



Rialtas na hÉireann
Government of Ireland

Protected Disclosures Act

Key messages
for prescribed
persons



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.



Overview of the Protected Disclosures Act

The Act applies to workers in the public, private and not-for-profit sectors.

Reports can be made:

- Internally to the worker's employer; or
- Externally to a prescribed person or the Protected Disclosures Commissioner; or
- Publically, as a last resort and subject to more stringent conditions.

Internal and external reports must be acknowledged and followed-up and feedback must be given to reporting persons.

Reporting persons are protected from penalisation, including: dismissal, unfair treatment, coercion and harassment as well as from civil and criminal liability for disclosing confidential information.

What is a prescribed person?

Prescribed persons are designated to receive external protected disclosures by order of the Minister for Public Expenditure and Reform.

They are usually the Heads of public bodies that have responsibility for the supervision or regulation of a particular sector.

Examples of prescribed persons include:

- Health & Safety Authority
- Environmental Protection Agency
- Data Protection Commission
- Central Bank of Ireland
- ComReg
- An Coimisinéir Teanga

A list of prescribed persons can be found at: www.gov.ie/prescribed-persons

Who can report to a prescribed person?

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.

Any of the following who report wrongdoing to a prescribed person are protected by the Act:

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

Reports can also be transmitted between prescribed persons or referred to prescribed persons by the Protected Disclosures Commissioner.

What can be reported to a prescribed person?

The matter reported must be within the area of responsibility of the prescribed person and must be a “relevant wrongdoing” as specified by the Act.

“Relevant wrongdoings” include:

- Criminal offences
- Failure to comply with a legal obligation (other than your 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.

Does the person have to report to their employer first?

There is no obligation on the reporting person to report to their employer first.

Reporting persons can report to prescribed persons or the Protected Disclosures Commissioner in the first instance, if they wish.

The reporting person must believe that the matter reported falls within the scope of the prescribed person’s functions and that the information disclosed, and any allegation contained within, is substantially true.

Around 85% of reporting persons will report internally to their employer in the first instance, however.

In most cases, the reporting person will approach a prescribed person because:

- They have reported to their employer but no action or insufficient action has been taken to address the concerns raised in their report;
- They have good grounds to believe they will be penalised if they report to their employer and/or no action or insufficient action will be taken to address the concerns they want to raise.

What must prescribed persons do under the Act?

All prescribed persons must establish dedicated external reporting channels for workers in the sectors they regulate or supervise to make protected disclosures.

This is separate to and in addition to the requirement on prescribed persons, as employers, to establish internal channels for their staff to make protected disclosures.

Prescribed persons must promote the existence of the external channel and make information available to workers wishing to make reports to the prescribed person.

What do prescribed persons need to consider in designing external channels?

The external 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.

The external channel should be separate and distinct from the general channels through which the prescribed person communicates with stakeholders and the public. (e.g. a dedicated email address, web form or telephone number.)

The external channel must provide for reporting in writing and orally.

A person or function must be designated to operate the channel, who will maintain communication with the reporting person, follow-up on the report and provide feedback to the reporting person.

Persons operating the external channel must be adequately trained in the handling of reports.

A training framework is in place with the Office of Government Procurement in this regard.

Formal procedures for the handling of reports must be developed and made available to the public.

What do the procedures for external 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.

The provision of information on the final outcome of any investigation triggered by the report.

What information do prescribed persons need to make available to the public?

The conditions under which a person qualifies for protection under the Act.

Contact details for the external reporting channels:

- Email
- Telephone
- Web address etc.

The procedures applying to the making of a disclosure to the prescribed person.

The confidentiality and data protection regime that will apply to reports.

The nature of the follow-up to be given to reports.

The remedies and procedures available for protection against retaliation.

Where to seek independent advice on rights and obligations under the Act.

**Where can I
find further
information?**





An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

Prepared by the Department of Public Expenditure and Reform