



## **The Consultative Committee of Accountancy Bodies-Ireland**

Chartered Accountants Ireland  
The Association of Chartered Certified Accountants  
The Chartered Institute of Management Accountants  
The Institute of Certified Public Accountants in Ireland

Whistleblower Desk  
Central Bank of Ireland  
PO Box 559  
Dame Street  
Dublin 2

27 May 2014

Dear Sir/Madam

Handling of Protected Disclosures by the Central Bank of Ireland. CP 79/2014

The Business Law Committee of CCABI welcomes the opportunity to respond to this consultation paper. CCABI is an umbrella group of the regulated accountancy bodies in Ireland. This committee is composed of people drawn from all sectors of the accountancy bodies in the Republic of Ireland – from small and large firms, and from those working in industry, financial institutions and in practice.

We welcome recent developments in the area of protecting individuals who are willing to step forward and report suspected wrongdoings at work and elsewhere. We acknowledge that the Central Bank is seeking to encourage this reporting under the Central Bank (Supervision and Enforcement) Act 2013 (“the Act”).

We have the following comments to make on the procedures outlined in the consultation paper:

### Reports to the Financial Services Ombudsman

We understand that the Financial Services Ombudsman (FSO) will remain responsible for dealing with consumer complaints. The Consultation document states, in paragraph 4.3, that the Whistleblower Desk does not have a filtering function. The Whistleblower Desk will share each disclosure with the relevant supervisory authority for consideration and action. We are concerned that where a report is passed on to the FSO, as the most relevant supervisory authority, the reporting person will lose the protection afforded by the Whistleblowing legislation and lose anonymity. There may be situations where a person will make a report to the Whistleblowing Desk to avail of this protection.

We further believe that if a report is referred on to the FSO that the whistleblower should be advised of that fact and about the loss of the whistleblower protection.

### Reports by persons with pre-approved functions

We note that the reports by persons holding Pre-approved Control Function roles who are obliged to make reports to the Central Bank under Section 38(2) will also be directed to this desk. While this may be simply for ease of administration they are entirely different reports and require different responses by the Central Bank and the information supplied by these individuals would not be a protected disclosure under the Act. We do not think it is appropriate/necessary for these reports to be directed to the Whistleblowing desk.

### Phonecalls to the Whistleblowing Desk

We note that phone calls to the Whistleblower Desk will be recorded. We believe that the protocol of that Whistleblower Desk should address whether the recording system will also be able to record the Caller ID. The protocol of the Whistleblower Desk should also address the length for which records of calls should be maintained. We believe that it will be important to publish the operational protocol of the Whistleblower Desk so that reporters to that Whistleblower Desk understand how it will deal with their reports.

### Protection of Anonymity

To qualify for the protections under the Act a whistle-blower has to disclose his/her identity when making a report [Section 38 (3)]. The Central Bank makes the safeguarding of the whistle-blower's anonymity a core requirement of its process. A Central Bank approach which is supportive of the Whistle-blower and places identity protection at its centre is fundamental for the effective implementation of the Act.

However it seems to us to be more realistic that any prospective whistle-blower should accept that his/her identity may become known especially should a case go to prosecution. (Recent real life examples spring to mind.)

The UK guidelines seem more practicable which state... "We cannot give any categorical assurances on confidentiality since circumstances may be such that disclosure of identity becomes unavoidable in law or is otherwise necessary to meet our statutory objectives. (<http://www.fca.org.uk/site-info/contact/whistleblowing/faq> )

We recommend that this should be explained to the whistle-blower when he/she first contacts the desk.

### Other matters

- We believe that the training of the staff operating the Whistleblower Desk will be very important, particularly as they will be responsible for the identification of the supervisory authority with whom each report should be shared and this matter may need identification during a telephone call to determine whether anonymity will be available to the reporter..

- We believe that the Central Bank should publish an annual report on the Whistleblower Desk detailing for example how many calls were received, their nature, how these were referred to which supervisory authority, details on actions taken following reports, all while maintaining an appropriate level of anonymity.

We would be happy to discuss any of the comments above.

Yours sincerely

A handwritten signature in black ink that reads "Anne Sykes". The signature is written in a cursive style with a long, sweeping underline.

Anne Sykes

Secretary, Business Law Committee

CCABI

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