

 Kintetsu World Express (E.A.) B.V.

Regional Policy

**Policy on dealing with Reports of Concerns about Wrongdoing**

**(‘Whistleblower policy’)**

V1.0 [25th October 2018]

**Introduction**

Good governance is essential for KWE. Integrity is one of KWE’s core values. Nonetheless it cannot be ruled out that also within KWE wrongdoings may occur. This Whistleblower Policy is intended to enable Workers and other parties that are hired by KWE to report every instance of wrongdoing or suspected wrongdoing of a general, operational or financial nature within KWE. This policy aims at facilitating the early detection and correction of misconduct, etc. and contributing to enhanced compliance management throughout KWE. In addition, this Whistleblower Policy includes measures to ensure a diligent investigation of such report and protection for the Whistleblower against unfair treatment.

**CHAPTER 1: GENERAL TERMS, SCOPE & SUPPORT**

# [Clause 1. Definitions](#_Clause_1._Definitions)

1. In this Whistleblower Policy the following definitions shall apply:
2. **Worker**: any person who carries out or has carried out work under an employment contract with Employer and/or any person who carries out or has carried out work otherwise than pursuant to an employment contract and that person has become part of the labour organisation of Employer (such as self-employed personnel, temporary workers, trainees, interns and contractors);
3. **Employer**: a KWE company, as mentioned in Annex 1 to this Whistleblower policy;
4. **Concerns about Wrongdoing**: a Worker’s concern that wrongdoing exists within the organisation where he works or has worked or in another organisation if he came into contact with that organisation through his work activities, where:
	1. the concerns are based on reasonable grounds, arising from knowledge acquired by the Worker in working for his Employer; and
	2. the Employer’s interest or the public interest is affected by:
		1. a breach (or impending breach) of a statutory requirement, including any criminal offence (or impending criminal offence);
		2. a risk (or impending risk) to public health;
		3. a risk (or impending risk) to human safety;
		4. a risk (or impending risk) of environmental damage;
		5. a risk (or impending risk) to the proper functioning of the organisation of the Employer due to an improper way of taking action or failure to act;
		6. a breach (or impending breach) of any rule other than a statutory requirement (including, but not limited to, the Employer’s employment regulations, code of conducts and other company regulations),
		7. a waste (or impending waste) of government funds;
		8. a violation of the Employer’s company regulations;
		9. deliberate withholding, destruction or manipulation of information concerning the matters described in paragraphs (i) to (viii) above (or an impending risk of the same);
5. **Advisor**: a person who has a duty of confidentiality by virtue of his position and who is consulted by an Worker in confidence regarding Concerns about Wrongdoing;
6. **Confidential Integrity Advisor**: the person appointed by the Employer to act as Confidential Integrity Advisor for the Employer’s organisation;
7. **National Body for Whistleblowers**: a body that is established in the country where the Whistleblower resides that can provide advice regarding a Report or perform an investigation. A list of these bodies is included in Annex 2;
8. **Report**: a report of Concerns about Wrongdoing pursuant to this Whistleblower Policy;
9. **Whistleblower**: the Worker who has reported Concerns about Wrongdoing pursuant to this Whistleblower Policy;
10. **Ultimate Manager**: the body or person responsible for the daily management of the Employer’s organisation;
11. **Contact Person**: the person appointed as the Contact Person by the Ultimate Manager, in consultation with the Whistleblower, after receiving the Report and with the aim of preventing unfair treatment;
12. **Investigators**: those persons whom the Ultimate Manager appoints to carry out the investigation into the wrongdoing;
13. **External Body:** the body to which the Whistleblower reasonably believes it is most appropriate to make an external Report of his Concerns about Wrongdoing;
14. **Internal Supervisory Body**: the body as described in Clause 7 of this Whistleblower Policy.
15. Where this Whistleblower Policy refers to ‘he’, ‘him’ or ‘his’ this is intended to include reference to ‘she’ or ‘her’ as appropriate.

# [Clause 2. Scope](#_Clause_2._Information,)

The Whistleblower Policy applies to every Worker that in the execution of his contract for the Employer has Concerns about Wrongdoing.

# [Clause 3. Information,](#_Clause_2._Information,) advice and support with regard to this Whistleblower Policy

1. A Worker may confidentially consult an Advisor with regard to Concerns about Wrongdoing and this Whistleblower Policy.
2. A Worker may request the Confidential Integrity Advisor to provide information, advice and support with regard to Concerns about Wrongdoing and this Whistleblower Policy.
3. A Worker may request the National Body for Whistleblowers, if any, to provide information, advice and support with regard to Concerns about Wrongdoing.

**CHAPTER 2: CONFIDENTIAL INTEGRITY ADVISOR**

# [Clause 4.](#_Clause_3._Internal) The appointment of the Confidential Integrity Advisor

1. The Employer appoints two Confidential Integrity Advisors. One Confidential Integrity Advisor should be an internal person employed by the Employer and one Confidential Integrity Advisor should be an external person (e.g. a third party such as a lawyer or a nominated person of the Regional HQ). In order to avoid conflict of interest the president of Employer, members of an employee representative body or the company doctor cannot become a Confidential Integrity Advisor. If the Employer employs less than ten employees, there is no internal Confidential Integrity Advisor.
2. The Confidential Integrity Advisor should have capabilities to properly fulfil the tasks and duties of the Confidential Integrity Advisor.

# [Clause 5. Tasks](#_Clause_3._Internal) & Duties

1. The Confidential Integrity Advisor has the following tasks and duties
	1. assisting, informing and advising the Whistleblower;
	2. informing the Workers of the Employer on this Whistleblower Policy in general;
	3. advising the Employer’s management on this Whistleblower Policy.
2. The Confidential Integrity Advisor is independent and will only report to the Ultimate Manager.
3. The Confidential Integrity Advisor has a duty of secrecy with regard to the information that he received in his position as Confidential Integrity Advisor. Only in exceptional circumstances, such violations of criminal laws or a danger to the Whistleblower or other persons, the Confidential Integrity Advisor may breach the duty of secrecy.
4. The Confidential Integrity Advisor will only contact other persons with regard to a Report if the Whistleblower gives his explicit permission.

# [Clause 6.](#_Clause_3._Internal) Contact information

The Whistleblower can contact the internal and external Confidential Integrity Advisor in the way as described in Annex 3.

**CHAPTER 3: INTERNAL REPORTING**

# [Clause 7.](#_Clause_3._Internal) Internal report

1. A Worker who has Concerns about Wrongdoing within his Employer’s organisation may make a Report of this to any manager holding a higher position within the organisation’s hierarchy than his own.
2. The Worker may also make a Report within his Employer’s organisation via the Confidential Integrity Advisor. The Confidential Integrity Advisor shall, in consultation with the Worker, forward the Report to Ultimate Manager.
3. If the Worker has a reasonable suspicion that the Ultimate Manager is involved in the suspected wrongdoing, he may also make the Report to the internal supervisory body (if there is any). In that case, the term Ultimate Manager in this Whistleblower Policy should be understood to mean Internal Supervisory Body.

# [Clause 8. Recording, passing on and confirming receipt of an internal Report](#_Clause_9._Recording,)

1. If the Whistleblower makes a Report to a manager orally or gives an oral explanation of a written Report, that manager shall, in consultation with the Whistleblower, ensure that this is recorded in writing and present this written record to the Whistleblower for approval and signature. A copy of the record shall be given to the Whistleblower.
2. If the Whistleblower makes a Report via the Confidential Integrity Advisor orally or gives an oral explanation of a written Report, that Confidential Integrity Advisor shall, in consultation with the Whistleblower, ensure that this is recorded in writing and present this written record to the Whistleblower for approval and signature. A copy of the record shall be given to the Worker.
3. The manager to whom the Report is made shall immediately pass on the Report to the Ultimate Manager within the Employer’s organisation.
4. If the Whistleblower or the manager to whom the Report is made reasonably suspects that the Ultimate Manager is involved in the suspected wrongdoing, the manager shall immediately pass the Report on to the Internal Supervisory Body (if any).
5. The Ultimate Manager shall immediately send the Whistleblower confirmation that the Report has been received. The confirmation of receipt shall include a brief description of the Report, the date on which it was received and a copy of the Report.
6. Following receipt of the Report the Ultimate Manager shall, in consultation with the Whistleblower, immediately appoint a Contact Person with the aim of preventing unfair treatment.

**Clause 9. Actions by the Ultimate Manager to deal with the internal Report**

1. The Ultimate Manager shall set up an investigation into the reported Concerns about Wrongdoing unless:
	1. the concerns are not based on reasonable grounds, or
	2. it is clear at the outset that the matter reported does not involve Concerns about Wrongdoing.
	3. the concerns relate to opinions concerning personnel affairs, opinions about the qualities of other officers and/or employees etc., slander or criticism.
2. If the Ultimate Manager decides not to set up an investigation, he shall inform the Whistleblower of this in writing within two weeks following the internal Report. This communication shall also state the reasons why the Ultimate Manager believes that the concerns are not based on reasonable grounds or that it is clear at the outset that the matter reported does not involve Concerns about Wrongdoing.
3. If the Ultimate Manager sets up an investigation, the Ultimate Manager shall assign the investigation to Investigators who are independent and impartial and shall not have the investigation carried out by persons who may be or may have been involved in the suspected wrongdoing.

1. The Ultimate Manager shall inform the Whistleblower immediately in writing of the fact that an investigation has been set up and the identities of the persons carrying out the investigation. The Ultimate Manager shall enclose with this communication a copy of the investigation assignment, unless serious objections exist to enclose this.
2. The Ultimate Manager shall inform the persons to whom a Report relates about the Report and the investigation, unless this could have a detrimental effect on the investigation or on enforcement.

# [Clause 10. Carrying out the investigation](#_Clause_11._Carrying)

1. The Investigators shall give the Whistleblower the opportunity to voice his concerns. The Investigators shall ensure that this is recorded in writing and present this written record to the Whistleblower for approval and signature. A copy of the record shall be given to the Whistleblower.
2. The Investigators may also interview other persons. The Investigators shall ensure that this interview is recorded in writing and present this written record to the person interviewed for approval and signature. A copy of the record shall be given to the person interviewed.
3. The Investigators may consult and request all documents within the Employer’s organisation that they reasonably consider to be necessary to carry out the investigation.
4. Workers may provide to the Investigators all documents that they consider reasonably necessary for the Investigators to consult in the context of the investigation.
5. The Investigators shall prepare a draft investigation report and give the Whistleblower the opportunity to comment on the draft investigation report, unless serious objections exist.
6. The Investigators shall then approve the draft investigation report. The Investigators shall send the Whistleblower and the Employer a copy of the final investigation report, unless serious objections exist.
7. The Employer shall share a copy of the final investigation with the organisation that is superior to the organisation of the Employer (e.g. HQ).

# Clause 11. Hearing both sides with respect to the investigation report and the position adopted by the Employer

1. The Employer shall give the Whistleblower the opportunity to comment on the final investigation report and the position adopted by the Employer with regard to proposed measures, unless serious objections exist.
2. If in response to the final investigation report or the position adopted by the Employer the Whistleblower states, giving reasons, that the Concerns about Wrongdoing have not been investigated properly or that there are fundamental inaccuracies in the final investigation report, the Employer shall respond to these specific points within four weeks and if necessary set up a new or additional investigation. Clauses 9, 10 and 11 shall also apply to this new or additional investigation.
3. The persons to whom the final investigation report relates will receive notifications corresponding to those received by the Whistleblower under paragraphs 1 to 2, unless this could have a detrimental effect on the investigation or on enforcement.

**CHAPTER 4: EXTERNAL REPORTING**

# [Clause 12. External Report](#_Clause_14._External)

1. After making an internal Report of Concerns about Wrongdoing, the Whistleblower may make an external Report to an external Body if:
	1. the Whistleblower disagrees with the position referred to in Clause 9 (1) and believes that the concerns have been set aside incorrectly;
	2. the Whistleblower has not been notified about the position adopted by the Employer within the period referred to in Clause 11 (2).
2. The Whistleblower may make an external Report of Concerns about Wrongdoing immediately if he cannot reasonably be required to make an internal Report first. The situations in which this applies include where this is provided for by any statutory provision or in the case of:
	1. immediate danger, where a significant and urgent public interest necessitates an immediate external Report;
	2. a reasonable suspicion that the Ultimate Manager is involved in the suspected wrongdoing and there is no Internal Supervisory Board;
	3. a situation in which it is reasonable for the Whistleblower to fear reprisals in connection with making an internal Report;
	4. a clearly identifiable threat of falsification or destruction of evidence;
	5. an earlier Report about the same wrongdoing made in accordance with the procedure that did not put an end to the wrongdoing.
3. The Whistleblower may make the external Report to the External Body. The term External Body shall be understood to include (amongst others):
	1. a body responsible for investigating criminal offences imposed by statue or under statutory authority;
	2. a body responsible for monitoring compliance with any requirements imposed by statute or under statutory authority;
	3. any other competent body to which Concerns about Wrongdoing can be Reported, including the National Body for Whistleblowers (if any).
4. If the Whistleblower makes an external Report, the external reporting should not violate applicable laws.

# CHAPTER 5: PROTECTION AGAINST UNFAIR TREATMENT

# [Clause 13. Protecting the Whistleblower against unfair treatment](#_Clause_5._Protecting)

1. The Employer shall not treat the Whistleblower unfairly in connection with a Report in good faith.
2. Unfair treatment as referred to in paragraph 1 shall be understood to include taking any measure with a negative effect, such as:
3. dismissal of the Whistleblower, except at his own request;
4. early termination of a temporary employment contract or failure to renew the same;
5. failure to convert a temporary employment contract into a permanent employment contract;
6. taking any disciplinary measure;
7. imposing any rule banning the Whistleblower or his colleagues from investigating, speaking about the matter, attending their work station and/or having contact with other persons, unless this rule is necessary for a proper investigation of the Concern about Wrongdoing;
8. compulsory appointment to another position;
9. extending or limiting the Whistleblower’s duties, except at his own request;
10. moving or relocating the Whistleblower, except at his own request;
11. changing the Whistleblower’s work station;
12. withholding a salary increase, incidental remuneration, bonus or the award of allowances;
13. withholding opportunities for promotion;
14. not accepting the Whistleblower reporting sick or recording the Whistleblower as being on sick leave without justification;
15. refusing an application for leave;
16. placing the Whistleblower on leave, except at his own request.
17. There is no unfair treatment as referred to in paragraph 1 and 2 if a measure with negative effect for the Whistleblower is justified on reasonable grounds, not connected with the Report and the measure is proportionate to these reasonable grounds.
18. If the Employer proceeds to take a measure with a negative effect as referred to in paragraph 3 against the Whistleblower within a short period following a Report being made, he shall give a written justification as to why he considers this measure necessary and why this measure is not connected with the Report.
19. The Employer shall ensure that the Whistleblower’s managers and colleagues refrain from any form of unfair treatment in connection with the Report in good faith. This includes the following:
	1. bullying, ignoring and excluding the Whistleblower;
	2. making unfounded or disproportionate allegations about the performance of the Whistleblower;
	3. imposing anything that amounts to a ban on the Whistleblower or his colleagues from investigating, speaking about the matter, attending their work station and/or having contact with other persons, regardless of how it is presented;
	4. intimidating the Whistleblower by threatening to take specific measures or actions if he proceeds with his Report.
20. The Employer shall speak to any Workers who treat the Whistleblower unfairly about their actions and may give them a warning or take disciplinary measures against them (including, potentially, a termination of the (employment) contract).
21. If the Whistleblower in bad faith made a Report or did not properly report the Concerns about Wrongdoing in line with this Whistleblower Policy, the Employer may take disciplinary measures against the Whistleblower (including, potentially, a termination of the (employment) contract).

# [Clause 14. Preventing unfair treatment of the Whistleblower](#_Clause_6._Preventing)

1. The Contact Person appointed under Clause 8 (6) shall immediately discuss with the Whistleblower the risks of unfair treatment that exist, how those risks can be reduced and what the Whistleblower can do if he believes that he is being treated unfairly. The Contact Person shall ensure that this is recorded in writing and present this written record to the Whistleblower for approval and signature. A copy of the record shall be given to the Whistleblower.
2. If the Whistleblower believes that he is being treated unfairly, he can discuss this immediately with the Contact Person. The Contact Person and the Whistleblower shall also discuss what measures can be taken to prevent unfair treatment. The Contact Person shall ensure that this is recorded in writing and present this written record to the Whistleblower for approval and signature. The Contact Person shall send this record to the Ultimate Manager immediately. A copy of the record shall be given to the Whistleblower.
3. The Ultimate Manager shall ensure that the measures necessary to prevent unfair treatment are taken.

# [Clause 15. Protecting others involved against unfair treatment](#_Clause_7._Protecting)

1. The Employer shall not treat the Advisor unfairly due to his role as Advisor to the Whistleblower.
2. The Employer shall not treat the Confidential Integrity Advisor unfairly due to his carrying out the duties described in this policy.
3. The Employer shall not treat the Contact Person unfairly due to his carrying out the duties described in this policy.
4. The Employer shall not treat any Investigators unfairly due to their carrying out the duties described in this policy.
5. The Employer shall not treat a Worker who is interviewed by the Investigators unfairly in connection with making a statement in good faith.
6. The Employer shall not treat a Worker unfairly in connection with his provision to the Investigators of documents that he reasonably believes to be relevant to the investigation.
7. On the persons referred to in paragraphs 1 to 6 of this Clause, Clause 13 also applies.

# [Clause 16. Dealing confidentially with the Report and the identity of the Whistleblower](#_Clause_8._Dealing)

1. The Employer shall ensure that the information concerning the Report is stored in such a way that it is only physically and electronically accessible to the persons involved in dealing with this Report.
2. No person involved in dealing with a Report shall disclose the identity of the Whistleblower without the explicit written consent of the Whistleblower and each such person shall deal confidentially with the information concerning the Report.
3. If Concerns about Wrongdoing are reported via the Confidential Integrity Advisor and the Whistleblower has not given permission for his identity to be disclosed, all correspondence regarding the Report shall be sent to the Confidential Integrity Advisor and shall immediately be passed on to the Whistleblower by the Confidential Integrity Advisor.
4. No person involved in dealing with a Report shall disclose the identity of the Advisor without the explicit written consent of the Whistleblower and the Advisor.

# [Clause 17. Internal investigation into unfair treatment of the Whistleblower](#_Clause_15._Internal)

1. A Whistleblower who believes that he has been unfairly treated in connection with making a Report may request the Ultimate Manager to carry out an investigation into the way in which he is treated within the organisation.
2. Clauses 9, 10 and 11 shall also apply the investigation in paragraph 1.

**CHAPTER 6: MISCELLANEOUS**

# [Clause 18. Publication, annual reporting and evaluation](#_Clause_16._Publication,)

1. The Ultimate Manager shall ensure that this policy is published on the intranet and made publicly available on the Employer’s website.
2. The Ultimate Manager shall prepare an annual report concerning the approach to dealing with Reports of Concerns about Wrongdoing and the implementation of this policy. This report will be shared with KWE Group Risk Management Committee.

# Clause 19. Entry into force of policy

1. This Whistleblower Policy shall enter into force on **Thursday 25th October 2018.**
2. The Employer reserves the right to make any changes and amendments to Whistleblower Policy that it considers necessary at its sole discretion. The Employer may also vary this policy, as appropriate in any case.

**Clause 20. Compatibility with local law**

1. At all times all actors involved in this Whistleblower Policy should act in line with local laws that apply to the respective Employer and Whistleblower.
2. In the event of any conflict, ambiguity or discrepancy between the provisions of this Whistleblower Policy on the one hand and local law that applies to the respective Employer on the other hand, the Employer shall procure that the invalid provision shall be replaced by a new, valid provision which approximates as closely as possible the intention of the invalid provision.

**ANNEX 1**

This Whistleblower Policy applies to the following Employers:

1. Kintetsu World Express (E.A) B.V.
2. Kintetsu World Express (Benelux) B.V.
3. Kintetsu World Express (Deutschland) GmbH.
4. Kintetsu World Express (U.K.) Ltd
5. Kintetsu World Express (Ireland) Ltd.
6. Kintetsu World Express (France) S.A.S.
7. Kintetsu World Express (Italia) S.R.L.
8. Kintetsu World Express (Czech) s.r.o.
9. Kintetsu World Express (Sweden) AB
10. Kintetsu World Express (Switzerland) Ltd.
11. Kintetsu World Express South Africa (Pty) Ltd.
12. Kintetsu World Express (Middle East) FZE
13. Kintetsu World Express Middle East Logistics L.L.C.
14. Kintetsu World Express (RUS), Inc. LLC
15. Kintetsu World Express (Saudi Arabia) Ltd.

**ANNEX 2**

National Body for Whistleblowers as described in clause 1 of this Whistleblower policy refers to the following bodies:

1. Bahrain: Not applicable
2. Belgium: Not applicable
3. Czech Republic: Not applicable
4. France: Not applicable
5. Germany: Not applicable
6. Ireland: Not applicable
7. Italy: Not applicable
8. Luxembourg: Not applicable
9. Russian Federation: Not applicable
10. Saudi Arabia: Not applicable
11. South Africa: Not applicable
12. Sweden: Not applicable
13. Switzerland: Not applicable
14. The Netherlands: the **House for Whistleblowers** as described in Section 3 House for Whistleblowers Act.
15. United Arab Emirates: Not applicable
16. United Kingdom: Not applicable

**ANNEX 3**

1. The Whistleblower can contact the internal Confidential Integrity Advisor as follows:

|  |  |
| --- | --- |
| Country | Reporting window |
| EAHQ | Alison Osmond |
| Benelux | Diana Defoe |
| Germany | Michaela Fritsch/ Michael Schulte |
| France | Laureen Warusfel |
| Italy | Cristina Minelli |
| UK | Arusha Patel |
| Ireland | Sylvia Smyth |
| Czech | Alison Osmond |
| Switzerland | Anita Koulis |
| Sweden | Alison Osmond |
| Russia | Yulia Albitskaya |
| South Africa | Ruth Russell |
| Middle East | Mamta Shukla |
| Saudi Arabia/Bahrain | Alison Osmond |

1. The Whistleblower can contact the external Confidential Integrity Advisor as follows:

Alison Osmond or whistleblower@ea.kwe.com

**ANNEX 4**

VERSION CONTROL

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| --- | --- | --- | --- | --- |
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