
Protected Disclosures (‘Whistle-blower’) Policy

Approved by the Board on 20 September 2023

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Introduction

Community Foundation Ireland (the **Foundation**) and its donors are on a shared mission of equality for all in thriving communities. Together with 5,000 voluntary, community and charitable partners we are a philanthropic hub for Ireland which is a source of knowledge, expertise and information to ensure effective and strategic giving.

Our mission is supported by four pillars: Sustainable Futures, Inclusive Communities, Empowering Generations and Accelerating Change.

This Policy aims to give effect to the obligations and provisions of the Protected Disclosure Act, 2014 (the **Act**) and does not replace any legal reporting or disclosure requirements arising under any other legislation. Where statutory reporting requirements or procedures exist, these must be fully complied with.

The Act provides a statutory framework within which workers (as defined below) can raise concerns regarding a relevant wrongdoing that has come to their attention in the course of their work in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for making a protected disclosure.

This Policy covers **all workers** in the Foundation as defined by section 3 of the Act which includes **current and former employees, consultants and contractors**.

Purpose

This Policy sets out the Foundation's internal procedures by which concerns can be reported and how they will be handled.

The aims of this Policy are:

- a) To encourage the reporting of suspected relevant wrongdoing as soon as possible in the knowledge that reports shall be taken seriously and investigated as appropriate and that confidentiality will be respected in the manner provided by the Act;
- b) To provide guidance as to how to raise concerns internally and to set out how those concerns shall be dealt with; and
- c) To reassure workers that genuine concerns can and should be raised, even if they turn out to be mistaken, without fear of penalisation.

Concerns Covered Under this Policy

This Policy is designed to enable workers raise concerns in relation to any knowledge or properly grounded suspicions that they may have about actual, or potential, malpractice, or impropriety.

While it is impossible to provide an exhaustive list of all such activities, the following are examples of what the Foundation expects workers to report under this Policy:

- Criminal offence / activity,
- Financial malpractice, impropriety, or fraud,
- Failure to comply with legal obligations,
- Actions which endanger the health and safety of employees or the public,
- Actions which cause damage to the environment,
- Actions which are intended to conceal any of the above,
- Actions which may damage the reputation of the Foundation.

This Policy should not be used to raise complaints relating to your own personal circumstances or your terms or conditions of employment, such as the way you are being treated at work or workplace issues which may be affecting you personally. In such cases you should use the **grievance policy** as provided for in your contract of employment.

How to Make an Internal Disclosure

The Foundation requests that all concerns of wrongdoing are reported internally using this Policy in the first instance. This will afford the Foundation the opportunity to investigate and manage any issues itself, and prevent unnecessary potential reputational damage where concerns are not valid.

The Foundation recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal. If workers make allegations in good faith, they should have nothing to fear as they will be doing their duty to their employer and their colleagues. The Foundation's strong commitment to this Policy means that workers can raise concerns about wrongdoing in the knowledge that they will be supported and protected from repercussions.

Workers should not pursue their own investigations, however well intended as a flawed or improper investigation could compromise the Foundation 's ability to take effective action.

Given the seriousness of the concerns that fall under the scope of this Policy, and the importance the Foundation places on such issues, any protected disclosure should be made directly to the Chief Executive Officer (**CEO**) in the first instance.

Where, for any reason, the worker considers it inappropriate to refer the matter to the CEO, the disclosure can instead be made to any of the following: Governance and Compliance Manager, a member of the Senior Leadership Team or the Chairperson of the Audit and Risk Committee (**ARC**) – contact details below.

Concerns may be raised verbally in the first instance but should be followed up in writing before any action will be taken.

It is recommended that the following format is used and that the worker keeps a copy of the disclosure and any supporting documentation provided.

- a) That the disclosure is being made under this Policy.
- b) The discloser's name, position in the Foundation, place of work, and confidential contact details.
- c) Date the disclosure
- d) The name of the person(s), body or otherwise alleged involved.
- e) Provide a description of the relevant wrongdoing;
- f) Provide any information that supports the alleged relevant wrongdoing so as to assist the investigation of the matters raised in the disclosure; what is occurring / has occurred, include dates/times and locations to assist the investigation of the matters raised in the disclosure
- g) Whether or not the alleged 'wrongdoing' is still ongoing.
- h) Whether the alleged wrongdoing has already been disclosed, and if so, to whom, when and what action was taken.
- i) Any other relevant information.
- j) State whether you do/do not expect confidentiality.

Procedures for Investigating Concerns / Complaints

In all cases where a report has been made internally, the CEO/Chairperson of the ARC/Governance and Compliance Manager/SLT member (as appropriate) will keep a comprehensive record of

- being made aware of the worker's concern and

- the subsequent action taken.

Where a report is made to the Governance and Compliance Manager/SLT they shall issue the record to the CEO/Chair of the ARC (as they consider appropriate)

The CEO/Chair of the ARC may investigate the matter themselves or request that the matter be investigated by another party, either internally or externally e.g. the auditor or a relevantly experienced investigator (**Investigating Officer**)

For each concern raised, the Investigating Officer shall:

- Send the worker a written acknowledgement of receipt of their concern as soon as practically possible.
- Ensure the principles of natural justice apply to all those involved in the investigations throughout the process.
- Typically carry out a preliminary enquiry to determine whether a full investigation is necessary and/or if it needs to be referred to an outside body e.g. Charities Regulator, An Garda Síochána. If, on completion of the preliminary enquiry, the concern is judged to be without prima facie substance or merit, the concern may be dismissed, and the worker will be informed of this decision.
- Ensure that all investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.
- Keep, as appropriate, all relevant parties informed as to the progress of the investigation and as to when it is likely to be concluded.
- Produce a written report for the CEO/ Chairperson of the ARC, detailing the complaint and their findings and the validity of the complaint.

Post Investigation & Appeal

On completion of the Investigating Officer's report, the CEO or the Chairperson of the ARC shall decide what action is appropriate to take and arrange for it to be taken.

Subject to legal constraints and, where deemed appropriate by the CEO or the Chairperson of the ARC, the worker and others involved in the investigation may be informed of the general outcome and actions taken (or to be taken) but will not generally be entitled to receive a copy of the Investigating Officer's report. If the investigation concludes that a wrongdoing has occurred, those persons responsible for the wrongdoing may request a copy of the report.

In all instances, a copy of the Investigating Officer's report and actions taken shall be sent to the Chairperson of the ARC.

If the worker is not satisfied with the outcome/ actions taken, they can re-submit their concern in writing to the Chairperson of the Board. This resubmission should include an outline of the worker's concerns regarding the first process, its outcome and/ or the actions taken. The Chairperson of the Board will review the worker's concerns and the Investigating Officer's report and will decide whether the actions taken were appropriate or if further action is required.

Finally, if the worker remains dissatisfied with the outcome of the findings of the Chairperson of the Board, they may make a protected disclosure to The Charities Regulator (see details below).

How to Make an External Disclosure

The Foundation does recognise a worker's entitlement to make a disclosure externally when internal procedures have been exhausted and the worker is still not satisfied with the outcome. Such a disclosure can be made directly to The Charities Regulator - ([Protected Disclosures Charities Regulator](#))

Confidentiality

The Foundation is committed to taking all reasonable steps to protect the identity of the worker making a disclosure and to ensure that relevant disclosures are treated in confidence. Workers who are concerned that their identity is not being protected shall notify the CEO/Chairperson of the ARC. Such notifications will be assessed, and appropriate action taken, as necessary. However, there are circumstances, as outlined in the Protected Disclosures (Amendment) Act 2022, where confidentiality cannot be maintained.

This may include instances in which:

- The disclosure recipient shows that he/she took all reasonable steps to avoid such identity disclosure.
- The worker has made it clear that he/she has no objection to his/her identity being disclosed.
- The identity of the person making the disclosure is critical to 1) an investigation

of the matter raised, 2) to prevent serious risk to the security of the state, public health, public safety or the environment or 3) the prevention of crime or the prosecution of a criminal offence.

- Where the disclosure is otherwise in the public interest or otherwise required by law.

Should such a situation arise, the Foundation shall make every effort to inform the worker that his/her identity may be disclosed.

Where action is to be taken following a disclosure, except in exceptional cases, the disclosure recipient, should contact the discloser and where possible, gain the informed consent of the discloser, prior to any action being taken that could identify them. Where it is decided it is necessary to disclose information that may or will disclose the identity of the discloser, the discloser should be informed of this decision, except in exceptional cases. The discloser may request a review of this decision and a review shall be carried out where applicable.

Raising a Concern Anonymously

A concern(s) may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern(s). The Foundation encourages all workers to put their names to allegations, with our assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for the Foundation to assess the disclosure and take appropriate action, including an investigation if necessary.

Safeguards and Protection

Any penalisation of a worker who makes a Protected Disclosure is in breach of the Act and will not be tolerated by the Foundation. The Foundation's disciplinary procedure or other appropriate action will be invoked against any worker who engages in penalisation or threatened penalisation of a worker in line with this Policy.

No worker engaging in the procedures outlined here will be penalised or subject to unfavorable treatment for their role in the process, whether they are making a Protected Disclosure, supporting a disclosure, giving evidence in proceedings or giving notice of any intention to do any of the foregoing. Penalisation means any act or omission that affects a worker to the individual's detriment and may include suspension, lay-off, dismissal, demotion, loss of opportunity for promotion, transfer of duties, change of location of place of work, reduction in wages, change in working hours, the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),

unfair treatment, coercion, intimidation, harassment, discrimination, disadvantage, unfair treatment, injury, damage, loss or threat of reprisal.

Each worker is also responsible for not causing detriment to another person because the other person or a third person has made a protected disclosure. A detriment in this context includes coercion, intimidation, harassment, discrimination, disadvantage, adverse treatment in relation to employment (or prospective employment), injury, damage, loss or threat of reprisal. This list is non-exhaustive.

Any such conduct may, depending on the seriousness of the issue, be deemed gross misconduct by the Foundation and may result in summary dismissal or other appropriate action.

A worker who believes that they have suffered any such treatment shall inform their Director of Function/CEO as appropriate immediately. If the matter is not remedied a worker may raise it formally using the Foundation's Grievance Procedure.

Data Retention

All information disclosed as part of the protected disclosure is collated in the Investigating Officer's report. This report and actions taken shall be destroyed after 2 years (subject to any legal or other conditions requiring a longer retention).

Costs

Where legal expenses are incurred by a worker making a disclosure under this Policy, the Chairperson of the Board may authorise partial or full reimbursement of associated costs.

Policy Abuse

Any persons found to have abused this Policy may be subject to disciplinary procedure, up to and including dismissal, if for example they are found to have:

- raised unfounded, unsupported, malicious and / or vexatious complaints.
- not kept the utmost sensitivity and confidentiality, both during and after the process.
- repeated concerns (outside this policy) known to have been previously investigated and found to be false unless new evidence is being submitted.
- inappropriately deterred a person from raising valid malpractice or impropriety concerns.

- bullied, harassed, or victimised any person connected with any aspect of the protected disclosure process.

Review

This policy shall be reviewed for effectiveness by the Foundation on an annual basis or as the need arises. The Foundation is committed to regularly reviewing the terms of this policy to ensure it remains up to date with changes in the law, best practice, and other developments.

Contact Details

- Chair of Audit & Risk Committee (ARC) – Ian Power (ianpower@outlook.com)
- Chair of the Foundation Board - Roddy Rowan (rrowan@genesis.ie)