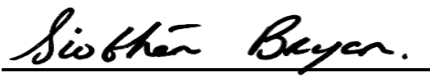


Protected Disclosures of Information Policy

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Created by:	Olive Leonard Director of Human Resources	Date: July 2014
Implementation by:	Any Staff Member	
Reviewed by:	Information Officer	Date: August 2024
Next Review:	Information Officer	Date: August 2027
Agreed By:	 Siobhan Bryan, Chief Executive Officer.	Date: 15/08/2024

1. Introduction

The Protected Disclosures Act 2014 as amended by the Protected Disclosures (Amendment) Act 2022, protects workers in the public, private and not-for-profit sectors from penalisation if they speak up about wrongdoing in the workplace. Persons who make protected disclosures (sometimes referred to as “whistleblowers”) are protected by law, meaning they should not be treated unfairly or lose their job because they have made a protected disclosure.

Section 103 of the Health Act 2007 **also** provides for disclosures of relevant wrongdoings to be made to an Authorised Person (in the HSE) by employees of bodies funded under Section 38 & 39 of the Health Act. Therefore, employees of Muiríosa Foundation are covered under this legislation.

The Act also protects workers who make a disclosure by way of an anonymous report. If a worker makes an anonymous report and is subsequently identified and penalised for doing so, for the purposes of the Act, that worker will be considered to be a worker who made a protected disclosure and is therefore entitled to the full protections of the Act. It is important to note that the organisation may be constrained in its ability to investigate the matter/apply certain procedures.

Section 22 of the Protected Disclosures (Amendment) Act 2022 requires every public body to prepare and publish an annual report in relation to disclosures received under the provisions of the Act.

2. Purpose

This policy is designed to:

- a) ensure workers can raise genuine concerns about relevant wrongdoings which come to their attention in connection with their employment, at the earliest opportunity and without fear of penalisation as a consequence of same.
- b) verify what constitutes a Protected Disclosure
- c) clarify how a Protected Disclosure can be made and to whom
- d) advise that even if the information is proved to be incorrect, you are still protected, ***provided you had a reasonable belief in it.***

3. To Whom Does this Policy Apply?

This policy applies to all Muiríosa Foundation workers, to include any individual who is or was:

- a) an employee,
- b) an independent contractor, whether or not the work/services were provided personally by the individual or otherwise, the contract was express / implied and oral / in writing,
- c) an agency worker,

- d) provided with work experience pursuant to a training course or programme or with training for employment (or with both) otherwise than under a contract of employment,
- e) a shareholder of an undertaking,
- f) a member of the administrative, management or supervisory body of Muiriosa Foundation, including non-executive members,
- g) a volunteer,
- h) acquired information on a relevant wrongdoing during a recruitment process,
- i) acquired information on a relevant wrongdoing during precontractual negotiations (other than a recruitment process).

4. What is a Protected Disclosure?

A protected disclosure is defined by section 5 of the 2014 Act as a disclosure of information by a worker, which in their **reasonable belief**, tends to show one or more relevant wrongdoings, which came to the worker's attention in a work-related context and is disclosed in the manner outlined in the Act as amended.

The information does not need to become known as part of the workers *own* duties, as long as the information comes to the attention of the worker in a work related context.

5. What are Relevant Wrongdoings?

The following are defined as "relevant wrongdoings":

- a) that an offence has been, is being or is likely to be committed,
- b) that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services,
- c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- d) that the health or safety of any individual has been, is being or is likely to be endangered,
- e) that the environment has been, is being or is likely to be damaged,
- f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur,
- g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement or,
- h) that a breach of specified EU law set out in the Directive(s) has occurred, is occurring or is likely to occur, or
- i) that information tending to show any matter falling within a) – h) has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

6. What is **NOT** a Relevant Wrongdoing?

Examples include:

- a) Whereby it is the function/role of the employee to detect, investigate or prosecute a wrongdoing and does not involve an act/omission on the part of the employer.
- b) Workplace grievances which are exclusively personal
- c) Disputes with your employer about your contract.

If an employee reports a workplace concern in good faith and on reasonable grounds in accordance with the procedures outlined in the legislation it would be treated as a protected disclosure.

Therefore, if an employee feels they have been subjected to detrimental treatment in relation to any aspect of their employment as a result of reporting their concern they may seek redress. In addition, employees are not liable for damages as a consequence of making a protected disclosure.

The exception is where an employee has made a report which he or she could reasonably have known to be false. This is an offence under the Act.

7. Penalisation

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

- suspension, lay-off or dismissal;
- demotion, loss of opportunity for promotion or withholding of promotion;
- transfer of duties, change of location or 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;
- a negative performance assessment or employment reference;
- failing to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that they would be offered permanent employment;

- failing to renew or early termination of a temporary employment contract;
- harm, including to the worker's reputation, particularly on 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.

8. Making a Protected Disclosure

In the normal course of events, employees should report concerns to their line manager or, if appropriate, to another manager within the workplace. However in exceptional cases, employees who may wish to report concerns may be reluctant to do so for fear of retaliation or victimisation. Such employees can submit a Protected Disclosure to the Designated Person in Muiriosa Foundation (internal channel) **or** via the Authorised Person in the HSE (external channel) in accordance with the procedure and criteria determined in this policy and using the appropriate form (Appendix A/B).

9. Procedure for making a Protected Disclosure to the Designated Person in Muiriosa Foundation (Internal Channel)

- a) Complete Appendix A of this policy and submit via email/post
- b) An acknowledgement will be issued to you within 7 working days of receipt of same, unless you have specifically requested that no acknowledgement is sent.
- c) The Designated Person will undertake an initial assessment to determine whether the disclosure qualifies as a Protected Disclosure/grievance and separate as necessary.
- d) If the initial assessment determines the disclosure as meeting the criteria of a Protected Disclosure, it will be referred to the relevant manager for appropriate action as required to address the concern(s) raised. Should the assessment determine there is no prima facie evidence that the disclosure meets the criteria the investigation is closed or may be referred to another applicable process e.g Grievance Procedure. .
- e) The Designated Person will keep you up-to-date with progress on the investigation into the disclosure as soon as is practicable and not more than 3 months following acknowledgement of the disclosure. Further feedback may be provided at 3 month intervals until the conclusion of any process.
- f) Feedback will consist of information on action taken/envisaged. Specific details may be

prohibited in accordance with the principles of natural justice and data protection legislation.

10. Procedure for making a Protected Disclosure to the Authorised Person in the HSE (External Channel)

The HSE has an appointed person to whom protected disclosures may be made. Details should be set out on the Form attached to this policy in Appendix B. For further details on how this process is managed, please see <https://www.hse.ie/eng/about/who/protected-disclosures/>

11. Confidentiality

Confidentiality will be maintained in relation to the disclosure *insofar as is reasonably practicable*. However, it is important to note that it may be necessary to disclose the identity of the employee who made a protected disclosure in order to ensure that an investigation is carried out in accordance with the rules of natural justice and / in accordance with Section 16 of the Protected Disclosures (Amendment) Act 2022.

APPENDIX A Form for Protected Disclosures of Information

Before you complete this form, you should read the Protected Disclosures of Information Policy carefully. Please note that disclosures must be made in good faith and relate to a matter that you have reasonable grounds to be concerned about. It must not be intended to undermine the reputation of any colleague or service provider. If you make a disclosure which you know or reasonably ought to know to be false, you will be guilty of an offence under the legislation.

Name of employee making the disclosure:

Click or tap here to enter text.

Job title, Department:

Click or tap here to enter text.

Details of the disclosure (care should be taken to only include the name(s) of any individual(s) where directly relevant to the report):

Click or tap here to enter text.

Date(s) / Time(s) of occurrence(s) (if appropriate):

Click or tap to enter a date.

Basis of your concern(s):

Click or tap here to enter text.

Employee's Signature:

Click or tap here to enter text.

Date:

Click or tap here to enter text.

Completed forms are to be returned to:

Information Officer, Muiríosa Foundation, Moore Abbey, Monasterevin, Co. Kildare, W34 E433

Telephone: 045 532 222

E-mail: deborah.gleeson@muiriosa.ie



APPENDIX B Form for Protected Disclosures of Information

Please note that disclosures must be made in good faith and relate to a matter that you have reasonable grounds to be concerned about. It must not be intended to undermine the reputation of any colleague or service provider. If you make a disclosure which you know or reasonably ought to know to be false you will be guilty of an offence under the legislation.

1. Name of employee making the disclosure:

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2. Job title, department and name of organisation:

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3. Details of the disclosure (care should be taken to only include the name(s) of individual(s) where directly relevant to the report):

- **Date(s)/Time(s) of occurrence(s) (if appropriate)**

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- **Basis of your concern(s)**

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4. Employee's signature:

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5. Date:

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Completed forms are to be returned to:

**HSE Office of the Authorised Person, Dr Steevens' Hospital,
Dublin 8, D08 W2A8**

For further information please contact The Office of the Authorised Person, in confidence

Tel: 01 6352202

E-mail: protected.disclosures@hse.ie

*Office hours are 10am to 1pm and 2pm to 5pm Monday to Friday or

Visit our webpage at: <https://www.hse.ie/eng/about/qavd/protected-disclosures>