



Protected Disclosures Policy and Procedures

Effective Date: December 2016

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1. INTRODUCTION

- 1.1 The purpose of the Protected Disclosures Act 2014 ('the Act') is to provide a robust statutory framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace. As per Section 3 of the Act, the term 'worker' includes employees, contractors, trainees, agency staff, former employees and interns.
- 1.2 The purpose of this policy is to encourage and facilitate avenues for workers to raise concerns within our workplace rather than avoiding the matter or deciding to "blow the whistle" externally. Under this policy, a worker is entitled to raise concerns or disclose information without fear of penalisation or the threat of less favourable treatment, discrimination or disadvantage.

2. OUR COMMITMENT

- 2.1 The Irish Auditing and Accounting Supervisory Authority ('IAASA') is committed to maintaining an open culture with the highest standards of honesty, openness and accountability where our workers can report any concerns in confidence.
- 2.2 It should be noted that if you have a concern in relation to your own employment or personal circumstances within the workplace, it is to be dealt with by way of our grievance procedure.
- 2.3 This policy does not replace any legal reporting or disclosure requirements. If statutory reporting requirements and procedures exist, these must be complied with.

3. AIMS AND SCOPE OF THIS POLICY

- 3.1 This policy aims to:
- create an open environment in which you feel confident and secure in raising concerns and disclosing information;
 - provide a suitable avenue for you to raise concerns in confidence;
 - ensure that you receive feedback, where possible, of any action taken;
 - reassure you that you will be protected from penalisation or any threat of penalisation.

4. RELEVANT INFORMATION AND WRONGDOINGS

- 4.1 This policy deals with disclosures that concern 'relevant information' in relation to 'relevant wrongdoings'. Under Section 5(2) of the Act, information is 'relevant' if the worker reasonably believes that the information shows one or more relevant wrongdoings and that they became aware of the information in the course of their employment.
- 4.2 Under Section 5(3)(a)-(h) of the Act, relevant wrongdoings are as follows:
- a) offences that are, or are likely to be, committed;
 - b) failing to comply with legal obligations;
 - c) miscarriage of justice;
 - d) health and safety threats;
 - e) damage to the environment;
 - f) misuse of public monies;
 - g) mismanagement by a public body;
 - h) concealment or destruction of information relating to any of the foregoing..
- 4.3 Under this policy, a 'protected disclosure' can be about a relevant wrongdoing that is taking place, that has taken place or that is about to happen.

5. WHAT TYPES OF CONCERNS SHOULD NOT BE RAISED?

- 5.1 Any concerns relating to personal matters arising from your employment should be raised through our grievance procedure.

6. REASONABLE BELIEF

- 6.1 A worker must have a reasonable belief that the information they possess tends to show a wrongdoing (“reasonable belief”). An employee is entitled to be mistaken in their belief, provided that their belief was reasonable. The motivation of a worker making a disclosure is irrelevant when determining whether or not it is a protected disclosure. However, if a worker is found to have raised a concern or disclosed information without a “reasonable belief”, they may be subject to appropriate disciplinary action.

7. SAFEGUARDS AND PENALISATION

- 7.1 Any worker who makes a protected disclosure and who has a reasonable belief of wrongdoing will not be penalised by IAASA, even if such concerns or disclosures turn out to be unfounded.
- 7.2 Penalisation includes suspension, dismissal, disciplinary action, demotion, discrimination, threats or any unfavourable treatment arising from raising the protected disclosure provided that there was a reasonable belief for doing so. If you believe that you are being subjected to penalisation as a result of making a disclosure under this procedure, you should inform the Protected Disclosures Manager immediately.
- 7.3 An assessment or, when necessary, an investigation into any claim of penalisation shall be carried out. If you are not satisfied with the outcome of that assessment or investigation, you may seek a review – see paragraph 17.
- 7.4 Any worker who penalises or retaliates against a person who has raised a concern under this policy will be subject to an investigation which may include suspension, dismissal and/or disciplinary action where necessary.
- 7.5 While there is no expectation on workers to prove the truth of the allegation, they must have a reasonable belief that there are grounds for their concern.

8. PROTECTING YOUR IDENTITY

- 8.1 IAASA is committed to protecting the identity of any worker who raises a concern and shall seek to ensure that relevant disclosures are treated appropriately. The focus will be on the wrongdoing rather than the person making the disclosure.
- 8.2 Under Section 16(2) of the 2014 Act, protection of your identity cannot be maintained if:
- The person to whom the protected disclosure is made shows that he or she took all reasonable steps to avoid disclosing the identity of the worker.
 - The person to whom the disclosure is made reasonably believes that the person does not object to the disclosure of such information.
 - The person to whom the disclosure is made reasonably believes that disclosing such information is necessary for the effective investigation of the relevant wrongdoing, the prevention of serious risk to the State, public health or the environment and the prevention of crime or prosecution of a criminal offence.
 - The disclosure of the identity of the worker may be disclosed if it is in the public interest or required by law.

- 8.3 If a person dealing with your protected disclosure decides that it is appropriate to disclose your identity, they will (save in exceptional cases) advise you of this decision. You can seek to have this decision reviewed – see paragraph 17.

9. ANONYMOUS DISCLOSURES

- 9.1 While it is possible to raise a concern anonymously, you are encouraged to disclose your identity when raising a concern as this will make it easier to assess the disclosure and take the appropriate action. If you do choose to raise a concern anonymously, you may not be able to obtain protection under the 2014 Act.

PROCEDURES

10. RAISING A CONCERN

10.1 WHO SHOULD YOU RAISE YOUR CONCERN WITH?

The first point of contact for raising appropriate concerns is your immediate manager or their superior. However, if such an avenue is not available to you, you should approach the Protected Disclosures Manager. Fergal Ó Briain is the Protected Disclosures Manager and he is authorised to operate as the internal disclosure channel in accordance with section 6(2) of the Protected Disclosures Act 2014¹.

10.2 HOW TO RAISE A CONCERN

Concerns may be raised verbally or in writing. In the event that you wish to raise a concern verbally, you should request a private meeting with your immediate line manager or their superior or the Protected Disclosures Manager. A written record of this conversation will be taken and you will be provided with a copy of this conversation after the meeting.

If you wish to raise a concern in writing, it is advised that you give all the relevant details possible such as the background of the concern, dates, sequence of events and description of circumstances. A form is attached in the Appendix to this document which you might find useful in raising your concern.

All concerns should be raised at the earliest possible junction in order to deal with the matter quickly and effectively.

10.3 FURTHER ACTION

Upon raising your concerns with us, a meeting will be arranged to discuss the matter with you on a strictly confidential basis. This meeting will be used to clarify if the matter falls within this procedure or is more appropriately dealt with by, for example, our grievance procedure.

You can choose whether or not you want to be accompanied by a colleague. In regard to confidentiality, it is important that there should be an awareness of respecting sensitive company information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

¹ Please also see paragraph 19.1 for details about raising a disclosure through the external channel with the Chief Executive Officer

11. HOW WE WILL DEAL WITH YOUR DISCLOSURE

- 11.1 Upon clarifying that this is the appropriate forum for your disclosure, there will be an initial assessment to examine what actions are to be taken. This may involve clarifying certain aspects of the disclosure, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.
- 11.2 Following the initial assessment, if it is concluded that there are grounds for concern that cannot be adequately dealt with at that point, an investigation will be carried out in a fair, transparent and objective manner. The form and scope of the investigation shall depend on the subject matter of the disclosure.
- 11.3 Disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the appropriate authorities. Likewise if urgent action is required (for example, to remove a health and safety hazard), this action will be taken without any delay.
- 11.4 It is important to us that you feel assured that a disclosure made by you under this policy is taken seriously and that you are kept informed of steps being taken by us in response to your disclosure. In this regard we undertake to communicate with you as follows:
- We will acknowledge receipt of your disclosure and arrange to meet with you as outlined above;
 - We will inform you of how we propose to investigate the matter and keep you informed of actions, where possible. This may include informing you of the outcome of any investigation, and, should it be the case, why no further investigation will take place. However, it is important to note that sometimes the need for confidentiality and legal considerations may prevent us from giving you specific details of an investigation.
 - We will inform you of the likely time scales in regard to each of the steps being taken but in any event we commit to dealing with the matter as quickly as practicable.
- 11.4 It is possible that in the course of an investigation you may be asked to clarify certain matters. To maximise confidentiality such a meeting can take place off site and you can choose whether or not to be accompanied by a colleague.
- 11.5 Where a concern is raised or a disclosure is made in accordance with this policy, but the allegation is subsequently not upheld by an investigation, no action will be taken against the worker making the disclosure and the worker will be protected against any penalisation. It is important to note that if an unfounded allegation is found to have been made without "reasonable belief" (see paragraph 6), then disciplinary action may be taken.
- 11.6 If you are not satisfied with the outcome of an investigation of your protected disclosure, you can seek a review – see paragraph 17.

12. PROTECTION OF THE RIGHTS OF RESPONDENTS

- 12.1 The 2014 Act does not in any way change the existing rights of workers who are the subject of an allegation. In particular, workers who are the subject of a protected disclosure must have their right to natural justice and fair procedures upheld.
- 12.2 While an investigation is on-going, all reasonable steps will be taken to protect the confidentiality of those who are the subject of allegations in a protected disclosure pending the outcome of the investigation.

13. HOW THE MATTER CAN BE TAKEN FURTHER

- 13.1 The aim of this policy is to provide an avenue within this workplace to deal with concerns or disclosures in regard to wrongdoing. We are confident that issues can be dealt with “in house” and we strongly encourage workers to report such concerns internally.
- 13.2 We acknowledge that there may be circumstances where an employee wants to make a disclosure externally, and the legislation governing disclosures — The Protected Disclosures Act 2014 — provides for a number of avenues in this regard. (see point 15)
- 13.3 It is important to note, however, that while you need only have a reasonable belief as to wrong doing to make a disclosure internally, if you are considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made.

14. EXTERNAL DISCLOSURES TO ‘PRESCRIBED PERSONS’ AND ‘OTHERS’

- 14.1 The Act allows workers to make a protected disclosure to persons other than their employer in certain circumstances. Different requirements need to be met in different cases, as set out at (a) to (e) below.

(A) Other Responsible Person

Where the worker reasonably believes that the wrongdoing relates to the conduct of a person other than the worker’s employer or to something for which that other person has legal responsibility, then the worker can disclose to that other person.

(B) A Prescribed Person

Certain persons are prescribed by S.I. 339/2014 Protected Disclosures Act 2014 (Section 7(2)) Order 2014 (as amended) to receive protected disclosures (“prescribed persons”). This includes the heads or senior officials of a range of statutory bodies.

A worker may make a protected disclosure to a prescribed person if the worker reasonably believes that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed under SI 339 of 2014. However, the Act also provides an additional requirement in this case. The worker must believe that the information disclosed, and any allegation contained in it, is substantially true.

The Chief Executive of the Irish Auditing and Accounting Supervisory Authority (‘IAASA’) is defined within S.I. 490 of 2016 Protected Disclosure Act 2014 (Section 7(2)) as the person to receive relevant information in relation to all matters relating to the functions of IAASA.

(C) A Minister of the Government

If a worker is or was employed in a public body, the worker may make a protected disclosure to the Minister on whom any function related to the public body is conferred or imposed by or under any enactment. The Minister with primary statutory functions in relation to IAASA is the Minister for Jobs, Enterprise and Innovation.

(D) A Legal Adviser

The Act allows a protected disclosure to be made by a worker in the course of obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body (an excepted body is a body which negotiates pay and conditions with an employer but is not a trade union as defined in section 6 of the Trade Union Act 1941).

(E) Alternative external disclosures (in very limited circumstances) (section 10)

While it is preferable in most circumstances to make an internal disclosure or if that is not appropriate, to use one of the options at (a) to (d) above there are stringent requirements for alternative external disclosures to qualify as protected disclosures under section 10 of the Act.

It will rarely be appropriate to make alternative external disclosures where the disclosure could be dealt with through one of the other disclosure options above.

The protections will only be available if the following conditions are met:

- The worker must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true; and
- The disclosure must not be made for personal gain; and
- At least one of the following conditions at (a) to (d) must be met:
 - (a) At the time the disclosure was made the worker reasonably believed that would be penalised if they made the disclosure to the employer, a responsible person, a prescribed person or a Minister; or
 - (b) Where there is no relevant prescribed person, the worker reasonably believed that it was likely that evidence would be concealed or destroyed if the worker made the disclosure to the employer or responsible; or
 - (c) The worker has previously made a disclosure of substantially the same information to the employer, a responsible person, a prescribed person or a Minister; or
 - (d) The wrongdoing is of an exceptionally serious nature

The assessment of what is reasonable takes account of, among other things:-

- (a) The identity of the person to whom the disclosure is made,
- (b) The seriousness of the wrongdoing,
- (c) Whether the wrongdoing is ongoing or likely to occur in the future,
- (d) Whether any action had been taken in cases where a previous disclosure was made; and
- (e) Whether the worker complied with any procedures in place when making that previous disclosure.

15. COMMUNICATION, MONITORING AND REVIEW

- 15.1 This policy will be communicated via email and will be available in booklet form.
- 15.2 It will be subject to regular monitoring, evaluation and an annual review in consultation with the Board of IAASA, our senior management team and our employees.

16. SUPPORT AND ADVICE

- 16.1 Advice and support, is available to workers at:
www.workplacerelations.ie
- 16.2 Further Information is available on the below noted link:
<http://www.per.gov.ie/en/protected-disclosures-act-2014/>

17. REVIEW

- 17.1 A review is available in respect of:
 - (a) a decision to disclose your identity (see paragraph 8);

- (b) the outcome of any assessment or investigation undertaken in respect of the protected disclosure; and
- (c) the outcome of any assessment or investigation in respect of any complaint of penalisation (see paragraph 7).

17.2 The review will be carried out by the Chief Executive, IAASA. In order to seek a review, you should email the Chief Executive at protecteddisclosures@iaasa.ie. The email should set out the decision which is to be reviewed and the factors which you believe are relevant to the review.

17.3 The Chief Executive will carry out the review and will advise you of the outcome of the review.

18. REPORTING

18.1 IAASA is required to report annually on –

- * the number of protected disclosures made to it;
- * the action (if any) taken in response to those protected disclosures; and
- * such other information relating to those protected disclosures and the action taken as may be requested by the Minister from time to time.

The report will not enable the identification of the persons involved.

19. CONTACT POINTS

19.1 Fergal Ó Briain is the Protected Disclosures Manager and is authorised to operate as the internal disclosure channel in accordance with Section 6(2) of the Protected Disclosures Act 2014.

His contact details are:

Name: Fergal Ó Briain

Phone: (045) 983 616

Email: internalprotecteddisclosures@iaasa.ie

Staff may also raise a concern through the external channel for protected disclosure. Staff who wish to make a protected disclosure in this manner must send a completed PD1 form for the attention of the Chief Executive Officer. Forms must be sent to the dedicated secure email address protecteddisclosures@iaasa.ie.

19.2 IAASA may appoint an appropriate staff member as the coordinator responsible for the maintenance and day-to-day operation of this policy.

Protected Disclosure Form
[STRICTLY PRIVATE AND CONFIDENTIAL]

Part One: General Information

Name: Click here to enter text.

Email: Click here to enter text.

Phone number: Click here to enter text.

Please specify your preferred method of contact: Click here to enter text.

Part Two: Disclosure Details

(Please fill in all details available to you.)

Details of alleged wrongdoing: Click here to enter text.

Date of alleged wrongdoing or the date it was identified: Click here to enter text.

Is this alleged wrongdoing ongoing? Click here to enter text.

Who was/is involved in this wrongdoing? Click here to enter text.

Has this information been previously disclosed? (If so, to whom, by whom and what actions were taken) Click here to enter text.

Any other relevant information Click here to enter text.

I, insert name, am providing this information to Insert name of immediate manager, their supervisor or the Protected Disclosure Manager. I have read the contents of the policy document and I believe this information discloses a wrongdoing.

Signed: Click here to enter text.

Date: Click here to enter text.