



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Protected Disclosure Procedure

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Protected Disclosure Quickguide



What is a protected disclosure?

A Protected Disclosure is defined in the Protected Disclosures Act, 2014 as a disclosure of information which, in the reasonable belief of the worker, tends to show one or more 'relevant wrongdoings', which came to the attention of the worker in connection with the worker's employment and is disclosed in the manner prescribed in the Protected Disclosures Act, 2014

What are relevant wrongdoings?



The following matters are relevant wrongdoings for the purposes of this Act—

- (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 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

Who can make a disclosure?



Any employee of Dublin City Council including contractors, consultants, agency staff, former employees and interns/trainees

How do I make a disclosure?

The disclosure should be made to the Council's Designated Officer for receiving protected disclosures (email address: protecteddisclosures@dublincity.ie)



What details should the disclosure include?

The disclosure should include the following details:-

- a. the discloser's name, position in the organisation (grade), place of work and contact details; (see however section 8.16 on anonymous reporting)
- b. the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- c. whether or not the alleged wrongdoing is still ongoing;
- d. whether the alleged wrongdoing has already been disclosed to any member of management and if so when and to what effect;
- e. the details of the alleged wrongdoing and any supporting information;
- f. the name of the person(s) (if known or applicable) allegedly involved in the alleged wrongdoing;
- g. any other relevant information

Can a disclosure be made anonymously?



Yes, but the extent to which Dublin City Council's Protected Disclosure Policy and Procedures can be applied and implemented is significantly restricted in the case of an anonymous disclosure.

1. Overview

The Protected Disclosures Act, 2014 is an important and innovative new element of employment law in Ireland. The legislation provides workers who contend that they have been penalised for making a report of possible wrongdoing with access to significant protections and scope for securing redress as set out in the Act.

2. Purpose

The primary purpose of the Protected Disclosures legislation is to promote and encourage the development of a positive workplace culture in which raising concerns regarding potential wrongdoing is valued and appropriate action is taken by public bodies in response to such disclosures.

Specifically the key objectives of the legislation are as follows:

- To encourage workers to raise reasonable concerns regarding possible wrongdoing in the workplace so that these concerns can be addressed;
- To underpin a working environment, the primary focus of which is on responding to the “message” (i.e. the report of wrongdoing) rather than on the “messenger” (i.e. the worker making the report).
- To reinforce the legal requirement that public bodies should not penalise a worker who makes a protected disclosure;
- To ensure that a competent and timely assessment and investigation of reports of wrongdoing takes place followed, where necessary, by an appropriate response.

3. Scope

These procedures apply to all employees of Dublin City Council including workers, contractors, consultants, agency staff, former employees, interns/trainees and volunteers working in Dublin City Council.

However, the protections that apply to employees do not apply to volunteers who will only attract internal organisation protection as opposed to the protections for employees that are afforded under the Protected Disclosures Act 2014 (e.g. such as the right to limited and civil immunity).

4. Introduction

Dublin City Council is committed to ensuring that the culture and work environment are such that any employee is encouraged and supported to report on any issue that may impact adversely on Dublin City Council's ability to deliver a high quality service.

Dublin City Council is committed to investigating concerns that are raised. It is to be expected that concerns in relation to day to day operational matters will, in the normal course of events, be brought to the attention of an employee's relevant line manager and dealt with accordingly, or through agreed structures already established by Dublin City Council (e.g. Health & Safety matters should be addressed through the procedures established in the Council's Health & Safety Management System). Similar considerations apply to grievances or allegations relating to matters such as harassment/bullying which are not covered by this policy, and which will remain to be dealt with under Dublin City Council's Grievance Policy and Procedure and Dignity at Work Policy.

Consistent with Dublin City Council's existing policies, it is expected that any appropriate issue raised by an employee and their line manager relating to a matter of the business of the City Council will be dealt with professionally and appropriately. This is essential to ensuring that any significant risk arising for Dublin City Council is identified and effectively managed. In addition, an employee will not be penalised for appropriately raising any issue of concern.

These procedures ensure that an employee can be assured that he/she can report relevant wrongdoing without fear of penalisation or victimisation.

The procedures outlined in this document focus on issues of wrongdoing (as defined in the [Protected Disclosures Act, 2014](#)) and on issues the resolution of which are in the public interest. There is an important distinction to be made between raising a concern regarding relevant wrongdoings as defined in the Protected Disclosures Act 2014, covered by this policy, and other issues that may be raised relating to the normal business of Dublin City Council which do not fall under this policy. The Procedures are not intended to supersede the existing standard escalation of issues in Dublin City Council.

5. Protected Disclosure Definition

A Protected Disclosure is defined in the Protected Disclosures Act, 2014 as a disclosure of information which, in the reasonable belief of the worker, tends to show one or more 'relevant wrongdoings', which came to the attention of the worker in connection with the worker's employment and is disclosed in the manner prescribed in the Protected Disclosures Act, 2014.

The following matters are relevant wrongdoings and may relate to matters that are occurring now, have happened in the past or may happen in the future:

- (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 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.

6. Reasonable Belief

If an employee has a reasonable belief in relation to one or more of the relevant wrongdoings set out above, he/she should disclose the information, in the first instance, to the Designated Officer (designated to receive disclosures in Dublin City Council).

The following conditions must apply to an employee's disclosure:

- It must have come to his/her attention in connection with his/her employment and
- He/she must have a reasonable belief that the information disclosed shows a wrongdoing.

For the grade of Executive Manager or equivalent professional/technical grade or grades above, the disclosure should be made to the Chief Executive.

7. Disclosures made for Malicious Reasons

If an employee deliberately or recklessly makes a disclosure for the purpose of malice against another, it is likely to give rise to disciplinary sanction. Please also note that the disclosure of a wrongdoing does not provide an employee with any protection or immunity in terms of his/her involvement in the wrongdoing.

8. Procedure for the Making of a Protected Disclosure

All relevant information relating to the disclosure should be communicated to the Designated Officer for receiving Protected Disclosures. Dublin City Council has designated a Senior Executive Officer, Human Resources Department, as Designated Officer to receive disclosures.

(email: protecteddisclosures@dublincity.ie)

The disclosure under this policy should be made in writing or verbally to the Designated Officer. In the event of an employee making a verbal disclosure, his/her disclosure will be recorded by the Designated Officer and signed by the employee as an accurate record of the disclosure.

The details given to the Designated Officer will facilitate the assessment as to whether an employee's disclosure warrants investigation. The specific nature of the potential wrongdoing should be communicated at the time the disclosure is made along with the date of the disclosure and stating whether the disclosure is made under the Protected Disclosures Act and if an employee expects confidentiality/does not expect confidentiality.

8.1 What details should the disclosure include?

At minimum, the disclosure should include the following details:-

- a. The discloser's name, position in the organisation, place of work and contact details
- b. the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- c. whether or not the alleged wrongdoing is still ongoing;

- d. whether the alleged wrongdoing has already been disclosed to any member of management and if so when and to what effect;
- e. the details of the alleged wrongdoing and any supporting information;
- f. the name of the person(s) (if known or applicable) allegedly involved in the alleged wrongdoing;
- g. any other relevant information

A Protected Disclosure form is available in Appendix A or can be downloaded from Dubnet.

While a disclosure may be made anonymously, the extent to which these procedures can be applied and implemented is significantly restricted in the case of anonymous disclosures.

The employee who raises a concern should not carry out an investigation outside of the normal scope of his/her duties with a view to seeking to confirm relevant wrongdoing.

8.2. Initial Evaluation

An initial evaluation of the disclosure will take place and the employee will be advised as to whether the matter requires an investigation in accordance with the Protected Disclosures Act, 2014. In the event that the Designated Officer is of the view that no further investigation is required, the employee will be advised of this assessment and the basis for the assessment, insofar as is possible.

The Designated Executive Manager, who in turn will report to the Chief Executive as required, will be advised of all protected disclosures received, the nature of the information contained in the disclosure and the decision transmitted to the discloser.

As it is not possible to know at the time whether a disclosure will subsequently be deemed protected under the Protected Disclosures Act, the Designated Officer will keep a written record of all actions taken, including timelines.

9. Confidentiality

The Designated Officer who is designated to receive an employee's disclosure under this policy and any other employee to whom the disclosure is referred in the performance of that

employees/person's duties, must take all reasonable steps to avoid disclosing to another person any information that might identify an employee who has made a protected disclosure.

The following exceptions apply:

- the person to whom the Protected Disclosure was made or referred shows that he or she took all reasonable steps to avoid so disclosing any such information,
- the person to whom the Protected Disclosure was made or referred reasonably believes that the person by whom the Protected Disclosure was made does not object to the disclosure of any such information,
- the person to whom the Protected Disclosure was made or referred reasonably believes that disclosing any such information is necessary for;
 - the effective investigation of the relevant wrongdoing concerned,
 - the prevention of serious risk to the security of the State, public health, public safety or the environment, or
 - the prevention of crime or prosecution of a criminal offence, or the disclosure is otherwise necessary in the public interest or is required by law.

In the circumstances detailed above, an employee will be informed if it becomes clear that it is not possible to maintain his/her confidentiality.

10. Investigation of a Disclosure

Where the Designated Officer forms the view that an investigation is required, the matter will be referred for investigation. The Chief Executive and the appropriate Assistant Chief Executive will be notified and will be advised of the outcome and any recommendations arising.

The employee who made the disclosure will be informed of the progress and outcome of the investigation, as appropriate, having regard to the nature of the matters investigated.

11. Protection of the rights of the person against whom an allegation of wrongdoing has been made

The principles of natural justice and fair procedures will be complied with as appropriate where an allegation of wrongdoing is made against an employee and the disclosure has been recorded and assessed as to warranting investigation.

In specific terms, in such circumstances, the person against whom the allegation of wrongdoing has been made will be advised of the following in writing:

- i. that an allegation has been made against him/her (this should be made formally);
- ii. that the disclosure has been recorded and is being formally investigated by a named individual in order to establish the facts
- iii. that no conclusions have been drawn until the facts have been investigated;
- iv. that he/she is expected to assist the investigator as far as is reasonably possible;
- v. that the investigator wishes to interview him/her at a specific time and place
- vi. that he/she may have a person of their choice present at the interview (i.e. a legal representative, an interpreter, a union representative, a colleague, a peer support from their workplace, etc.);
- vii. he/she has the right to make a statement in respect of the allegation(s) made against them either orally and/or in writing;
- viii. as far as is reasonably possible, his/her confidentiality and privacy will be respected.

12. Protection from dismissal/penalisation

An employee who has a reasonable belief in relation to a serious wrongdoing in connection with his/her employment and discloses that concern will not be penalised for the making of that disclosure, even if (a) no investigation subsequently takes place, or (b) where an investigation does take place, the investigation finds that no wrongdoing occurred. This

undertaking extends to any other employee/worker who is required to provide information in relation to matters raised as a consequence of your disclosure.

In addition, if an employee suffers detriment as a result of making a protected disclosure, the employee causing the detriment can be subject to a separate legal action for damages by the employee who suffered the detriment.

13. Complaint Procedures

A complaint of penalisation or for a breach of confidentiality under this policy can be made under Dublin City Council's Grievance Policy and Procedure (available on Dubnet).

14. Audit Committee Protocol

The City Council's Audit Committee has adopted a Protocol to provide for referral to the Designated Officer of any concern raised with the Chair of the Audit Committee. The roles of the Audit Committee (as set out in the Local Government (Audit Committee) Regulations 2014 relates to financial matters such as " possible irregularities in financial reporting or other financial matters

Appendix A



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Strictly Confidential

Form for Reporting a Protected Disclosure

NAME <i>(Optional)</i> :	
AREA OF WORK <i>(Optional)</i> :	
CONTACT DETAILS <i>(Optional)</i> :	

1. Please give date of alleged wrongdoing (if known) or date the alleged wrongdoing commenced or was identified: _____

2. Is the alleged wrongdoing ongoing? Yes No

3. Has the alleged wrongdoing already been disclosed to any member of management or another employee/worker? Yes No

If so when was the wrongdoing disclosed and to what effect?

4. Please give details of alleged wrongdoing and any support information:

5. Please give name of the person(s) (if known or applicable) allegedly involved in alleged wrongdoing: _____

6. Any other relevant information: