



NYXOAH SA

WHISTLEBLOWING POLICY IN ACCORDANCE WITH THE BELGIAN WHISTLEBLOWING ACT

Approved by the Board of Directors of Nyxoaah SA on 22 December 2023
Effective as of 22 December 2023

WHISTLEBLOWING POLICY
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1 OBJECTIVE

Employees of Nyxoah can report concerns at any time to their supervisor, the HR department or the Legal department.

In addition, Employees and Third Parties of Nyxoah may report Information on Breaches through the Internal Reporting Channel at any time. This Policy regulates the operation and use of the Internal Reporting Channel.

While this Policy operates independently from the Nyxoah Code of Conduct (under which a whistleblower compliance hotline is available to report breaches of the Code of Conduct), Employees of Nyxoah may also use the Internal Reporting Channel to report breaches of the Code of Conduct.

2 SCOPE

This Policy is valid for the operation and use of the Internal Reporting Channel of Nyxoah.

3 DEFINITIONS

Breach or Breaches	Acts or omissions that (i) are unlawful and relate to the policy areas belonging to the material scope of this Policy or (ii) go against the purpose or application of the rules in the policy areas belonging to the material scope of this Policy.
Code of Conduct	The Corporate Code of Conduct and Ethics and Whistleblower Policy of Nyxoah.
Employee	Any person having the status of employee within the meaning of Article 45(1) of the Treaty on the Functioning of the European Union within Nyxoah.
EU Whistleblowing Directive	Directive 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.
Follow-up	Any action taken by the Reporting Manager in respect of an internal Report to verify the accuracy of the allegations made in the Report and to address the reported breach if necessary, including through measures such as an internal preliminary investigation, an enquiry, prosecution, recovery of funds or termination of the procedure.

Information on Breaches	Information, including reasonable suspicions, about actual or potential Breaches, which have occurred or are very likely to occur, as well as attempts to conceal such Breaches.
Internal Reporting Channel	The reporting channel at the level of Nyxoah through which Reporting Persons can report Information on Breaches.
Nyxoah	Nyxoah SA, with registered office at 1435 Mont-Saint-Guibert, Rue Edouard Belin 12, with company number 0817.149.675.
Policy	This policy regarding the Internal Reporting Channel.
Report	The written communication of Information on Breaches.
Reporting Manager	The person who is authorized to receive internal Reports, follow up on internal Reports, maintain communication with the Reporting Person, request additional information from the Reporting Person if necessary and provide him/her with feedback. As of the date of this Policy, the Reporting Manager is An Moonen, General Counsel of Nyxoah.
Reporting Person	The Employee or Third Party who reports or publicly discloses Information on Breaches (internal or external).
Retaliation	Any direct or indirect act or omission in response to an internal or external Report or public disclosure which causes or may cause unjustified detriment to the Reporting Person.
Third Party or Third Parties	Any person, including former Employees and employees of affiliates of Nyxoah, who obtained information about Breaches in a work-related context. This includes temporary agency workers, prospective employees, former employees, contractors, consultants, freelancers, service providers, subcontractors, suppliers, distributors, business partners, shareholders, persons in administrative, management or supervisory bodies of Nyxoah, volunteers, paid and unpaid trainees at Nyxoah, persons working under the supervision and direction of contractors, subcontractors and suppliers or any other person with whom Nyxoah did, does or may do business.
Whistleblowing Act	Act of 28 November 2022 on the protection of reporters of breaches of Union or national law established within a legal entity of the private sector.

4 THE INTERNAL REPORTING CHANNEL

4.1 Material Scope

Reporting Persons can report Information on Breaches within Nyxoah, which fall within the material scope of the EU Whistleblowing Directive and its transposition into Belgian law through the Whistleblowing Act, via the Internal Reporting Channel. Reports may relate to the following areas:

- public procurement;
- financial services, products and markets, prevention of money laundering and terrorist financing;
- product safety and compliance;
- transport safety;
- protection of the environment;
- radiation protection and nuclear safety;
- food and feed safety, animal health and welfare;
- public health;
- consumer protection;
- protection of privacy and personal data, and security of network and information systems;
- combating tax fraud;
- social fraud prevention.

Furthermore, the Internal Reporting Channel is also open to Reports of Information on Breaches damaging the financial interests of the European Union or disrupting the internal market.

Breaches of the Code of Conduct can also be reported through the Internal Reporting Channel.

4.2 Filing a Report through the Internal Reporting Channel

The main principle of the Internal Reporting Channel is the protection of the Reporting Person. Breaches falling within the material scope of this Policy may be reported in writing by Employees and Third Parties.

The Reporting Person can make a Report through the Internal Reporting Channel by clicking on the following link: nyxoah.integrity.complylog.com.

The Internal Reporting Channel allows information to be provided in the name of the Reporting Person or in an anonymous manner (see clause 4.3 of this Policy).

4.3 Reports in the name of the Reporting Person and anonymous Reports via the Internal Reporting Channel

Nyxoah encourages Reporting Persons to submit Reports in the name of the Reporting Person, as investigations can be conducted more quickly and effectively if the Reporting Person's name is known. Nyxoah always guarantees strict confidentiality regarding the identity of the Reporting Person (see clause 7.2 of this Policy).

The Internal Reporting Channel allows anonymous Reports. Any attempt to discover the identity of an anonymous Reporting Person is strictly prohibited.

Anonymous Reports should remain the exception. The decision on anonymity rests solely with the Reporting Person. If the Report is made anonymously, personal data will not be requested at any point during the process. No data should be entered that would allow the Reporting Person to be identified.

4.4 Report receipt and management via the Internal Reporting Channel

The Reporting Manager is responsible for the Follow-up of the Reports received via the Internal Reporting Channel. Non-authorized personnel members do not have access to the Reports.

The Reporting Manager will:

- send an acknowledgement of receipt to the Reporting Person within seven days of receiving the Report;
- maintain communication with the Reporting Person and, if necessary, request further information from him/her;
- ensure diligent Follow-up of the Report, including having the necessary investigations carried out;
- provide feedback to the Reporting Person within a reasonable period, i.e. not exceeding three months from the acknowledgement of receipt (or, if no acknowledgement of receipt was sent to the Reporting Person, three months after the expiry of the seven-day period following the Report).

To ensure communication and support during the investigation, the Reporting Person should regularly check whether any questions/information are pending from the Reporting Manager. The Reporting Manager may request additional information from the Reporting Person to provide diligent Follow-up to the Report. If the Reporting Person fails to provide this information, the Reporting Manager will inform the Reporting Person in writing that due to the Reporting Person's negligence, the feedback cannot be given within the three-month period.

5 FOLLOW-UP

The Reporting Manager shall ensure diligent Follow-up in accordance with clause 4.4 of this Policy. The Reporting Manager will promptly check the accuracy of the Report to take due account of statutory periods and provide timely feedback to the Reporting Person in accordance with clause 4.4 of this Policy. Via communication between the Reporting Person and the Reporting Manager, more information on the allegations made in the Report may be gathered to make the Report more concrete. If necessary, the Reporting Manager will immediately anonymize the personal data in the Report.

Persons to whom a Report relates, will be informed of the allegations made in the Report, if necessary. In doing so, the protection of the Reporting Person's identity shall be ensured. If there is an increased risk that the information provided to the person against whom a Report has been filed may jeopardize the effective investigation of the allegations or the collection of the necessary evidence, informing may be delayed as long as the risk exists.

The Reporting Manager will decide to investigate provided there is sufficient suspicion of a Breach in any of the areas mentioned in clause 4.1 of this Policy. The Reporting Manager will decide who is best suited to investigate the Report. By submitting a Report through the Internal Reporting Channel, the Reporting Person agrees that the Reporting Manager will order the most appropriate person to investigate. In this context, it may be necessary to pass on information to other Employees of Nyxoah or to employees of other companies of the Nyxoah group (for example when the information relates to events in subsidiaries), as well as to external experts and legal or other advisers of Nyxoah.

As few people as possible will be involved in the conduct of the investigation. All investigations are conducted with the utmost confidentiality and in compliance with data protection. Anyone cooperating in the investigation is bound to absolute confidentiality.

6 EXTERNAL REPORT

Although Reporting Persons are encouraged to first use the Internal Reporting Channel, they have the option to report Breaches of the EU Whistleblowing Directive or the Whistleblowing Act to the competent authorities and, where appropriate, to European Union institutions, bodies, offices or agencies.

The authorities competent to receive reports, provide feedback and follow up on reports are listed in article 1 of the Royal Decree of 22 January 2023 designating the competent authorities for the implementation of the Whistleblowing Act.

A list of competent authorities can be found via the following link:

https://www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=2023-01-31&numac=2023040158%0D%0A.

7 PROTECTION OF THE REPORTING PERSONS

7.1 Conditions for protection

Reporting persons are eligible for protection provided:

- (i) They had reasonable grounds to believe that the reported Information on Breaches was accurate at the time of the Report and that information fell within the material scope of this Policy; and
- (ii) They reported information internally, in accordance with clause 4 of this Policy, or externally, in accordance with clause 6 of this Policy, or publicly disclosed information in accordance with the provisions of the Whistleblowing Act.

Provided that the following persons had reasonable grounds to believe that the Reporting Person fell within the scope for protection, the protection measures set out in this section also apply to:

- Facilitators;
- Third parties connected to the Reporting Person who may be subject to retaliation in a work-related context, such as colleagues or family members of the Reporting Person;
- legal entities that are owned by the Reporting Person, for which the Reporting Person works or with which the Reporting Person is otherwise connected in a work-related context.

7.2 Confidentiality

Under no circumstances may the identity of the Reporting Person be disclosed to anyone other than the authorized personnel members responsible for the receipt or the Follow Up of Reports without the Reporting Person's free, express and written consent. This also applies to any other information from which the identity of the Reporting Person can be directly or indirectly deduced.

Notwithstanding the foregoing, the identity of the Reporting Person and any other information from which the identity of the Reporting Person may be directly or indirectly deduced, may only be disclosed if it is a necessary and proportionate obligation under special legislation in the context of investigations by national authorities or judicial proceedings, including to safeguard the rights of defense of the person concerned. Reporting Persons will be informed before their identity is being disclosed, unless such information would jeopardize the related investigations or judicial proceedings. The competent authority or federal coordinator will send the Reporting Persons a written explanation of the reasons for disclosing the confidential information.

7.3 Data protection

The data protection provisions will be observed throughout the reporting process. Personal data in Reports may relate to the person from whom the Report originates and/or to persons named by the Reporting Person.

The Reporting Manager only processes personal data which from an objective point of view are absolutely necessary to verify and investigate the Report. Sensitive personal data, such as ethnicity, political opinions, religious beliefs, trade union membership or data concerning the health or sexual status of the person, will not be processed, unless the Report relates to such data. Personal data that is clearly not relevant to the handling of a specific Report will not be collected, or, if collected unintentionally, will be deleted immediately.

All notes, documentation and system-related protocols which take place as part of the entire whistleblowing process, will be treated confidentially and in accordance with applicable data protection laws and regulations. Personal data in Reports will be retained as long as necessary for the investigation and final assessment, taking into account statutory periods.

The name, position and contact details of both the Reporting Persons and any person to whom the protective measures extend, and of the person concerned, including, where applicable, the company number, shall be retained up to when the reported Breach is time-barred.

The current data protection statement of the whistleblowing system is attached as Annex 1 to this Policy.

7.4 Registration of Reports

Nyxoah shall keep a register of each Report received under this Policy in accordance with clause 7.2 of this Policy regarding confidentiality.

Reports are kept at least for the duration of the contractual relationship, taking into account clause 7.3 of this Policy on the retention of personal data.

7.5 Prohibition on retaliation

Any form of Retaliation against Reporting persons, including threats and attempts, are prohibited.

8 SANCTIONS

The Internal Reporting Channel must be used responsibly and cannot be misused to defame others or to make false claims. Therefore, the Internal Reporting Channel is only open to report information that the Reporting Person is convinced to be true to the best of his/her knowledge.

Reporting Persons who file a Report in good faith will not be disadvantaged in any way.

The Reporting Person who intentionally reported or publicly disclosed false information may be punished in accordance with articles 443 to 450 of the Criminal Code.

Nyxoah reserves the right to sanction the Employee who has intentionally reported or publicly disclosed false information in accordance with the sanctions included in the work rules.

Persons, including Nyxoah, who suffer damage as a result of the Reports or public disclosures are entitled to damages at the expense of the Reporting Person in accordance with contractual or extra-contractual liability rules.

ANNEX

Annex 1: Data protection statement of the whistleblowing system.

ANNEX 1: DATA PROTECTION STATEMENT OF THE WHISTLEBLOWING SYSTEM

Nyxoah will process personal data in a lawful and fair manner, consistent with applicable data protection legislation, including the Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the “**General Data Protection Regulation**” or “**GDPR**”) and the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data (the “**Belgian Data Protection Law**”), as well as any other piece of national legislation implementing GDPR that may become applicable from time to time (together, “**Applicable Data Protection Legislation**”).

Your personal data will be processed by Nyxoah for purposes of processing Reports of Breaches within the material scope as set out in clause 4.1 of the Policy in a secure and confidential manner, whether you are a Reporting Person, a person against whom a Report has been filed, a person mentioned in a Report, or a person involved in the Follow-up of the Report.

Nyxoah is processing your personal data in the context of the legal obligation incumbent on Nyxoah to establish an internal reporting channel and investigate Reports pursuant to the Whistleblowing Act.

The categories of personal data Nyxoah may process about you, to the extent you disclose your identity, are: name, surname, function, phone number, facts reported in the Report, information gathered as part of the Follow-up. In any case, Nyxoah shall only collect and process personal data that are strictly limited and necessary for the handling of Reports. Depending on the scope of the Breach, the facts reported in the Report and the information gathered as part of the Follow-up, Nyxoah may become required, in certain exceptional occasions, to process, but only if the Report relates to such data, special categories of personal data such as ethnicity, political views, religious beliefs, trade union membership or data concerning the health or sexual status of the person. Personal data that are clearly not relevant to the handling of a specific Report will not be collected, or, if collected unintentionally, will be deleted immediately.

If processing of special categories of personal data by Nyxoah becomes necessary for purposes of handling Reports, such processing shall be based on the obligation incumbent on Nyxoah under employment law (article 9.2.b of the GDPR).

Your personal data may be collected either directly from you if you are a Reporting Person, from a Reporting Person or from any person involved in the Follow-up of the Report.

Your personal data will be accessible by the Reporting Manager and it may be necessary, in the context of processing a Report or in the context of a special investigation, to pass on information to other Employees of Nyxoah or to employees of other companies of the Nyxoah group (for example when the information relates to events in subsidiaries), as well as to external experts and legal or other advisers of Nyxoah. The latter may have their registered office in countries outside the European Union or the European Economic Area, where different personal data protection regulations may exist. When passing on information, Nyxoah will always ensure that the applicable data protection regulations are observed. As Nyxoah makes use of the IntegrityLog software for purposes of organizing the Internal Reporting Channel (IntegrityLog being a software licensed to Nyxoah by Euronext Corporate Services

Sweden AB), your personal data will be also processed by Nyxoah's data processor Euronext Corporate Services Sweden AB. Nyxoah and Euronext Corporate Services Sweden AB have signed a data protection agreement to ensure that your personal data will be processed by Euronext Corporate Services Sweden AB in compliance with the GDPR and in a manner that ensures appropriate security of the personal data.

Your personal data will be kept as long as necessary for the investigation and final assessment or the Report, taking into account statutory periods. The name, position and contact details of the Reporting Person and any person to whom the protection measures of clause 7 of the Policy extend, as well as any other person concerned (such as persons against whom a Report has been filed, persons mentioned in a Report or persons involved in the Follow-up of a Report), shall be kept up to when the reported Breach is time-barred. Nyxoah shall keep a record of each Report received under this Policy in accordance with clause 7.2 of the Policy on confidentiality. If the Reporting Person is an Employee or a self-employed person having a contractual relationship with Nyxoah, Reports shall be kept at least for the duration of the contractual relationship between the Reporting Person and Nyxoah, taking into account clause 7.3 of the Policy on the retention of personal data.

In certain occasions, you may be entitled to a right of access, rectification and deletion of data and a right to limit processing. These rights may be exercised by email at privacy@nyxoah.com or by post to Nyxoah SA, Data Protection Officer, Rue Edouard Belin 12, 1435 Mont-Saint-Guibert, Belgium.

You have the right to lodge a complaint with the supervisory authority in the European member state of your habitual residence, your place of work or the place of the alleged infringement of Applicable Data Protection Legislation. In Belgium, this is the Data Protection Authority (<https://www.dataprotectionauthority.be/citizen>).