



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

# Internal Whistleblowing Policy

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**Applicable to:** All Employees and Workers

**Policy Owner:** Audit Committee<sup>1</sup>

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<sup>1</sup> The Audit Committee will review the Policy prior to its submission to the Commission for approval. Internal Audit Division (IAD) are responsible for investigating disclosures deemed to fall within the remit of this Policy.

# Introduction- Policy Statement

The Central Bank of Ireland (the Bank) acting through the Commission<sup>2</sup> is committed to the principle of accountability and to developing a workplace culture where workers are encouraged to raise their concerns about what is happening at work if they have a reasonable belief of relevant wrongdoing.

In 2014 the [Protected Disclosures Act \(the 2014 Act\)](#) was enacted to empower workers to speak up about wrongdoing in their workplace without fear of reprisal from their employer or a third party. The 2014 Act has recently been amended by the Protected Disclosures (Amendment) Act 2022 to give effect to the EU Directive 2019/1937 on the protection of persons who report breaches of Union law and this Policy reflects those amendments.

This Internal Whistleblowing Policy<sup>3</sup> (The Policy) documents the procedure established by the Bank for facilitating its workers in making a protected disclosure<sup>4</sup> and for dealing with such disclosures. The Policy is in place to encourage workers to come forward and raise an issue internally and to provide reassurance that the disclosure will be dealt with by the Bank in an appropriate manner.

Every disclosure of wrongdoing made in accordance with the Policy will be assessed by the Internal Audit Division (IAD) and, if deemed necessary, will be investigated appropriately. IAD may assess that the subject matter of the disclosure does not fall within the scope of the 2014 Act, in whole or in part, and instead should be addressed in whole or in part through other established mechanisms within the Bank (such as the Grievance Procedure). If a disclosure falls within the scope of the 2014 Act<sup>5</sup>, and if an investigation is deemed necessary, it will be investigated appropriately under this Policy. The identity of the worker who made the disclosure will be protected and not disclosed other than in accordance with the provisions of the 2014 Act (as outlined in the section on “Protections for a Worker who makes a protected disclosure”). The worker will not be penalised for disclosing information that the worker reasonably believes tends to show one or more relevant wrongdoings<sup>6</sup>.

The text of relevant sections of the legislation and of definitions referred to in this Policy are provided in Appendices 2-5.

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<sup>2</sup> Pursuant to section 5(4) and 18B of the Central Bank Act 1942

<sup>3</sup> For the purpose of complying with section 6A(g)(i) of the Protected Disclosures Act 2014

<sup>4</sup> Defined in section 5(1) of the Protected Disclosures Act 2014 (see Appendix 4)

<sup>5</sup> i.e. It does not relate to a “relevant wrongdoing”, as defined in section 5(3) of the Protected Disclosures Act 2014 (see Appendix 4)

<sup>6</sup> Defined in section 5 of the Protected Disclosures Act 2014 (see Appendix 4)

## Purpose

The Policy lays down the procedure for workers to follow in order to make a disclosure about a “relevant wrongdoing<sup>7</sup>” connected with the Bank. This procedure is designed to ensure that a worker can make a disclosure without fear of adverse repercussions for having made the disclosure.

The Policy aims to:

- Encourage workers to feel confident in raising concerns rather than overlooking them;
- Provide specific points of contact for workers to raise concerns within the Bank;
- Provide that a worker who makes a protected disclosure will receive appropriate feedback; and
- Reassure employees that they will be protected from unfair dismissal or penalisation (and reassure other workers that they will not be subjected to detrimental treatment by the Bank) for making a protected disclosure.

### What is a “protected disclosure?”<sup>8</sup>

In broad terms, a protected disclosure is a disclosure of information about very serious matters arising in a work related context. A person that has a serious concern about something to do with the Bank that they have noticed in connection their work should consult the Protected Disclosures Act 2014, including the definitions of “protected disclosure” and “relevant wrongdoing” in section 5, to assess whether they have information of the kind that may be the subject of a “protected disclosure”.

A person will not be penalised by the Bank for making a disclosure which they reasonably believe tends to show that a relevant wrongdoing has occurred or is occurring. See Policy Implementation for further information on who can make a protected disclosure.

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<sup>7</sup> As defined in section 5(3) of the Protected Disclosures Act 2014,

<sup>8</sup> Per section 5(1) the Protected Disclosures Act 2014 (the 2014 Act) (see Appendix 4)

## Examples of relevant wrongdoings<sup>9</sup>

- (a) The commission of a criminal offence;
- (b) The failure of the Bank 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) A miscarriage of justice;
- (d) A danger to the health and safety of any individual;
- (e) Damage to the environment;
- (f) An unlawful or otherwise improper use of funds or resources of a public body, or of other public money;
- (g) An act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or
- (h) that a breach has occurred, is occurring or is likely to occur, or,
- (i) that information tending to show any matter falling within (a)-(h) 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.

Note: The reference to a “breach” in (h) above is a reference to an act or omission that is unlawful within the scope of Union law and covers matters such as public procurement, protection of the environment and protection of privacy and personal data, and security of network and information systems. Please see the full definition of “breach” per section 3(1) of the Protected Disclosures Act 2014 contained in Appendix 3.

This Policy does not replace existing procedures for addressing interpersonal grievances or conflicts or complaints exclusively affecting a reporting person or an employee’s terms and conditions of employment<sup>10</sup>. If you have concerns in these areas, you should consult the Bank’s Grievance Procedure and Dignity at Work Policy or your line manager.

<sup>9</sup> This is not the exact definition of “relevant wrongdoing”. The list is provided to illustrate the type of matters that come within scope of the Protected Disclosures Act 2014. For the full definition, please see section 5(3) of the Protected Disclosures Act 2014 (see Appendix 4).

<sup>10</sup> See section 5(5A) of the Protected Disclosures Act 2014 (see Appendix 5)

# Scope

## Who can make a protected disclosure and receive protection from penalisation?

The Protected Disclosures Act 2014 applies to disclosures made by “workers” as defined in the Act<sup>11</sup>. “Worker” includes current and former employees, Central Bank Commission members, contractors and consultants, trainees, volunteers, shareholders and job applicants. The full definition of worker is provided in Appendix 3. For the purposes of the Policy, the term “worker” is used to describe a person who can make a disclosure pursuant to the Protected Disclosures Act 2014 in accordance with this Policy.

It should be noted that some of the protections afforded to a person under the Protected Disclosures Act 2014 apply to employees only, and not to other workers. In any case, regardless of whether the person who makes a protected disclosure is an employee or another person who comes within the definition of worker, for example a contractor or consultant, the Bank will not penalise nor tolerate the penalisation<sup>12</sup> of a reporting person as a result of having made a protected disclosure. The Bank will make appropriate enquiry and, subject to that enquiry, take appropriate action if the reporting person makes a complaint of treatment that is detrimental to them.

### Motivation and reasonable belief

A worker’s motivation for making a disclosure is irrelevant and, so long as a disclosure made to the Bank by a worker is based on the worker’s reasonable belief that the disclosure tends to show one or more relevant wrongdoings, the applicable protections of the Protected Disclosures Act 2014 will apply to that worker. A worker is not entitled or required to investigate matters themselves.

The term “reasonable belief” does not mean that the belief has to be correct. No worker will be penalised simply for getting it wrong so long as the worker reasonably believed when making the disclosure that the information disclosed to the Bank tended to show one or more relevant wrongdoings.

The Bank may pursue disciplinary action against a person who makes a disclosure to the Bank in the absence of a reasonable belief that the information tends to show one or more relevant wrongdoings.

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<sup>11</sup> Per section 3 of the Protected Disclosures Act 2014 (see Appendix 3)

<sup>12</sup> Per section 3 of the Protected Disclosures Act 2014 (see Appendix 3)

A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker, or the Bank, to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer<sup>13</sup>.

## Representation

A worker may invite a recognised trade union representative or a work colleague to be present, on a confidential basis, during any meetings or interviews attended by the worker in connection with the concerns raised.

## Anonymous Disclosures<sup>14</sup>

Workers are encouraged to identify themselves when raising a concern regarding perceived relevant wrongdoing, but may raise a concern anonymously. This Policy will apply whether or not the disclosure is made anonymously and any concern raised by a worker will be treated seriously, assessed on its merits and investigated if assessed as a protected disclosure and if investigation is considered appropriate.

On a practical level, however, it may be difficult for the Bank to effectively follow-up, assess and investigate a disclosure and to provide feedback if the identity of the reporting person is unknown. Accordingly, the Bank encourages employees to put their names to disclosures, with an assurance of protection of their identity, other than as provided for in the legislation<sup>15</sup> as discussed below.

A worker cannot obtain redress under the 2014 Act for any loss suffered in connection with an anonymous disclosure without identifying themselves. A worker who makes a disclosure by way of an anonymous report and who is subsequently identified and penalised for having made the disclosure is entitled to the protections under Part 3 of the 2014 Act.

## Feedback

The Bank will seek to give feedback to the worker on the outcome of an assessment and investigation of a disclosure, where appropriate, subject to factors including legal or investigatory limitations and the rights of a person(s) concerned<sup>16</sup>, (if the complaint relates to the conduct of an individual(s)), and noting that it may not be possible to provide feedback where the identity of the reporting person is not provided.

<sup>13</sup> Per section 5(5) of the Protected Disclosures Act 2014 (see Appendix 4)

<sup>14</sup> Per section 5A(1) of the Protected Disclosures Act 2014 (see Appendix 4)

<sup>15</sup> Per section 16(2) of the Protected Disclosures Act 2014 (see Appendix 2)

<sup>16</sup> Per section 3(1) of the Protected Disclosures Act 2014 (see Appendix 3)

# Protections for a worker who makes a protected disclosure

## Confidentiality – protecting the reporting person’s identity

Where a worker raising a concern about one or more relevant wrongdoings has asked the Bank not to disclose their identity, the Bank will not do so, save in the circumstances provided for in the legislation. It will ultimately be a matter for the Bank as to whether it can rely on a provision in the legislation, which allows the Bank to disclose the reporting person’s identity, or information that might identify the reporting person. Those provisions are set out in section 16 of the Protected Disclosures Act, 2014 (see Appendix 5).

All persons involved in the investigation will be required to maintain confidentiality in relation to the concerns being raised. Where it is considered necessary to disclose information that may or will disclose the identity of the reporting person, in accordance with the legislation, the reporting person will be informed of this decision in advance of the disclosure, except in exceptional cases. In practice, the decision to disclose the identity of the reporting person under section 16(2) will generally be taken by the Senior Audit Manager in IAD. That decision, and the reason for the decision, will be communicated to the reporting person by the Senior Audit Manager in writing before their identity is disclosed, save in exceptional circumstances. The reporting person may request a review of the decision to disclose their identity and that request will be passed to the Head of Division of IAD for assessment and determination by the Head of Division of IAD or other nominated person, as appropriate.

## Protection of identity of persons concerned

A “person concerned” is defined under in the Protected Disclosures Act 2014 as “a natural or legal person who is referred to in a report as a person to whom the relevant wrongdoing is attributed or with whom that person is associated”<sup>17</sup>.

## Protection from Dismissal and Penalisation for having made a Protected Disclosure

The Bank will not dismiss or penalise an employee for making a protected disclosure. The Bank will not tolerate any penalisation of an employee and will take appropriate action to protect the employee when they make a protected disclosure.

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<sup>17</sup> Per section 3(1) of the Protected Disclosures Act 2014 (see Appendix 3)

In line with the Protected Disclosures Act 2014<sup>18</sup>, penalisation is defined as any direct or indirect act or omission which occurs in a work-related context, is prompted by the making of a report and causes or may cause unjustified detriment to a work, and, in particular includes:

- a) Suspension, lay-off or dismissal;
- b) Demotion, loss of opportunity for promotion or withholding of promotion;
- c) Transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- d) The imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- e) Coercion, intimidation, harassment or ostracism;
- f) Discrimination, disadvantage or unfair treatment;
- g) Injury, damage or loss;
- h) Threat of reprisal;
- 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 he or she 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;

If a reporting person considers that they have been penalised as a result of having made a protected disclosure, they should make a complaint to a Senior Audit Manager in IAD.

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<sup>18</sup> Section 3(1)

IAD will refer the complaint to HRD for investigation having regard to the continued obligation to protect the identity of the reporting person and, where relevant, any person(s) concerned. In the event that IAD or HRD consider that it is not appropriate for HRD to investigate a particular complaint of penalisation, IAD may decide that it will conduct or determine upon the conduct of the investigation.

Any evidence that an employee created difficulties for the reporting person due to the reporting person making a protected disclosure, sought to identify a reporting person, attempted to cover up wrongdoing or otherwise penalised them, will be treated very seriously, will be enquired into appropriately and is likely to result in disciplinary action in accordance with the Bank's Disciplinary Procedure.

### **Protection from Penalisation for a worker having made a Protected Disclosure**

In the case of a disclosure by a worker who is not an employee of the Bank (for example, a contractor or consultant, the Bank will not penalise nor tolerate the penalisation of any person as a result of having made a protected disclosure. The Bank will make appropriate enquiry and take appropriate action if the reporting person makes a complaint of treatment that is detrimental to them.

### **Policy Review**

The Bank's Internal Whistleblowing Policy will be reviewed on an annual basis (or more frequently if required due to changes in law) by IAD on behalf of the Audit Committee and approved by the Commission.

### **Training and Awareness of this Policy**

Annually (or following the policy being updated), the updated policy will be presented to the management of the Bank through inclusion at a monthly briefing which should be cascaded to all staff. In addition, a Plaza notification will also be published on an annual basis to remind all staff of the Policy.

The Policy is available to view, for current employees of the Bank, on the [Governance Corporate Policies](#) page on Plaza and it is also referenced in section 2.6 of the Bank's Code of Ethics for Staff of the Central Bank of Ireland. The policy is also available to view on the [Staff Policies section](#) of the Bank's website.

# Policy Implementation (How to raise a concern)

## How to Raise a Concern

As noted above, a worker is not entitled to and should not investigate the perceived relevant wrongdoing themselves but should disclose the information they have in line with the process set out below.

## To whom?

A worker who is concerned about one or more relevant wrongdoings should raise their concern in the first instance with their line manager or point of contact (e.g. their Vendor Relationship Manager or Contract Manager). The earlier a concern is raised, the easier it is for the Bank to make appropriate enquiry and take effective action. A worker should specify that they are making a “protected disclosure” in line with this Policy.

Recipients of disclosures should be aware, however, that a worker may raise one or more relevant wrongdoings verbally without naming it as a protected disclosure or following up in writing, and the information may nonetheless amount to a protected disclosure.

A worker can also seek assistance from another member of staff on a confidential basis who can act as a facilitator in the process of making a protected disclosure and the facilitator will not be subjected to any penalisation for having facilitated the reporting person in making the disclosure.

If a worker does not feel comfortable raising a matter with their line manager or point of contact – due to the nature of the concern, its seriousness, or for some other reason they can raise it directly with a member of the team in IAD (a dedicated email address [internalwhistleblowing@centralbank.ie](mailto:internalwhistleblowing@centralbank.ie). This is hosted by IAD – is also available for this purpose)<sup>19</sup>. Access to this email is restricted to staff in IAD who are responsible for dealing with protected disclosures.

Former employees of the Bank (and former Bank workers) should raise a concern about one or more relevant wrongdoings via this dedicated email address. When leaving the employment of the Bank, former employees will be reminded, in writing, of this email address and will be directed towards this facility, should they subsequently inquire about or express an interest in making a disclosure about one or more relevant wrongdoings.

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<sup>19</sup> Section 3(1) defines a ‘facilitator’ as an individual who assists, in a confidential manner, a reporting person in the reporting process in a work-related context.

In certain cases, the worker may consider that it is most appropriate to raise concerns about one or more relevant wrongdoings with another senior member of staff (e.g. the Head of IAD, a Director, the Chairperson of the Audit Committee or a member of the Central Bank Commission), perhaps because of the seriousness, nature or sensitivity of the matters concerned. Any person who receives a disclosure under this policy must refer the matter to the Head of Division of IAD (or the Chair of the Audit Committee, in the circumstances described below) for the appropriate follow up and any investigation.

### Format of a protected disclosure

Concerns about relevant wrongdoings may be raised verbally or in writing. “A protected disclosure should contain “information” which tends to show relevant wrongdoing. The ordinary meaning of disclosing “information” is conveying facts, such as stating that particular events have occurred. “Information” in the context of making a protected disclosure will need to have “sufficient factual content and specificity”. When making a protected disclosure, either verbally or in writing, a worker should provide the information set out in Appendix 1 to this Policy.

Where a concern is raised in writing, the worker should use the form at Appendix 1 and should request that the person receiving the concern acknowledge receipt of the concern as a protected disclosure under the 2014 Act. As mentioned above, recipients of disclosures should be aware that a worker may raise one or more relevant wrongdoings in writing without naming it as a protected disclosure, and the information may nonetheless amount to a protected disclosure. Where there is any doubt, recipients should refer to Internal Audit Division for guidance.

1. The worker raising the concern sends a written communication to the recipient.

The written communication confirms:

- a. the fact that a protected disclosure was made (details of the disclosure need not be included, just the fact that a protected disclosure has been made) and;
- b. that a written acknowledgement from the recipient is required.

2. The recipient responds with a written communication acknowledging receipt of the protected disclosure.

Where a concern is raised verbally, the following steps should be taken by the worker raising the concern to ensure that the concern raised is acknowledged by the recipient as received in the manner intended by the worker (i.e. as a protected disclosure under the

2014 Act and amendments). These steps are to ensure that the recipient is clear that what is intended as a disclosure is not misunderstood, for example construed by the recipient as a passing or casual comment or a complaint under another HR policy or procedure e.g. Dignity at Work Policy or Grievance Procedure.

The recipient of the disclosure shall record the worker's concern in writing using the form at Appendix 1 and shall seek that the worker raising the concern confirm that the details are accurately recorded. The reporting person should, by return email, confirm the accuracy of the record of the disclosure completed by the recipient.

### How your disclosure will be handled

The reporting person or the recipient should send a copy of the form in Appendix 1 (or, where the form Appendix 1 has not been completed, the details of the protected disclosure) directly and immediately to the Head of Division of IAD, in a manner which preserves the confidentiality of the reporting person and, if the subject of the disclosure is a natural person, the personal data of that person concerned, as appropriate<sup>20</sup>.

In exceptional circumstances, the Bank reserves the right to depart from the process set out in this Policy where it is considered reasonable and appropriate to do so.

In circumstances where a reporting person is anonymous, certain steps in this process may not be fulfilled (e.g. acknowledging receipt of a protected disclosure and providing feedback).

#### **On receipt of a disclosure to be assessed as a potential protected disclosure, the Head of Division of IAD will;**

- Refer the disclosure to a Senior Audit Manager(s) in IAD;
- Ensure that the Senior Audit Manager records the disclosure in a secure folder in COMPASS with limited access in order to appropriately safeguard the identity of the reporting person and of any person(s) concerned; and
- Acknowledge receipt of the disclosure in writing to the reporting person and, where relevant, to the member of staff who referred the disclosure to the Internal Audit Division as soon as possible and in any event within seven working days of receipt of the disclosure.

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<sup>20</sup> The Central Bank has obligations to all natural persons under Regulation 2016/679/EU, the General Data Protection Regulation

### **Initial Assessment as to whether the disclosure amounts to a protected disclosure**

- The Senior Audit Manager will assess the substance and merit of the disclosure based on the information provided and determine whether it amounts to a protected disclosure under the Protected Disclosures Act 2014, and therefore comes within the Internal Whistleblowing Policy or, whether there is a more appropriate policy or procedure within the Bank to deal with the concern raised (e.g. Dignity at Work Policy or Grievance Procedure), or both;
- Prior to making an initial assessment, the Senior Audit Manager may seek advice from the Legal Division in respect of legal queries arising from the assessment, e.g. the interpretation of relevant legislation or policies, while at all times maintaining the anonymity of the reporting person and the person(s) concerned where practicable and necessary;
- The Senior Audit Manager will notify the reporting person of the outcome of the initial assessment and whether the concern will be investigated by IAD in accordance with the Policy;
- If the matter is not deemed to be a protected disclosure and, accordingly, is to be closed, the Senior Audit Manager will notify the reporting person in writing as soon as practicable of the decision and the reasons for it;
- If the matter is not deemed to be a protected disclosure but rather a matter that comes within the remit of another Bank policy or procedure, the Senior Audit Manager will notify the reporting person in writing as soon as practicable of the reasons for that conclusion and will provide contact details for HRD to enable the reporting person to pursue the matter with HRD;
- In any event, the Senior Audit Manager will provide an update to the reporting person in relation to the assessment within three months from the date the acknowledgement of receipt of the report was sent to the reporting person;
- The reporting person can request a review of the outcome of this assessment and the Senior Audit Manager will refer the matter to the Head of Division of IAD or where appropriate to another nominated person for review. The Head of Division of IAD or other nominated person, as appropriate, will review the assessment and notify the reporting person of the outcome of the review; and
- Where a disclosure is made anonymously, any person who received the original disclosure and referred it to IAD will be informed of the outcome of the initial assessment.

## Investigation process

- If it is determined that an investigation under the Internal Whistleblowing Policy is warranted, the Senior Audit Manager will determine the nature and extent of the investigation that will be required;
- The Head of Division of IAD will determine whether it is necessary and appropriate to inform anyone else that a protected disclosure has been made and is proceeding to an investigation e.g. the Chairperson of the Audit Committee, the Governor, the Commission, the Deputy Governors, the Director General, the Chief Operations Officer and the Chief People Officer;
- The Senior Audit Manager will determine who is best placed within IAD or externally to conduct the investigation taking into account skillset, availability and absence of a conflict of interest, and will appoint an investigation team who have the necessary skills to complete the investigation (the investigators). The investigation will be overseen by a Senior Audit Manager;
- Once a protected disclosure has been referred for an investigation to be carried out, a Senior Audit Manager will inform the reporting person, in writing, of that fact and that an investigation team/investigator has been appointed;
- As part of the investigation, the investigation team will consider:
  - (i) when and how to inform the person(s) concerned;
  - (ii) whether there is a need to disclose the identity of the reporting person or information that might identify the reporting person and if so identify the legal basis pursuant to section 16 of the 2014 Act for doing so.

If it is decided that it is necessary to disclose the identity of the reporting person or information that might identify the reporting person on one of the prescribed grounds (for example, in order to effectively investigate matters raised, in the public interest or as required by law, to comply with a statutory reporting obligation<sup>21</sup>), that decision will be referred to the Senior Audit Manager for confirmation or otherwise. The reporting person can seek a review of the decision to disclose their identity or identifying information and that request will be passed to the Head of Division of IAD for assessment and determination by the Head of Division of IAD or other nominated person, as appropriate.

- Where an extensive investigation is being conducted, the reporting person and any person(s) concerned (along with the Head of Internal Audit/Audit Committee/Commission) should be kept informed as appropriate. An update should be

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<sup>21</sup> E.g. section 19 of the Criminal Justice Act 2011

provided to the reporting person in writing no more than three months after then initial acknowledgement. If requested in writing by the reporting person, further updates will be provided in writing at further intervals of 3 months.

### **Reporting on the Outcome of the Investigation**

- Once an investigation has been concluded, the investigators will prepare a report with a record of their findings and any recommendations for action;
- The Head of Division of IAD will circulate the report with the record of findings and recommendations to the Audit Committee for consideration and review and for a decision as to any action to be taken on foot of the report;
- The Senior Audit Manager will inform the reporting person of the final outcome of the investigation and the decision regarding any action to be taken, to the extent that is appropriate subject to such factors including legal or investigatory limitations and the rights of any person(s) concerned as regards confidentiality, legal professional privilege, privacy and data protection ;
- The Head of Division of IAD may ask the Chairperson of the Audit Committee to advise the Commission members of the outcome, at all times maintaining confidentiality in terms of the identity of the reporting person and respecting the rights of any person(s) concerned; and
- If the reporting person does not agree with the outcome of the investigation, the reporting person can request the Head of Division of IAD to arrange for a review to be completed. The Head of Division of IAD or another appropriate person (e.g. Chair of the Audit Committee) will decide who will conduct the review. The scope of any such review will be considered on a case-by-case basis.

### **Complaint of Penalisation**

- If a reporting person wishes to make a complaint of penalisation in connection with the making of a Protected Disclosure the complaint should be made to a Senior Audit Manager;
- The Senior Audit Manager will refer the complaint to the Head of Employee Relations in HRD for assessment, together with an explanation about the context of the complaint (i.e. that it arises from a protected disclosure and that therefore the provisions of this Policy apply to both the reporting person’s identity or information that might identify the reporting person and that of any person(s) concerned). The Head of Employee Relations will appoint an investigation panel or person, as appropriate. In the event that IAD or HRD consider that it is not appropriate for HRD to investigate a particular complaint of penalisation, IAD may decide that it will conduct or determine upon the conduct of the investigation;

- A Senior Audit Manager will inform the reporting person that the complaint of penalisation has been referred to HRD or another appropriate person/s for investigation and will liaise with the reporting person to guide them through this process. They will liaise with the reporting person to make the necessary arrangement for the reporting person to meet with HRD/ another investigator where required;
- A reporting person can request a review of the outcome of any assessment or investigation in relation to a complaint in respect of penalisation for having made a disclosure. The review will be conducted by an independent person who did not have any involvement in the original consideration of the complaint.

If a worker wishes to make a protected disclosure relating to IAD, the worker should raise their concern with any Director who will pursue the matter with the Chairperson of the Audit Committee. In these circumstances, the Chairperson of the Audit Committee will decide the appropriate way to deal with the disclosure, which may include or involve, at the discretion of the Chairperson of the Audit Committee, engaging an independent external party to assess and/or investigate the matter.

### **Matters of a nature more appropriate to an external investigation**

It is important to note that some matters may be of such a nature that the investigation will more appropriately be carried out externally, or by professional experts in a particular area. In some cases, the Bank may have statutory reporting obligations requiring it to refer the matter to the Garda Síochána or another body with the statutory power and function of investigation of particular matters. The Head of Division of IAD will determine the appropriate course of action in these circumstances.

Section 19 of the Criminal Justice Act 2011 requires any person who has information that he or she knows or believes might be of material assistance in the prevention, apprehension, prosecution or conviction of specified offences to disclose that information to the Garda Síochána. If a worker has such information then that worker should, unless they have a reasonable excuse, disclose that information to the Garda Síochána as soon as it is practicable.

### **The provision of feedback**

Feedback will be provided to the reporting person at the intervals set out above (“How your disclosure will be handled”). Any feedback provided will be given to the reporting person on a confidential basis. In situations involving a complaint regarding another employee(s) or worker(s), and because of the rights of that person(s) to privacy under the General Data Protection Regulation 2016/679/EU and the Data Protection Acts 1988-2018 and the person(s)’s contract of employment or other agreement in the case of a worker, the Bank will be limited to providing feedback that confirms that appropriate

action has been taken. There is no entitlement for the reporting person to know what that action was.

### Reviews of decisions taken in the context of the handling of a protected disclosure

Where there is provision for a review of certain steps provided for in this Policy, there is no entitlement to two reviews in respect of the same issue.

### Independent Advice service available to employees

As part of the procedures underlying this Policy, the Bank has engaged the services of [Protect](#) – formerly Public Concern at Work (PCaW), a wholly independent charity that provides free and confidential advice on how to raise a concern about serious malpractice at work. All Bank employees and former employees will have recourse to this group. Protect will also help to advise callers in circumstances where a concern should be raised with an outside body such as the Garda Síochána. Calls to Protect are free on 1 800 246 133 and advice can also be sought by email on [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk).

When speaking to Protect, workers should be careful to ensure that they do not disclose any information that should properly remain confidential. For more information on the type of information that is confidential, workers are referred to the Central Bank’s Code of Ethics, including the sections relating to confidentiality under Section 33AK of the Central Bank Act, 1942. Workers should note that the unnecessary disclosure of confidential information externally may result in disciplinary or other action and could amount to a criminal offence<sup>22</sup>.

### Protected Disclosures to persons other than within the Bank

The Bank is committed to ensuring that all Protected Disclosures made under Section 6 of the 2014 Act are fully dealt with under this Policy. It is acknowledged that workers have the right under the 2014 Act to make a Protected Disclosure other than in the manner as set out under Section 6 of the 2014 Act, although before making a disclosure otherwise than under this policy to the Bank, workers should be aware that they must meet different and more stringent legal requirements to qualify as a protected disclosure and should carefully consider the additional tests they must be able to meet in order to avail of the protections of the 2014 Act. Please see Appendix 2, which sets out Sections 6-10 of the Protected Disclosure Act 2014.

### Co-ordination of information

There are two documents in place in the Bank for dealing with protected disclosures, one of which is the Internal Whistleblowing Policy. The other is the “Framework for

<sup>22</sup> Pursuant to section 33AK(8) of the Central Bank Act 1942

Managing Protected Disclosures” which prescribes the method of dealing with reports received from a person other than a Central Bank worker, either through the Protected Disclosures Desk or received by supervisors relating to suspected breaches of financial services legislation by regulated entities. IAD has a local procedure and a system used to record protected disclosures reported directly to them by a Central Bank worker or a facilitator in accordance with this Policy. Enforcement Advisory Division liaises with IAD to compile the annual report on the number of protected disclosures received that year.

### **Reminder of workers’ statutory obligations of professional secrecy and contractual obligations of confidentiality**

Workers should read this document in conjunction with their contractual obligations of confidentiality, the Bank’s Code of Ethics and including the sections relating to confidentiality under Section 33AK of the Central Bank Act, 1942.

If you are unsure about raising a concern you can get independent advice from Protect (see section above).

## Roles & Responsibilities

Roles	Responsibilities
Worker	Raise a concern with their line manager or Bank point of contact (if not an employee) or a Senior Auditor and/or a member of the Management Team in the Internal Audit Division
Line Manager or point of contact	Complete the form at Appendix 1 to this Policy when a concern is raised , ask the reporting person to confirm its content and report to IAD.
IAD	<p>IAD are responsible for investigating disclosures deemed to fall within the remit of this Policy.</p> <p>IAD will act as the designated point of contact with the reporting person for the purpose of acknowledging a disclosure and providing feedback in respect of the assessment and, if relevant, the investigation of the disclosure.</p> <p>IAD may conduct or determine the conduct of an investigation in particular cases where a reporting person makes a complaint of penalisation in connection with the making of a protected disclosure.</p> <p>Where a reporting person seeks a review of a decision under this Policy, IAF will review/appoint a person to review where appropriate.</p> <p>IAD will engage with the Audit Committee where appropriate throughout the process.</p>
HRD	HRD will generally investigate if a reporting person makes a complaint of penalisation in connection with the making of a protected disclosure.

## Contacts

Any queries on the above, should be directed to IAD at:

[internalwhistleblowing@centralbank.ie](mailto:internalwhistleblowing@centralbank.ie)

## Documents considered in the drafting of this policy

Document	Reference	Rationale
Acts	Protected Disclosures Act 2014 as amended by the Protected Disclosures (Amendment) Act 2022	To ensure the Policy is aligned to the 2022 Act
Guidance	Department of Public Expenditure and Reform Guidance, published date 26 February 2016	The Policy is aligned with the most recent Guidance under section 21(1) of the Protected Disclosures Act 2014 issued to assist public bodies in the performance of their functions under the 2014 Act. DEPR Guidance in relation to the amended 2022 Act is in draft format.
Policy	Dignity at Work	Further Information
Procedure	Grievance Procedure	Further Information

# Version Control

<b>Title of Document</b>	Internal Whistleblowing Policy		
<b>Version No.</b>	0.6		
<b>Document Owner</b>	Audit Committee		
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	HRD		September 2022

## Approval Framework

Description	Relevant Approver	Date
Endorsement	Audit Committee	October 2022
Approval	Commission	November 2022

# Appendices

Appendix 1 - Internal Central Bank Worker Protected Disclosure Reporting - Form

Appendix 2 Extract Section 6-10 of Protected Disclosures Act 2014 - Disclosure to employer or other responsible person

Appendix 3 Extracts from Section 3(1) of the Protected Disclosures Act 2014 Definitions worker/employee

Appendix 4 Extracts from Section 5 of the Protected Disclosures Act 2014 Definitions what is a Protected Disclosure

Appendix 5 Extracts from Section 16 of the Protected Disclosures Act 2014 - Protection of identity of maker of protected disclosure

## Appendix 1

### Strictly Confidential

### Internal Central Bank Worker Protected Disclosure Reporting Form

#### When to use:

This form should be used in the reporting of any instance where workers/former workers<sup>23</sup> of the Bank become aware that a perceived “relevant wrongdoing” as defined in section 5 of the Protected Disclosures Act 2014 has occurred, is occurring or is likely to occur (including suspected fraud) in the Bank.

Which of the following best describes the alleged situation? (Mark all that apply.)

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 <sup>24</sup> has occurred, is occurring or is likely to occur, or	
i) In 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	

<sup>23</sup> For the purposes of the Policy, the term “worker” is used to describe a person who can make a disclosure pursuant to the Protected Disclosures Act 2014. “Worker” includes employees and former employees of the Bank and also includes individuals who currently work or have worked within the Bank under a contract, whether express or implied, such as external consultants, contractors, agency personnel, volunteers and Central Bank Commission members.

<sup>24</sup> See section 3(1) of the definition of “breach” (contained in Appendix 3).

attempt has been, is being or is likely to be made to conceal or destroy such information.	
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Please state the reporting person’s name(s) and/or divisions involved:

What is the relationship of the reporting person to the Bank? (Mark all that apply.)

Employee of the Bank	
Vendor/Service Provider	
Contractor	
Other (please specify)	

Has this activity been reported to any other person or division?

Yes	
No	

If yes, to whom?

Provide a brief summary of the alleged relevant wrongdoing:

Date of occurrence	

Does the reporting person give their name?

Yes	
No	

Does the reporting person agree to be identified?

Yes	
No	<sup>25</sup>

If yes, please provide name of reporting person

Name of Reporting Person	
Contact Details	

<sup>25</sup> Where a worker making a disclosure has asked the Bank not to disclose their identity, the Bank will not do so other than in accordance with the Protected Disclosures Act 2014. The Bank cannot commit to never revealing the identity of a worker who has made a disclosure.

The above concern has been notified to me and I have confirmed with the worker that the above details are accurately recorded (**please attach copy of written confirmation with the worker making the disclosure<sup>26</sup>**).

Recipient Name	
Division	
Phone No	
Email	
Date	

Depending on the nature of the concern, completed forms should be emailed to:

- Protected Disclosure: [internalwhistleblowing@centralbank.ie](mailto:internalwhistleblowing@centralbank.ie)

Alternatively, IAD will accepted the form being sent or handed to the recipient.

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<sup>26</sup> Per section 16C(6)

## Appendix 2

### Extract Section 6-10 of Protected Disclosures Act 2014

#### Disclosure to employer or other responsible person

6. (1) A disclosure is made in the manner specified in this section if the worker makes it—

(a) to the worker’s employer, or

(b) where the worker reasonably believes that the relevant wrongdoing which the disclosure tends to show relates solely or mainly—

(i) to the conduct of a person other than the worker’s employer, or

(ii) to something for which a person other than the worker’s employer has legal responsibility,

to that other person.

(2) A worker who, in accordance with a procedure the use of which by the worker is authorised by the worker’s employer, makes a disclosure to a person other than the employer is to be treated for the purposes of this Act as making the disclosure to the employer.

(3) Subject to subsections (5) to (8), for the purposes of enabling the making of reports, an employer with 50 or more employees shall, in accordance with this section and section 6A, establish, maintain and operate internal reporting channels and procedures for the making of such reports and for follow-up (in this Act referred to as “internal reporting channels and procedures”)

(4) The threshold of 50 employees provided for by subsection (3) shall not apply where the employer—

(a) is a public body, or

(b) falls within the scope of the Union acts referred to in Parts I.B and II of the Annex.

(5) Subsection (3) shall not come into effect for employers, other than public bodies and entities who fall within the scope of the Union acts referred to in Parts I.B and II of the Annex, with not less than 50 but not more than 249 employees until 17 December 2023.

(6) (a) Following the carrying out, by or on behalf of the Minister, of an appropriate risk assessment taking into account the activities of the class or classes of employers concerned and the ensuing level of risk for, in particular, the environment and public health, the Minister may, by order, provide that subsection (3) shall apply to such class or classes of employers with less than 50 employees as the Minister may specify in such order.

(b) Before making an order under this subsection, the Minister shall publish or cause to be published on a website maintained by or on behalf of the Minister and which is accessible to the public—

(i) a copy of the proposed order,

(ii) a copy of the risk assessment referred to in paragraph (a), and

(iii) a notice—

(I) stating that the Minister intends to make the proposed order,

(II) stating where, on the website concerned, the documents referred to in subparagraphs (i) and (ii) can be accessed,

(III) inviting the making, during the period specified by the Minister for this purpose, of submissions to the Minister in relation to the proposed order, and

(IV) stating the date of publication of the notice,

and having considered any submissions made in response to the invitation referred to in clause (III) may make the order, with or without amendment.

(c) Submissions made under paragraph (b)(iii)(III) shall be published or caused to be published by the Minister on a website maintained by or on behalf of the Minister and which is accessible to the public.

(d) The Minister shall notify the Commission of the European Union of the making, amendment or revocation of an order under this subsection, and the notification shall include the reasons for making, amending or revoking the order and the criteria used in carrying out the risk assessment referred to in paragraph (a).

(7) (a) The Minister may by regulations provide that the internal reporting channels and procedures required to be established, maintained and operated by employers to whom subsection (3) applies shall also enable the making of reports by other persons or such class or classes of other persons, as the Minister may prescribe, referred to in points (b), (c) and (d) of Article 4.1 and Article 4.2 of the Directive, who are in contact with the entity concerned in the context of their work-related activities.

(b) Where regulations are made under paragraph (a), this section shall apply, with any necessary modifications, to such other persons or class or classes of such other persons referred to in paragraph (a) as may be so prescribed, as if a reference in this section to employees were a reference to such other persons or class or classes of such other persons so prescribed.

(8) The Minister may, for the purpose of the calculation of the number of employees an employer has for the purposes of the application of this section, by regulation, provide

for the methods to be applied by such class or classes of employers and in respect of such class or classes of employees as may be prescribed.

(9) Internal reporting channels and procedures may be—

(a) operated internally by a person or department designated for that purpose by an employer, or

(b) provided externally by a third party authorised in that behalf by an employer.

(10) (a) Subject to paragraph (b), employers with less than 250 employees (including employers in respect of whom an order has been made under subsection (6)) may share resources as regards the receipt of reports under this section and any investigation to be carried out as part of the process of follow-up.

(b) This subsection shall apply without prejudice to the obligations imposed on an employer to—

(i) maintain confidentiality in accordance with section 16,

(ii) diligently follow-up in accordance with section 6A(1)(d), and

(iii) provide feedback in accordance with section 6A(1)(e) and (f).

(11) Subject to subsection (12), section 6A shall apply to a report made to an employer.

(12) Where—

(a) a worker, who is or was an employee of a public body, makes a disclosure of relevant information to the public body, in the manner specified in this section, before the commencement of section 8 of the Protected Disclosures (Amendment) Act 2022, and

(b) the public body—

(i) has established procedures under section 21 (being that section as it stood before the commencement of section 28 of the Protected Disclosures (Amendment) Act 2022), and

(ii) has not completed its consideration of such disclosure in accordance with those procedures before the commencement of the said section 8,

then, where the worker so requests in writing, the public body shall, no later than 3 months after the date of such request, provide information to the worker on any actions taken or to be taken by that public body in relation to the relevant information concerned.

6A (1) Internal reporting channels and procedures shall include the following:

(a) channels for receiving reports that shall be designed, established and operated in a secure manner that ensures that the confidentiality of the identity of the reporting person and any third party mentioned in the report is protected and prevents access

thereto by persons other than those referred to in section 6(9) and any designated person;

(b) acknowledgement, in writing, to the reporting person of receipt of the report not more than 7 days after receipt of it;

(c) the designation of an impartial person or persons who are competent to follow-up on reports (who may be the same person or persons as the recipient of the report) (in this section referred to as a “designated person”) who will maintain communication with the reporting person and, where necessary, request further information from, and provide feedback to, that reporting person;

(d) diligent follow-up by the designated person, which shall include at least the following:

(i) the carrying out of an initial assessment, including seeking further information from the reporting person if required, as to whether there is prima facie evidence that a relevant wrongdoing may have occurred;

(ii) if, having carried out an initial assessment, the designated person decides that there is no prima facie evidence that a relevant wrongdoing may have occurred—

(I) closure of the procedure or referral of the matter to such other agreed procedures applicable to grievances to which a reporting person has access or such other procedures, provided in accordance with a rule of law or enactment (other than this Act), to which a reporting person has access, and

(II) notification of the reporting person, in writing, as soon as practicable, of the decision and the reasons for it;

(iii) if, having carried out an initial assessment, the designated person decides that there is prima facie evidence that a relevant wrongdoing may have occurred, the taking of appropriate action to address the relevant wrongdoing, having regard to the nature and seriousness of the matter concerned;

(e) the provision of feedback to the reporting person within a reasonable period, being not more than 3 months from the date the acknowledgement of receipt of the report was sent to the reporting person under paragraph (b) or, if no such acknowledgement was sent, not more than 3 months from the date of expiry of the period of 7 days after the report was made;

(f) the provision to the reporting person, where he or she so requests in writing, of further feedback at intervals of 3 months until such time as the procedure relating to the report concerned is closed, the first such period of 3 months commencing on the date on which feedback is provided to the reporting person under paragraph (e);

(g) the provision to workers of clear and easily accessible information, in such form and manner as the employer considers appropriate for the purposes of this paragraph, regarding—

- i. the procedures applicable to the making of reports using the internal reporting channels and procedures,
- ii. where the employer accepts anonymous reports, the conditions pursuant to which those reports may be accepted and follow-up undertaken, and
- iii. the procedures for making a report to a prescribed person or the Commissioner, as the case may be, in the manner specified in section 7, and, where relevant, to institutions, bodies, offices or agencies of the European Union.

(2) Internal reporting channels and procedures shall enable reports to be made—

- (a) in writing or orally, or both; and
- (b) in the case of a report made orally, by telephone or through other voice messaging systems and, upon request by the reporting person, by means of a physical meeting with the employer or a designated person, as the case may be, within a reasonable period from the making of the request.

(3) Where, subject to the conditions referred to in subsection (1)(g)(ii), an employer accepts an anonymous report, unless prohibited by any other enactment, this section shall apply, with any necessary modifications, to such a report as if references in this section to a report were a reference to an anonymous report.

(4) Subject to this section, the internal reporting channels and procedures shall be accessible by workers of the entity concerned and of its subsidiaries and affiliates (in this subsection referred to as “the group”), where applicable, and, to any extent possible, by any of the group’s agents and suppliers and by any persons who acquire information on a relevant wrongdoing through their work-related activities with the entity and the group.

(5) This section shall apply, with any necessary modifications, to a third party referred to in paragraph (b) of section 6(9) to the extent to which such third party is authorised as referred to in that paragraph as it applies to an employer who establishes internal reporting channels and procedures.

### **Disclosure to prescribed person**

7. (1) A disclosure is made in the manner specified in this section if the worker—

- (a) makes the disclosure to a person prescribed under subsection (2) (a) or the Commissioner, and

(b) reasonably believes—

(i) in the case of a disclosure made to a person prescribed under subsection (2)(a), that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed under subsection (2) (b), and

(ii) that the information disclosed, and any allegation contained in it, are substantially true.

(2) The Minister may by order—

(a) prescribe such persons as, by reason of the nature of their responsibilities or functions, appear appropriate to be recipients of disclosures of relevant wrongdoings falling within the description of matters in respect of which they are prescribed, and

(b) prescribe in respect of each prescribed person such description of matters as appears appropriate by reason of the nature of the responsibilities or functions of the person.

(2A) For the purposes of enabling the making of reports by workers, prescribed persons and the Commissioner shall establish, maintain and operate independent and autonomous external reporting channels and procedures for receiving and handling such reports and for follow-up (in this Act referred to as “external reporting channels and procedures”).

(2B) Section 7A shall apply to a report made to a prescribed person.

(2C) Section 10B shall apply to a report made to the Commissioner.

### **External reporting channels and procedures**

7A. (1) External reporting channels and procedures shall include the following:

(a) acknowledgement, in writing, to the reporting person of receipt of the report not more than 7 days after receipt of it, save where the reporting person explicitly requested otherwise or the prescribed person reasonably believes that acknowledging receipt of the report would jeopardise the protection of the identity of the reporting person;

(b) diligent follow-up by the designated person, which shall include at least the following:

(i) the carrying out of an initial assessment, including seeking further information from the reporting person if required, as to whether—

(I) there is prima facie evidence that a relevant wrongdoing may have occurred, and

(II) the report concerns matters that fall within the scope of the matters for which the prescribed person has responsibility by virtue of the functions conferred on the prescribed person by or under this or any other enactment;

(ii) if, having carried out an initial assessment, the prescribed person decides that there is no prima facie evidence that a relevant wrongdoing may have occurred—

(I) closure of the procedure, and

(II) notification of the reporting person, in writing, as soon as practicable of the decision and the reasons for it;

(iii) if, having carried out an initial assessment, the prescribed person decides 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 further follow-up—

(I) closure of the procedure, and

(II) notification of the reporting person, in writing, as soon as practicable of the decision and the reasons for it;

(iv) having carried out an initial assessment—

(I) closure of the procedure in the case of repetitive reports where the prescribed person decides that the report does not contain any meaningful new information about a relevant wrongdoing compared to a previous report (including any report made before the commencement of section 11 of the Protected Disclosures (Amendment) Act 2022 (in this clause referred to as a “past report”)) made or transmitted to the prescribed person or to any other person in respect of which the relevant procedures (including any procedures that applied at the time any past report was made) were concluded, unless new legal or factual circumstances justify a different follow-up, and

(II) notification of the reporting person, in writing, as soon as practicable, of the decision referred to in clause (I) and the reasons for it;

(v) if, having carried out an initial assessment, the prescribed person decides that there is prima facie evidence that a relevant wrongdoing may have occurred and the report concerns matters that fall within the scope of the matters referred to in subparagraph (i)(II), the taking of appropriate action, in accordance with the functions conferred on the prescribed person by or under this or any other enactment, to address the relevant wrongdoing, having regard to the nature and seriousness of the matter concerned;

(vi) having carried out an initial assessment, if the prescribed person decides that the disclosure concerns matters that are not within the scope of the matters referred to in subparagraph (i)(II)—

(I) transmission of the report to—

(A) such other prescribed person or persons as the prescribed person considers appropriate, or

(B) where there is no such other prescribed person as referred to in subclause (A), the Commissioner, and

(II) notification of the reporting person, in writing, as soon as practicable of the decision and the reasons for it;

(c) where the procedure has not otherwise been closed under subparagraph (ii), (iii) or (iv) of paragraph (b) and the report has not been transmitted to any other prescribed person or persons or the Commissioner, as the case may be, under subparagraph (vi)(I) of paragraph (b), the provision of feedback to the reporting person within a reasonable period, being not more than—

(i) where acknowledgement of receipt of the report was sent to the reporting person under paragraph (a)—

(I) 3 months from the date of such acknowledgement, or

(II) 6 months from the date of the acknowledgement in duly justified cases due to the particular nature and complexity of the report,

or

(ii) where no acknowledgement of receipt of the report was sent to the reporting person under paragraph (a)—

(I) 3 months from the date of expiry of the period of 7 days after the report was made, or

(II) 6 months from the date of expiry of the period of 7 days after the report was made in duly justified cases due to the particular nature and complexity of the report;

(d) where feedback is not or is not likely to be provided to the reporting person within the period of 3 months referred to in paragraph (c)(i)(I), notification of the reporting person, in writing, as soon as practicable of the extension of that period under paragraph (c)(i)(II);

(e) the provision to the reporting person, where he or she so requests in writing, of further feedback at intervals of 3 months until such time as the procedure relating to the report concerned is closed, the first such period of 3 months commencing on the date on which feedback is provided to the reporting person under paragraph (c);

(f) save as provided for by or under any enactment or rule of law and subject to subsection (4), communication, in writing, to the reporting person of the final outcome of any investigation triggered by the report;

(g) where a report concerns a breach, transmission as soon as practicable of the information contained in the report to relevant competent institutions, bodies, offices or

agencies of the Union, as appropriate, for further investigation, where provided for under Union law or the law of the State.

(2) A reporting person shall, in respect of the report concerned and any follow-up procedures, without prejudice to his or her rights under this Act and to such extent as may reasonably and lawfully be required for the purposes of this Act, cooperate with a prescribed person in relation to the performance by the prescribed person of the functions conferred on that prescribed person by or under this Act.

(3) Without prejudice to the period referred to in subparagraph (i)(I) or (II) or subparagraph (ii)(I) or (II) of paragraph (c), as applicable, of subsection (1), if necessary and appropriate, having due regard to the number of reports received by a prescribed person, the prescribed person may deal with reports of a serious relevant wrongdoing as a matter of priority.

(4) Subsection (1)(f) shall operate without prejudice to any legal obligations applying to the prescribed person concerned as regards confidentiality, legal professional privilege, privacy and data protection.

(5) External reporting channels and procedures shall be considered to be independent and autonomous if they meet the following criteria:

(a) they are designed, established and operated in a manner that ensures the completeness, integrity and confidentiality of the information concerned and prevents access thereto by persons other than designated persons and any other members of staff duly authorised in that behalf;

(b) they enable the durable storage of information in accordance with section 16C to allow further investigations to be carried out.

(6) External reporting channels and procedures shall enable reports to be made to a prescribed person—

(a) in writing and orally, and

(b) in the case of a report made orally, by telephone or through other voice messaging systems and, upon request by the reporting person, by means of a physical meeting with the prescribed person or a designated person, as the case may be, within a reasonable period from the making of the request.

(7) Each prescribed person shall designate one or more than one member of staff (in this section referred to as a “designated person”) to be responsible for handling reports and, in particular, for—

(a) providing any person with information on the procedures for making a report in the manner specified in section 7,

- (b) receiving and follow-up on reports made to the prescribed person, and
  - (c) maintaining communication with the reporting person for the purpose of providing feedback and, where necessary, requesting further information from that reporting person.
- (8) Each prescribed person shall ensure that where a report is received by the prescribed person through channels and procedures other than those referred to in subsections (5) and (6) or is received by a member of staff other than a designated person—
- (a) it shall be forwarded promptly and without modification to the designated person, and
  - (b) any information that might identify the reporting person or the person concerned shall not be disclosed by such member of staff.
- (9) Each prescribed person shall ensure that designated persons receive specific training for the purposes of handling reports.
- (10) Each prescribed person shall publish on a website maintained by or on behalf of such prescribed person in a separate, easily identifiable and accessible section at least the following information:
- (a) the conditions for qualifying for protection under this Act;
  - (b) the contact details of the prescribed person to whom a report may be made in the manner specified in section 7, in particular the electronic and postal addresses and the telephone numbers for making the report, indicating whether the telephone conversations are recorded;
  - (c) the procedures applicable to the making of reports using the external reporting channels and procedures, including the manner in which the prescribed person may request the reporting person to clarify the information reported or to provide additional information, the period for providing feedback (including further feedback) and the type and content of such feedback;
  - (d) the confidentiality regime applicable to reports and, in particular, the information in relation to the processing of personal data in accordance with section 16B and under applicable data protection law;
  - (e) the nature of the follow-up to be given in relation to reports;
  - (f) the remedies and procedures for protection against penalisation and the availability of advice pursuant to Article 20.1(a) of the Directive for persons contemplating making a report;

(g) a statement clearly explaining the conditions under which persons making a report using the external channels and procedures are protected from incurring liability for a breach of confidentiality pursuant to sections 14 and 15;

(h) contact details for the support services provided under section 21A;

(i) such other information as the Minister may specify in guidance under section 21.

(11) (a) Each prescribed person shall review the external channels and procedures regularly but at least once within 3 years after the date of first publication of information under subsection (10) and at least once in every period of 3 years after the first such review.

(b) In reviewing the external channels and procedures, the prescribed person shall take account of their operation and may consult with other prescribed persons in relation to the operation of external channels and procedures established, maintained and operated by them and adapt the external channels and procedures accordingly as the prescribed person considers necessary and appropriate.

(12) Where a report made to a prescribed person is an anonymous report, unless prohibited by or under any other enactment, this section shall apply, with any necessary modifications, to such a report as if references in this section to a report were a reference to an anonymous report.

(13) The provisions of this section (other than paragraphs (b)(vi) and (c) of subsection (1) and subsections (10) and (11)) shall apply, with any necessary modifications, to reports transmitted to a prescribed person under subsection (1)(b)(vi)(i) as those provisions apply to a report made to a prescribed person.

(14) Where a report is transmitted to a prescribed person under subsection (1)(b)(vi)(i), feedback shall be provided to the reporting person not later than—

(a) where acknowledgement of receipt of the report was sent to the reporting person under subsection (1)(a) (in this subsection referred to as the “original acknowledgement”)—

(i) 3 months from the date of the original acknowledgement, or

(ii) 6 months from the date of the original acknowledgement in duly justified cases due to the particular nature and complexity of the report,

or

(b) where there was no original acknowledgement—

(i) 3 months from the date of expiry of the period of 7 days after the report was made, or

(ii) 6 months from the date of expiry of the period of 7 days after the report was made in duly justified cases due to the particular nature and complexity of the report.

### **Disclosure to Minister**

8. (1) A disclosure is made in the manner specified in this section where the worker complies with the requirements specified in subsection (2) for making a report.

(2) A worker may make a report to a relevant Minister if-

(a) the worker is or was employed in a public body, and

(b) one or more than one of the following conditions are met:

(i) the worker has previously made a report of substantially the same information in the manner specified in section 6,7, or 8, as the case may be, but no feedback has been provided to the worker in response to the report within the period specified in section 6A(1)(e), 7A(1)(c), 10C(7)(b), 10D(7)(b) or 10E(1)(c), as the case may be, or where feedback has been provided, the worker reasonably believes that there has been no follow-up or that there has been inadequate follow-up;

(ii) the worker reasonably believes that the head of the public body concerned is complicit in the relevant wrongdoing concerned;

(iii) the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage.

(3) (a) The relevant Minister shall, without having considered the report or the information or any allegation contained therein, as soon as practicable but in any case not later than 10 days after receipt of a report, transmit the report to the Commissioner.

(b) Section 10D shall apply to a report transmitted to the Commissioner under paragraph (a).

(4) Each Minister of the Government shall make, or cause to be made, available clear and easily accessible information, in such form and manner as the Minister of the Government considers appropriate, including on a website maintained by or on behalf of the Minister of the Government concerned, regarding the making of reports in the manner specified in this section to the Minister of the Government or any Minister of State to whom any function vested in that Minister of the Government is delegated.

(5) In this section—

‘head of the public body concerned’ means—

- (a) in relation to a Department of State, the Secretary General of the Department concerned,
- (b) in relation to the Office of the Director of Public Prosecutions, the Director of Public Prosecutions,
- (c) in relation to the Office of the Ombudsman, the Ombudsman,
- (d) in relation to the Office of the Information Commissioner, the Information Commissioner,
- (e) in relation to the Office of the Financial Services and Pensions Ombudsman, the Financial Services and Pensions Ombudsman,
- (f) in relation to the Houses of the Oireachtas Service, the Chairman of Dáil Éireann,
- (g) in relation to the Houses of the Oireachtas Commission, its chairperson,
- (h) in relation to the Office of the Ombudsman for Children, the Ombudsman for Children,
- (i) in relation to the Garda Síochána, the Garda Commissioner,
- (j) in relation to the Garda Síochána Ombudsman Commission, its chairperson, and
- (k) in relation to any other public body, the person who holds, or performs the functions of, the office of chief executive officer (by whatever name called) of the body;

‘relevant Minister’ means a Minister of the Government with responsibility for the public body concerned in whom functions, whether statutory or otherwise, as respects that public body, are vested, or a Minister of State to whom any such function is delegated.”.

### **Disclosure to legal adviser**

9. A disclosure is made in the manner specified in this section if it is made by the worker in the course of obtaining legal advice (including advice relating to the operation of this Act) from a barrister, solicitor, trade union official or official of an excepted body (within the meaning of section 6 of the Trade Union Act 1941).

### **Disclosure in other cases**

10. A disclosure is made in the manner specified in this section if

- (a) it is made otherwise than in the manner specified in sections 6 to 9,
- (b) the worker reasonably believes that the information disclosed in the report, and any allegation contained in it, are substantially true, and

## Appendix 3

### Extracts from Section 3(1) of the Protected Disclosures Act 2014

"employee" has the meaning given by section 1 of the Unfair Dismissals Act 1977 and includes an individual who is deemed to be an employee by virtue of subsection (2)(a); "penalisation" means any direct or indirect act or omission which occurs in a work-related context, is prompted by the making of a report and causes or may cause unjustified detriment to a work, and, in particular includes:

- a) Suspension, lay-off or dismissal;
- b) Demotion, loss of opportunity for promotion or withholding of promotion;
- c) Transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- d) The imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- e) Coercion, intimidation, harassment or ostracism;
- f) Discrimination, disadvantage or unfair treatment;
- g) Injury, damage or loss;
- h) Threat of reprisal;
- 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 he or she 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;

**“person concerned”** means a natural or legal person who is referred to in a report as a person to whom the relevant wrongdoing is attributed or with whom that person is associated;

**“reporting person”** means a worker who makes a report in accordance with this Act;

**"worker"** means an individual working in the private or public sector who acquired information on relevant wrongdoings in a work-related context and includes –

(a) an individual who is or was an employee,

(b) an individual who entered into or works or worked under any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertook to do or perform (whether personally or otherwise) any work or services for another party to the contract for the purposes of that party’s business,

(c) an individual who works or worked for a person in circumstances in which

(i) the individual is introduced or supplied to do the work by a third person, and

(ii) the terms on which the individual is engaged to do the work are or were in or practice substantially determined not by the individual but by the person for whom the individual works or worked, by the third person or by both of them,

(d) an individual who is or was provided with work experience pursuant to a training course or programme or with training for employment (or with both) otherwise than under a contract of employment,–

(e) an individual who is or was a shareholder of an undertaking,

(f) an individual who is or was a member of the administrative, management or supervisory body of an undertaking, including non-executive members,

(g) an individual who is or was a volunteer,

(h) an individual who acquires information on a relevant wrongdoing during a recruitment process,

(i) an individual who acquires information on a relevant wrongdoing during pre-contractual negotiations (other than a recruitment process referred to in paragraph (h)), and

(j) an individual who is deemed to be a worker by virtue of subsection (2)(b), and any reference to a worker being employed or to employment shall be construed accordingly;

Section 3(1) provides that ‘breach’ means an act or omission

(a) that is unlawful and to which one or more of the following subparagraphs applies:

(i) the act or omission falls within the scope of the Union acts set out in the Annex that concern the following areas:

(I) public procurement;

(II) financial services, products and markets, and prevention of money laundering and terrorist financing;

(III) product safety and compliance;

(IV) transport safety;

(V) protection of the environment;

(VI) radiation protection and nuclear safety;

(VII) food and feed safety and animal health and welfare;

(VIII) public health;

(IX) consumer protection;

(X) protection of privacy and personal data, and security of network and information systems;

(ii) the act or omission affects the financial interests of the Union as referred to in Article 325 of the Treaty on the Functioning of the European Union and as further specified in relevant Union measures; or

(iii) the act or omission relates to the internal market, as referred to in Article 26(2) of the Treaty on the Functioning of the European Union, including breaches of Union competition and State aid rules, as well as breaches relating to the internal market in relation to acts which breach the rules of corporate tax or to arrangements the purpose of which is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law;

## Appendix 4

### Extracts from Section 5 of the Protected Disclosures Act 2014

(1) For the purposes of this Act "**protected disclosure**" means, subject to subsection (6) and sections 17 and 18, a disclosure of relevant information (whether before or after the date of the passing of this Act) made by a worker in the manner specified in section 6, 7, 8, 9 or 10.

(2) For the purposes of this Act information is "**relevant information**" if

(a) in the reasonable belief of the worker, it tends to show one or more relevant wrongdoings, and

(b) it came to the attention of the worker in a work-related context.

(3) The following matters are **relevant wrongdoings** for the purposes of this Act

(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** 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.

(4) For the purposes of subsection (3) it is immaterial whether a relevant wrongdoing occurred, occurs or would occur in the State or elsewhere and whether the law applying to it is that of the State or that of any other country or territory.

(5) A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker or the worker's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

(5a) A matter concerning interpersonal grievances exclusively affecting a reporting person, namely, grievances about interpersonal conflicts between the reporting person and another worker, or a matter concerning a complaint by a reporting person to, or about, his or her employer which concerns the worker exclusively, shall not be a relevant wrongdoing for the purposes of this Act and may be dealt with through any agreed procedures applicable to such grievances or complaint to which the reporting person has access or such other procedures, provided in accordance with any rule of law or enactment (other than this Act), to which the reporting person has access.

(6) A disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is not a protected disclosure if it is made by a person to whom the information was disclosed in the course of obtaining legal advice.

(7) The motivation for making a disclosure is irrelevant to whether or not it is a protected disclosure.

(8) In proceedings involving an issue as to whether a disclosure is a protected disclosure it shall be presumed, until the contrary is proved, that it is.

### **Section 5A. Anonymous reports**

(1) Without prejudice to the provisions of any other enactment relating to anonymous reporting of wrongdoing, nothing in this Act shall oblige any person to accept and follow-up on anonymous reports made in the manner specified in section 6 but a person may, if he or she considers it appropriate to do so, follow-up on a matter the subject of an anonymous report.

(2) A worker who makes a disclosure in the manner specified under section 6, 7, 8, 9 or 10 by way of an anonymous report and who is subsequently identified and penalised for having made the disclosure shall be treated for the purposes of this Act as having made a protected disclosure and shall be entitled to the same protections under Part 3 as a worker who has been penalised for having made a protected disclosure.

## Appendix 5

### Extracts from Section 16 of the Protected Disclosures Act 2014

#### Protection of identity of maker of protected disclosure

Section 16 of the Protected Disclosures Act 2014 provides as follows;

“(1) A person to whom a report is made or transmitted under this Act (in this subsection referred to as 'the first-mentioned person') shall not, without the explicit consent of the reporting person, disclose to another person, other than such persons (including members of staff designated under section 6A, 7A, 10B, 10C, 10D or 10E for the purposes therein stated) as the first-mentioned person reasonably considers may be necessary for the purposes of the receipt or transmission of, or follow-up on, reports as required under this Act, the identity of the reporting person or any information from which the identity of the reporting person may be directly or indirectly deduced.

(2) Subsection (1) shall not apply in the following cases:

(a) where the disclosure is a necessary and proportionate obligation imposed by Union law or the law of the State in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned;

(b) where the person to whom the report was made or transmitted -

(i) shows that he or she took all reasonable steps to avoid disclosing the identity of the reporting person or any such information referred to in subsection (1), or

(ii) reasonably believes that disclosing the identity of the reporting person or any such information is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment;

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

(3) (a) Where the identity of the reporting person or any other information referred to in subsection (1) is disclosed to another person in accordance with paragraph (a) or (b)(ii) of subsection (2), the reporting person shall be notified, in writing, before their identity or the information concerned is disclosed unless such notification would jeopardise -

(i) the effective investigation of the relevant wrongdoing concerned,

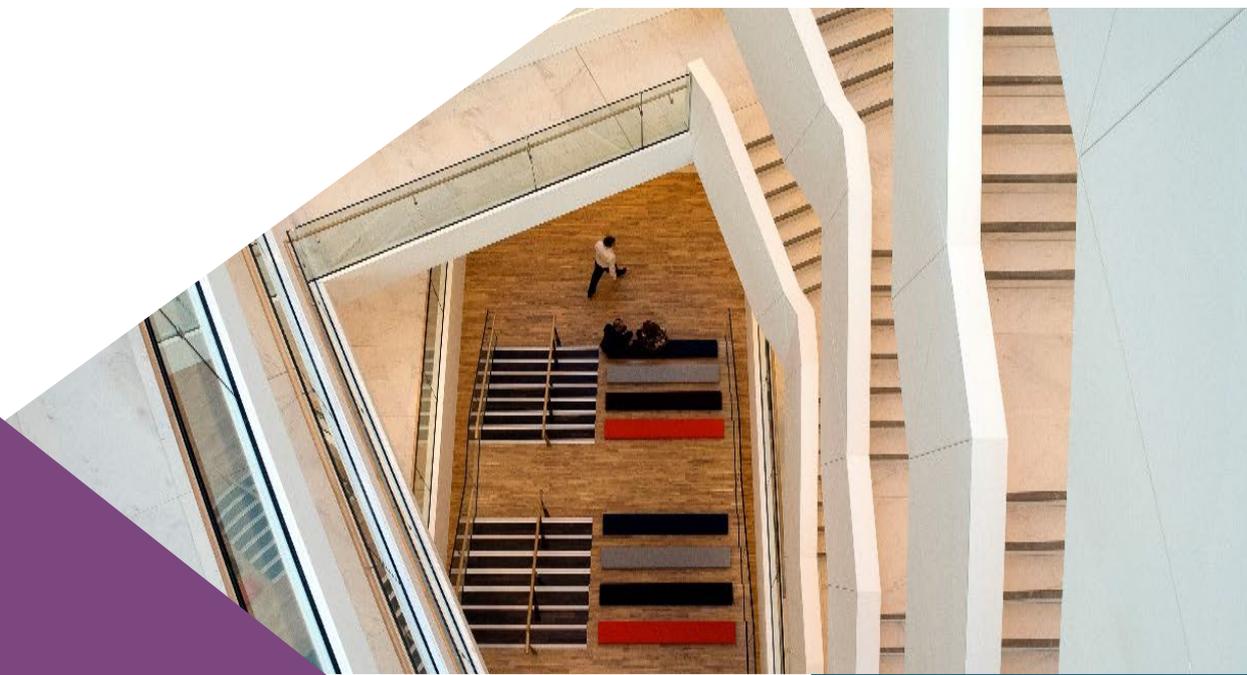
(ii) the prevention of serious risk to the security of the State, public health, public safety or the environment, or

(iii) the prevention of crime or the prosecution of a criminal offence.

(b) A notification under paragraph (a) shall include the reasons for the disclosure referred to in that paragraph.

(4) Where reports are made or transmitted to a prescribed person, the Commissioner or an other suitable person (within the meaning of section 10C or 10D, as the case may be) under this Act that include trade secrets (within the meaning of the European Union (Protection of Trade Secrets) Regulations 2018 (S.I. No. 188 of 2018)), the prescribed person, the Commissioner or such other suitable person shall not use or disclose those trade secrets for any purpose beyond what is necessary for proper follow-up of the disclosure concerned.

(5) A reporting person shall have a right of action in tort against a person who fails to comply with subsection (1)."



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