended to provide:

- (a) persons who wish in good faith to disclose to the Agency any serious concerns about wrongdoing or harm with a single, comprehensive, formal, dedicated, confidential and secure Whistleblower System to make any complaints, submissions, reports and disclosures including allegations relating to violations, money-laundering, financing of terrorism, and non-compliance with the Agency's policies to safeguard against social and environmental harms;
- (b) Whistleblowers with protection from Retaliation; and
- (c) the Agency with a formal independent mechanism for confidential receipt and secure handling of complaints, submissions, reports and disclosures received through the Whistleblower System, and to facilitate their assessment, investigation and resolution.

5. Scope

This Policy applies broadly to any Whistleblower, Witness or other Person named in a Complaint or who is otherwise connected with the subject matter of a Complaint.

6. Activities covered by this Policy

This Policy covers all confidential complaints, submissions, reports and disclosures of suspected Violations and Misconduct related to the areas of Integrity, Ethics, Compliance, Accountability and Environmental and Social Safeguards as provided for under the Strategic Framework that occur within any of the Agency's internal and external activities, systems and operations.

The right to protection against retaliation applies to any staff member (regardless of the type or duration of appointment), intern, individual contractor or consultant who:

- a. reports any breach of the Agency's rules and regulations to a responsible Officer in good faith,
- b. cooperates with duly authorized audits and investigations in good faith.

7. Activities not covered by this Policy

This Policy does not apply to complaints, submissions, reports and disclosures wholly unrelated to Integrity, Ethics, Accountability and Environmental and Social Safeguards which are ordinarily addressed by the Human Resources Division, Projects Department and other offices and internal mechanisms except to the extent that they allege conduct being used in Retaliation against a Whistleblower. Complaints to which this Policy does not apply include personal grievances relating to dissatisfaction with Staff performance appraisal reports; sexual harassment; discrimination and equal opportunity issues.

All Complaints, submissions, reports and disclosures received through the Whistleblower System which relate solely to accountability and non-compliance with Environmental and Social Safeguards, shall be covered by the Agency's Grievance Redress Mechanism (GRM).

The transmission or dissemination of unsubstantiated rumours is not a protected activity. Making an intentionally false or misleading report constitutes misconduct and may result in disciplinary or other appropriate action.

8. The Whistleblower System

The Whistleblower System will be managed by the ICC.

The Agency will encourage potential Whistleblowers to make confidential complaints, submissions, reports and disclosures through the Whistleblower System prior to, or instead of, any public complaints, reports, submissions or disclosures so as to provide the Agency with the best opportunity to promptly investigate the matter alleged in the complaint.

9. Whistleblower Protection

Every Whistleblower making a complaint, submission, report or disclosure in good faith shall be entitled to confidentially, securely and discreetly disclose any suspected violation, including an attempt to carry out such act, and after the complaint, submission, report or disclosure, to benefit from protection against retaliation as provided for in this Policy.

Conduct suspected to be retaliation against a Whistleblower shall be treated as an act of misconduct and may be investigated by the ICC and sanctioned accordingly.

10. Good Faith

All complaints must be made in good faith.

Complainants who knowingly make unsubstantiated, intentionally incomplete (so as to withhold critical information), malicious or false allegations or allegations with reckless or negligent disregard for the truth shall not be protected by this Policy and may be treated as having committed a separate act of misconduct and may be investigated by the ICC and sanctioned accordingly.

11. Duty to Report and Cooperate

Each member of staff has a duty to report to the ICC and in any event not later than three months after becoming aware of any suspected, actual or attempted violation. Each such member of staff is also expected to cooperate with the ICC, to provide information in support of his/her report and generally to assist the ICC in its investigation of the relevant suspected, actual or attempted violation or misconduct.

12. How to report Violations and Misconduct

Integrity violations, ethics violations, misconduct, and safeguards violations may be reported by using local telephone, or by email, mail, in person visits to the ICC or any other method outlined in the Procedures issued pursuant to this Policy.

13. Form of Complaints

All complaints submitted to the ICC through the Whistleblower System must as far as possible, identify the complainant by name and provide relevant supporting information to enable the ICC to adequately assess each allegation made in the complaint.

14. Anonymous Complaints

To ensure appropriate attention and assessment, the ICC prefers to receive complaints in which the complainant is named but will accept all complaints including anonymous complaints. Complainants are encouraged to make complaints and any related submissions, reports and disclosures in a manner that will facilitate an effective investigation. Complainants who choose to disclose anonymously are encouraged to provide in a timely manner any information and supporting evidence in sufficient detail to enable the ICC to responsibly pursue assessment of each allegation made in the complaint.

Anonymous Complaints will be treated with the same degree of diligence as a complaint in which the complainant has provided his/her name subject to the ICC being satisfied that it can be supported based

primarily on the:

- (a) seriousness of the issue raised;
- (b) credibility of the concern in the context of any other known facts; and
- (c) likelihood of corroboration of the complaint by other reliable sources.

15. Using the Whistleblower System

The Whistleblower System provides the best protection for Whistleblowers, and the Agency is committed to receiving and assessing all complaints however they are submitted. Complainants are encouraged to use the Whistleblower System instead of first resorting to public forums like the media or other reporting channels which do not provide confidentiality, security, independent review of their concerns and protection from retaliation. Complainants will be made aware that only when complaints are submitted through the Whistleblower System will the complainant be classified as a Whistleblower for the purpose of this Policy and entitled to benefit as far as possible from protection from Retaliation.

The Agency encourages full and appropriate use of the Whistleblower System by Staff. Each member of Staff has a right to discuss concerns and suspicions with the Manager to whom they report and the Agency's HR function. Managers and HR function, in accordance with their general duty to report wrongdoing, are expected to assist a potential complainant to make prompt complaints, submissions, reports and disclosures through the Whistleblower System.

Protection against retaliation shall be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms, where the criteria set out below are satisfied:

- a. Such reporting is necessary to prevent:
 - i. Dangers to public health and safety; or
 - ii. Substantive damage to the Agency operations; or
 - iii. Violations of national or international law; and

- b. The use of internal mechanisms is not possible because:
 - i. The individual has grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to following the established internal process; or
 - ii. It is likely that evidence relating to the misconduct will be concealed or destroyed if the individual reports internally; or
 - iii. The individual has previously reported the same information through the established internal process, and the Agency has failed to inform the individual in writing of the status of the matter within six months of such a report; and

- c. The individual does not accept payment or any other benefit from any party for such report.

16. Investigation of Complaints

All complaints received shall be handled, investigated and resolved as provided for in the Agency's procedures for the investigation of alleged violations and misconduct (Annex I).

17. Investigation of Retaliations

A Whistleblower who has engaged in a protected activity and who reports to have suffered from retaliation shall prove that it is their reasonable belief that their whistleblowing was a factor that led to a subsequent action against them which they reasonably believe to be a retaliation. The burden of proof shall then be with the management of the Agency to establish, that the same action believed by the Whistleblower to be a retaliation would have been taken also (whether by itself or as part of a series of actions) if the whistleblowing had not occurred.

To promote Whistleblowing and to assist in deterring Retaliation, the Agency will pursue a full remediation of a retaliation as soon as possible.

18. Sanctions and Remediation of Retaliations

The ICC shall make appropriate findings and recommendations to the Agency for the resolution, remediation and sanctioning of any conduct determined to be a Retaliation.

To promote Whistleblowing and to assist in deterring retaliation, the Agency will pursue a full remediation of a retaliation as soon as possible.

19. Special Measures to Assist a Whistleblower

The ICC may, after reviewing a Complaint submitted by a Whistleblower, consult promptly with the Executive Director and, if necessary, with the Chair of the Board of Directors and recommend to the Agency, any interim or permanent measures to avoid, mitigate or remediate the likelihood or impact of a retaliation. Such a recommendation to the Agency may include recommendations with respect to:

- a. special measures to terminate, suspend or review the effects of any actions suspected to be retaliatory; (b) action to be taken with respect to the person committing the retaliation;
- b. the reassignment of Staff;
- c. the authorisation of appropriate leave; and
- d. the exercise of contractual rights by the Agency.

The Agency may act at any time and of its own volition (with or without a recommendation from the ICC) undertake any special measures to assist a Whistleblower or Witness who is a Staff, including measures to avoid, mitigate or remediate the likelihood or impact of a retaliation. Such special measures may include assistance undertaken by the Agency alone or in collaboration with any competent national authority, local

police, local prosecutors or international organization to protect the identity, safety and security of any Whistleblower or Witness who is a Staff.

20. Confidentiality

The ICC and the Agency shall protect with strict confidentiality, the substance of any information disclosed to the Whistleblower System including the identities of the Whistleblower and any witness, subject only to the following exceptions, when:

- a. a Whistleblower or, where applicable, any witness has provided written permission to the ICC and/or the Agency to make the disclosure; and
- b. the ICC determines that there is an imminent threat to public health, security or safety and after reasonable prior notice to the Whistleblower and any witness advises of his/her intention to make the disclosure.

General information, related to use of the Whistleblower System, particularly basic numerical data like the number and origin of complaints received, may be published at any time by the ICC and the Agency as appropriate and in accordance with the Agency's Information disclosure practice.

21. Collaboration

The Chair ICC shall collaborate with development partners on the development of international best practices to enhance the effectiveness of this Policy and the procedures issued pursuant to it.

22. Review

The Chair-ICC may commission a review of this Policy, within the first two years of its operationalisation and at least once every three years thereafter, as necessary, to help ensure its effectiveness.

23. Oversight and Implementation

The ICC directly oversees this Policy.

The Management of the Agency has primary responsibility for working with ICC to ensure effective implementation of, and adherence to, this Policy.

24. Entry into Force and Administrative Review

This policy will enter into force upon signature by the authorized signatory (the Executive Director or his delegate) and will be reviewed periodically to ensure its relevance, effectiveness and alignment with international best practice

Effective Date: October 26, 2023

Review Date: --

Approved By: Deodat Maharaj

Annex I

Investigation Process

1. Submission of a Complaint

Complaints and reports about violations and misconduct may be submitted via email (complaints@carib-export.com), phone (246) 436-0578 or (809) 531-6565, or in person at the Caribbean Export Development Agency's headquarters at Baobab Tower, Warrens, St. Michael, Barbados or its subregional office in Av. Pedro Henríquez Ureña No. 150, Torre Diandy XIX, Piso 7, Santo Domingo, Dominican Republic.

2. Screening

Screening is the process by which the ICC determines whether a complaint, on its face, appears to contain an allegation of misconduct by Agency personnel, or involving Agency funds and programmes.

3. Assessment

Assessment is the process of collecting basic data, and preserving and securing basic evidence to determine whether an investigation is warranted.

During the assessment, the ICC will look at, inter alia, whether there is sufficient information to warrant a formal investigation and whether an investigation by the ICC is the most appropriate action. The outcome of the assessment is either:

- a. A case closure or referral to an external investigation body when, for instance, there is insufficient evidence to warrant an investigation, the allegations do not fall within the ICC's mandate, or when an investigation by the ICC is not the most appropriate action.
- b. Assignment of the case to an investigator and the preparation of an investigation plan setting out the investigation steps required to objectively determine the factual basis of the allegation(s). Investigations will commence as soon as possible following assignment.

The ICC has the exclusive authority to determine whether to close a case or proceed with an investigation based on its assessment.

4. Investigation

During an investigation, all subjects and investigation participants have a right to:

- a. A presumption of innocence throughout the investigation;
- b. Be treated with fairness;
- c. A professional, impartial and thorough investigation; and
- d. Due care in the handling and sharing of confidential information during the conduct of the investigation.

In addition, an individual who, or entity that, has been made the subject of an investigation is entitled to:

- a. Be advised of the nature of the allegations and his or her role in the investigation at the earliest time possible, but no later than at the time of the commencement of the interview;
- b. Be interviewed in the course of the investigation in his or her language of preference (English, Spanish, or French); and
- c. Be given the opportunity to explain his or her actions and to provide any documents or information that may be relevant to the factual determination of the matter, along with the names and details of any witnesses who may have relevant information.

All Agency staff, vendors, implementing partners and other third parties affiliated with the Agency are expected to cooperate fully and in good faith with a duly authorized investigation. This includes answering questions from investigators truthfully and providing the ICC with full access to staff, facilities and documents to enable allegations to be investigated as appropriate.

All interviews should be conducted to the extent possible by two persons in an appropriate environment, at a reasonable time and for reasonable duration, with breaks as needed.

5. Reporting

Closure reports are internal, confidential documents prepared for investigations that do not result in a recommendation for consideration of disciplinary, administrative or other action. A closure report is normally issued in the following circumstances:

- a. Where the evidence obtained in the course of the completed investigation does not substantiate the allegations;
- b. Where, due to the circumstances, ICC's investigation cannot be finalized and the case will be closed.

The ICC will notify the complainant and the subject by letter from the Chair ICC, that the investigation has been closed. The ICC will also inform other stakeholders concerned, such as the Executive Director, that the case has been closed. The closure report remains internal to the ICC unless disclosure is authorised, on a case by case basis, by the Chair ICC.

If the investigation reveals enough evidence to reasonably conclude that misconduct has occurred, the investigator will prepare an **investigation report** setting out the allegations, the investigation methodology, the facts established in the investigation, the finding(s) of the investigation and a recommendation. Where the complaint involves more than one allegation, the investigation report will provide details of the investigative steps undertaken to corroborate each allegation, the evidence gathered as relevant to each allegation, and the ICC finding related to each allegation. Further to its investigation, ICC's recommendation will vary depending on the contractual modality of the subject.

ICC shall request that the subject of the investigation respond normally within 10 calendar days. If the investigation subject fails to respond within the designated timeframe, the matter shall nevertheless proceed without the subject's comments. If the subject does submit comments, the ICC will consider them, including any additional evidence provided by the subject, and reflect them in the final investigation report, as appropriate. Once a final report has been prepared and submitted the ICC shall notify the subject(s), complainant(s) and any other stakeholders of the submission.

Investigation reports are considered strictly confidential and will not be shared with non-staff personnel, vendors or implementing partners.

Annex II

Review of a Complaint of Retaliation

Upon receipt of a complaint of retaliation or threat of retaliation, the ICC will conduct a preliminary review of the complaint to determine whether (a) the complainant engaged in a protected activity; and (b) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.

The ICC shall maintain the confidentiality of all communications received from complainants and from all relevant third parties. Complainants may authorize the ICC to obtain additional information and records relating to their request for protection from any unit or staff member. The ICC may be required to cooperate with requests for information from national oversight bodies or Tribunals.

All units and staff members shall cooperate with the ICC and provide access to all records and documents requested by the ICC, except for medical records that require consent of the relevant staff member and records that are subject to confidentiality.

The ICC will seek to complete its preliminary review within 30 days of receiving all information requested concerning a complaint of retaliation submitted.

If the ICC determines that there is no prima facie case of retaliation or threat of retaliation, it shall notify the complainant in writing. Should the ICC determine that there is an interpersonal problem within a particular unit, it may additionally advise the complainant to seek informal conflict resolution.

If the ICC determines that there is no prima facie case of retaliation or threat of retaliation but considers a managerial problem in a particular department or unit, it will advise the head of the department or the Executive Director.

If the ICC is of the opinion that there is an actual or potential conflict of interest in their reviewing a request for protection against retaliation, he or she shall decide on whether to refer the request to an alternative reviewing body.

Action if a Prima Facie Case exists

If the ICC determines that there is a credible case of retaliation or threat of retaliation it will seek to complete its investigation and submit its report to the Executive Director within 120 days.

Where there may be a conflict of interest in the Committee conducting the investigation, the complaint may be referred to an alternative investigating mechanism.

Pending completion of the investigation, the ICC may recommend that the Executive Director 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; with the consent of the complainant, temporary reassignment of the complainant and/or change of reporting lines; or, for staff members only, placement of the complainant on special leave with full pay. For individual contractors or consultants, such interim measures shall not include reinstatement or extension of an engagement beyond its original date of completion.

The investigation report shall show with clear and convincing evidence, that the alleged retaliatory action would have been taken without the complainant engaging in a protected activity or that the alleged retaliatory action was not for the purpose of punishing, intimidating or injuring the complainant. If this proof is not met, retaliation has occurred. If the proof is met, retaliation has not occurred. In all cases, the complainant will be informed in writing of the determination. The ICC will also make its recommendations to the head of department or unit concerned and to the Executive Director. Those recommendations may include possible disciplinary procedures or other action that may be warranted as a result of the determination.

If the ICC considers that there has been retaliation against a complainant, it may recommend to the head of department or unit concerned appropriate measures to correct negative consequences as a result of the retaliatory action and to protect the complainant from any further retaliation, including, but not limited to: the rescission of the retaliatory decision, including reinstatement, or, if requested by the complainant, transfer to another unit and/or function and/or change of reporting lines. For individual contractors or consultants, such measures shall not include reinstatement or extension of an engagement beyond its original date of completion. Recommended measures may also include transfer of the person who allegedly engaged in retaliation.

The head of department or unit concerned shall provide a written decision to the complainant and the ICC on the recommendations of the ICC within 30 days. The decision must respect the confidentiality rights of the person who allegedly engaged in retaliation in relation to any ongoing disciplinary process.

Should the ICC not be satisfied with the response from the head of department or unit concerned, it can make a recommendation to the Executive Director. The Executive Director will provide a written decision on the recommendations of the ICC to the complainant and the department or unit concerned within 30 days.

Complainants will be informed on a confidential basis of any disciplinary sanctions imposed for the retaliatory action.



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