



Protected Disclosures Policy

POLICY DOCUMENT RECORD	
Policy Owner	University Secretary's Office
Approval Body	Governing Body
Approval Meeting	Governing Body Meeting 17 - 8th July 2020
Revision Date(s)	

1. INTRODUCTION

1.1 The Protected Disclosures Act 2014 * and the Code of Practice in the Statutory Instrument SI No. 464 of 2015 ** provide a statutory framework within which information may be disclosed regarding matters which they have reasonable belief are wrongdoings in the workplace in the knowledge that they will enjoy the protections of the Act. This legislation is available at the following links:

* <http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en>

** <http://www.irishstatutebook.ie/eli/2015/si/464/made/en>

1.2 The legislation requires public bodies to maintain procedures to encourage the making of protected disclosures internally and the addressing of these by the organization in a responsible and effective manner.

1.3 TU Dublin recognises that University staff have an important role to play in supporting the University's commitment to maintaining the highest standards of honesty, openness and accountability. Staff who become aware of potential irregularities are encouraged to raise their concerns as soon as possible through the usual line management structures, which are the normal and appropriate channels to address issues.

1.4 Where an individual is of the reasonable belief that it is not appropriate to make a disclosure through the usual channels, this policy sets out how they may report information or significant matters of wrongdoing in the University which they reasonably believe to be true, without fear of victimisation, less favourable treatment or subsequent discrimination or disadvantage.

1.5 An employee will not be penalised for making a protected disclosure, and in accordance with the 2014 Act and will be protected from penalization including:

- (a) Suspension, lay-off or dismissal;
- (b) Demotion or loss of opportunity for promotion
- (c) Transfer of duties, change of work location, reduction in wages or change in working hours;
- (d) Any discipline, reprimand, or other penalty;
- (e) Unfair treatment;
- (f) Coercion, intimidation or harassment;
- (g) Discrimination, disadvantage or unfair treatment;
- (h) Injury, damage or loss;
- (i) Threat of reprisal;
- (j) Or other unfavourable treatment connected with making the disclosure.

- 1.6 This policy will not be used to re-open any matters which have previously been appropriately addressed by it or any other University policies or procedures. Also, this policy is not designed to address matters which would be more appropriately investigated through mechanisms established in other University policies or procedures.

2. PROTECTED DISCLOSURE TERMINOLOGY

- 2.1 A **Protected Disclosure** under this policy involves the disclosure of relevant information which the individual reasonably believes tends to show one or more relevant wrongdoings. The wrongdoing must come to the worker's attention in connection with his/her employment, and may be about a relevant wrongdoing that is occurring now, that happened in the past or that may happen in the future.
- 2.2 An **individual** is for the purposes of this policy, is defined in the Act to include employees, consultants, contractors, trainees, work experience students, interns, part time, full-time, casual workers and agency workers, and includes an individual who:
- (a) is an employee,
 - (b) entered into or works or worked under any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertook to do or perform (whether personally or otherwise) any work or services for another party to the contract for the purposes of that party's business,
 - (c) works or worked for a person in circumstances in which—
 - (i) the individual is introduced or supplied to do the work by a third person, and
 - (ii) the terms on which the individual is engaged to do the work are or were in practice substantially determined not by the individual but by the person for whom the individual works or worked, by the third person or by both of them,or
 - (d) is or was provided with work experience pursuant to a training course or programme or with training for employment (or with both) otherwise than—
 - (i) under a contract of employment, or
 - (ii) by an educational establishment on a course provided by the establishment.
- 2.3 A **reasonable belief** is one which may demonstrate to have a reasonable basis in fact.
- 2.4 **Relevant wrongdoing** is information connected with the University which is defined in the Act to include:
- (a) an offence that 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) a miscarriage of justice that has occurred, is occurring or is likely to occur;
- (d) the health or safety of any individual has been, is being or is likely to be endangered;
- (e) the environment has been, is being or is likely to be damaged;
- (f) an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, that has occurred, is occurring or is likely to occur;
- (g) an act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement, or;
- (h) information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed.

2.5 A **Recipient** is the person(s) designated in this policy to receive a written Protected Disclosure.

3. HOW TO MAKE A PROTECTED DISCLOSURE

3.1 The Recipient of a Protected Disclosure in TU Dublin is the Chief Operations Officer. If the individual has reasonable belief that it is not appropriate to report such a disclosure to the Chief Operations Officer, they may make their report to the Chair of the University's Audit and Risk Committee, through its Secretariat or directly to the designated Protected Disclosure email address that is TUDublin-Auditchairperson@startmail.com.

3.2 A Written Protected Disclosure should be contained in an envelope which is marked (a) **Private and Confidential**, (b) **Strictly Personal** and (c) the **title of the Recipient**. In the case of the Recipient being the Chief Operations Officer, the address for submission is **5th Floor, Park House Grangegorman, 191 North Circular Road, Dublin 7, D07 EWV4**.

3.3 The Protected Disclosure should contain the following:

- (i) the individual's name, position and location in the University;
- (ii) a statement that the information is a Protected Disclosure;
- (iii) how the information came to the attention of the individual;
- (iv) a description of the wrongdoing which is reasonably believed to have taken place giving relevant dates; supporting evidence and citing witnesses where possible.

4. HOW A PROTECTED DISCLOSURE WILL BE HANDLED

- 4.1 Upon receipt of a Protected Disclosure, the Recipient will convene a meeting of a Protected Disclosure Review Group (PDRG) comprising a minimum of three persons which will include a Secretary/Financial Controller, a Senior Manager (Head of Function or more senior) and the University Secretary (or designated nominee), and other persons considered relevant by the Recipient. The PDRG may seek additional members or specialist support it considers necessary to complete the Review/Investigation. Any person who is the subject of the Protected Disclosure under review will not serve on the PDRG.
- 4.2 The PDRG will appoint its Chair and take the following actions:
- (i) acknowledge in writing to the individual its receipt of the Protected Disclosure advising that the PDRG is dealing with the matter and informing that further communications may take place (if appropriate);
 - (ii) decide whether the matter was previously dealt with, or would be more appropriately addressed under another University policy or procedure;
 - (iii) take what actions are required to complete the Review/Investigation including calling on any staff member or student to provide information relevant to a disclosure in order to assist in establishing further facts and completing its review/investigation.
 - (iv) prepare a Report to be submitted by the Chair of the PDRG for consideration by the Audit and Risk Committee which will include:
 - an anonymized summary of the disclosure;
 - the review/investigation findings;
 - a statement whether the matter was found to be substantiated by other evidence;
 - a recommendation whether the matter may be regarded as concluded or should be investigated further.
- 4.3 The Audit and Risk Committee will decide whether the PDRG Report and recommendations are sufficient to conclude the matter; whether a further review/investigation by the PDRG is required, and/or what other actions are to be carried out arising from the Report. This may include engaging external consultant support and reporting the matter to an external body.
- 4.4 When concluded, the Recipient will inform the individual of the outcome of the Review.
- 4.5 The PDRG and the Audit and Risk Committee will take all reasonable measures to maintain confidentiality in relation to all matters pertaining to the Protected Disclosure.

5. GENERAL PRINCIPLES

- 5.1 The individual is required to maintain confidentiality in respect of a making of the Protected Disclosure and all matters in relation to any subsequent review/investigation and outcome.
- 5.2 TU Dublin will take all reasonable measures to protect the identity of the individual making the Protected Disclosure except in cases where:
- (i) the Recipient reasonably believes that due to the nature of the Protected Disclosure the disclosure of the individual's identity is, or required by law or is necessary to prevent a serious risk to health, safety, security or the environment;
 - (ii) the disclosure of the identity of the individual is required by law, for example under section 59 of the Charities Act;
 - (iii) the Recipient reasonably believes that the disclosure of the individual's identity is necessary to an effective investigation of the Protected Disclosure.
- 5.3 Any individual found to have abused this policy by deliberately making false allegations or repeating allegations found to be unsubstantiated under this or other University policy or procedure, may be subject to Disciplinary Procedures.
- 5.4 Any person found deterring, or attempting to deter an individual from making a Protected Disclosure may be subject to Disciplinary Procedures.
- 5.5 Any individual who believes they are being penalised for making a disclosure, should refer to the TU Dublin Grievance Procedures and report their concerns, in writing, to the appropriate person, as set out in those procedures.

6. ANONYMOUS PROTECTED DISCLOSURES

- 6.1 This policy encourages an individual when making a Protected Disclosure to identify themselves and thereby providing as much information as possible in relation to the matter.
- 6.2 While anonymous Protected Disclosures will be considered by the University, it will take into account factors such as:
- the seriousness of the issues raised;
 - the credibility of the details provided;
 - the likelihood of being able to review/investigate and confirm allegations (using alternative sources if possible).
- 6.3 While anonymous disclosures will be considered by the University, they are much less powerful and far less capable of being addressed as it is difficult to investigate a matter and to corroborate facts. This policy encourages an individual to put their name to disclosures made where possible.

7. REPORTING

- 7.1 In accordance with Section 22 of the Protected Disclosure Act 2014, annual reports will be published each June by the office of the Chief Operations Officer in relation to disclosures received in TU Dublin.

8. RECORDS

- 8.1 Records associated with a Protected Disclosure will be retained in accordance with the University's Records Retention policy. All such records will be maintained in a confidential and secure environment.

9. REVIEW

- 8.1 This policy will be reviewed having regard to legislation, operational use and other relevant indicators, not less than every two years.

10. QUERIES

Contact: University Secretary's Office

Tel: 01 220 5059

1. APPENDIX 1 – ADVICE FOR STAFF MAKING A PROTECTED DISCLOSURE

TU Dublin acknowledges the difficult choice a member of staff may have to make when deciding to make a protected disclosure within the meaning of the 2014 Act. As the issues that prompt disclosures are likely to be complex, how the member of staff proceeds will vary from situation to situation. The following advice is recommended if an employee wishes to make a disclosure:

- make any disclosures of relevant wrongdoings promptly as timely disclosures can be verified and investigated with less difficulty;
- focus on the facts/information and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- be accurate in his/her observations and claims and keep formal records documenting relevant events.
- It is important that the employee is clear that communications being relied on amount to a protected disclosure under the 2014 Act.

An employee should have supporting evidence to any allegations where possible and may also wish to seek independent advice through their union, line manager or legal advisor.

Finally, an employee should be satisfied that this policy is the most appropriate policy to use in the circumstances. Where there already exists a procedure for the raising of an issue, employees are expected to follow the relevant procedure. The policy is not designed to be used to re-open any matters which have already been dealt with under other Institute policies.

2. APPENDIX 2 – FORM FOR STAFF MAKING A PROTECTED DISCLOSURE



1. Name

2. Position

3. Location in University

4. Please write how the information came to your attention.

5. Please give a description of the alleged wrongdoing which is reasonably believed to have taken place with relevant dates and any details of supporting evidence and/or witnesses where possible.

6. Please advise if the alleged wrongdoing is understood to be ongoing?

7. Has the matter been disclosed to a member of management or another colleague, and if so, when did this take place?

Declaration

I wish to disclose the above information which I reasonably believe to have taken place as a Protected Disclosure as defined in the Protected Disclosures Act 2014 and the TU Dublin Protected Disclosures Policy.

Signed _____

Date: _____