
Protected Disclosures (‘Whistle-blower1’) Policy

Approved by the Board on 22.04.2022

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Introduction

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 Community Foundation Ireland (the **Foundation**) as defined by section 3 of the Act which includes current and former employees, consultants and contractors.

Employees are often the first to know when someone inside or connected with an organisation is involved in illegal or improper activities and practices. The Foundation takes all malpractice very seriously, whether it is committed by senior management, staff, a contractor, or supplier.

The Board and management of the Foundation do not believe that it is in anyone's interest for those with knowledge of a wrongdoing to remain silent. It is therefore important that the Foundation has a transparent and accessible mechanism to enable people to voice concerns in a responsible and effective manner. The Foundation is committed to the highest standards of openness, probity, and accountability, and recognises that employees have an important role in achieving this goal.

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 will 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 will be dealt with; and
- c) To reassure employees 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 employees 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 employees 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 affecting you personally. In such cases you should use the grievance policy as provided for in your contract of employment.

How to Make a 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 reputational damage where concerns are not valid.

The Foundation does however 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 and further details are available below.

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 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) Provide a description of the relevant wrongdoing;
- b) Provide any information that supports the alleged relevant wrongdoing so as to assist the investigation of the matters raised in the disclosure;
- c) Date the disclosure
- d) Provide your preferred contact details; and
- e) State that the disclosure is made under the Act and whether you do/do not expect confidentiality.

Safeguards, Confidentiality and Policy Abuse

In raising a concern, the worker should exercise due care to ensure the basis for and the accuracy of their information. While a worker is not expected to have absolute proof, he/she should be able to demonstrate and appropriately support the reasons for their concerns.

Workers who act in good faith and make genuine concerns should be reassured that their concerns will be treated seriously and sensitively. If a worker's concern is made in good faith, but is not confirmed by a subsequent investigation, no action will be taken against that worker. The Foundation will do everything in its power to prevent any repercussions for the worker.

A person accused of wrongdoing is entitled to know who made the complaint. Accordingly, the Foundation does not encourage anonymous disclosures as such disclosures make investigation difficult and in some cases impossible. Where an anonymous concern is raised, the Foundation is not obliged to apply this Policy, but it may be applied at the discretion of the CEO in consultation with the Chairperson of the ARC.

A worker's identity will be generally kept confidential until such time as the investigation process requires the source of the information to be revealed.

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.

Procedures for Investigating Concerns / Complaints

In all cases, the CEO / Chairperson of the ARC (as appropriate) will keep a comprehensive record of

- being made aware of the worker's concern. and
- the subsequent action taken.

They 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 will:

- 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. 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

After receiving an Investigating Officer's report, the CEO or the Chairperson of the ARC will decide what action is appropriate to take and arrange for it to be taken. Where legal expenses are incurred, the Chairperson of the Board may authorise partial or full reimbursement of associated costs.

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 will be sent to the Chairperson of the ARC and destroyed after 2 years (subject to any legal or other conditions requiring a longer retention).

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).

Contact Details

- Chair of Audit & Risk Committee (ARC) – Ian Power (chair@foundation.ie)
- Chair of the Foundation Board - Mike Gaffney (mgaffney@foundation.ie)
- Charities Regulator - ([Protected Disclosures Charities Regulator](#))

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