



Fiosrú

Oifig an
Ombudsman
Póilíneachta

Office of
the Police
Ombudsman

Internal Protected Disclosures Policy

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1. Introduction

The purpose of this policy is to update the Fiosrú, Office of the Police Ombudsman policy and procedures on Protected Disclosures in the workplace, taking into consideration changes introduced by the Protected Disclosure (Amendment) Act, 2022 and ensure compliance with the Protected Disclosures Act 2014 ('the Act').

The Act provides a statutory framework and protections for workers who raise concerns of potential wrongdoing in the workplace. Fiosrú has established a formal reporting channel for such concerns.

1.1 Background

On 16 December 2019, European Union Directive 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law ('Directive') was entered into force. The aim of the Directive is to have a common EU system, which establishes rules and procedures for persons (sometimes referred to as whistleblowers) who report information they acquired in a work-related context.

The Directive was transposed into Irish legislation in the Protected Disclosures (Amendment) Act 2022 ('the 2022 Act') which came into force on 1 January 2023.

The 2022 Act updated the Act significantly. The amended legislation makes important changes to the operation of the legal framework for the protection of persons who make protected disclosures in Ireland and have important implications for employers.

Section 21 of the Act requires Fiosrú to establish and maintain procedures for workers making a protected disclosure and procedures for dealing with such disclosures.

2. Fiosrú Commitment

Fiosrú is committed to creating a workplace culture that encourages and supports the making of a protected disclosure. Fiosrú is committed to the highest standards in trust, integrity, respect, accountability and transparency. Fiosrú will ensure that the appropriate procedures, the necessary supports and protections are in place for those workers, who wish to report a genuine concern of relevant wrongdoing in the workplace. Workers are encouraged to speak up about possible wrongdoing within Fiosrú, at the earliest opportunity and through the appropriate channels. Furthermore, under this policy, a worker will not be penalised or disadvantaged by making a protected disclosure.

2.1 Aim of Policy

The aim of this policy is to encourage and enable workers to report concerns about possible wrongdoing within the workplace and provide certainty that all concerns raised will be dealt with appropriately, without fear of adverse treatment, discrimination or penalisation.



The purpose of this policy is to ensure that workers of Fiosrú:

- understand what a protected disclosure is;
- understand how to report a protected disclosure and who to contact;
- understand the types of wrongdoing that constitute a protected disclosure;
- understand what happens when a report of a protected disclosure is received; and
- understand the protections that are available against penalisation when making such reports.

3. 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 wrongdoing**; which came to the attention of the worker **in a work-related context**; and is disclosed in the manner prescribed by the Act.

3.1 Disclosure of Information

A protected disclosure should contain “information” which tends to show a wrongdoing. The disclosure of information means the conveying of facts, such as stating a particular event occurred¹and providing as much detail as possible in relation to the event.

A worker is not required and should not investigate matters to provide proof/evidence of their suspicions. The responsibility to investigate the disclosure lies with Fiosrú.

3.2 Reasonable belief

The reasonable belief of the worker is that the information disclosed shows, or tends to show a relevant wrongdoing. It does not mean that the reasonable belief has to be correct, a worker is entitled to be wrong in their belief, so long as it was based on reasonable grounds.

The motivation of the worker is not considered when determining if a disclosure of information is a protected disclosure.

3.3 Worker

This policy applies to all Fiosrú workers. The term “worker” means all those working or have worked for Fiosrú (formally GSOC).

A worker, as defined by the legislation includes:

- Employees and former employees;
- persons who provide or provided services to another party under contract;
- agency and former agency workers;
- trainees and former trainees including individuals on work experience;
- shareholders and former shareholders;
- board and former board members (including non-executive members);



- volunteers and former volunteers;
- job applicants;
- individuals involved in pre-contract negotiations.

A “**worker**” for the purpose of the Act means an individual who has acquired information of a relevant wrongdoing in a work-related context.

3.4 Work related context

The information comes to the attention of a worker in a work-related context. This means current or past work activities through which a worker acquires information concerning a relevant wrongdoing and could suffer penalisation if they report it.

3.5 Relevant Wrongdoing

A protected disclosure involves the disclosure of information which, in the reasonable belief of the worker making the disclosure, shows that one or more relevant wrongdoing has been committed, is being committed or is likely to be committed in Fiosrú.

The following are relevant wrongdoing:

- **Commission of an offence**, that an offence has been, is being or is likely to be committed;
- **Failure to comply with a legal obligation**, that a person has failed, is failing or is likely to fail to comply with any legal obligation (other than one arising from the worker’s contract of employment);
- **Miscarriage of justice** has occurred, is occurring or is likely to occur;
- **The health and safety of any individual** has been, is being or is likely to be endangered;
- **Damage to the environment**;
- **Unlawful or otherwise improper use of funds and/or resources** in Fiosrú has occurred, is occurring or is likely to occur;
- **An act or omission by Fiosrú** (or on behalf of Fiosrú) is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- **The concealment or destruction of information relating to any of the above.**

If a worker has genuine concerns related to a suspected relevant wrongdoing, they should report it under this Policy. A relevant wrongdoing must come to the attention of the worker in a work -related context.

3.6 Disclosures not covered by this policy

The following disclosures are not protected by the Act:

3.6.1 Workplace & Interpersonal Grievances

Workplace complaints or personal grievances are not covered by this policy. If a worker has a concern about their employment or personal circumstances in Fiosrú, it should be dealt with



under the Grievance Policy. Also, a concern about workplace relationships should be dealt through our Dignity at Work Policy.

For example, a worker may claim that they are being bullied or harassed by a colleague. This type of complaint should be reported to Human Resources ('HR').

3.6.2 Fiosrú's function to Investigate

One of the functions of Fiosrú is to investigate allegations of wrongdoing made against garda members by members of the public. These investigations are not considered as protected disclosures and are not afforded the protections under the Act.

3.6.3 Legal Advisors

Information disclosed to a legal advisor in the course of obtaining legal advice will not be a protected disclosure if it is then disclosed by the legal advisor.

4. How to make a Protected Disclosure

The Act sets out a number of reporting channels in which a worker can make a protected disclosure:

- Fiosrú (internal),
- To a Responsible Person,
- To a Prescribed Person,
- To the Office of the Protected Disclosures Commissioner,
- To the Minister.

The aim of this policy is to outline to workers, the procedures for making an internal protected disclosure.

Appendix A outlines the external reporting channels in which a worker can make a protected disclosure.

4.1 Reporting Internal Disclosures

A worker who has a reasonable belief in relation to one or more relevant wrongdoings, as outlined in section 3.5 of this policy, should disclose the information to the appointed Designated Person within Fiosrú. This will enable the worker to benefit from the protections of the Act.

The Designated Person authorised to receive reports under this policy is:

Pauline Byrne

150 Upper Abbey Street,

Dublin 1, D01



Email: ipd@Fiosrú.ie

However, Fiosrú recognises that concerns reported informally with a worker's line manager may be a potential protected disclosure. Therefore, in such circumstances, the worker could also be entitled to the protections of the Act.

The motivation for making a protected disclosure is irrelevant when determining whether or not it is a disclosure protected by the Act.

4.2 How to make a Report

Reports should be made to the Designated Person authorised to receive reports under this policy. A report can be made in writing or in person.

4.2.1 Reports made in writing

Reports can be made in writing via the dedicated email address:

Internal Protected Disclosures: ipd@Fiosrú.ie

4.2.2 Reports made in Person

A Report can be made in person by way of a physical meeting.

Please contact Pauline Byrne via the dedicated email address ipd@Fiosrú.ie, so that suitable arrangements can be put in place.

During the course of the meeting, notes will be taken by the Designated Person. The notes will be read back to the reporting person, and they will be given an opportunity to check, rectify and agree the notes by way of signature.

4.3 Information to be provided in the Report

Reports should contain at least the following information:

- That the report is a protected disclosure and is being made under the procedures set out in this policy;
- The reporting person's name and confidential contact details;
- The date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- Whether or not the alleged wrongdoing is still ongoing;
- Specify details of the alleged wrongdoing, what has occurred (or is thought to have) and any supporting documentation;
- Where the alleged wrongdoing occurred;
- Names of any persons allegedly involved in the wrongdoing;
- Details of whether the alleged wrongdoing has been raised previously and if so to whom, when and what action was taken; and
- Any other information which may be relevant.



4.4 Anonymous Disclosures

The Act permits a reporter to submit a report anonymously. Reporters who choose to report anonymously and whose report meets the requirements of the Act are entitled to the protections of the Act.

Anonymous reports will be followed up to the greatest extent possible. Without the identity of the reporter the decision to investigate the anonymous report will be at the discretion of the Police Ombudsman and the Designated Person. Consideration will be taken regarding the seriousness of the wrongdoing raised and Fiosrú's ability to investigate an anonymous report. In addition, seeking further information, maintaining communication, protection of the reporting person's identity and protection from penalisation may not be possible without knowing the identity of the reporting person.

4.5 Record Keeping

The Act requires Fiosrú to keep a record of all reports including anonymous reports. Records will be kept in line with Fiosrú's Data Retention Policy.

Please note:

Records of all reports made will be stored in secure location and only authorised personnel will have access to them. Electronic records will be restricted to authorised personnel.

5. Process following receipt of a Report

This process shall apply to all reports made under section 4 of this policy.

5.1 Acknowledgement

All reports will be acknowledged within seven days of receipt.

The acknowledgement shall include:

- A copy of the Fiosrú Protected Disclosures Policy.

5.2 Assessment

The Designated Person, or another authorised person shall conduct an assessment to establish if there is *prima facie* evidence that a relevant wrongdoing might have occurred.

The Designated Person may contact the reporting person in confidence to seek further information or clarification regarding the reported matter.

If it is unclear as to whether the report is a protected disclosure, the report will be treated as a protected disclosure until a definitive conclusion has been reached.



Information contained in the report may need to be differentiated. Some matters may fall under the scope of the Protected Disclosures Act or this policy, whilst some parts of the report may need to be dealt with separately, under a more appropriate policy (disciplinary).

The Designated Person, having assessed the report, may decide that there is no *prima facie* evidence of a relevant wrongdoing. The matter will either be closed or referred for investigation under a more appropriate procedure.

If the Designated Person decides that there is *prima facie* evidence of a relevant wrongdoing, appropriate action will be taken, with consideration to the nature and seriousness of the matter.

The nature and seriousness of the report will inform whether the matter can be investigated internally, or whether it would be more appropriate for external experts to conduct the investigation.

5.3 Investigation

The Designated Person will decide whether an investigation is required.

If a decision is made not to investigate the reported matters, the reporter can request a review of the decision, as set out in section 6.5 of this policy.

If an investigation is required, the Designated Person shall decide how the matter should be investigated and by whom. In most cases, the Designated Person will engage an independent external investigator to investigate the disclosure. The investigator will be selected from an approved panel of investigation bodies specifically contracted for this purpose by the Office of Government Procurement (OGP).

All investigations will be undertaken in accordance with the general principles of natural justice and fair procedures. If, during the course of the investigation, it is believed that activity of a criminal nature has taken place, it may be necessary to refer the matter to the appropriate authorities, e.g. An Garda Síochána.

Investigations will be conducted in a timely manner.

Responsibility for investigating and addressing the allegations made lies with Fiosrú and not the reporting person. Reporting persons should not attempt to investigate matters themselves.

At the conclusion of the investigation, a report will be prepared by the external investigator. The report will be submitted to the Designated Person and the Police Ombudsman and any recommendations for further action will be followed up.

5.4 Feedback

The purpose of feedback is to keep the reporting person apprised of the progress and the actions arising from their report.

Feedback will be provided to the reporting person no later than 3 months after the initial acknowledgement of the report.



The Reporting Person can request in writing the Designated Person to provide feedback at three-month intervals, until the follow up process is completed.

All feedback is provided in confidence and should not be disclosed by the reporting person except in the following circumstances:

- Seeking legal advice in relation to their report from a solicitor, barrister or trade union official; or
- In order to make a further report through this channel or another reporting channel provided for under the Act.

Feedback will include information on the action taken or envisaged to be taken and the reasons for this action.

Information that will not be provided as feedback to the reporting person:

- Information that could prejudice the investigation;
- Information relating to identified or identifiable third parties; or
- Information on any disciplinary process involving another worker (confidential).

If the follow up process determines that further investigation is not warranted and no relevant wrongdoing has occurred, the reporting person will be informed of the outcome in writing and the reasons for this decision.

It should be noted that consideration will be given to any legal restrictions concerning confidentiality, legal privilege, privacy and data protection legislation when communicating the final outcome to the reporting person.

6. Protections under the Act

The Act affords certain protections for workers who report a protected disclosure. These include protection from penalisation for reporting a protected disclosure and keeping the reporter's identity confidential (with exemptions). There are further protections against civil and criminal liability for the reporting of information necessary for the purpose of making a protected disclosure.

6.1 Protection from Penalisation

Fiosrú is committed to protecting its workers from penalisation or the threat of penalisation for reporting a protected disclosure. Acts of penalisation will not be tolerated.

If a worker is penalised or threatened with penalisation, they should report the matter to the Designated Person at ipd@Fiosrú.ie.

A notification of penalisation following a reported disclosure will be assessed and investigated by the Head of Human Resources and the appropriate action may be taken were necessary (including disciplinary action).



6.2 Penalisation

Penalisation is defined by the Act as any direct or indirect act or omission that occurs in a work-related context, due to the making of a report, and which causes or may cause an unjustified detriment to a worker.

The following non-exhaustive list shows examples of penalisation:

- suspension, lay-off or dismissal;
- demotion, loss of opportunity for promotion or withholding promotion;
- transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- the imposition of administering of any discipline, reprimand or other penalty (including financial penalty);
- coercion, intimidation, harassment or ostracism;
- discrimination, disadvantage or unfair treatment;
- injury, damage or loss;
- threat of reprisal;
- withholding of training;
- a negative performance assessment or employment reference;
- 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;
- psychiatric or medical referrals.

Appropriate action, which may include disciplinary action will be taken against a worker who penalises a reporting person or other individual for making a protected disclosure.

The normal management of a worker who has made a protected disclosure is not penalisation.

If a worker makes a protected disclosure during an investigation or disciplinary process to which they are subject, it will not automatically follow that the making of the report will affect the investigation or disciplinary process. Separate processes unconnected with the protected disclosure will ordinarily continue to proceed.

The Act provides that a worker that suffers detriment or penalisation for making a protected disclosure can bring a civil claim to the Workplace Relations Commission or to the Courts.

A worker who wants to bring a claim relating to penalisation or dismissal to the Workplace Relations Commission, must do so within six months of the act of penalisation or the act of dismissal.



A claim for interim relief pending proceeding at Workplace Relations Commission or the Courts, must be made to the Circuit Court within 21 days of the last date of penalisation or the date of dismissal.

6.3 Protection from Civil and Criminal Liability

The Act provides that a civil action cannot be taken against a worker for making a protected disclosure, with the exception for defamation. Workers can be sued for defamation but are entitled to a defence of “qualified privilege”. This means that it should be difficult for a defamation case against a worker to succeed if the worker can show that they made a protected disclosure in accordance with the Act and did not act maliciously.

If a worker is prosecuted for disclosing information that is prohibited or restricted, it is the defence of the worker to show that they reasonably believed that they were making a protected disclosure at the time the alleged offence occurred.

It is not permitted to have any clauses in agreements that prohibit or restrict the making of a protected disclosure, exclude or limit the operation of any provision of the Act, preclude a person from bringing any proceeding under the Act, or preclude a person from bringing a breach of contract in respect of anything done in the consequence of the making of a protected disclosure.

6.4 Confidentiality and Protection of Identity

Fiosrú is committed to protecting the confidentiality of the identity of both the worker who reports a protected disclosure and any third party referred to in the report. Information disclosed will be treated in the strictest confidence.

The identity of the reporting person or any information that may directly or indirectly identify the individual, will not be shared with anyone other than persons authorised to receive, handle or follow-up on reports made under this policy and without the explicit consent of the reporting person.

The Act provides for certain exemptions, listed below, where a reporting person’s identity or information that may reveal the identity of the reporting person can be disclosed without the consent of the reporting person, as follows:

- a) where the disclosure is a necessary and proportionate obligation imposed by EU or national law in the context of investigations or judicial proceeding, including safeguarding the rights of defence of persons connected with the alleged wrongdoing;
- b) Where the person to whom the report was made or shared shows that they took all reasonable steps to avoid such disclosure;
- c) Where the person to whom the report was made or shared had a reasonable belief that such disclosure is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment; or
- d) Where the disclosure is otherwise required by law.



Where the reporting person's identity or information that could identify the reporting person is disclosed under the exemptions (a) to (d), above, the reporting person will be notified in writing in advance of any such disclosure, unless the notification would jeopardise the following:

- The effective investigation of the wrongdoing reported;
- The prevention of serious risk to the security of the State, public health, public safety or the environment; or
- The prevention of crime or the prosecution of a criminal offence.

A reporting person can request a review of a decision to disclose their identity as set out in section 6.5.

6.5 Review

A review may be sought for the following:

- By the reporting person, following the assessment of a report, where a decision has been made to close or refer the matter to another process (e.g. disciplinary).
- The conduct or outcome of any follow-up actions (including any investigation) taken as a result of the receipt of a report, if requested by any affected party.
- The conduct or outcome of any investigation into a complaint of penalisation, if requested by any affected person; and
- Any decision to disclose the identity of a reporting person (except in exceptional circumstances) and other than those authorised under this policy, if requested by the reporting person.

6.5.1 Review Request

- A request for a review of a decision made should be made to the Designated Person;
- The Designated Person will forward the request to the Police Ombudsman, who will appoint an independent person of sufficient seniority to conduct the review or alternatively an external independent person;
- A request for review must be submitted within 21 days of the receipt of the final outcome;
- The applicant must outline the reasons they are seeking a review.

The role of the reviewer will not be to re-investigate the matter, but to address the specific issues the applicant feels have received insufficient consideration.



6.6 Criminal Offences

Section 14 A of the Act sets out a range of criminal offences for breaches of the protections afforded by the Act:

These apply to a person who:

1. hinders or attempts to hinder a worker in making a report;
2. penalises or threatens penalisation or permits any other person to penalise or threaten penalisation to:
 - a) a reporting person;
 - b) a facilitator (person who assists the reporting person in the process);
 - c) a person connected to the reporting person, colleague or relative; or
 - d) a legal entity that the reporting person owns, works for, or is otherwise connected with in a work-related context.
3. brings vexatious proceeding against any person or legal entity referred to at 2(d) above;
4. breaches confidentiality regarding the identity of reporting persons;
5. as a reporting person, makes a report containing information which they know to be false;
6. fails to comply with the requirement to establish, maintain and operate internal reporting channels and procedures.

On conviction, fines or imprisonment or both can be imposed.

7. Supports and Information for Workers

7.1 Transparency International Ireland

Transparency International (TI) Ireland offers a free Speak Up Helpline for workers who have, or plan to report a wrongdoing. They offer support and advice, including legal advice. The helpline is operated by trained staff and volunteers.

Contact details can be found using the following link: [Transparency Ireland contact helpline](#)

7.2 Union

For workers who are members of a trade union, many unions offer free legal advice and services on employment related matters, which include protected disclosures.

7.3 Civil Service Employee Assistance Service

The Civil Service Employee Assistance Service (CSEAS) offer a wide range of free and confidential advice to both staff and management of the Irish Civil Service. The purpose of CSEAS is to assist and support all staff to manage work and life difficulties.

Employee Assistant Officers are located in Dublin (Head Office), Cork, Limerick, Tullamore and Sligo.

Contact details can be found using the following link: [CSEAS Contact](#)



8. Data Protection and Freedom of Information

8.1 Data Protection

The reporting of a protected disclosure will involve the processing of personal data. All personal data will be processed in accordance with the applicable data protection law, the General Data Protection Regulations (GDPR) and the Data Protection Act 2018.

Section 16B (1) of the Act imposes certain restrictions on data subjects' rights, as allowed under Article 23 of the GDPR.

Where the exercise of a right under GDPR would necessitate the disclosure of information that may identify the reporting person or persons concerned, or prejudice the effective follow-up of a report, exercise of that right may be restricted.

Rights may also be restricted to the extent, and as long as it is necessary:

- to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow up, in particular investigations; or
- as an attempt to identify the reporting person or persons concerned.

The most applicable right for Fiosrú is an individual's right to access their personal data on foot of a data subject access request (DSAR). In these circumstances, if a DSAR is received which relates to a report or investigation made under this policy, the restrictions may allow certain personal data to be withheld from the data subject.

Where restrictions have been applied to a DSAR, the data subject will be given the reason as to why their personal data has been restricted, unless the giving of such reasons:

- would identify the reporting persons or persons concerned;
- prejudice the effective follow up of a report/investigation: or
- prejudice the important objectives of general public interest.

A data subject whose rights have been restricted can make a complaint to the Data Protection Commission at the following link: [Data Protection Commission](#) or alternatively they can seek a judicial remedy.

8.2 Freedom of Information

The Freedom of Information Act 2014 does not apply to any records relating to disclosures made in accordance with the Protected Disclosures Act, irrespective of when it was made.



9. Annual Reports

The Act imposes statutory obligations on Fiosrú to complete a mandatory annual report containing information in relation to internal protected disclosures to the Minister for Public Expenditure, NDP Delivery and Reform. Section 22 (5) of the Act imposes further reporting obligations on Fiosrú to publish a report on its website, which includes a statement that Fiosrú has established an internal reporting channel and procedures in accordance with the Act.

9.1 Review of this Policy

The Fiosrú Internal Protected Disclosures Policy will be reviewed by the Director of Administration every two years or periodically in line with changes in legislation.



Appendix A - Other Disclosure Channels

A.1 Overview

The aim of this policy is to provide workers of Fiosrú a means by which they can safely and securely raise concerns about relevant wrongdoing and provide assurance that all concerns will be dealt with appropriately. Fiosrú is confident that all concerns raised can be dealt with internally and strongly encourages workers to report concerns internally in accordance with this policy.

The Act sets out a number of external channels for those workers who do not want to make a report internally. If consideration is being made to making a report externally, please be advised that that different and potentially more onerous conditions apply when using these channels.

Workers are advised to seek professional advice before reporting externally. Information on where a worker can obtain advice can be found in section 7 of this policy.

A.2 Reporting to another Responsible Person

If a worker believes that the relevant wrongdoing relates to the conduct of a person other than the worker's employer, or to something for which that other person has legal responsibility, then the worker can disclose to that person.

Example: Fiosrú engages a contractor to carry out work on site and an employee of the contracting company becomes aware of a relevant wrongdoing in a work-related context. This worker can make a report to their employer or to Fiosrú via the internal reporting channel.

A.3 Reporting to Prescribed Persons

Prescribed persons are designated by the Minister for Public Expenditure, NDP Delivery and Reform to receive protected disclosures. Section 7 of the Act outlines the conditions applying to reporting to a prescribed person.

If a Fiosrú worker wishes to make a protected disclosure to a prescribed person, in addition to having a reasonable belief that the information they report tends to show a relevant wrongdoing, they must also reasonably believe that the information and any allegation contained in the disclosure is "substantially true", which is a higher threshold than that of an internal disclosure.

If a worker chooses to make a protected disclosure to a prescribed person, they must ensure that they choose the right body to deal with their report.

A full list of Prescribed Persons can be found at: [Protected Disclosures List of Prescribed Persons](#)

A.4 Reporting to the Office of the Protected Disclosures Commissioner

The Protected Disclosures (Amendment) Act, 2022 established the Office of the Protected Disclosures Commissioner (OPDC). A worker can make a protected disclosure to the OPDC under the same conditions that apply to a prescribed person, section 7 of the Act.



If a worker wishes to make a protected disclosure to a prescribed person and is unsure of the body they should send the report to, the worker can send the report to the Commissioner, and they will forward the report to the relevant body.

If a worker wishes to make a protected disclosure to the Commissioner, in addition to having a reasonable belief that the information they report tends to show a relevant wrongdoing, they must also reasonably believe that the information and any allegation contained in the disclosure is “substantially true”.

Information on how to report to the Protected Disclosures Commissioner can be found at;

[Office of Protected Disclosures Commissioner](#)

A.5 Reporting to a Minister

Section 8 of the Act outlines the conditions which apply to making a protected disclosure to the Minister. A worker who is employed by a public body can make a report to the Minister responsible for the public body concerned, providing one or more of the following conditions is met:

- The worker has previously made a report of substantially the same information to their employer, other responsible person, prescribed person, the Protected Disclosures Commissioner, or relevant Minister, but no feedback has been provided to the worker in response to the report within 21 days, or, where feedback has been provided, the worker reasonably believes that there has been no follow up or that there has been inadequate follow-up;
- The worker reasonably believes the head of Fiosrú is complicit in the relevant wrongdoing reported;
- The worker reasonably believes that the disclosure contains information about a relevant wrongdoing that may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage.

The relevant Minister for Fiosrú is the Minister of Justice.

Procedure for making a protected disclosure to the Minister/Minister of State in the Department of Justice can be found at: [Protected Disclosure to the Minister DOJ](#)

If a protected disclosure is made to the Minister, within 10 days of receipt it will be transmitted directly to the Office of the Protected Disclosures Commissioner (OPDC).

A.6 Reporting to Legal Advisor

Section 9 of the Act outlines the conditions applying to reporting a protected disclosure to a legal advisor. A worker can disclose information concerning a relevant wrongdoing in the course of obtaining legal advice, including advice relating to the operation of the Act from a barrister, solicitor, trade union official or an official of an excepted body under section 6 of the Trade Union Act 1941.



A.7 Reporting to Institutions of the European Union

Section 7B of the Act outlines the conditions applying to reporting a protected disclosure to institutions of the European Union (EU).

If a worker wishes to report a relevant wrongdoing which relates to a breach of EU law, as set out in the EU Directive 2019/1937 on the protection of persons who report breaches of Union law, they can report to a relevant institution, body office or agency of the EU provided:

- The information the worker wishes to report is true at the time of reporting; and
- The information falls within the scope of EU Directive 2019/1937.

A number of the EU institutions have formal channels for receiving reports from workers. Workers are advised to contact the institution concerned for information on how to submit a report.

Please find enclosed link to the EU Directive 2019/1937 on the protection of persons who report breaches of Union law: [EU Directive 2019/1937](#)

A.8 Reporting to Third Parties

Section 10 of the Protected Disclosures Act sets out the conditions that apply to reporting a protected disclosure to a third party. Please be advised that there are specific – and more onerous – conditions that must be met for a worker to be protected if they make a disclosure to any person other than their employer or other responsible person, a prescribed person, the Protected Disclosures Commissioner or a relevant Minister.

To qualify for protection in this case, the worker must reasonably believe that the information disclosed in the report, and any allegation contained in it, is substantially true, and that at least one of the following conditions is met:

- the worker previously made a disclosure of substantially the same information to their employer or other responsible person; to a prescribed person; to the Protected Disclosures Commissioner, or to a relevant Minister, but no appropriate action was taken in response to the report within the specified feedback period; or
- the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage; or
- the worker reasonably believes that if he or she were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that there is a risk of penalisation; or
- the worker reasonably believes that if he or she were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that there is a low prospect of the relevant wrongdoing being effectively addressed, due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where a prescribed person may be in collusion with the perpetrator of the wrongdoing or involved in the wrongdoing.



A.9 Reporting of matters related to Law Enforcement and the Administration of Justice

Section 17 of the Protected Disclosures Act sets out certain special conditions that apply to the reporting of matters relating to law enforcement and the administration of justice. A full definition of what constitutes such matters is set out in section 17(1) of the Act.

In general, reports concerning law enforcement and the administration of justice can only be made:

To the worker's employer in accordance with this policy; or

To a prescribed person, if a person has been prescribed in respect of the matter the worker wishes to report; or

To the Comptroller and Auditor General, if the report contains taxpayer information.

A worker can also disclose information concerning a relevant wrongdoing in this area to a legal adviser or a trade union official (or an official of an excepted body under section 6 of the Trade Union Act 1941) in the context of seeking legal advice regarding their disclosure.

A report on matters concerning law enforcement and the administration of justice can in certain circumstances be made to a member of Dáil Éireann or Seanad Éireann. Section 17 sets out the specific conditions that apply in this case. Workers should familiarize themselves with these conditions and seek legal advice if required.

No other form of disclosure of these matters is permitted under the Protected Disclosures Act.

A.10 Reporting of matters related to Security, Defence, International Relations and Intelligence

Section 18 of the Act sets out certain special conditions that apply to the reporting of matters relating to security, defence, international relations and intelligence. A full definition of what constitutes such matters is set out in sections 18(1) and 18(2) of the Act. Reports concerning matters relating to these areas can only be made:

To the worker's employer, in accordance with this policy;

To a relevant Minister in accordance with section 8 of the Protected Disclosures Act;

To the Disclosures Recipient in accordance with section 10 of the Protected Disclosures Act.

A worker can also disclose information concerning a relevant wrongdoing in these areas to a legal adviser or a trade union official (or an official of an excepted body under section 6 of the Trade Union Act 1941) in the context of seeking legal advice regarding their disclosure.

No other form of disclosure of these matters is permitted under the Protected Disclosures Act.



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