

Protected Disclosure Policy

Purpose

The purpose of this policy is to demonstrate the Society's commitment to observing and maintaining the highest standards of honesty, openness and accountability in all practices. The Whistleblowing Policy, in accordance with the **Protected Disclosures Act 2014**, and the **Protected Disclosures (Amendment) Act 2022** ("**the Acts**"), is intended to encourage and enable Workers to disclose information that tends to show that there has been wrongdoing within the organisation, without fear of penalisation, or threat of less favourable treatment, discrimination or disadvantage.

Definitions

Whistleblowing

Whistleblowing is the term used when a Worker raises a concern about a relevant wrongdoing such as possible misappropriation or inappropriate use of funds, crime, danger to the public or staff, or failure to comply with any financial or legal obligation which has come to the attention of a Worker as a result of their previous or current Worker's employment, or engagement with an organisation.

'Relevant wrongdoings' are broadly defined in the Act and include the following:

- That an offence has been, is being or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the individual's contract of employment or other contract whereby the individual undertakes to do or perform personally any work or services;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health and safety of any individual has been, is being or is likely to be endangered;
- That the environment has been, is being or is likely to be damaged;
- That an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur;
- That an act or omission by, or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- That a 'breach' has occurred that is an act or omission which is unlawful and falls within the scope of certain EU acts relating to, amongst other things, public procurement, financial services, anti-money laundering and terrorist financing and consumer protection;
- or
- That information tending to show any matter falling within any of the points above has been, is being, or is likely to be concealed or destroyed, or that an attempt has been, is being, or is likely to be made to conceal or destroy such information.

Worker

In accordance with the Acts, a "**Worker**" is an individual who is;

- An employee,
- A volunteer,
- A consultant,
- A contractor,
- An agency worker,
- An intern, or an individual on work experience,
- A board member,
- A shareholder,
- A member of an administrative, management or supervisory bodies, or,
- A job applicant.

Reasonable Belief

Although a Worker is not expected to prove the truth of the facts in a disclosure, they must, when making a disclosure, have a “**reasonable belief**” that the information they are disclosing tends to show the existence of relevant wrongdoing. A reasonable belief means that the belief is based on reasonable grounds. This does not mean the belief has to be correct. A disclosure is not a Protected Disclosure if the Worker did not have a reasonable belief that the disclosure tends to show one or more relevant wrongdoings.

If an individual is uncertain as to whether information would be the basis for a Protected Disclosure within the scope of this policy, they should seek guidance from a member of HR management. More information on what constitutes a Protected Disclosure is also available through the Citizens’ Information website.

Scope

This policy applies to all Workers (*see definition above*) within the Society. All Workers should familiarise themselves with this policy. Workers can be confident that they can use the available internal procedures to disclose information that tends to show the existence of relevant wrongdoing, in the knowledge that such disclosures will be dealt with effectively at the earliest possible stage.

This policy is applicable to business decisions taken by the Society and complements other Society policies already in place, including the Disciplinary and Grievance procedures and Dignity and Respect at Work policy. There are a few principles outlined below about which procedure to use in which circumstances:

- If the issue relates to a relevant wrongdoing within the Society, the Protected Disclosure Policy should be followed.
- If the issue relates to a management decision or conditions or services, which affect **only** the reporting Worker individually, it may be more appropriate to raise a grievance under the Grievance Procedure or Resolving Volunteer Concerns section of the Volunteer Policy. Disclosures regarding the work conditions or circumstances of the reporting Worker **only** are not covered under this policy or the Acts.
- If the issue relates to bullying, victimisation or harassment of the reporting Worker, the Dignity at Work policy should be used.

- Interpersonal grievances exclusively affecting a reporting Worker are not considered 'relevant wrongdoing' for the purposes of this Act. Such grievances should be dealt with through other internal procedures, as outlined in the Employee Handbook or Volunteer Manual.

Reporting a Protected Disclosure

All Workers have the right to report a Protected Disclosure where they have a reasonable belief that wrongdoing has occurred. The procedure for reporting a disclosure is outlined below.

Reporting a disclosure internally

Protected Disclosures should be reported internally to a member of HR management. Contact details for HR management can be found on [Infohub](#) and are also outlined here:

- Aoife Foley, HR Manager, afoley@irishcancer.ie
- Anne Byrne, Director of People, Strategy & Innovation, abyrne@irishcancer.ie

If a Worker feels is uncomfortable or feels it is inappropriate to report the Protected Disclosure to HR management, they can alternatively report to the Head of Legal and Compliance ebrowne@irishcancer.ie

If the information relates to the CEO the Worker may report the Protected Disclosure to the Chairperson of the Board.

Protected Disclosures may be reported orally or in writing. It is preferable to receive the disclosure in writing, but the Society will accept both oral and written disclosures. Both types should include the following information:

- The name of the person(s), body or otherwise the subject of the disclosure;
- A description of the 'relevant wrongdoing';
- Any information that tends to show the 'relevant wrongdoing', including dates/times and locations so as to assist the investigation of the matters raised in the disclosure;
- Name of witnesses to any 'relevant wrongdoing'.

Where oral disclosures are made, a written record will be taken by the person to whom the disclosure reported. The written record will be provided to the reporting Worker, who will be given the chance to make further observations on it.

Confidentiality / Anonymous Reports

A Protected Disclosure may be made anonymously. The Society is not obliged to accept or follow-up on anonymous reports but as a matter of policy will endeavour to consider the matter, as best it can. Where possible, the Society will conduct an assessment as outlined in the Stages below. However, it is much more difficult to fully investigate reports in the absence of the knowledge of the identity of the discloser. Any Worker who makes a

Protected Disclosure by way of an anonymous report, and who is subsequently identified, will not be penalised for having made a Protected Disclosure.

The Society will take all reasonable steps to treat all disclosures in a confidential and sensitive manner. The Society will not disclose the identity of the reporting Worker (or information from which the identity of the reporting Worker may be deduced) without the Worker's explicit consent, unless the disclosing such information is necessary in order to:

- complete an effective investigation of the relevant wrongdoing concerned;
- prevent serious risk to the security of the State, public health, public safety or the environment;
- prevent a crime or to prosecute a criminal offence; or
- comply with the law.

In such circumstances, the Society will endeavour to enter into dialogue with the reporting Worker in advance to discuss how to proceed.

Where there is uncertainty as to whether a disclosure is a Protected Disclosure it will be presumed to be a Protected Disclosure, unless the contrary is established.

The Society will ensure that it has internal processes to ensure that Protected Disclosures are properly dealt with, and that those internal processes protect the confidentiality of reporting Workers to the full extent required by the law.

Protection from penalisation and other protections

The Protected Disclosures (Amendment) Act 2022 makes it an offence to:

- hinder or attempt to hinder a Worker in making a report,
- penalise or threaten penalisation or cause or permit any other person to penalise or threaten penalisation,
- bring vexatious proceedings,
- breach the duty of confidentiality in section 16 regarding the identity of reporting Worker(s),
- make a report containing any information that the reporting person knows to be false, or
- fail to establish, maintain and operate internal reporting channels and procedures.

All of these offences can attract significant penalties up to and including fines and/or imprisonment.

Workers who make disclosures are protected by the **Protected Disclosures Act 2014** and the **Protected Disclosures (Amendment) Act 2022**, provided that the disclosure is made with reasonable belief that the disclosure was information that tended to show one or more

relevant wrongdoings. No Worker who makes a Protected Disclosure will suffer any penalisation as a result of reporting a Protected Disclosure

Penalisation includes any detrimental or unfavourable treatment as a result of reporting a Protected Disclosure, such as dismissal or any of the following:

- suspension, lay-off or dismissal,
- demotion, loss of opportunity for promotion or withholding of promotion,
- transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),
- coercion, intimidation, harassment or ostracism,
- discrimination, disadvantage or unfair treatment,
- injury, damage or loss,
- threat of reprisal,
- withholding of training,
- a negative performance assessment or employment reference,
- failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment,
- failure to renew or early termination of a temporary employment contract,
- harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income,
- blacklisting 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,
- early termination or cancellation of a contract for goods or services,
- cancellation of a licence or permit, and
- psychiatric or medical referrals.

If a Worker feels they have been penalised or received unfavourable treatment as a result of reporting a Protected Disclosure, as outlined in the circumstances above, they should raise it formally through the Grievance Procedure.

Staff must not in any way penalise or threaten to penalise against any Worker who makes a Protected Disclosures. Any such conduct will be taken very seriously by the Society and anyone involved in such conduct will be subject to disciplinary action, up to and including dismissal.

If an investigation under this policy concludes that a disclosure has been made without the reporting Worker having had a reasonable belief that the information disclosed tended to show one or more relevant wrongdoing – and especially if the reporting Worker knew the report to be false – the reporting Worker may be subject to disciplinary action, up to and including dismissal.

Procedure for dealing with Protected Disclosure

The Society will deal with any Protected Disclosures in the following ways, through the stages outlined below. Please note that the Worker may bring a colleague to any meeting held at any stage. Any colleague who is invited by the reporting Worker is obligated to strictly maintain confidentiality in relation to the process and any information they are party to as part of the proceedings. Failure to comply with this obligation will result in disciplinary action, up to and including dismissal.

If a Protected Disclosure is made against, or involves, another 'Worker' in the organisation and it is necessary to meet with that Worker, that person is also entitled to bring a colleague to any relevant meeting.

Stage 1: Acknowledgment of receipt of the Protected Disclosure

Acknowledgement of receipt of each Protected Disclosures shall be made within 7 days by the person who received it, except in the following circumstance.

If the person who received it was not a person identified in this Policy as a person who can receive Protected Disclosures, and the person who received it provides it to such a person, the acknowledgement will be sent by the person identified in this Policy as a person who can receive Protected Disclosures.

Stage 2: Nominating a person to oversee the process

An appropriate person will be nominated to oversee the process. The nominated person may be a member of the management team (including any of the members of management identified in this Policy as persons who can receive Protected Disclosures) or may be an external person. There may be more than one nominated person, in which case references in this Procedure to a "nominated person" will be read accordingly.

Stage 3: Initial Assessment

The nominated person will make an initial assessment to establish if:

- (a) there is prima facie evidence that a relevant wrongdoing may have occurred and, if so
- (b) whether or not the matter is appropriate for investigation under this Procedure or should be addressed in another way (e.g. by way of referral to an external body such as An Garda Síochána or by reference to another procedure of the Society).

If the nominated person determines that there is not prima facie evidence that a relevant wrongdoing may have occurred the nominated person may determine that if the matter should be referred for consideration under other Society procedures or referred externally.

To assist the assessment process nominated person may, if they consider it necessary to do so, correspond with or offer to meet with the Worker to discuss the matter, on a strictly confidential basis. The purpose(s) of such correspondence or meeting could include:

(a) to clarify the content of the disclosure that has been made and/or

(b) to clarify any matters arising in respect of the confidentiality of the process (e.g. whether or not the reporting Worker wishes to consent to his or her identity being disclosed).

If a decision is made by the nominated person, that (for whatever reason) the matter is not appropriate for investigation under this Procedure, this will be communicated to the reporting Worker, and a reason for that decision will be given in the communication.

Stage 4: Investigation

If the nominated person determines that the matter is appropriate for investigation under this Procedure, the nominated person will arrange for the conduct of an investigation by one or more appropriate investigators.

The conduct of such an investigation will be governed by a terms of reference set by the nominated person, which will outline the process to be undertaken, the scope, and detail the likely timeframe for completion.

The nominated person will maintain communication with the reporting Worker and will provide updates within a reasonable timeframe. Such information should be treated as confidential by the reporting Worker. Sometimes the need for confidentiality may prevent the nominated person from giving specific details in relation to the investigation to the reporting Worker.

At all stages, the investigation will be conducted sensitively, and in line with fair procedures, to ensure impartiality, objectivity and fairness. Confidentiality will be protected, in so far as it is reasonably practicable, but subject to the obligation of the Society to provide fair procedures to any Worker who is being investigated.

The Society may, at its discretion, appoint an external third party to conduct this process. This may be appropriate where the Society has limited resources or limited persons appropriate to oversee the investigation. The Society also reserves the right to conduct the process internally. The decision on the appointment of a suitable investigator will be made by the Society.

Stage 5: communication of outcome

Upon completion of the investigation, the nominated person will inform the Worker that the investigation is complete. If it is appropriate to do so, the nominated person may share some information in respect of the outcome of the investigation and/or any actions undertaken as a result of the investigation.

Depending on circumstances, it may not be appropriate to share such information. For example, the Society will not share the personal data of any other person with the relevant Worker when communicating the outcome of an investigation (such that, for example, if disciplinary action is taken against an employee the relevant Worker will not be informed about such action).

Timelines

The Society will endeavour to carry out Stages 3 and 4 in a reasonable period, and in any case, within a maximum of 3 months. If it is not possible to conclude the process within this timeframe, the nominated person will communicate with the reporting Worker after 3 months (and, where relevant) every 3 months thereafter until the process is complete.

Investigation outcomes

Every reported Protected Disclosure will be taken seriously. The Society will ensure appropriate action will be taken based on the outcome of the investigation undertaken.

Appropriate action will be taken where an investigation finds that relevant wrongdoing has occurred. This may include disciplinary action in respect of any employee, up to and including dismissal, in accordance with Society policy, or other appropriate sanction or intervention deemed necessary to prevent a recurrence of the relevant wrongdoing.

Where an investigation is inconclusive or finds that no relevant wrongdoing occurred, there will be no negative inference against any person about whom the Protected Disclosure was made.

Both during the procedure and after its conclusion, all parties to the disclosure(s) will continue working as normal, and will conduct themselves in an appropriate manner at work.

Making reports externally

The aim of this policy is to provide an internal reporting channel within the Society in which 'relevant wrongdoing' can be reported. The Society is confident that such reports can be dealt with through the procedures outlined in this policy and strongly encourages all Workers to make such reports internally.

However, it is recognised that in some limited circumstances it may not always be appropriate to report a Protected Disclosure internally and that it may be necessary to make such a report externally. The **Acts** provide for a number of avenues in this regard.

Where a Worker has genuine belief that a disclosure cannot be dealt with in an appropriate and unbiased manner by the Society, the **Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) Order 2020 Act** allows a Protected Disclosure to be made externally to a "prescribed person". The prescribed person for any matters arising under the Charities Act 2009 is the Chief Executive Officer of the Charities Regulatory Authority.

There is also recourse to report a Protected Disclosure to the Protected Disclosures Commissioner in certain circumstances. The procedures for reporting a Protected Disclosure to the Protected Disclosures Commissioner are available from the Office of the Protected Disclosures Commissioner.

Data protection

Personal data processed in respect of a Protected Disclosure will be processed lawfully by the Society, including where processing of such data is necessary for the compliance by the Society with its obligations under the Acts and the implementation of this Policy and the procedures set out herein.

The Society may refer to outside legal professionals/HR consultants or other appropriate advisers for advice. Any data provided will be processed by the Society and such outside parties in accordance with to GDPR requirements. The Society may also be share information with the Workplace Relations Commission (WRC), Government Departments, or the Revenue Commissioners, or other statutory authorities where permitted or required by law.

Records

Records will be kept at all stages of the process and will maintained in accordance with the Acts and with GDPR principles.

Review

The CEO will have overall responsibility for this policy. The policy will be reviewed from time to time as necessary and Workers will be notified of any changes within an appropriate timeframe.

Document Version Control

Version	Description of Changes	Author	Reviewer(s)	Approver(s)	Approval Date
1.0	ICS Whistleblowing Policy	Director of Finance	CEO	SMT Audit and Risk Committee	2018
2.0	Protected Disclosure Policy	Aoife Foley, HR Manager Eimhear O'Brien, Data Protection and Legal Officer	Anne Byrne, Director of People, Strategy & Innovation Emma Browne, Head of Legal and Compliance	CEO & ELT To be approved by Audit and Risk Committee	