

Protected Disclosure Policy

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1. Background

The Charities Regulatory Authority (the “**Charities Regulator**”) is Ireland's national statutory regulator for charitable organisations and is an independent authority established in accordance with the Charities Act 2009¹, as amended (the “**2009 Act**”). The key functions of the Charities Regulator are set out in Section 14 of the 2009 Act² which includes the requirement to establish and maintain a register of charitable organisations and to ensure and monitor compliance with the 2009 Act.

This Policy is an internal document prepared to assist all Charities Regulator board members, and sub-committee members, external members and staff to understand the obligations of the Charities Regulator as required by the Protected Disclosures Act 2014, as amended by the Protected Disclosures Act 2022 (the “**Disclosures Act**”). Under section 21 of the Disclosures Act the Charities Regulator shall have regard to guidance issued by the Minister in relation to Protected Disclosures. The current guidance was issued in November 2022 and the Charities Regulator has had regard to that guidance when preparing this document.³

2. Policy Statement

The Disclosures Act protects workers⁴ from retaliation if they speak up about wrongdoing in the workplace. Under the Disclosures Act, all public sector organisations are required to establish and maintain procedures for making protected disclosures by their staff.

The Charities Regulator is strongly committed to supporting a responsible and ethical organisational culture. We are a member of Integrity at Work (IAW)⁵ - a multi-stakeholder initiative promoting supportive working environments for anyone reporting concerns of wrongdoing.

The Charities Regulator aims to foster a working environment where workers feel comfortable in raising concerns relating to potential wrongdoing within our office and to provide the necessary

¹ Available from: <http://www.irishstatutebook.ie/eli/2009/act/6/enacted/en/html>

² Available from: <http://www.irishstatutebook.ie/eli/2009/act/6/enacted/en/print#sec14>

³ Guidance is called “Interim guidance for public bodies and prescribed persons” and available from [gov.ie](http://www.gov.ie) - [Protected Disclosures Act: Information for Citizens and Public Bodies \(www.gov.ie\)](http://www.gov.ie)

⁴ ‘Worker’ is defined in the Disclosures Act and includes staff, contractors, consultants, agency staff, interns, board members, shareholders, volunteers, unpaid trainees and job applicants.

⁵ Available from : <https://integrityatwork.ie/>

supports for those that raise genuine concerns. This sort of working environment reflects our core values, especially those of fairness, accountability and respect.

In the spirit of these values, all workers should feel comfortable about raising concerns locally with their line manager or that person's manager.

We recognise, however, that this may not always be the case. You may feel uncomfortable raising the concern locally; you may be unhappy with the way in which your concern was dealt with locally; or, you may just want the additional advice and protection that comes with a more formal process. This policy is designed to reassure workers of our commitment to the protected disclosure process; to explain how it works; and to set out (in the attached procedures), the process involved.

Under our Protected Disclosure policy, you can raise a concern centrally with any one of the designated recipients.

For our part, we will listen to your concerns and we will assess the issue carefully. We will ensure that the appropriate investigation takes place (in circumstances where an investigation is required) and we will keep you informed of progress.

At all times we will respect the confidentiality of your disclosure and will protect you from penalisation. With the exception of the specific instances set out in the Disclosures Act⁶ we will protect your identity (see section 3.12 below - How Is My Identity Protected?).

3. Procedures for the making of Protected Disclosures

Overall responsibility for these procedures rests with the Board of the Charities Regulator. Day-to-day responsibility for the operation of the procedures is delegated to the Corporate Affairs Unit.

⁶ Available from eISB website: <http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en/html>

Scope of Procedures

3.1 To whom do the procedures apply

The procedures apply to all workers as defined in section 3 of the Disclosures Act. This includes current and former employees of the Charities Regulator whether permanent or temporary, retired employees, ex-workers, independent contractors, consultants, trainees, volunteers, job applicants and agency workers and Board and Committee members.

Definitions

3.2 What is not covered by these procedures?

These procedures do not cover matters of personal interest, e.g. complaints or personal grievances. Such concerns should continue to be reported to HR under relevant HR policies.

A disclosure is not a protected disclosure where the individual knowingly conveys false disclosures or information. Any such allegations may result in disciplinary or other appropriate action.

3.3 What is a Protected Disclosure?

A protected disclosure can be described as a *disclosure of relevant information* (for further information, see 3.4 below) which, in the *reasonable belief* of the worker (see 2.5 below) tends to show one or more *relevant wrongdoings*, (see 3.6 below) and came to the attention of the worker *in a work related context* (see 3.8 below) and is disclosed in the manner prescribed in the Disclosures Act. A worker making a protected disclosure must also have a reasonable belief that the information (and any allegation contained within it) tends to show a relevant wrongdoing. In the following sections we will look more closely at these expressions to explain what they mean.

3.4 What do we mean by disclosure of information?

A protected disclosure should contain 'information' which tends to show one or more relevant wrongdoings. The ordinary meaning of disclosing information is conveying facts, such as stating that particular events have occurred. This is different to simply making an allegation on the basis of a suspicion that is not founded on anything tangible.

You should not investigate matters yourself to find proof of your suspicion and should not endeavour to do so. All you need to do is disclose the information you have to one of the designated recipients (see section 3.14 below for list), based on a reasonable belief that it discloses a wrongdoing – See 3.10 below to make a disclosure.

3.5 What is a ‘Reasonable Belief’?

You must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. The term ‘reasonable belief’ does not mean that the belief has to be correct.

You may have reasonable grounds for believing that some form of wrongdoing is occurring based on your observations but it may subsequently turn out that you were mistaken.

You will not be penalised simply for getting it wrong. The important thing is that you had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

However, a disclosure made in the absence of a reasonable belief will not attract the protection of the Disclosures Act and, may result in disciplinary action against the individual making the disclosure (the “**Reporting person**”).

3.6 What wrongdoing can be the subject matter of a protected disclosure?

Section 5(3) of the Disclosures Act sets out relevant wrongdoings as follows:

- (a) The commission of an offence;
- (b) The failure of a person to comply with any legal obligation, other than one arising under the worker’s contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services;
- (c) A miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) A danger to the health and safety of any individual;
- (e) Damage to the environment;
- (f) An unlawful or otherwise improper use of funds or resources of a public body, or of other public money;
- (g) An act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- (h) That a breach has occurred, is occurring or is likely to occur, or

- (i) That information tending to show any matter falling within any of the preceding paragraphs **(a)** to **(h)** has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

Note that it does not matter whether the suspected wrongdoing occurred, is occurring or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other relevant country or territory.

A matter concerning interpersonal grievances exclusively affecting a reporting person does not constitute a relevant wrongdoing. If a staff member has a grievance it may be raised under the grievance policy in the staff handbook.

3.7 What do we mean by in a work related context?

The information must come to your attention in a work-related context. A work-related context means current or past work activities in the public or private sector through which, irrespective of the nature of these activities, the reporting person acquires information concerning a relevant wrongdoing, and within which the reporting person could suffer penalisation for reporting the information. However, if the disclosure involves either the employee's or the employer's function to detect or investigate or prosecute, the protections of the Disclosures Act do not apply, unless it involves an act or omission on the part of the employer.

Making a Protected Disclosure

3.8 Internal or External Disclosure?

Under the Disclosures Act, protected disclosures can be made within the Charities Regulator and outside of it. In most circumstances it is preferable to make an internal disclosure. The Charities Regulator is committed to supporting and facilitating the making of internal disclosures in order to:

- ensure early detection and remediation of potential wrongdoing;
- provide the safest means for workers to make a disclosure;
- build a responsible and ethical organisational culture; and
- demonstrate good governance and accountability.

You are strongly encouraged therefore to use the internal channels (see section 3.14 on Internal Disclosures below) to make a disclosure.

Note that you may avail of external channels to make a disclosure (see section 16 below) but you should be aware that higher standards generally apply in terms of gaining the protections of the Disclosures Act when a disclosure is made externally.

3.9 Should I be using the Protected Disclosure route at all?

The Department of Public Expenditure and Reform (**DPER**) has provided financial assistance to Transparency International Ireland⁷ to operate a ‘Speak Up’ helpline. You can call the helpline for free, confidential and expert advice at 1 800 844 866 or download the free guide ‘Speak Up Safely’ from their website.⁸ We encourage you to get professional advice before you decide to use the Protected Disclosure route.

3.10 How do I make the Disclosure?

You can make a disclosure verbally or in writing (electronically or manually). Written disclosures are preferable as there is less scope for misunderstanding.

Where you make a disclosure verbally, it will probably be documented by the recipient and, where practicable, you will then be asked to verify the documented disclosure.

Disclosures should:

- (a) State that the disclosure is being made under the Disclosures Act;
- (b) Provide the Reporting Person’s name, position in the organisation, place of work and confidential contact details;
- (c) Provide relevant information in respect of the relevant wrongdoing;
- (d) Provide the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- (e) Indicate whether or not the wrongdoing is still ongoing;
- (f) Indicate whether the wrongdoing has already been disclosed and if so to whom, when and what action was taken; and

⁷ Transparency International is a global independent anti-corruption NGO.

⁸ Transparency International Ireland website - <https://transparency.ie/helpline>

(g) Provide any other relevant information.

3.11 How am I protected when I make a disclosure

When you make a protected disclosure in accordance with the Disclosures Act and under the guidance of these procedures, you will be protected from penalisation. Penalisation of a person who makes a protected disclosure will not be tolerated by the Charities Regulator and will lead to disciplinary proceedings against the perpetrator where warranted.

The Disclosures Act defines penalisation as any act or omission that affects a worker to the worker's detriment and in particular includes:

- (a) Suspension, lay-off or dismissal;
- (b) Demotion or loss of opportunity for promotion or withholding of promotion;
- (c) Transfer of duties, changes of location of place of work, reduction in wages or changes in working hours⁹;
- (d) The imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- (e) Coercion, intimidation, harassment or ostracism;
- (f) Discrimination, disadvantage or unfair treatment;
- (g) Injury, damage or loss, withholding of training, threat of reprisal, a negative performance assessment or employment reference;
- (h) Failure to convert a temporary contract to a permanent one where a legitimate expectation that he or she would be offered permanent employment existed;
- (i) Failure to renew or early termination of a temporary employment contract;
- (j) Harm, including to the workers reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- (k) Black-listing on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry;
- (l) Early termination or cancellation of a contract for goods or services;
- (m) Cancellation of a licence or permit, and

⁹ Jurisprudence, subsequent to the enactment of the legislation, clarifies that transfer of duties in the Civil Service context does not necessarily amount to penalisation under the Act (source: DPER Guidelines).

(n) Psychiatric or medical referrals.

Sections 11-16 of the Disclosures Act provide for specific remedies for workers who are penalised for making a protected disclosure. If you believe you have been penalised for making a disclosure of wrongdoing in accordance with these procedures, you should inform one of the designated recipients in order to seek redress. The Charities Regulator will assess and investigate any instances of penalisation and will take appropriate action (which may include disciplinary action against co-workers) where necessary.

3.12 How is my identity protected?

There is a legal obligation on the recipient of a disclosure and any person to whom a disclosure is referred, to keep the Reporting Person's identity confidential. The Charities Regulator will take all reasonable steps to treat disclosures made in accordance with these procedures in a confidential and sensitive manner. Your identity will not be disclosed without your consent, unless it is required by law or necessary for the effective investigation of the relevant wrongdoing.

A Reporting Person whose identity has been compromised can take an action if the Reporting Person suffers any loss by reason of such a compromised identity. Those involved in the processing of a protected disclosure will be required to ensure that, in relation to document security and filing (whether digital or manual) the Reporting Person's identity is protected.

The recipient of a disclosure and any person to whom a disclosure is referred, will not disclose to another person any information that might identify the Reporting Person except when:

- (a) the Reporting Person gives their explicit consent, or
- (b) disclosure is a necessary and proportionate obligation imposed by law, or
- (c) the recipient shows that he or she took all reasonable steps to avoid disclosing the identity of the Reporting Person;
- (d) the Charities Regulator has a reasonable belief that disclosing the identity is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment.

Where it is decided that it is necessary to release information that may or will disclose the identity of the Reporting Person, the Reporting Person will be informed of this decision in writing in advance of the release, except where such notification would jeopardise:

- (a) the effective investigation of the relevant wrongdoing concerned,
- (b) the prevention of serious risk to the security of the State, public health, public safety or the environment, or
- (c) the prevention of crime or prosecution of a criminal offence.

The Reporting Person will also be informed of the applicable review process (see section 2.24 on Review below), which may be invoked by the Reporting Person in respect of the decision to disclose their identity where applicable. Where at all possible, the Reporting Person will be offered a review before his or her identity is disclosed.

3.13 Can I make an anonymous disclosure?

You can make an anonymous disclosure but there are important distinctions between anonymous disclosures and disclosures where you provide your name. We would encourage any worker who makes a disclosure to provide their name and contact details as they may need to be contacted to clarify information disclosed. Remember that the recipient must protect your identity.

Anonymous disclosures are not excluded from the protection of the Disclosures Act and the Charities Regulator acts upon anonymous disclosures to the extent that this is possible. However, our ability to investigate may be constrained in the absence of the knowledge of the identity of the Reporting Person because we cannot follow-up with you for further information.

More importantly, the protections available to you under the Disclosures Act such as protecting you from penalisation and other elements of the protected disclosures procedures (e.g. keeping you informed of progress and outcomes) may be difficult or impossible to apply in the case of anonymous disclosures.

A worker who makes an anonymous report and is subsequently identified and penalised is treated as having made a protected disclosure under the Disclosures Act and is entitled to the same protections as an identified discloser.

3.14 Who to make an Internal Disclosures to

A group, to be known as the Protected Disclosures Group (“**PDG**”) has been established by the Charities Regulator. The PDG consists of:

- (a) Chair of the Finance Audit Risk and Governance Committee

- (b) Chief Executive of the Charities Regulator
- (c) Director of Legal Affairs and Registration

Each member of the PDG is a Designated Person pursuant to section 6A of the Disclosures Act. Disclosures may be made to any one of the members of the PDG, regardless of which business unit you happen to work in.

On receipt of a disclosure, the recipient will convene a meeting of not less than two members of the PDG to assess the disclosure; determine if it is a protected disclosure; and refer it to the appropriate channel for investigation. Other Heads of Business Units may have a role subject to the agreement of the members of the PDG and depending on the nature of the case.

If any member of the PDG has a conflict of interest in relation to a disclosure, they must declare it and absent themselves from the case.

Details of the steps to be taken by the PDG following receipt of a disclosure are set out in the sections on assessment (section 3.19 below on Assessment of a Protected Disclosure) and investigation (section 3.20 below on Investigation of a Protected Disclosure).

3.15 External Disclosures

The Disclosures Act identifies the following avenues for making a protected disclosure outside of the employer (in this case, the Charities Regulator):

- (a) A 'responsible person' outside the employer; if the worker reasonably believes that the wrongdoing relates to a person other than the worker's employer or where that responsible person has legal responsibility for something in respect of which a wrongdoing may have occurred. For example, an agency worker might make a disclosure to the organisation in which they are working rather than to their own employer.
- (b) A 'prescribed person'.¹⁰ In such cases, an additional requirement applies: the Reporting Person must believe that the information disclosed and any allegations contained in it are substantially true.¹¹

¹⁰ Defined in SI 339/2014 and amended by SI 448/2015. A list of prescribed persons is available from Gov.ie Website: <https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/>

¹¹ This is a higher evidential standard than a 'reasonable belief'.

- (c) A minister of the government¹², where the worker is or was employed in a public body and one of the following criteria is met:
- i. The worker has previously made a disclosure of substantially the same information to a responsible person or prescribed person but no feedback or adequate feedback was provided in the required timeframes.
 - ii. The worker reasonably believes the head of the public body concerned is complicit in the wrongdoing.
 - iii. The worker reasonably believes that the relevant wrongdoing may constitute an imminent or manifest danger to the public interest, such as an emergency situation or a risk of irreversible damage.
- (d) legal adviser, if it is made by a worker in the course of obtaining legal advice from, for example, a solicitor, a barrister or a trade union official.
- (e) Alternative external disclosures. This is where a disclosure hasn't been made in any of the methods above (or has been but no appropriate actions were taken within required timeframes), and the worker reasonably believes that the information disclosed and any allegation is substantially true, and that -
- i. the wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as an emergency situation or a risk of irreversible damage, or
 - ii. if the report was made to a prescribed person or minister, there is a risk of penalisation or there is a low prospect of the wrongdoing been effectively addressed due to the particular circumstances of the case.

3.16 Special Cases

Sections 17 and 18 of the 2014 Act address the issue of protected disclosures that relate to issues of law enforcement and national security and defence respectively. In essence, external disclosures of information related to either of these areas would not be protected unless they meet specific, additional requirements.

¹² In the event of a worker in the Charities Regulator making a disclosure to the Minister for State with responsibility for Community Development and Charities, the disclosure will be treated as and dealt with under the internal procedures for protected disclosure rather than external procedures for protected disclosures.

3.17 Section 17 Disclosures

Section 17 applies to a disclosure of relevant information that might reasonably be expected to facilitate the commission of an offence or to prejudice or impair the:

- (a) prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for any of those matters;
- (b) enforcement or administration of, or compliance with, any law;
- (c) lawful methods, systems, plans or procedures employed for ensuring the safety of the public or the safety or security of persons or property;
- (d) fairness of proceedings before a court or tribunal;
- (e) security of a relevant institution; or
- (f) security of any system of communications of the Garda Síochána, the Defence Forces or a relevant institution.

Section 17 of the Act should be consulted further when a disclosure of such information is contemplated.

3.18 Section 18 Disclosures

Section 18 applies to a disclosure of information that might reasonably be expected -

- (a) to affect adversely—
 - i. the security of the State;
 - ii. the defence of the State; or
 - iii. the international relations of the State, or
- (b) to reveal, or lead to the revelation of, the identity of a person who has given information in confidence to a public body in relation to the enforcement or administration of the law or any other source of such information given in confidence.

It is unlikely that Section 18 disclosures would arise in relation to the work of the Charities Regulator but in the event that a Reporting Person believes a disclosure under this section of the Act would be appropriate, a Judge or a retired judge of the High Court has been appointed as the Disclosure Recipient under Schedule 3 of the Disclosures Act to deal with disclosures made under section 18 of the Act.

A disclosure of information within the terms of [Section 18](#) of the Disclosures Act may be made to the Disclosures Recipient either (i) In writing in a sealed envelope marked “Confidential: For Attention of the Addressee Only” posted or delivered to the above address; or (ii) In person by appointment with the Disclosures Recipient, made by e-mail:

protected.disclosure@confidentialrecipient.gov.ie.

3.19 Assessment of a Protected Disclosure

When a disclosure of alleged wrongdoing is made to any one of the designated recipients, that individual will convene the PDG as per the section on Internal Disclosures above. The PDG will acknowledge the disclosure to the Reporting Person within 7 days of receipt of the disclosure.

The PDG will carry out an initial assessment and may seek further information from the Reporting Person as to whether there is prima facie evidence that a relevant wrongdoing has occurred.

The recipient(s) will treat all disclosures as protected (and protect the identity of the Reporting Person in accordance with the procedures) until the assessment is complete.

The assessment process will include the following steps:

- a. Clarifying the basis of the concerns raised with the worker and establishing what evidence is available to support the concern.
- b. Gauging the risk associated with the issue and taking immediate action if the alleged wrongdoing involves a serious loss or danger to others.
- c. Carrying out all relevant enquiries promptly, sensitively and discreetly, ensuring to protect the identity of the Reporting Person (if it is necessary to reveal the worker’s identity to undertake an effective enquiry, the PDG will consult with the Reporting person in the first instance).

If it is determined that the matter disclosed meets the criteria of a protected disclosure under the Disclosures Act, the matter will be referred for investigation (see section 3.20 following).

Where the assessment concludes that the matter does not meet the criteria of a protected disclosure (e.g. where the issue is a personal grievance or complaint) the PDG will advise the Reporting Person of this conclusion and offer advice on the appropriate steps to take.

3.20 Investigation of a Protected Disclosure

Where the assessment by the PDG concludes that the matter reported meets the criteria of a protected disclosure, it will be referred for investigation. The nature of the investigation will vary depending on the seriousness of the matter disclosed and may include referral to an outside body, including An Garda Síochana.

It is envisaged that most cases will be investigated by an external agency retained by the Charities Regulator for such purposes. This will ensure that the necessary level of experience, expertise and independence is available.

In some instances, where the issue is deemed to be straightforward and capable of resolution without resort to a full external investigation, the PDG may conduct the investigation. In such cases the investigation and conclusion will, however, be the subject of validation by the external agency.

In all cases, the Reporting Person will be informed by the PDG of the chosen route of investigation. Regardless of which route the investigation takes, it will embody the following principles:

- (a) The investigation will be carried out in a manner which is fully consistent with the principles of natural justice;
- (b) Evidence will be sought from any relevant witnesses;
- (c) The investigation will assess whether the disclosure report is based on a reasonable belief but ungrounded; based on reasonable belief and grounded; or a deliberately false report;
- (d) The Charities Regulator will take appropriate action if the disclosure is grounded;
- (e) If the disclosure is deliberately false, the Charities Regulator may consider disciplinary action.

On completion of the process the PDG will report the outcome, including details of the action taken, to the Reporting Person.

3.21 Feedback to the Reporting Person

Where the protected disclosure is a matter being investigated, communications will be maintained with the Reporting Person. The PDG will provide feedback to the Reporting Person within three months of the date of acknowledgment of the disclosure, and every three months thereafter until the matter is closed. Where a report is made anonymously, acknowledgment and feedback to the

Reporting Person may not be possible. Where a Reporting Person provides a means of maintaining communications such as an anonymised email address, feedback will be provided.

The overriding requirement when providing feedback is that no information is communicated that could prejudice the outcome of an investigation or any action that may ensue (e.g. enforcement, or other legal action, including prosecution) for example, by undermining the right to fair procedures enjoyed by the charity or a person against whom a report or allegation is made.

There is no obligation to inform the Reporting Person of the progress, or outcome, of any disciplinary process involving another worker which may arise on foot of an investigation arising out of a protected disclosure. In general, such information is confidential between the employer and the worker who is the subject of the disciplinary process. The Reporting Person will be informed and assured that appropriate action has been taken but is not generally entitled to know what that action was.

3.22 Rights of the Person Concerned in an investigation

The general principles of natural justice and fair justice procedures will apply in respect of any person who has been accused of wrongdoing and may be the subject of any investigation (the “**Person Concerned**”). The Charities Regulator will take great care in providing information to the Reporting Person to ensure that it does not breach the legal rights of the Person Concerned. The Charities Regulator will arrange that appropriate supports and protections are available as and when appropriate.

It is important to note that the principles of natural justice do not require a Person Concerned to be notified of the receipt of an allegation. Nor does the Person Concerned have the right to know the identity of the worker who has made the report.

Where an investigator wishes to question or seek information from the Person Concerned, the person is entitled to be given details of what is alleged and given the opportunity to respond and to contest the allegation.

In the interests of natural justice, the Person Concerned or Persons Concerned will be informed in writing of the allegation and all of the supporting evidence, and will be allowed full opportunity to comment at an appropriate stage in the process and before the investigation is concluded.

The Person Concerned is entitled to be informed of the outcome of the investigation and is entitled to a copy of the investigation report if it concludes that wrongdoing has occurred.

3.23 Outcomes following an investigation

The following are potential outcomes on conclusion of the investigation of the matter disclosed:

- (a) The disclosure is upheld or partly upheld leading to:
 - i. the malpractice being stopped and the system weaknesses identified and addressed or the concern being addressed in so far as is reasonable;
 - ii. disciplinary action being taken against the wrongdoer depending on the results of the investigation; and
 - iii. the matter being referred to an outside body, including An Garda Síochána.
- (b) The disclosure is not upheld leading to:
 - i. no action if the allegation is based on a reasonable belief but proves to be unfounded;
 - ii. disciplinary action being considered against the Reporting Person in the event of the claim being found to be malicious or otherwise not based on a reasonable belief.

If the outcome of the investigation of a disclosure is not to the satisfaction of the worker that reported the issue, then s/he has the right to seek a review (see section 3.24 Review).

3.24 Review

The Reporting Person may seek a review of the following:

- (a) Any decision made to disclose the identity of the Reporting Person (except in exceptional cases);
- (b) The conduct or outcome of any initial assessment/investigation undertaken in respect of the protected disclosure; and
- (c) The outcome of any assessment/investigation in respect of any complaint of penalisation.

Reviews will be undertaken by a nominated person appointed by the Chairperson of the Board.

Where a decision is taken to disclose the identity of the Reporting Person, where at all possible, the Reporting Person will be offered a review before their identity is disclosed.

Other considerations

3.25 Motivation

Your motivation for making a disclosure is irrelevant when determining whether or not it is a disclosure protected by the Disclosures Act. All disclosures will be dealt with regardless of your motivation for making the disclosure, and you will be protected so long as you reasonably believe that the information disclosed tends to show a wrongdoing.

However, disclosure of a wrongdoing does not necessarily confer any protection or immunity on you in relation to any involvement that you may have had in that wrongdoing.

3.26 Disciplinary Record of Reporting Person and other related matters

Where a worker makes a disclosure of alleged wrongdoing it will be given appropriate consideration. The Charities Regulator will generally focus on the disclosure made (the message), as opposed to any disciplinary (or other) issues related to the person making the disclosure (the messenger).

In general where a disclosure is made during an investigation, disciplinary or other process, this should not affect those distinct processes. However, an exception might be made where the worker can demonstrate that the investigation, disciplinary or other action is found to be a form of penalisation for making a protected disclosure.

3.27 Mandatory Reporting

The Disclosures Act does not oblige a worker to make a protected disclosure and it also does not absolve any worker from pre-existing mandatory obligations to report contained in other legislation. For example, there are other pieces of legislation applying to certain sectors (financial, medical etc.) where reporting of certain matters is mandatory.

3.28 Non-restriction of rights to make protected disclosures

In accordance with the Disclosures Act the Charities Regulator will not have or tolerate clauses in agreements that prohibit or restrict the making of protected disclosures, exclude or limit the operation of any provision of the Disclosures Act, preclude a person from bringing any proceedings under, or by virtue of, the Disclosures Act and / or precluding a person from bringing proceedings for breach of contract in respect of anything done in consequence of the making of a protected disclosure.

3.29 Support available to workers making disclosures

The Charities Regulator is committed to ensuring that workers are supported in making protected disclosures. The designated recipients will provide that support in the first instance where internal disclosures are concerned. Support is also available from the Charities Regulator's Employee Assistance Service (EAS) to workers who make disclosures of wrongdoing.

The Charities Regulator is a member of the Integrity at Work (IAW) programme, a Transparency International Ireland (TI Ireland) initiative that helps foster workplaces where people are supported to raise concerns of wrongdoing and act with integrity. As part of our commitment to protecting workers who raise concerns of wrongdoing, the Charities Regulator has signed and complies with the Integrity at Work (IAW) pledge to ensure that workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised. A copy of the Pledge is located at Appendix one.

If an individual is considering reporting a concern, free and confidential advice is available from TI Ireland's Speak Up Helpline at 1800 844 866, Monday to Friday 10am to 6pm. They can also make an enquiry via secure online form or encrypted text online¹³. Further information is available in the [Speak Up Safely video](#) and Speak Up Safely Guide¹⁴.

3.30 Record keeping and Reporting

The Charities Regulator is required keep a record of every report made to the Charities Regulator under the Disclosures Act. The report shall be kept for no longer than is necessary and proportionate.

For anonymous reports the Charities Regulator must make a record of the anonymous report as appropriate. A record of an anonymous report shall be kept for no longer than is necessary and proportionate.

Please note that the Charities Regulator does not record calls, therefore, where an oral report is made by telephone the Charities Regulator shall make a record of the report. The Charities Regulator shall offer the Reporting Person the opportunity to check, rectify and agree the record of the report. This does not apply to anonymous verbal reports.

¹³ Located at: <https://www.transparency.ie/helpline/contact-speakup#Secure%20report>

¹⁴ Located at Integrity at Work website: <https://integrityatwork.ie/resources/guidance/>

Where a Reporting Person requests a meeting with the Charities Regulator, the Charities Regulator shall ensure accurate records of the meeting are kept in a durable and retrievable form. The meeting may be recorded or minutes of the meeting may be kept. The Reporting Person shall be provided the opportunity to check, verify and agree the minutes of the meeting by signing them.

Minutes and notes of meetings with a Reporting Person shall be kept for no longer than is necessary and proportionate.

The Charities Regulator will maintain an appropriate case management system to record and track protected disclosures. The Disclosures Act makes it mandatory for all public bodies to publish an Annual Report in relation to protected disclosures. The Corporate Affairs Unit will maintain this system and compile and arrange for the publication of the Annual Report including setting out the number of protected disclosures received in the preceding year and the action taken (if any).

3.31 Evaluation and Review of the Protected Disclosures Policy and these Procedures

This policy will be reviewed at minimum intervals of two years or when required by the Board of the Charities Regulator. The Corporate Affairs Unit will monitor the operation of the procedures on an ongoing basis and report to the Board on its findings.

Disclaimer

This document is not, nor is it intended to be, a definitive statement of the law and it does not constitute legal advice. The Charities Regulator recommends that any person making a protected disclosure obtain their own legal advice where necessary. The Charities Regulator accepts no responsibility or liability for any errors, inaccuracies or omissions in this document.

4. Appendix one: The Integrity at Work Pledge



THE INTEGRITY AT WORK PLEDGE

The Charities Regulator recognises the importance of maintaining an ethical workplace and the valuable contribution of those who raise concerns about wrongdoing. We commit to not penalising, or permitting penalisation against, a worker* who reports risks or incidents of wrongdoing and to responding to or acting upon those concerns.

In committing ourselves to this pledge we will work towards implementing a 'whistleblowing'/protected disclosures policy and procedures which will:

- a. Promote the reporting of wrongdoing or the risk of harm to a responsible person inside the organisation or external bodies as appropriate.
- b. Provide comprehensive information about the types of disclosures that can be made, by whom and in respect of what.
- c. Encourage our workers to seek professional advice both prior or subsequent to making a report.
- d. Assure our workers that any report will be dealt with in the strictest confidence and that their identity or identifying information will not be disclosed to third parties unless required by law or necessary for the purposes of conducting an investigation.
- e. Provide our workers with sufficient notice and a timely explanation in the event that his or her identity is to be disclosed to a third party.
- f. Confirm that reports will be acted upon within a reasonable time frame and take whatever remedial action is deemed necessary by the organisation to address any wrongdoing or the risk of wrongdoing that might have been identified in response to the report.
- g. Commit to keeping any worker who makes a report informed on the progress of investigations.
- h. Provide for appropriate disciplinary action to be taken against anyone found to have penalised a worker for (i) having reported wrongdoing or (ii) refusing to engage in wrongdoing.
- i. Additionally, the organisation commits to record anonymised data each year on i) the number of reports made to it under the Protected Disclosures Act 2014, ii) the nature of each report, iii) the number of complaints of retaliation against workers who have made

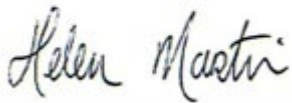
disclosures and iv) the action taken in response to each report.

- j. Share this data (as set out in paragraph i) with senior management, including the Board, or with the Minister of Public Expenditure and Reform (where appropriate).
- k. Ensure that our managers and responsible persons are aware of our commitments under this Pledge and related policies and procedures and are adequately trained in handling a report.
- l. Publicise our commitment to the Integrity at Work initiative with our workers and other relevant stakeholders.

* “Worker” refers to staff, contractors, consultants, agency staff and interns

Details of our Protected Disclosures Policy and Procedures can be found on our website at

www.charitiesregulator.ie



Signed

Chief Executive

30th March 2023



Signed

Chairperson

30th March 2023