Protected Disclosures

External Reports

Comhairle na nDochtúirí Leighis
Medical Council

Policy Administration

In line with Medical Council standard practice, all policies and procedures are reviewed periodically and in line with legislative changes.

Policy Details

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1. Introduction

1.1 The Medical Council (the "**Council**") is the statutory body for the regulation of registered medical practitioners in Ireland as prescribed by the Medical Practitioners Act 2007, as amended. The Council's purpose is to protect the public by promoting and better ensuring high standards of professional conduct and professional education, training and competence among doctors.

1.2 The Chief Executive Officer of the Council (the "**CEO**") has been prescribed under the Protected Disclosures Act 2014 (as amended by the Protected Disclosures (Amendment) Act 2022) (the "**Act**") to receive protected disclosures in respect of the following:

"All matters within the functions of the Medical Council relating to the regulation of the medical profession in the State, including the quality of undergraduate education of doctors and of postgraduate training of specialists, the registration of doctors and disciplinary procedures and guidance on professional standards and ethical conduct, as provided for by the Medical Practitioners Act 2007 (No. 25 of 2007)."[1]

1.3 The Act protects workers who wish to disclose information about certain wrongdoings to the CEO (the "**Reporting Persons**"). The full definition of "worker" is provided in section 4 of this Policy.

1.4 Reporting Persons who make protected disclosures (sometimes referred to as "whistleblowers") are protected by the Act and they should not be treated unfairly, lose their job or be penalised because they have made a protected disclosure.

2. Purpose

2.1 This Policy sets out the Council's commitment to: -

- maintaining an open culture with the highest standards of honesty and accountability, where Reporting Persons who wish to disclose information about certain wrongdoings to the CEO can report such concerns in confidence; and

- ensuring that all Reporting Persons who raise a concern under this Policy are listened to and relevant actions are taken to address their concerns, as appropriate (and/or that the information is referred, in line with the legislation, to another prescribed person and/or the Office of the Protected Disclosures Commissioner).

2.2 In accordance with the Act, the Council has established a formal channel for Reporting Persons who wish to make a report to the CEO in relation to the matters set out at section 1 above.

[1] S.I. No. 367/2020 - Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) Order 2020 (irishstatutebook.ie)

2.3 The CEO has appointed a specifically trained Designated Person (the "**Designated Person**") to be responsible for the handling of reports/disclosures of information, including the administration of protected disclosures and carrying out an initial assessment of the disclosed information (including seeking any additional information from the Reporting Person if required). More information in relation to the Designated Person and the procedure for making Protected Disclosures is set out at section 5 below.

3. Scope

3.1 This Policy and associated procedure applies to all Reporting Persons who make a Protected Disclosure to the CEO, as a Prescribed Person.

3.2 This Policy also applies to any reports transmitted to the Council by another prescribed person or the Protected Disclosures Commissioner in accordance with the Act.

3.3 It is solely the responsibility of the Reporting Person to ensure that they meet the criteria for protection under the Act.

3.4 If you have any queries about this Policy, please contact the Designated Person at: externalpd@mcirl.ie or via phone +353 1 498 3105.

3.5 If you require confidential, independent, advice (including legal advice) on the making of a protected disclosure, please refer to section 10 of this document.

4. Conditions under which a report to the CEO qualifies as a protected disclosure:

4.1 WHAT IS A "PROTECTED DISCLOSURE"?

4.1.1 In order to qualify as a protected disclosure to the CEO under this Policy and to thereby avail of the protections of the Act, the disclosure/report of information **must** meet **all** of the following conditions:

a) The "**relevant information**" being reported, and any allegation contained in it must have come to the attention of the Reporting Person in their capacity as a "**worker**" in the manner prescribed by the Act.

b) The matters being reported must have come to the attention of the Reporting Person in a "**work-related context**".

c) The said information must, in the **reasonable belief** of the Reporting Person:

i) tend to show one or more "**relevant wrongdoings**"; and
ii) be "**substantially true**"; and
iii) fall within the **description of matters in respect of which the CEO is prescribed** to receive Protected Disclosures (i.e. that the CEO has the regulatory functions within the area that is the subject of the report)

(the "**Protected Disclosure**").

The definition of Relevant Wrongdoings is contained at section 4.5 below.

*4.1.2 A report by a Reporting Person must fulfil **all** of the requirements set out in the Act in order for the report to qualify as a Protected Disclosure.*

These requirements are explained in more detail below.

4.1.3 If a Reporting Person is uncertain as to whether their report qualifies as a Protected Disclosure, they should seek professional advice. If a Reporting Person requires confidential, independent, advice (including legal advice) on the making of a Protected Disclosure, please refer to section 10 of this document.

4.2 WHO CAN MAKE A PROTECTED DISCLOSURE?

4.2.1 A Reporting Person can make a Protected Disclosure if they are a "worker".

4.2.2 A "worker" is an individual who acquires information on relevant wrongdoings in a work-related context and who is or was:

(a) an employee;
(b) an independent contractor;
(c) an agency worker;
(d) a trainee;
(e) a shareholder of an undertaking;
(f) a member of the administrative, management or supervisory body of an undertaking including non-executive members;
(g) a volunteer;
(h) an individual who acquired information on a relevant wrongdoing during a recruitment process;
(i) an individual who acquired information on a relevant wrongdoing during pre-contractual negotiations (other than a recruitment process).

*If you are **not** a worker, you cannot make a Protected Disclosure and you are not protected by the Act.*

4.3 WHAT IS "RELEVANT INFORMATION"?

4.3.1 Relevant information is information which:-

- in the **reasonable belief** of the Reporting Person (set out at section 4.4 below);
- tends to show one or more **relevant wrongdoings** (set out at section 4.5 below); and
- came to the attention of the Reporting Person in a **work-related context** (set out at section 4.7.1 below).

4.3.2 The information that a Reporting Person reports should disclose facts about someone or something, rather than a general allegation that is not founded on any facts. This means that the Reporting Person will need to be able to provide information and/or facts about the concerns being reported.

4.3.3 A Reporting Person should **not** investigate allegations of wrongdoing or gather additional evidence or information – they should just disclose the facts of which they are already aware.

4.4 WHAT IS A "REASONABLE BELIEF"?

4.4.1 A Reporting Person's belief must be based on **reasonable grounds** but it is not a requirement that they are ultimately correct.

4.4.2 A Reporting Person is not expected to prove the truth of an allegation.

4.4.3 Once the requirements of the Act have been satisfied, a Reporting Person remains entitled to the protections of the Act even if the information they have reported turns out to be unfounded.

4.4.4 A Reporting Person's motivation for making a report is irrelevant as to whether or not it is a Protected Disclosure.

4.4.5 However, a report made in the absence of reasonable belief is not a Protected Disclosure and the consequences of making such a report are set out at section 9 below.

4.4.6 Disclosure of a Relevant Wrongdoing does not necessarily confer any protection or immunity on a Reporting Person in relation to any involvement they may have had in that wrongdoing.

4.5 WHAT ARE "RELEVANT WRONGDOINGS"?

4.5.1 To qualify as a Protected Disclosure, the information the Reporting Person reports/discloses must concern a "relevant wrongdoing".

4.5.2 The following are relevant wrongdoings:

(a) that an offence has been, is being or is likely to be committed;

(b) that a person has failed, is failing or is likely to fail 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) that a miscarriage of justice has occurred, is occurring or is likely to occur;

(d) that the health or safety of any individual has been, is being or is likely to be endangered;

(e) that the environment has been, is being or is likely to be damaged;

(f) 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;

(g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;

(h) that a breach of EU law as set out in the Act, 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 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 (the "**Relevant Wrongdoing**").

4.6 MATTERS THAT ARE NOT RELEVANT WRONGDOINGS

4.6.1 A matter is not a Relevant Wrongdoing which it is the function of the Reporting Person or the Reporting Person's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer. Examples in this regard are set out in the FAQ document.

4.6.2 A matter concerning interpersonal grievances exclusively affecting a Reporting Person is not a Relevant Wrongdoing and will not be dealt with under this Policy. Such grievances should be raised by a Reporting Person with their employer in accordance with their policy on such matters.

4.6.3 Failure to comply with a legal obligation that arises solely under a Reporting Person's contract of employment or any other contract where they undertake to do or perform personally any work or services is not a Relevant Wrongdoing. Such matters should be raised by a Reporting Person with their employer in accordance with their relevant policy in this area.

4.7 WHAT IS A "WORK-RELATED CONTEXT"

4.7.1 "Work-related context" means current or past work activities in the public or private sector through which, irrespective of the nature of those activities, a Reporting Person acquires information concerning a Relevant Wrongdoing and within which they could suffer penalisation, if such information was reported.

4.8 TO WHOM CAN A PROTECTED DISCLOSURE BE MADE?

4.8.1 A Reporting Person can report internally to their employer, if they are comfortable to do so. A Reporting Person's employer may have their own protected disclosures or whistleblowing policy.[2] Reporting Persons are encouraged to avail of this avenue first, as appropriate.

4.8.2 However, a Reporting Person does **not** have to report internally to their employer before they can report to the CEO.

4.8.3 If a Reporting Person does not want to make a report to their employer or if reporting to their employer has not worked, they may have the option of reporting to the CEO under this Policy.

*4.8.4 In order to make a report to the CEO, the information that a Reporting Person wishes to report must have to their attention in a **work-related context** and they must **reasonably believe** that the information tends to show one or more **Relevant Wrongdoings**, is **substantially true** and **falls within the description of matters for which the CEO for the Council has been prescribed.***

4.8.5 If the matter that a Reporting Person wishes to report is a Relevant Wrongdoing but does not fall under the description of matters set out above, it may be possible that another prescribed person can deal with such a report. A full list of all of the prescribed persons and the matters that can be reported to them can be found at: www.gov.ie/prescribed-persons/ and further information in this regard is contained at Appendix 1. However, the conditions for reporting via some of these channels are more onerous than those that apply to reporting to a Reporting Person's employer.

4.8.6 A Reporting Person may wish to seek professional advice before using these channels. Please refer to section 10 of this document for information as to where to seek further advice in this regard.

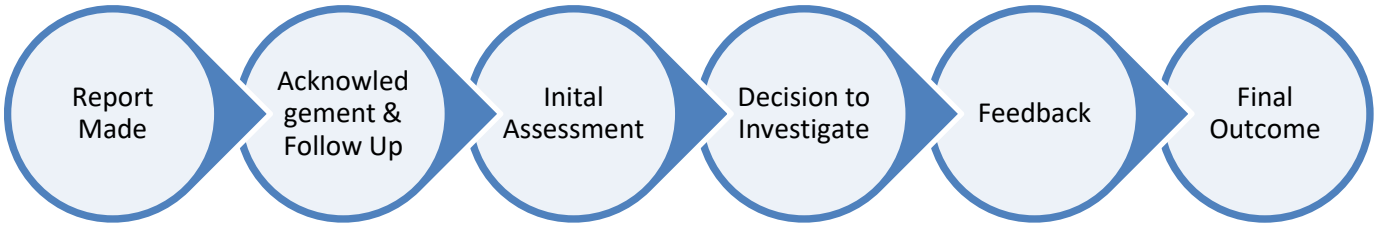
[2] All public sector bodies, regardless of size, and all employers with 50 or more employees are required, under the Act, to have formal channels and procedures for their workers to report relevant wrongdoing.

5. HOW TO MAKE A REPORT - PROCEDURE

5.1 Reports should be made to the Designated Person at externalpd@mcirl.ie or via phone +353 1 498 3105 to receive reports under this policy.

5.2 Reports can be made in writing or orally.

5.3 The procedure by which Protected Disclosures can be made is available at Appendix 2 and may be set out briefly as follows:



5.4 It is recommended that reports contain, at least, the information set out in Appendix 3.

5.5 Where the Designated Person receives reports transmitted to the CEO under the Act by other prescribed persons or the Protected Disclosures Commissioner, this Policy will apply to those reports.

5.6 Reporting Persons should be aware that once a Protected Disclosure has been made in accordance with the Act and under this Policy, it cannot be withdrawn, and the Reporting Persons are expected to cooperate with the investigation.

6. ANONYMOUS REPORTS

6.1 Reports can be made anonymously.

6.2 In the event that a Reporting Person chooses to report anonymously, and the report meets the requirements of the Act and qualifies as a Protected Disclosure, the Reporting Person remains entitled to the protections of the Act (if they are subsequently identified and penalised for making their report).

6.3 Unless prohibited by any other enactment, anonymous disclosures made under this Policy will be acted upon to the greatest extent that this is possible.

6.4 However, on a practical level it may be difficult to investigate, or to fully assess and follow-up on anonymous reports. In addition, implementing certain elements of this Policy – such as seeking further information from the Reporting Person, maintaining communication with them and protecting their identity – may not be possible. Further, in the event of a Reporting Person being penalised, it may not be possible to avail of the protective measures as set out at section 8 below set out under the Act, without the Reporting Person identifying themselves, as part of the process.

6.5 Therefore, we would encourage Reporting Persons to put their names to concerns/disclosures made, where appropriate.

6.6 There is a difference between an anonymous disclosure (where identify is withheld by the discloser) and a confidential disclosure (where identity is protected by the recipient).

7. CONFIDENTIALITY AND PROTECTION OF IDENTITY

7.1 As set out above, the Council is committed to protecting the identity of a Reporting Person who makes a Protected Disclosure and to protecting the confidentiality of any information disclosed.

Confidentiality – Reporting Person

7.2 Subject to the exceptions below, the identity of the Reporting Person or any information from which their identity may be directly or indirectly deduced will not be shared with anyone other than persons authorised to receive, handle or follow-up on reports under this Policy.

7.3 The Act provides for certain exceptions where a Reporting Person's identity or information that could identify the Reporting Person can be disclosed with or without the Reporting Person's consent. They are: -

(a) where the disclosure is a necessary and proportionate obligation imposed by EU or national law in the context of investigations or judicial proceedings, including safeguarding the rights of defence of persons connected with the alleged wrongdoing;

(b) where the person to whom the report was made or transmitted shows they took all reasonable steps to avoid disclosing the identity of the Reporting Person or any information that could identify the Reporting Person;

(c) where the person to whom the report was made or transmitted reasonably believes disclosing the identity of the Reporting Person or information that could identify the Reporting Person is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment; and

(d) where the disclosure is otherwise required by law.

7.4 Circumstances may arise where protection of identity is difficult or impossible – e.g., if the nature of the information a Reporting Person has disclosed means that they are easily identifiable. If this occurs, the risks and potential actions that could be taken to mitigate them will be outlined and discussed with the Reporting Person.

Confidentiality – Person about whom a Protected Disclosure is made

7.5 A person who is referred to in a report made under the Act as a person to whom the Relevant Wrongdoing is attributed or with whom that person is associated ("**Persons Concerned**") are entitled to protection of their identity for as long as any investigation triggered by the making of a report under this Policy, is ongoing.

7.4 This protection of identity does not preclude the disclosure of said identity where the CEO/Designated Person reasonably considers such disclosure is necessary for the purposes of the Act or where such disclosure is otherwise authorised or required by law.

7.5 Persons Concerned have the right to take legal action against a person who knowingly makes a false report against them, if they suffer damage as a result of the false report.

7.6 Records will be kept of all reports, including anonymous reports, in accordance with applicable polices concerning record keeping, data protection and freedom of information. Please refer to Appendix 4 for further information.

8. PROTECTION FROM PENALISATION

8.1 A Reporting Person will not be penalised for making a disclosure based on a reasonable belief that the information disclosed, showed, or tended to show, a Relevant Wrongdoing.

8.2 As set out above, the term "reasonable belief" does not mean that the Reporting Person's belief must be correct. Reporting Persons may be mistaken in their belief but are acting on the assumption that their belief was based on reasonable grounds. However, a disclosure made in the absence of a reasonable belief will not attract the protection of the Act.

8.3 Penalisation is any direct or indirect act or omission that occurs in a work-related context, which is prompted by the making of a protected disclosure and causes or may cause unjustified detriment to a Reporting Person.

8.4 Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) including suspension/dismissal, coercion, withholding of training, negative performance assessment, intimidation or harassment, disciplinary action, demotion, loss of opportunity for promotion or withholding of promotion, transfer of duties, reduction in wages or working hours, discrimination, threats, injury damage or loss, threat of reprisal, harm, including to the persons reputation or other unfavourable treatment arising from raising a concern or making a disclosure on the basis of reasonable belief for doing so. A full list as prescribed under the Act is contained at Appendix 5.

8.5 Penalisation of any Reporting Person who has raised concerns will not be tolerated under the provisions of the Act.

8.6 Reporting Persons who believe that they are being subjected to penalisation should report the matter immediately to the Designated Person at externalpd@mcirl.ie or via phone +353 1 498 3105.

8.7 There are remedies available to Relevant Persons who believe they have been penalised for making a protected disclosure. These include a claim before the Workplace Relations Commission (the claim must be brought within 6 months of the last instance of penalisation) and a claim for injunctive relief in the Circuit Court (the action must be brought within 21 days of the last instance of penalisation).

8.8 It is a criminal offence to penalise or threaten penalisation or to cause or permit any other person to penalise or threaten penalisation against any of the following: -

a) the Reporting Person;

b) a facilitator (a person who assists the reporting person in the reporting process);

c) a person connected to the Reporting Person, who could suffer retaliation in a work-related context, such as a colleague or a relative; or

d) an entity the Reporting Person owns, works for or is otherwise connected with in a work-related context.

8.9 Please refer to section 10 of this document on how to obtain further information and independent, confidential advice in relation to these statutory rights.

*A report made in the absence of reasonable belief **is not** a Protected Disclosure and it is a **criminal offence** for a Reporting Person to make a report that contains any information they know to be false.*

9. FALSE REPORTS

A report made in the absence of reasonable belief could also lead to:-

9.2.1 a Reporting Person's employer potentially taking disciplinary action against them; and/or

9.2.2 legal action being brought against the Reporting Person from any person who suffers damage resulting from a report that a Reporting Person has made, that they know to be false.

10. INDEPENDENT SUPPORT AND ADVICE

10.1 There are a number of agencies that can provide confidential support and advice to Reporting Persons considering making a Protected Disclosure around issues such as what wrongdoings can be reported as protected disclosures, how to make a protected disclosure and how to obtain protection from penalisation for having made a protected disclosure can be found on the Department of Public Expenditure and Reform website and on the Citizens Information website.

10.2 Transparency International Ireland is the Irish chapter of the worldwide movement against corruption. Transparency International Ireland operates a free Speak-Up Helpline that offers support and referral advice (which may include referral to legal advice) for workers who have reported or plan to report wrongdoing. The helpline can be contacted on 1800 844 866.

10.3 For Reporting Persons who are members of a trade union, many unions offer free legal advice services on employment-related matters, including protected disclosures. When a Reporting Person seeks advice from a trade union or solicitor about the operation of the Act, this discussion is also deemed to be a Protected Disclosure.

10.4 Information in relation to making a complaint of penalisation to the Workplace Relations Commission can be found at: https://www.workplacerelations.ie/en/

APPENDIX 1 – OTHER PRESCRIBED PERSONS / EXTERNAL REPORTING CHANNELS

1. If a Reporting Person believes it is necessary to make a disclosure under the Policy, it should be noted that different criteria apply to disclosures to external persons depending on who the disclosure is made to. If the criteria are not satisfied the report will not be a Protected Disclosure for the purposes of the Act.

2. External Protected Disclosures may also be made to the Minister for Health and where a Reporting Person is uncertain as to who the most appropriate prescribed person they can report to is, a Protected Disclosure may be made to the "Protected Disclosures Commissioner" (the **"Commissioner**").

3. Reporting to the Protected Disclosures Commissioner

3.1 Details of how to report to the Commissioner can be found at: https://www.opdc.ie/.

4. Reporting to the Minister

4.1 If a Reporting Person is or was employed in a public body, then under section 8 of the Act they may make a disclosure of relevant information to a relevant Minister, which in the case of the Council is the Minister for Health.

4.2 A Reporting Person may make a disclosure to a relevant Minister if they are or were employed by a public body and if:

(a) the relevant information came to the Reporting Person's attention in a work-related context;

(b) the Reporting Person has a reasonable belief that the information tends to show Relevant Wrongdoing.

4.3 At least one of the following conditions must also be met:-

(a) the Reporting Person has reported internally or externally (or both) but they have not been provided with feedback or, if they have received feedback, they reasonably believe that there has been inadequate follow-up action;

(b) The Reporting Person reasonably believes that the head of the public body concerned is complicit in the Relevant Wrongdoing; or

(c) the Reporting Person reasonably believes that the Relevant Wrongdoing may constitute an imminent or manifest danger to the public interest.

4.4 Information on how to make a disclosure to a Minister is published on the relevant Minister's website.

APPENDIX 2 – PROCEDURE

1. Introduction

1.1 In accordance with the Act, the CEO has established a formal, independent and autonomous channel for Reporting Persons who wish to make an external report to the CEO. The defined terms that have been defined in this Policy are similarly defined in this procedure.

2. Scope

2.1 This Policy and the Act protects workers who wish to disclose information about certain wrongdoings to the CEO (the "**Reporting Persons**"). The full definition of "worker" is provided in section 4 of this Policy.

2.2 Reporting Persons who make protected disclosures (sometimes referred to as "whistleblowers") are protected by the Act and they should not be treated unfairly, lose their job or be penalised because they have made a protected disclosure.

2.3 The CEO has appointed a specifically trained Designated Person (the "**Designated Person**") to be responsible for the handling of reports/disclosures of information, including the administration of protected disclosures and carrying out an initial assessment of the disclosed information (including seeking any additional information from the Reporting Person if required).

3. How to make a Protected Disclosure to the CEO under this Procedure

3.1 Reporting Persons may make an internal protected disclosure to their employer and are encouraged to do so in the first instance.

3.2 Reporting Persons, outside of the Council's staff, will need to access their own employers' internal protected disclosure process if they wish to make an internal protected disclosure.

Making a Report

3.3 Reports should be made to the Designated Person who is authorised to receive reports under this Procedure at;

Postal address: Designated Person, The Medical Council, Kingram house, Kingram Place, D02 XY88
Email: externalpd@mcirl.ie
Dedicated Dial In: +353 1 4980805 (to secure, recorded voicemail, subsequent telephone conversations are not recorded).

3.4 Reports can be made orally or in writing.

3.5 A report can be made by way of a physical meeting upon request. If this is required, please contact the Designated Person as set out at section 3.3 above in order to arrange same.

3.6 The Designated Person is responsible for providing information on making an external disclosure, receiving, and following up on reports, maintaining communication with the Reporting Person and where necessary, requesting further information from and providing feedback to Reporting Person.

3.7 Reporting Persons should note that once a disclosure has been made in accordance with the Act and under this Policy, it **cannot be withdrawn** and Reporting Persons are expected to cooperate with the investigation.

Acknowledging the Report and Follow Up

3.8 The Designated Person will acknowledge all reports in writing within 7 days of receipt (the "**Acknowledgement**") unless: -

(a) the Reporting Person requests that no Acknowledgement is made; or
(b) the Designated Person reasonably believes that to issue an Acknowledgement would jeopardise the protection of the Reporting Person's identity.

3.9 The Acknowledgement shall include: -

(a) a copy of these Procedures;
(b) further information about the protected disclosures process explaining to the Reporting Person what will happen and when;
(c) information on the protection of the identity of the Reporting Person and the protection from penalisation;
(d) information in relation to feedback and what type of feedback will and will not be given; and
(e) information that the Reporting Person may request in writing further feedback at 3 month intervals (or 6 months in exceptional cases).

Initial Assessment

3.10 The Designated Person shall assess: -

(a) if they consider there is *prima facie* evidence that a Relevant Wrongdoing might have occurred; and

(b) whether the report concerns matters that fall within the scope of the matters for which the CEO has been prescribed under the Act, as set out in section 1 of the Policy.

3.11 The Designated Person may, if required, make contact with a Reporting Person, in confidence, in order to seek further information or clarification regarding the matter(s) that they have reported.

3.12 The Act requires that a Reporting Person shall cooperate with the Designated Person in relation to the performance of their functions under the Act. This includes any functions they carry out as part of the assessment process.

3.13 If it is unclear as to whether a report is a protected disclosure, the report will be treated as a protected disclosure until a definitive conclusion can be made.

3.14 There are five possible outcomes to the initial assessment, as set out in the Act.

i. The Designated Person may decide that not all of the matters reported qualify as Relevant Wrongdoings under the Act or fall within the matters for which the CEO has been prescribed under the Act. If this occurs, the Designated Person may deal with different parts of a report differently according to what, in their opinion, is the most appropriate thing to do in each case (i.e. a single disclosure may be broken down into a series of separate allegations or parts, each of which may need to be followed up separately or approached differently, according to the circumstances.)

ii. The Designated Person may decide that there is no *prima facie* evidence that a Relevant Wrongdoing may have occurred. If this decision is made, the Designated Person will close the procedure and notify the Reporting Person in writing of this decision as soon as practicable and the reasons for it.

iii. The Designated Person may decide that there is prima facie evidence that a Relevant Wrongdoing may have occurred but that the Relevant Wrongdoing is clearly minor and does not require follow up. If this decision is made, the procedure will be closed and the Reporting Person will be notified in writing as soon as practicable of the decision and the reasons for it.

iv. The Designated Person may decide that all or part of a report is a repetitive report that does not contain any meaningful new information compared to a previous report. If this decision is made, the procedure will be closed and the Reporting Person will be notified in writing, as soon as practicable, of the decision and the reasons for it.

v. The Designated Person may decide that all or part of a report concerns matters which are not within the scope of matters for which the CEO has been prescribed under the Act. If this decision is made, the Designated Person will transmit your report – in whole or in part, as appropriate – to such other prescribed person or persons as they consider appropriate or, where, in the opinion of the Designated Person, there is no such other prescribed person, to the Protected Disclosures Commissioner. The

Reporting Person will be notified in writing, as soon as practicable, of the decision and the reasons for it.

Decision to Investigate

3.15 Where, in the Designated Person's opinion, there is *prima facie* evidence that a Relevant Wrongdoing may have occurred, the Designated Person shall decide on what further follow-up action is required.

3.16 If the Designated Person decides that an investigation is required, they shall determine how the matter should be investigated.

3.17 The Act requires that a Reporting Person must cooperate with the Designated Person in relation to the performance of their functions under the Act. This includes any functions carried out as part of the follow-up process.

Feedback

3.18 Feedback will be provided to you within a reasonable time period and no later than 3 months after the initial acknowledgement of the Reporting Person's report or, if no acknowledgement was sent, no later than 3 months after Reporting Person's report was received. This time period applies whether the report was initially made directly to the CEO/Designated Person or initially made to another prescribed person under the Act or the Protected Disclosures Commissioner, and then transmitted to CEO.

3.19 In duly justified circumstances, the time period for the provision of feedback may be extended to 6 months, having regard to the nature and complexity of the report. The Designated Person will inform the Reporting Person, in writing, of any decision to extend the feedback period, as soon as practicable, after the decision is made.

3.20 The Reporting person may request, in writing, that the Designated Person provide further feedback at 3-month intervals until the process of follow-up is completed. The Designated Person may also choose to provide further feedback, even if not requested. In such circumstances the interval for further feedback will not be greater than 3 months.

3.21 Any feedback (including any information in relation to the final outcome) given by the Designated Person is provided in confidence and should not be disclosed to anyone else other than:

(a) as part of the process of seeking legal advice in relation to the report from a solicitor or a barrister or a trade union official; or

(b) if required in order to make a further report through this or another reporting channel provided for under the Act.

3.22 Feedback will include information on the action taken or envisaged to be taken as follow-up to that report and also the reasons for such follow-up. Follow-up includes the assessment and investigation of the disclosure and actions taken to address the wrongdoing.

3.23 Feedback will not include any information: -

(a) that could prejudice the outcome of an investigation or any other action that might follow;

(b) relating to an identified or identifiable third party; or

(c) on any disciplinary or confidential regulatory action (as such information is confidential as between the employer, the regulator and the employee concerned, as the case may be).

3.24 The requirement to provide feedback does not override any statutory or legal obligations that may apply as regards confidentiality and secrecy.

3.25 If the follow-up process determines that no Relevant Wrongdoing has occurred, the Reporting Person will be informed of this, in writing.

3.26 If no further action is required to be taken, the Reporting Person will be informed of this in writing.

3.27 The Designated Person will give a Reporting Person information concerning the final outcome of any investigation triggered by their report, subject to any legal restrictions concerning confidentiality, legal privilege, privacy and data protection or any other legal obligation. The full investigation report may not be provided to the Reporting Person.

4. Record Keeping

4.1 Records will be kept of all reports, including anonymous reports, in accordance with applicable polices concerning record keeping, data protection and freedom of information. See Appendix 4 for more information on record keeping.

APPENDIX 3 - INFORMATION TO INCLUDE IN A PROTECTED DISCLOSURE

It is recommended that reports should contain at least the following information: -

a) that the report is a protected disclosure being made to the CEO via the external channel and is being made under this Policy and the related procedures and is being made under the procedures;

b) the Reporting Person's name, position in the organisation, place of work and confidential contact details;

c) the date of the alleged Relevant Wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;

d) whether or not the alleged Relevant Wrongdoing is still ongoing;

e) whether the alleged Relevant Wrongdoing has already been disclosed and if so, to whom, when, and what action was taken;

f) information in respect of the alleged Relevant Wrongdoing (what is occurring/has occurred and how) and any supporting information;

g) the name of any person(s) allegedly involved in the alleged Relevant Wrongdoing (if any name is known and the worker considers that naming an individual is necessary to report the wrongdoing disclosed); and

h) any other relevant information.

APPENDIX 4 – RECORD KEEPING, DATA PROTECTION AND FREEDOM OF INFORMATION

1. RECORD KEEPING

1.1 A record of all reports – including all anonymous reports – will be kept.

1.2 Where a report is made via voice messaging system, a transcript of the call will be made. The reporting person shall be afforded the opportunity to check rectify and agree this transcript.

1.3 Where a report is made via +353 1 498 3105, the report shall be documented by way of accurate minutes of the conversation taken by the person who receives the report. The reporting person shall be afforded the opportunity to check, rectify and agree these minutes.

1.4 Where a report is made via a physical meeting with an authorised member of staff, the report shall be documented by way of accurate minutes of the conversation taken by the person who receives the report. The reporting person shall be afforded the opportunity to check, rectify and agree these minutes.

1.5 Where the Designated Person is required to follow-up on, or seek clarification on any matter with regards to the report, these records will also be securely stored and processed in the manner outlined above.

2. DATA PROTECTION

2.1 All personal data will be processed in accordance with applicable data protection law, including the General Data Protection Regulation ("**GDPR**").

2.2 It is important to note that section 16B of the Protected Disclosures Act imposes certain restrictions on data subject rights, as allowed under Article 23 of the GDPR.

2.3 Where the exercise of a right under GDPR would require the disclosure of information that might identify the reporting person or persons concerned, or prejudice the effective follow up of a report, exercise of that right may be restricted.

2.4 Rights may also be restricted to the extent, and as long as, necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of reporting persons or persons concerned.

2.5 If a right under GDPR is restricted, the data subject will be given the reasons for the restriction, unless the giving of such reasons would identify the reporting person or persons concerned, or prejudice the effective follow up of a report, or prejudice the achievement of any important objectives of general public interest as set out in the Act.

2.6 A person whose data subject rights are restricted can make a complaint to the Data Protection Commissioner or seek a judicial remedy in respect of the restriction.

2.7 Further information on the Councils data protection polices is available on the Council website.

3. FREEDOM OF INFORMATION

3.1 The Freedom of Information Act 2014 does not apply to any records relating to disclosures made in accordance with the Act, irrespective of when they were made.

APPENDIX 5 - PENALISATION

Penalisation refers to any direct or indirect act or omission occurring in a work-related context due to the making of a report, and which causes (or may cause) an unjustified detriment to the worker. The following represents a non-exhaustive list of examples under the Act and the Guidance:

a) Suspension, lay off or dismissal
b) The imposition of any disciplinary action
c) Demotion or loss of opportunity for promotion or withholding of promotion
d) Transfer of duties, change of location of place of work, reduction in wages or change in working hours
e) Discrimination, disadvantage or unfair treatment
f) Coercion, intimidation, harassment or ostracism
g) Discrimination, disadvantage or unfair treatment
h) Injury, damage or loss
i) Withholding of training
j) A negative performance assessment or employment reference
k) Failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that they would be offered permanent employment
l) Failure to renew or early termination of a temporary employment contract
m) Harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income
n) 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
o) Early termination or cancellation of a contract for goods or services
p) Cancellation of a licence or permit and
q) Psychiatric or medical referrals

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