



The International Protection Appeals Tribunal

An Binse um Achomhairc i dtaobh Cosaint Idirnáisiúnta

International Protection Appeals Tribunal – Protected Disclosures Policy

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1. **Introduction**

A protected disclosure refers to a situation where a worker discloses information in relation to wrongdoing which has come to the employee/Tribunal Member's attention through their work. This is sometimes referred to as 'whistleblowing'. The Protected Disclosures Act 2014 as amended by the Protected Disclosures (Amendment) Act 2022 affords protection to employee/Tribunal Members making a protected disclosure and provides specific remedies for employee/Tribunal Members who are penalised for making a protected disclosure. The Act requires every public body to establish and maintain procedures for dealing with protected disclosures. This document sets out the International Protection Appeals Tribunal (hereafter referred to as 'The Tribunal') policy on Protected Disclosures. The policy applies to all workers in the Tribunal. In that regard, a 'worker' means an individual who is or was:

- An employee
- An independent contractor, whether or not the work/services were provided personally by the individual
- An agency worker
- Provided with work experience under a training course or programme or with training for employment otherwise than under an employment contract
- A shareholder of an undertaking
- A member of the administrative, management or supervisory body of an undertaking including non-executive members
- A volunteer

Including, but not limited to, staff assigned by the Department of Justice, Tribunal Members, and interns.

2. **Our Commitment**

The Tribunal is committed to maintaining an appropriate culture and environment that encourages and supports staff in raising concerns relating to potential wrongdoing in the workplace; and to providing the necessary support for staff who raise genuine concerns. All disclosures of wrongdoing in the workplace will be the subject of assessment and investigation as appropriate.

3. **What type of wrongdoings are covered by this Policy?**

The policy covers a disclosure of information made by an employee or Tribunal member in the reasonable belief that one or more of the following types of wrongdoing has occurred, is occurring or is likely to occur:

- Criminal offence
- Failure to comply with legal obligations
- Miscarriage of justice
- Endangerment of an individual's health or safety
- Damage to the environment
- Unlawful or otherwise improper use of funds or resources
- Fraudulent activity



- An act or omission that is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement
- Concealment or destruction of evidence relating to any of the above.

The information must come to the attention of the employee/Tribunal member in connection with their employment. The Policy does not relate to disclosures of wrongdoing if the matter is one which it is the function of the Tribunal to detect, investigate or determine.

4. What type of wrongdoings are not covered by the policy?

The policy does not cover personal complaints or personal grievances. Such complaints should be dealt with under the Department of Justice's grievance procedures or dignity at work procedures as appropriate. These procedures are available to view on the Human Resources Page on the Department of Justice's intranet page. The policy does not cover a disclosure where the employee/Tribunal Member knowingly conveys false, misleading, frivolous or vexatious information. If it transpires that a worker makes a disclosure, which they know to be false or do not believe to be true, the Tribunal and the Department of Justice may take disciplinary or other appropriate action.

5. Key principles underlying the policy

A worker who has a reasonable belief that the information contained in his or her disclosure shows or tends to show that wrongdoing covered by the policy has occurred, is occurring, or is likely to occur, should be protected against penalisation even if the worker's concern is ultimately mistaken or misguided. Penalisation could include disciplinary action, discrimination, threats, unfair treatment and threats of reprisal. Incidences of penalisation against a person making a report under the policy may be subject to action under the Civil Service Disciplinary Code.

6. Confidentiality

The Tribunal will take all reasonable steps to treat disclosures made in a confidential and sensitive manner. The focus will be on the wrongdoing rather than on the worker making the disclosure. The Tribunal will not disclose the worker's identity without their consent, unless required by law or if it is necessary for the effective investigation of the relevant wrongdoing. Should such a situation arise the Tribunal will make every effort to inform the worker accordingly.

7. Anonymous Reporting

A worker may make an anonymous disclosure if they wish to do so. Anonymous disclosures may be made and will be acted upon to the extent that this is possible given the constraints in obtaining further information from the worker making the disclosure. A disclosure is considered anonymous if:

- the identity of the Discloser is not revealed and if no contact details for the Discloser are provided, or



- the Discloser does not disclose their name but does provide contact details.

While full and proper consideration will be afforded to an anonymous disclosure, the protections available under the Act and other elements of the protected disclosure procedure (e.g. keeping the discloser informed and protecting the discloser from penalisation) cannot be accessed unless the worker dispenses with anonymity.

8. When should a worker make a disclosure?

A worker should make a disclosure when, in their reasonable belief, any of the wrongdoings outlined in Section 3 has occurred, is occurring, or is likely to occur; or there has been a breach of Tribunal or Civil Service policy such that harm may be arising to others or to the Tribunal. Workers are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so.

9. How to make a protected disclosure?

A disclosure can be made verbally or in writing, through line management or to The Tribunal's Protected Disclosures Group which consists of all Assistant Principal Officers, Deputy Chairpersons, the Registrar and the Chairperson.

- Line Management: A concern can be made to your direct line manager at HEO level or above. Alternatively, if you feel you are unable to do this, then the concern can be raised with the relevant Assistant Principal Officer.
- Protected Disclosures Group: Disclosures can also be submitted to the Tribunal's Protected Disclosures Group. This Group comprises of which consists of all Assistant Principal Officers, Deputy Chairpersons, the Registrar and the Chairperson of the Tribunal. The disclosure can be sent to the email address protecteddisclosuresgroup@protectionappeals.ie or it can be made anonymously by writing to one of the Group members who will bring the matter to the attention of all Group members. A verbal disclosure can be made to one of the Group members.

An External Disclosure can also be made either by making a protected disclosure to the Minister's Office or directly to the Office of the Protected Disclosures Commissioner who can act as a recipient of last resort for Protected Disclosures.

10. Feedback

Workers will be provided with feedback in relation to the matter disclosed and will be advised when consideration of the disclosure is complete, except in exceptional cases. Any information and feedback will be provided in confidence.

11. Protected Disclosures Officer

The Registrar shall fulfil the role of the Tribunal's Protected Disclosures Officer. The duties of the Protected Disclosures Officer is to

- review and update the policy as required and ensure that all workers are informed of the policy,
- Keep all records of protected disclosures



- Report on an annual basis on protected disclosures made.

In the event of a protected disclosure where it would not be appropriate for the Protected Disclosures Officer to have access to records, the Chairperson of the Tribunal shall designate an alternative member of the Protected Disclosures Group to keep those records.

12. Records

Details of protected disclosures, including the outcome, should be reported to the Director of the Civil Governance unit in the Department of Justice. These records will be maintained by the Tribunal in a confidential and secure environment and will be retained for a minimum of six years after the closure of the case. A summary report on all protected disclosures will be included in the Tribunal's Annual Report.

13. Support and Advice

The website of the Office of the Protected Disclosures Commissioner (www.opdc.ie) provides useful help and advice on protected disclosures. Additionally, a worker who is considering making or who has made a disclosure of wrongdoing and requires additional support may wish to contact the Civil Service Employee Assistance Service (CSEAS) <https://www.cseas.per.gov.ie/>.

14. Review and Oversight

The Senior Management Team of the Tribunal is responsible for the implementation of the Tribunal's Protected Disclosures Policy. The policy will be reviewed on an annual basis.



Appendix 1

List of general steps related to the processing of a protected disclosure

1. Acknowledgment of receipt of disclosure within 7 days of receipt.
2. Initial assessment by the Protected Disclosures Officer (or alternate designate) to determine whether the disclosure constitutes a protected disclosure.
3. Determination of the wishes of the discloser in relation to protection of identity.
4. Advice on support available from employee assistances programme as required.
5. Referral to appropriate manager for appropriate action, ensuring that this manager has not been the subject of any of the content of the disclosure. This principle applies at all stages of the process
6. Initial examination /assessment of the issues by or on behalf of relevant manager to determine the appropriate next steps. Decision by manager as to the appropriate actions required to address the concerns which may include a fuller examination or investigation of the issues identified.
7. On completion of the required process a report to be completed which outlines how the issues were addressed and any consequential actions.
8. Information to be provided to the Protected Disclosures Officer by relevant senior manager in relation to how the protected disclosure was addressed and in relation to the implementation of any recommendations.
9. Feedback to the discloser of relevant information related to the outcome, where this is appropriate.
10. Carrying out of reviews as provided for in the procedure, if required.
11. Records in relation to each disclosure should be retained.
12. It is the responsibility of the relevant senior managers to assure themselves that these Procedures are being complied with.
13. The Chairperson will require documentation to confirm for each protected disclosure that the matter has been examined, that the issues raised, if they have been established, have been addressed and that an appropriate response has issued to the discloser.



14. Given the diverse nature of disclosures a timescale for the processing a disclosure is not being prescribed. However each disclosure should be dealt with as expeditiously as possible in the circumstances of the particular case