These Procedures do not constitute legal advice, or a legal interpretation of the Protected Disclosures Act 2014 (as amended).

Workers are encouraged to report disclosures internally under the Department’s internal procedures. A worker must make a disclosure in the manner set out in the Protected Disclosures Act 2014 in order to be entitled to the protections of the Act. Different requirements and standards apply depending on the person or body to whom a worker makes a protected disclosure report.

The Act does not oblige a worker to make a protected disclosure and it also does not absolve any worker from mandatory obligations to report under other legislation.

These procedures apply to all workers as defined in the Act. Workers are all staff, volunteers, interns of the Department, board members, contractors, consultants, suppliers and certain job candidates to the Department.

What is a Protected Disclosure?
A protected disclosure is a disclosure of information which, in the reasonable belief of a worker, tends to show one or more relevant wrongdoings that came to the attention of the worker in a work-related context and is disclosed in the manner prescribed in the Act. Protected disclosures are wrongdoings that could cause harm to the Department itself or to the public at large, as opposed to personal complaints.

Disclosure of Information: A protected disclosure should contain “information” which tends to show one or more relevant wrongdoings. The ordinary meaning of disclosing “information” is conveying facts, such as stating that particular events have occurred or are occurring. It is important that, insofar as is possible, any worker making a protected disclosure includes as much factual information and specific details as possible to ensure that a proper and thorough initial assessment can take place. A personal opinion without any relevant and material facts is not considered information and will not be treated as a protected disclosure. Workers are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so. The responsibility for investigating and addressing any wrongdoing lies with the Department.

Reasonable Belief: A worker must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. The term “reasonable belief” does not mean that the belief must be correct. Workers are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds. No worker will be penalised for getting it wrong, so long as they had a reasonable belief that the information disclosed showed, or tended to show a wrongdoing as defined in the Act. However, a disclosure made in the absence of a reasonable belief will not attract the protections of the Act and could result in disciplinary or legal action against the worker.

Work Related Context: The information must come to the attention of the reporting person in a work-related context. A work-related context means current or past work activities in the Department or the Department’s aegis bodies through which, irrespective of the nature of these activities, the reporting person acquires information concerning a relevant wrongdoing, where the reporting person could suffer penalisation for reporting the information. A work-related context includes the work activities of employees and contractors and may also include the work activities of volunteers, service providers, and job candidates. It may also include activities related to work such as training, travel and employer arranged social events. The possibility of penalisation of the reporting person for reporting information will be a factor in determining if the context is a work-related context.
Relevant Wrongdoing: The definition of ‘relevant wrongdoing’ includes:

- Criminal offences;
- Failure to comply with legal obligations;
- Miscarriages of justice;
- Health and safety matters;
- Environmental damage;
- Unlawful or improper use of funds or resources of the Department;
- An act or omission by or on behalf of a public body which is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement;
- Certain breaches of EU law, e.g., procurement, data protection;
- Concealment or destruction of information relating to any of the foregoing.

It is immaterial whether a relevant wrongdoing occurred, occurs or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other country or territory.

Allegations of a criminal nature must also be reported to An Garda Síochána.

What is not a Protected Disclosure?
A matter concerning interpersonal grievances exclusively affecting a worker, such as grievances about interpersonal conflicts involving the worker and another worker, or a complaint to the employer or about the employer which concerns the worker exclusively, is not a relevant wrongdoing for the purposes of the Act. A grievance is a matter specific to the worker, and should be dealt with under the Department’s Human Resource procedures.
A matter is not a relevant wrongdoing (and does not come within the terms, or attract the protections and redress of the Act) if 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.

A worker who reasonably believes that a relevant wrongdoing has occurred, is occurring or is likely to occur, should complete the Report Form below and submit it to:

Email: Speakup@justice.ie

By Post: Protected Disclosures Manager
Department of Justice
51 St Stephen’s Green
Dublin
D02 HK52

Department of Justice Protected Disclosure Internal Report Form:

Workers in aegis bodies of the Department of Justice which operate their own protected disclosures policy/procedure should submit reports directly to the aegis body.

The Department recognises that workers may raise minor concerns with their line manager and such concerns can be dealt with outside of these procedures. However, in order to qualify for the protections of the Act a disclosure must be made under these procedures.

Before submitting a protected disclosure report and during any subsequent process, you should seek independent advice. Transparency International Ireland provide independent and confidential advice for anyone considering reporting a concern or making a protected disclosure. Further information can be found on their website: https://transparency.ie/
An acknowledgement will issue confirming receipt of the disclosure report within 7 calendar days of receipt. Feedback will be provided to the worker within three months of acknowledgement of receipt of the report. Where the worker requests in writing that they wish to receive further feedback, after the initial three month period, this will be provided at intervals of three months until the procedure relating to the report is closed.

Where a worker has made a report, whether or not it has been assessed or investigated, the worker is still required to conduct themselves professionally and to continue to carry out their duties as normal.

All protected disclosures will be dealt with in the same manner regardless of the worker’s motivation for making the report and the worker will be protected so long as the worker reasonably believes that the information disclosed tended to show a wrongdoing. However, a report made in the absence of a reasonable belief will not attract the protection of the Act and may result in disciplinary action against the reporting person. In addition, disclosure of a wrongdoing does not necessarily confer any protection or immunity on a worker in relation to any involvement they may have had in that wrongdoing.

Anonymous disclosures (where you withhold your identity) will be acted upon to the extent that this is possible given the constraints in obtaining further information and the context of the allegations. The decision to follow up on anonymous disclosures is at the discretion of the Department.

**Protection of Identity**
Any person in the Department who receives a disclosure, or anyone else to whom a disclosure is shared with (to allow them to carry out their functions in relation to the disclosure,) cannot disclose the identity of the reporting person to anyone else without the consent of the reporting person. However, this does not include people who are reasonably considered necessary to share the identity with for the purposes of the receipt, transmission, or follow-up of the disclosure. This can include staff who work with protected disclosures, other Heads of Function who may assist in screening/assessing/investigating a disclosure and also, for example, another staff member who may have the necessary technical expertise to assist with the assessment/investigation of a disclosure. Notwithstanding the above, the Department will endeavour to ensure that the identity of the reporting person is only ever shared where necessary to carry out proper follow-up of a disclosure.

The Act allows the identity of a reporting person to be disclosed in certain prescribed circumstances even where the reporting person does not consent to their identity being disclosed, this includes any risk to public health or safety.

**Protection against Penalisation**
Penalisation means any direct or indirect act or omission occurring in a work-related context, due to the making of a report, and which causes (or may cause) an unjustified detriment to a worker.

A non-exhaustive list of examples of penalisation includes:

- suspension, lay-off or dismissal,
- demotion, loss of opportunity for promotion, or withholding of promotion,
- transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),
- coercion, intimidation, harassment or ostracism,
- discrimination, disadvantage or unfair treatment,
- injury, damage or loss,
- threat of reprisal,: withholding of training;
- 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;
• failure to renew or early termination of a temporary employment contract;
• harm, including to the worker’s reputation, particularly in social media, or financial loss, including loss of business and loss of income;
• 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;
• early termination or cancellation of a contract for goods or services;
• cancellation of a licence or permit, and
• psychiatric or medical referrals.

Penalisation of reporting persons will not be accepted and reporting persons who are subjected to adverse treatment, because they have made a protected disclosure, should report the matter immediately to speakup@justice.ie. The department commits to examine such allegations and to take appropriate action. External remedies are available to reporting persons who believe they have been penalised for making a protected disclosure. These include a claim before the Workplace Relations Commission and a claim for injunctive relief in the Circuit Court. A penalisation claim must be brought to the Workplace Relations Commission within 6 months of the penalisation and to the Circuit Court within 21 days of the last instance of penalisation.

**Reporting to a Prescribed Person**

Certain persons are prescribed to receive protected disclosures (“prescribed persons”). This includes the heads or senior officials of a range of bodies involved in the supervision or regulation of certain sectors of the economy or society. A reporting person may make a protected disclosure to a prescribed person if the reporting person reasonably believes that the relevant wrongdoing falls within the description of matters in respect of which the prescribed person is prescribed. **However, the Act also provides an additional requirement in this case in that the reporting person must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true.**

A full list of prescribed persons can be found in: SI 367 of 2020.

**Prescribed Persons under the aegis of the Department of Justice are listed below:**

<table>
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<tr>
<th>Prescribed Person</th>
<th>Description of matters in respect of which the person is prescribed</th>
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<tbody>
<tr>
<td>The Commissioner for Data Protection in the Data Protection Commission or where there is more than one such Commissioner, the chairperson of the Commission</td>
<td>All matters relating to compliance with the Data Protection Acts 1988 to 2018, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation) and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011).</td>
</tr>
<tr>
<td>A member of the Garda Síochána Ombudsman Commission</td>
<td>All matters relating to the functions of the Commission under Part 3 of the Garda Síochána Act 2005 (No. 20 of 2005).</td>
</tr>
<tr>
<td>The Director of the Insolvency Service of Ireland</td>
<td>All matters relating to the regulation and supervision of personal insolvency practitioners, approved intermediaries and persons authorised to perform the functions of an approved intermediary in accordance with the Personal Insolvency Act 2012 (No. 44 of 2012).</td>
</tr>
<tr>
<td>The Director of Film Classification in the Irish Film Classification Office</td>
<td>All matters relating to the classification of films under the Censorship of Films Act 1923 (No. 23 of 1923) and the classification of video works and the licensing to sell or let on hire video recordings under the Video Recordings Act 1989 (No. 22 of 1989).</td>
</tr>
<tr>
<td><strong>The Chief Executive of the Legal Services Regulatory Authority</strong></td>
<td>All matters relating to the regulation of the provision of legal services by legal practitioners in the State, including the maintenance and improvement of standards, the establishment and maintenance of the roll of practising barristers and the registers of legal partnerships, limited liability partnerships and multi-disciplinary practices, and the investigation of complaints against legal practitioners as provided for by the <em>Legal Services Regulation Act 2015</em> (No. 65 of 2015).</td>
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<tr>
<td><strong>The Chief Executive Officer of the Private Security Authority</strong></td>
<td>All matters relating to the licensing and regulation of providers of security services under the <em>Private Security Services Act 2004</em> (No. 12 of 2004).</td>
</tr>
<tr>
<td><strong>The Chief Executive Officer of the Property Services Regulatory Authority</strong></td>
<td>All matters relating to the licensing, control and regulation of, and the investigation of complaints against, property service providers.</td>
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</tbody>
</table>

**Data Protection:**

Section 16B (7) of the Act, as amended, provides that all personal data shall be processed in accordance with applicable data protection law. This includes, inter alia, the General Data Protection Regulation (GDPR). The amended Act provides a legal basis for the collection and processing of such personal data for the purposes of handling Protected Disclosures in accordance with the Act. Section 16B(1) of the amended Act introduces new provisions where, in certain circumstances, and where necessary and proportionate, the rights of data subjects under data protection law are restricted in respect of their personal data processed for the purposes of the Act, including receiving, dealing with or transmitting a report of a disclosure or follow-up on such a report.

**Freedom of Information:**

The Freedom of Information Act 2014 (the “FOI Act”) has been amended by the Protected Disclosures (Amendment) Act 2022. As a result of this amendment, the FOI Act does not apply to a record relating to a report made under the Act, whether the report was made before or after the date of the passing of the Protected Disclosures (Amendment) Act 2022. However records concerning a public body’s general administration of its functions under the Act continue to be subject to FOI.