



Rialtas na hÉireann
Government of Ireland

Protected Disclosures Act

Key messages
for employers



What is the Protected Disclosures Act?



People who speak up about wrongdoing in the workplace perform a valuable public service.



Many important matters of public concern would never have come to light if workers hadn't reported their concerns.



Reporting persons – or “whistleblowers” – should not be treated unfairly or lose their job because they have spoken up about unlawful or improper behaviour.



There are legal protections against penalisation for reporting persons in Ireland.



The Protected Disclosures Act 2014 sets out how wrongdoing can be reported and how reporting persons are to be protected from penalisation.



The Act was amended in 2022 and there are now new obligations employers must fulfil.



What does this mean for employers?



The scope of Act has been widened to include board members, shareholders, job applicants and volunteers.



Certain employers are now required to establish formal reporting channels for their workers to report wrongdoing.



These channels must provide for acknowledgement and follow-up of all reports and the provision of feedback to the reporting persons.



Failure to establish channels may result in criminal penalties.



Penalisation of a reporting person is now a criminal offence.



The burden of proof has been reversed in favour of workers who take civil proceedings against their employer for penalisation.



Who does the Act now apply to?

The Protected Disclosures Act applies to persons in the public, private and not-for-profit sectors who report concerns about wrongdoing they have encountered in the course of their work.

The protections of the Act apply to:

- Employees
- Agency workers
- Contractors
- Trainees
- Volunteers
- Board members
- Shareholders
- Job applicants

What wrongdoings can be reported?

- Criminal offences
- Failure to comply with a legal obligation (other than a workers contract of employment)
- Miscarriage of justice
- Endangerment of health and safety
- Damage to the environment
- Unlawful or improper use of public funds
- Oppressive, discriminatory or negligent behaviour by a public body
- Breaches of EU law
- Concealing or destroying evidence of wrongdoing

Personal grievances between a reporting person and their employer or a co-worker that solely affect the reporting person are not protected by the Act. Such matters may be protected under general employment law however.

How can workers report wrongdoing?

To their employer

- Around 90% of people report to their employer in the first instance.
- Certain categories of employers are required under the Act to establish formal channels for their workers to report wrongdoing.

To a regulator

- If the worker doesn't want to report to their employer or reporting to their employer hasn't worked they can report to a regulator, known as a "prescribed person".
- A list of prescribed persons can be found at: www.gov.ie/prescribed-persons
- They can also report to the Protected Disclosures Commissioner who will refer the report usually to a suitable regulator, for acknowledgement, follow-up and feedback.

Public disclosure

- If all other options fail, workers can make a public disclosure.
- Such disclosures are subject to more stringent conditions to qualify for protection however.

Do I have to set up a reporting channel?

All organisations with 250 or more employees must establish internal channels for their workers to report wrongdoing.

From 17 December 2023, this requirement will apply to all organisations with 50 or more employees.

All organisations subject to EU laws and regulations in the areas of financial services; prevention of money laundering and terrorist financing; transport safety; and safety of offshore gas and oil operations must establish internal channels regardless of size.

All public sector organisations must establish internal channels regardless of size.

What do I need to consider in designing my internal channel?

The internal channel should be designed and operated in a secure, GDPR compliant, manner that ensures the confidentiality of the reporting person and any other person(s) named in the report.

Designation of a person or function to operate the channel, who will maintain communication with the reporting person, follow-up on the report and provide feedback to the reporting person.

This person or function should have sufficient independence and authority within the organisation to carry out the functions specified in the Act.

Persons operating the internal channel should be adequately trained in the handling of reports.

For public bodies a training framework is in place with the Office of Government Procurement.

The organisation must promote the existence of the internal channel and ensure workers have access to the procedures under which it operates.

Organisations can outsource the internal channel function, if they wish.

What must my procedures for internal reporting include?

Acknowledgement of all reports received within 7 days.

Diligent follow-up on all reports received.

The provision of feedback to the reporting person on actions taken or envisaged to be taken in follow-up within 3 months.

The provision of further feedback to the reporting person at 3 month intervals, on request.

A statement of policy as regards the conditions, if any, under which anonymous reports will be followed-up.

Provision of information on how to report externally to a prescribed person or the Protected Disclosures Commissioner.

**Where can I
find further
information?**





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