

# Reporting Privacy Notice

## Introduction

The aim of this Reporting Privacy Notice is to ensure a high level of protection and transparency for all individuals whose personal data will be processed by Oerlikon (i.e. OC Oerlikon Management AG, Pfäffikon and its affiliates) in the frame of a Reporting process.

This Reporting Privacy Notice applies in all countries where Oerlikon operates, in line with our Reporting policy.

Every Oerlikon's employee, trainee, volunteer, apprentice, contractor, consultant, applicant, shareholder, member of the management, administrative or supervisory board, legal representative, partner, supplier, business contact **must read this Reporting Privacy Notice before Reporting wrongdoings.**

Important note: Reporting wrongdoings, if encouraged by Oerlikon, remains purely **voluntary**. You can Report without mentioning your name or any other information about yourself in the Report, if you wish. If your Report contains Personal data, please make sure it is limited to what is necessary to understand or resolve the case.

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## 1. Definitions

**Processing:** means any operation or set of operations performed on Personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**Personal data:** means any information that may, directly or indirectly, identify an individual.

**Sensitive Personal data:** is any Personal data which, if misused or accessed by unauthorized people, may have serious consequences for the rights, safety, freedom of individuals. Which Personal data is considered sensitive must be analyzed based on the laws of the country where the legal entity Processing this data is located, as the notion of sensitive Personal data varies from a country to another. Within the EU/EEA and Switzerland, are expressly considered sensitive: Personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, health data, sex life or sexual orientation, but also criminal data. Unique national identification numbers are considered sensitive in many countries across the Globe.

## 2. Who will be responsible for Processing Personal data?

The Oerlikon entity legally responsible for the collection and use of Personal data is the employer of the Reporting person, when the wrongdoing is Reported to the employer and managed entirely by its personnel without support from OC Oerlikon Management AG, Pfäffikon. On the contrary, OC Oerlikon Management AG, Pfäffikon and its affiliates (i.e. the employer of the Reporting person and (if different) the Oerlikon entity impacted by the wrongdoings), are jointly responsible for the collection and use of Personal data when the Report is managed centrally by the Global Head of Compliance and the Head of Internal Audit for the benefit of any affiliate of OC Oerlikon Management AG <sup>1</sup>.

## 3. What is the purpose for Processing Personal data?

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<sup>1</sup> OC Oerlikon Management AG has set up a Reporting policy, in collaboration with OPP and OSS Compliance and Legal departments. It has been agreed and implemented by its affiliates for their individual benefit and the common interest of the group. Wrongdoings may often impact several entities of the group at the same time, and resolutions may require a coordinated and consistent approach within the group. Also experience from the resolution of Reports at central level will benefit to all entities of the Oerlikon group.

Oerlikon Processes Personal data in order to manage in a safe and efficient manner all Reports of wrongdoings made under the Reporting policy - which includes the:

- analysis, storage and follow up of Reports including exclusion of irrelevant Reports;
- investigation of Reported facts (where relevant);
- necessary actions to stop the wrongdoings, preserve evidence and defend Oerlikon's rights and assets;
- protect the privacy, rights and safety of the Reporting person, witnesses and third parties mentioned in the Report as well as the rights of the Accused person.

#### **4. What are the legal grounds for Processing Personal data?**

Processing Personal data for the management of Reports is based on:

- a legal obligation<sup>2</sup>; to provide safe Reporting channels to the personnel and business contacts. This legal obligation exists within the EU/EEA<sup>3</sup>, based on their national legislation implementing the EU Directive about Whistleblowing, and in many other countries across the Globe;
- a legitimate interest of all Oerlikon entities to give the possibility to their personnel and business contacts to speak up and Report wrongdoings to ensure a lawful, ethical and fair way to make business<sup>4</sup>. It must be analyzed, on a case by case basis, whether the rights and interests of an individual, based on his personal situation for example, do not overweight the legitimate interest of Oerlikon to process his Personal data. For example, when the Report covers facts of minor importance, it is relevant to promptly delete related Personal data in a Report and not take them into account;
- the necessity, in extreme cases, to protect the vital interests of the Reporting person or other persons<sup>5</sup>;
- in residual cases, where sensitive Personal data is provided in a Report, consent is the legal ground, as Reporting is voluntary as well as the provision of any Personal data in there. If not necessary to the resolution of the case, it will be immediately deleted. Please think twice before revealing sensitive Personal data about yourself or anyone else if not necessary for us to understand or resolve the case or protect you;

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<sup>2</sup> GDPR, article 6.1.c)

<sup>3</sup> Directive (EU) 2019/1937 on the protection of persons who report breaches of EU law

<sup>4</sup> GDPR, article 6.1.f)

<sup>5</sup> GDPR, article 6.1.d)

- In countries leveraging exclusively on consent, consent may be used as legal ground given that the Reporting procedure is totally voluntary, and that employees and business contacts must read this Privacy Notice before Reporting.

## **5. Which categories of Personal data will be processed and where the data will come from?**

Personal Data Processed under the Reporting procedure will be limited to those:

- mentioned in the Reports including any piece of information, evidence provided with the Report or;
- resulting from investigations about Reported facts.

In any case, only Personal data strictly necessary to understand, verify, clarify, and resolve Reported Facts will be Processed. Personal data mentioned in unfounded or out of scope Reports or which are simply not necessary will be promptly deleted and not considered, in particular, if sensitive.

Processed Personal data will generally be limited to:

- o identity and contact details of the Reporting person (if the Report mentions such information);
- o and people mentioned in the Report, relationship between Oerlikon and these people ;
- o facts (suspected or witnessed);
- o actions to be taken/already taken in relation with people mentioned in the Report to either protect them and/or stop the wrongdoings.

However, the Reporting person can Report without providing his/her name or any other information identifying her notably when she Reports through the Speak up line, as she can let a message by phone or by internet without any mandatory personal data being required. In any case, any Reporting person using the Speak up line will receive a Case number from People Intouch so that she can follow up on her Report, but this number is related to the Report not an individual. That is to say that Oerlikon and People Intouch will not be able to identify the Reporting person thanks to this number. The Case number is used only to enable the follow up of the Report as required by EU Regulations.

## **6. What are the data protection rights of the Reporting person and other individuals mentioned in the Reports and which specific**

## measures are in place to protect their privacy, rights and safety?

### a. Reporting person

The privacy, rights and safety of the Reporting person are ensured from the moment she makes a Report in good faith and during the entire Reporting procedure.

The Reporting person has the rights to:

- decide to Report or not;
- Report anonymously or not;
- receive an acknowledgement of receipt of her Report within 7 days maximum, notably when she uses the Speak Up line or online platform;
- access and obtain a copy of the transcript or minutes of her Report, obtain its rectification:
  - o when the Reporting person uses the Speak Up system: she can exert that access right and read again her Report by logging back into the Speak Up system (by using her personal access code). If she wants to obtain any rectification, she must contact the Global Head of Compliance either by email, phone or through Speak Up.
  - o If the Reporting person did not use the Speak Up system, she must contact directly the person to whom she Reported directly the wrongdoings to exert her rights. For example, in case of face to face meeting with the Global Head of Compliance and/or the Head of Internal Audit, the Reporting person can request to them the complete and accurate record of the meeting kept in durable form..
- know which Personal data Oerlikon holds about her, obtain detailed information about how her data is used<sup>6</sup> and who has access to it, she can obtain a copy of all her Personal data, obtain its correction or rectification if incorrect or incomplete. The Reporting person can exert this right by sending an email to the Global Head of compliance or to the competent person to whom she Reported wrongdoings;
- object to the use of her Personal data, based on grounds linked to her personal situation, except if Oerlikon (i) has compelling legitimate grounds to Process it that override the rights and freedoms of the witness (ii) needs it to establish, protect or defend its rights or (iii) comply with applicable law;

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<sup>6</sup> All information mentioned in articles 13 and 14 of GDPR must be provided.

- have her identity protected and kept strictly confidential by Oerlikon even after closure of the case, provided that the disclosure of her identity to a competent authority or court is not required by applicable law;
- be protected by Oerlikon against any retaliation measure, every time she Reports in good faith, and even if the Reported facts are not correct at the end or not investigated or unfounded or out of scope of the Reporting procedure;
- request the deletion of her Personal data provided that Oerlikon does not have to keep it for legal reasons. She can also request Oerlikon to stop using her Personal data until clarification (but not delete it), if she considers that her Personal data have been used in violation of applicable data protection law;
- has the right to contact the local Data Protection Officer or the Global Data Privacy and Data Compliance Officer (at [privacy.corporate@oerlikon.com](mailto:privacy.corporate@oerlikon.com)) for any concern in relation with her Personal data . She also has the right to complain with her local Data Protection Authority if she believes that her Personal data have been misused during the Reporting procedure.

**If the Reporting person uses the Speak up phone line or platform to Report: she must keep strictly confidential and in a secure place, the Case number that she will receive from People Intouch when she will Report online, as she will need that number to follow up on her Report and request a copy of it. This Access number must in no way be shared with others. This number does not enable People Intouch or Oerlikon to identify the Reporting person, it is related to a Report not an individual.**

### **b. Accused person**

The Accused person has the right to:

- benefit from the presumption of innocence as long as her liability is not proved,
- be informed of the Reported accusations against her, within 1 month maximum from receipt of a Report<sup>7</sup>. By exception, when such notification may seriously jeopardize the efficiency of the investigation, the protection of evidence or the entire Reporting process, it must be provided as soon as those risks do not exist anymore. This will require a case by case analysis. This notification must cover all information mentioned in the “Protection” chapter of the Reporting Policy;

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<sup>7</sup> Article 14. 3.a ) GDPR.

- defend her rights and present her arguments once informed of the Reported accusations and in any disciplinary procedure;
- get a copy of Personal data relating to her and require the deletion or correction of any incorrect Personal data about her (the Accused person will be able to exert these rights once informed about the Reported accusations). She does not have the right to object to the use of her Personal data, except if she demonstrates that the Reported facts are inexistent or do not involve her, or if the concerned Personal data are incorrect or unnecessary to the resolution of the case.
- have her reputation, privacy protected and her identity kept confidential by those in charge of managing the Reports as long as the liability of the Accused person is not proved. In this context, the identity of the Accused person cannot be revealed to the line manager, legal representatives and board members of the employer of the concerned Accused person, as long as her liability is not proved.
- contact the local Data Protection Officer or the Global Data Privacy and Data Compliance Officer (at [privacy.corporate@oerlikon.com](mailto:privacy.corporate@oerlikon.com)) for concerns in relation with the use of her Personal data. She also has the right to complain with her local supervisory authority (data protection authority), if she believes that her Personal Data have been used in violation of applicable data protection law.

### **c. Witnesses and any other person mentioned in the Reports**

The witnesses and other third parties mentioned in a Report have the right to:

- decide to speak or not;
- have their identity protected and kept strictly confidential by Oerlikon and not revealed to anyone without their express prior consent, provided that the disclosure of their identity to local authorities or courts is not required by applicable law;
- know whether Oerlikon holds Personal data about them and how and why it is used<sup>8</sup> and who has access to it;
- obtain a copy of their Personal data and obtain its correction or rectification, if incorrect or incomplete. They can also object to the use of their Personal data based on legitimate interests or consent, for reasons linked to their personal situation, and in that case Oerlikon will have to delete and stop using it except if it has an overriding legitimate interest to keep it, as a legal obligation or the necessity to protect the vital interest of someone;

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<sup>8</sup> All information mentioned in articles 13 and 14 of GDPR must be provided.

- Object to the use of their Personal data, based on grounds linked to their personal situation that would outweigh the legitimate interest of Oerlikon and request the deletion of their Personal data provided that Oerlikon does not need to keep it anymore for legal reasons. They can also request Oerlikon to stop using their Personal data (but not delete it) until clarification before a court or supervisory authority, if they believe that their Personal data have been used in violation of applicable data protection law;
- contact the local Data Protection Officer or the Global Data Privacy and Data Compliance Officer ( at [privacy.corporate@oerlikon.com](mailto:privacy.corporate@oerlikon.com)) for any concern in relation with their Personal data
- complain to their local Data Protection Authority if they believe that their personal data have been violated during the Reporting procedure.

## **7. Who will have access to this Personal data?**

Personal data will be accessible to:

- Oerlikon's external provider People Intouch: if you Report through the Speak up phone line or online platform. People Intouch will receive the Report and any related evidence /piece of information provided with the Report on behalf of Oerlikon. It will have, notably, to collect Reports, transcript phone calls in writing, translate where necessary, upload and store all Reports in the Oerlikon's management space of its online platform and inform Oerlikon of those new Reports;
- any person to whom the Reporting person would have decided to Report directly, in line with the Reporting Policy, as the Compliance or Legal department or her Human Resources manager;
- The Global Head of Compliance and Head of Internal Audit will have access to all Reports and related information and evidence as they will be in charge of managing them;
- The Police and/or Courts in case of criminal investigation or lawsuit, local competent public authorities;
- The board members, legal representative, line manager and HR department of the employer will be informed of the identity of the Accused person only if wrongdoings are proved as well as the liability of the Accused person, in order for the employer to take any necessary measures towards the concerned Accused person. Works council will also be informed if legally required.

## **8. Will your personal data be transferred overseas?**

The Reports sent through the Speak up phone line or online platform are stored within the EU by People Intouch and are managed in Switzerland by the Head of Internal Audit and the Global Head of Compliance.

In the case where the Report would concern people located outside the EU/EEA or Switzerland, no Personal data should normally have to be transferred outside of the EU/EEA or Switzerland except (i) where necessary for the investigation but with the prior consent of the Reporting person, concerned witness or Third party; (ii) where it is legally required to disclose it to local authorities and courts or (iii) where it is absolutely necessary to protect vital interests of people.

Within the group, we have an Intra Group Data Transfer and Processing Agreement (IGDTPA) that protects Personal data transferred overseas within the group and is based on the Standard Contractual Clauses of the European Commission.

However, when a country requires to primarily store locally personal data collected locally, including those in the Report, your Report will be primarily stored locally before being transferred to the central system in the EU, for legal reasons.

### **9. Will Oerlikon make use of automated decision making?**

No. No software or technology dictates or influence our decisions. Software, online platforms, are just tools used to store and classify relevant information. No system providing automatic decisions or scoring is used. Oerlikon bases all its actions on human decisions, taken thoroughly, based on objective elements of proof, analysis of risks, applicable laws, our Code of Conduct, the presumption of innocence, the right to a fair trial, data privacy and employment law principles as fairness, transparency, data accuracy and with the safety of our people in mind.

### **10. How long will your personal data be retained by Oerlikon?**

The general principles are that: (i) only relevant Personal data is kept, (ii) Personal Data is not retained longer than necessary to fully manage a Report (i.e. understand and analyze a Report, investigate where necessary and resolve the concerned issue, which may include actions before courts and/or disciplinary actions).

More precisely, please note that:

- Irrelevant Reports (i.e. out of scope of the Reporting Policy or unfounded) or irrelevant Personal data are deleted immediately.
- Reports for which no judicial or disciplinary procedure is necessary are deleted within 2 months from the end of the verification/ investigation phase.
- Reports leading to a litigation/disciplinary procedure are deleted once all statute of limitation periods have expired.

## **11. Are your data safe and secure?**

Oerlikon has taken organizational and technical measures to protect the security and confidentiality of your personal data:

- A Data Processing Agreement has been signed with our supplier People Intouch who is in charge of receiving and storing Reports made through the Speak up phone line or platform;
- Limited and protected access rights to Reports: only the Head of Internal Audit and our Global Head of Compliance can access the Reports made through the Speak Up phone line or online platform. More generally the competent person to whom you have Reported ( based on the Reporting policy) is required to keep your Report confidential ;
- The Reporting Policy poses as an obligation for all Oerlikon entities to protect the privacy, rights and safety of the Reporting person, witnesses and the Accused person and prohibit any retaliation measure when a Report is made in good faith.
- The Reporting person is provided with a Case number when she Reports to the Speak up phone line or online platform. This Access number enables her to follow up the case. Nobody else has this Access number which means that nobody else can follow up on her Report.

## **12. Changes to the Privacy Notice**

Any change to the Reporting Privacy Notice will be duly communicated in our intranet, online Reporting platform, to our works councils (or any equivalent body) where legally required, our employees and business contacts. In any case, the aim of our changes will never be to jeopardize the rights and privacy of the Reporting person, Accused person, witnesses or any third party mentioned in any Report or exempt us from our legal obligations.