



## Dignity 4 Patients

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# Protected Disclosure Policy - 2018

## Policy Statement:

The Company is committed to the highest possible standards of compliance with our legal requirements.

This policy aims to give effect to the obligations and provisions of the Protected Disclosure Act 2014 and does not replace any legal reporting or disclosure requirements arising under other legislation. Where statutory reporting requirements or procedures exist these must be fully complied with.

This policy does not replace the organisation's grievance procedures. Where the issue relates to an individual's contract of employment this matter should be referred under The Company's Grievance Procedure.

### **1.1. Protected Disclosure**

The purpose of this policy is to encourage employees or any person who works or has worked under a contract with The Company, to make a disclosure of Relevant Information of which they become aware and to provide protection for the employee making the disclosure ("Protected Disclosure").

Relevant Information is information that comes to the attention of an employee in connection with his/her employment and which the employee has a reasonable belief points towards a relevant wrongdoing.

Relevant Wrongdoings are:

- that an offence has been, is being or is likely to be committed,
- that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the employee's contract of employment or other contract whereby the employee undertakes to do or perform personally any work or service,
- that a miscarriage of justice has occurred, is occurring or is likely to occur,
- that the health and safety of any individual has been, is being or is likely to be endangered,
- that damage to the environment has occurred, is occurring or is likely to occur,
- 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,

- that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement, or
- that information tending to show any matter falling within any of the preceding bullets has been, is being or is likely to be destroyed.

A 'protected disclosure' under this policy may be about a relevant wrongdoing that is happening now; took place in the past; or that is about to happen.

## **2. Scope**

This policy aims to:

- encourage employees to feel confident about raising concerns about relevant wrongdoings;
- provide avenues for employees to make disclosures about relevant wrongdoings and receive feedback on any action taken;
- ensure that suppliers, customers and clients are aware of their responsibilities;
- re-assure employees that they will be protected from reprisals for making a disclosure in accordance with this policy.

This policy is intended to cover all aspects of The Company's activity.

This policy applies to all 'workers' i.e. our employees at all levels, agency workers, trainees, apprentices and interns, self-employed persons acting on our behalf, and in certain circumstances the workers of companies that supply us with goods and services.

This policy applies to current and past employees and at the recruitment stage.

## **3. Reasonable Belief**

Persons making a disclosure relating to a reasonably held concern should be assured that their concerns will be treated seriously. The Company does not expect proof of any Relevant Wrongdoings. However, a worker must have a reasonable belief that the information disclosed tends to show a wrongdoing. The Company shall endeavour to protect any worker from detrimental consequences arising from making a Protected Disclosure within the meaning of this policy. The normal protections provided by law include:

- Protection from dismissal,
- Protection from penalisation,
- Protection from tort actions as a result of making the disclosure,
- Immunity from civil liability for making the disclosure,
- Protection of identity (where possible).

Any individual found deterring a worker from raising genuine concerns of any suspected relevant wrongdoing may be subject to the disciplinary procedures of The Company or other sanction.

A reasonable but mistaken disclosure of Relevant Wrongdoing will not lose protection under this policy.

## **4. Channels for making a Disclosure**

This policy provides guidance to workers on making:

- An internal disclosure within the employment or to an agreed third party authorised by The Company;
- An external disclosures to a 'Prescribed Person'; and
- An external disclosure to 'Others'.

### **4.1. Internal Disclosure Procedure**

As a first step, a disclosure about a 'relevant wrongdoing' should normally be raised using the internal disclosure procedures, however this depends on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing.

Disclosures made under the internal procedures may be made verbally or in writing to the 'Protected Disclosures Committee' of The Company.

Workers who wish to make a written disclosure are invited to use the format outlined in 4.1.1 and to keep a copy of the disclosure and any information provided. It is not necessary to follow this format.

Although workers are not expected to prove the truth of the facts in the disclosure they must have a 'reasonable belief' that there are grounds for their concern when making a disclosure using the internal procedure.

#### *4.1.1 Format for making an Internal Disclosure*

1. Give a description of the 'relevant wrongdoing'.
2. Provide any information that tends to show the relevant wrongdoing so as to assist the investigation of the matters raised in the disclosure.
3. Date the disclosure.
4. Give your preferred contact details.
5. State that the disclosure is made under the Protected Disclosures Act and state if you do / do not expect confidentially.

#### *4.1.2 Confidentiality*

All concerns will be treated in confidence. Unless the worker clearly states that they do not object to having their name associated with the disclosure.

Disclosures will be kept secure and in a form that that does not endanger confidentiality of the person making the disclosure. The focus will at all times be on the information in the disclosure rather than the identity of the worker making the disclosure.

At the appropriate time, however, the identity of the person making the disclosure may need to be revealed if it is necessary for the investigation and in accordance with the principles of natural justice and fair procedures.

Workers are encouraged to put their name to the disclosure. Concerns expressed anonymously will be treated seriously and considered in accordance with this policy.

#### *4.1.3 Internal Reporting*

A Protected Disclosure will be examined by a Protected Disclosures Committee made up of the Company Secretary, the Board Chairperson and the Human Resources Manager. To avail of the protections offered and available under this policy, workers must make their disclosure in accordance with the following protocol. Workers should raise their suspected Relevant Wrongdoing with:

- (a) their Supervisor (Line Manager);
- (b) the Human Resources Manager if for any reason the employee does not wish to go through their supervisor or line manager; or
- (c) the Company Secretary if for any reason an employee does not wish to report the matter to their Supervisor, Line Manager, in the first instance or the Human Resources Manager in the second instance.

Workers must exercise discretion and commit to keeping the reporting and investigation process confidential.

If a disclosure is relating to possible Relevant Wrongdoings by the Human Resources Manager, Company Secretary, or Board Chairperson then the disclosure can be made to the Board Treasurer who will convene an alternative Protected Disclosures Committee. If a disclosure relates to possible Relevant Wrongdoings by the Board Treasurer, then the disclosure should be made to the Vice- Chairperson of the Board of Directors who will arrange for an appropriate Protected Disclosures Committee.

##### *4.1.3.1 Checklist for acting on Protected Disclosure*

- Some workers may not be confident enough to provide the disclosure through the relevant channel but disclose their concerns to a trusted colleague. If any employee of The Company receives what he/she considers to be a Protected Disclosure, they should immediately bring the matter to the attention of a member (Disclosure Recipient) of the Protected Disclosures Committee as set out in 4.1.3.
- Any documentation provided to or in the possession of a worker or employee of The Company or other form of evidence should be immediately given to the Disclosure Recipient.
- The worker or employee of The Company must not mention the disclosure to anyone except for the Disclosure Recipient. Specifically, the worker or employee of The Company should not talk to any other person about the disclosure.
- The worker or employee of The Company must not send information relating to the disclosure to any person other than the Disclosure Recipient.
- The worker or employee of the Company must not contact the person about whom the disclosure is made, or tell them about the disclosure.
- The worker or employee of The Company must not disclose the identity of the person making the disclosure (save to the Disclosure Recipient). This person's identity would be protected so far as practicable.
- If applicable, the worker or employee of The Company should advise the person that provided them with the relevant information that the Disclosure Recipient has been notified and that the Disclosure Recipient will follow up regarding next steps.

A Relevant Disclosure must be based on a reasonably held belief held by the person making the disclosure. The person should be asked, where appropriate, for details of the basis of their reasonably held belief. If it is at all possible that the person making the disclosure has some reasonable grounds for their belief, Disclosure Recipients will assume that they do have reasonable grounds.

#### *4.1.4 Investigations Procedure*

The Board Chairperson, the Company Secretary and the Human Resources Manager shall form a Protected Disclosures Committee which will convene when a disclosure is reported to any of its three members (alternative committee membership will apply where the disclosure relates to relevant wrongdoing by one of the members or by the Board Treasurer).

The Protected Disclosures Committee may where it considers it appropriate delegate the task of carrying out a preliminary review and investigation in the case of any Protected Disclosure.

Each disclosure shall be examined individually by the Protected Disclosures Committee. A quorum for a meeting of the Protected Disclosures Committee shall be two members. The Protected Disclosures Committee may dismiss the matter, investigate the matter or refer the matter for consideration under a specific Company Policy.

If the Protected Disclosures Committee decides an investigation should be undertaken, the Committee shall have discretion in deciding what procedure(s) should apply and may delegate the task of carrying out any investigation. The Disclosures Committee will also determine the nature and extent of any investigation and will have access to a framework of external specialists where investigation is required and is not catered for under an existing Company Policy. This group will also determine whether the disclosure should be notified to the following:

- The subject of the disclosure;
- The Company Insurers;
- An Garda Síochána;
- HSE, Pobal or TUSLA;
- Any third party aligned with The Company affected by the disclosure;
- Department of Social Protection; and
- Any other relevant authority.

It is important that a worker feels assured that a disclosure made by the worker under this policy is taken seriously and that the worker is kept informed of steps being taken by The Company in response to the disclosure. The Company will:

- Acknowledge receipt of the disclosure and arrange to meet with the worker;
- Inform the worker how The Company propose to investigate the matter and keep the worker informed of actions, where possible, in that regard including the outcome of any investigation, and, should it be the case, while no further investigation should take place. It is important to note that sometimes the need for confidentiality and legal considerations may prevent The Company from giving specific details of an investigation;
- Inform the worker of the likely timescale of each step being taken but in any event commit to dealing with the matter as quickly as possible.

The Company acknowledges that there may be circumstances where an employee wants to make a disclosure externally. The legislation governing disclosure provides for a number of avenues in this regards.

It is important to note that while a worker need only have a reasonable belief as to wrongdoing to make an internal disclosure, if a worker is considering an external disclosure, different and potentially more onerous obligations may apply.

#### **4.2 External Disclosures**

Workers are encouraged to raise their concerns under The Company's internal disclosure procedure in the first instance. However it is recognised that this may not always be appropriate. Therefore this policy, in line with the Protected Disclosure Act 2014, provides for external reporting to 'Prescribed Persons' and to 'Others'.

##### *4.2.1 Making a Disclosure to a Prescribed Person*

The Protected Disclosure Act 2014 provides for external reporting of wrong-doing to appropriate authorities in circumstances where:

- (i) the worker reasonably believes that the information disclosed and any allegations contained are substantially true and
- (ii) the wrongdoing falls within matters in respect of which there is a 'Prescribed Person'.

A 'Prescribed Person' is the external authority as prescribed by Ministerial Order (under section 7 of the Protected Disclosures Act 2014). Prescribed Persons are normally the Regulating or Supervising Authority or Inspectorate with responsibility for dealing with any 'relevant wrongdoing' falling within the scope of the Protected Disclosure Act 2014 such as the Health and Safety Authority and the labour inspectorate in the Work Place Relations Service.

Where the 'Prescribed Person' does not have a format for making a disclosure, workers are invited to use the format outlined in 4.2.1.1 and to keep a copy of the disclosure and any information provided.

##### *4.2.1.1 Format for Making a Disclosure to a Prescribed Person*

- State that you are making the disclosure under Section 9 of the Protected Disclosures Act 2014;
- Give a description of the 'relevant wrongdoing' and why it falls within the Prescribed Person's area of responsibility;
- Provide any copies of information that tend to show the wrongdoing so as to assist the investigation of the matters raised in the disclosure;
- Include any information relating to your raising (or not raising) the concern under the internal procedure;
- Date the disclosure;
- Give your preferred contact details;
- Make it clear (i) that you expect confidentiality or (ii) that you want your name associated with the disclosure.

Although workers are not expected to prove the truth of the facts in the disclosure they must have a 'reasonable belief' that the information and any allegation are substantially true, this a somewhat higher standard than when making the internal disclosure.

### **4.3 An External Disclosure to Others**

The Protected Disclosure Act 2014 provides for external reporting to other persons. There is no definitive list of who can be or who cannot be an 'Other Person' instead the legislation requires the disclosure to the 'Other Person' to be 'reasonable' bearing in mind,

- (i) the identity of the person to whom the disclosure is made,
- (ii) the seriousness of the relevant wrongdoing,
- (iii) whether the relevant wrongdoing is continuing or is likely to occur in the future,
- (iv) any action which the employer of the worker or the person to whom the previous disclosure was made has taken or might reasonably be expected to have taken as a result of the previous disclosure.

There are other criteria that must also be met such as the relevant wrongdoing must be sufficiently serious and the worker reasonably believes:

- (i) that the information disclosed and any allegation is substantially true,
- (ii) the disclosure is not made for personal gain (excluding any rewards payable under any enactment),
- (iii) in all circumstances of the case it is reasonable for the worker to make the disclosure,
- (iv) and any one of the following applies:
  - that at the time of the disclosure the worker reasonably believed they would be subjected to penalisation by the employer if they made the disclosure under the internal process or to a 'Prescribed Person';
  - that in the case where there is no 'Prescribed Person' in relation to the relevant wrong-doing the worker reasonably believed that it is likely that the evidence would be concealed or destroyed if the worker made a disclosure under the internal procedures;
  - that the worker previously made a disclosure of substantially the same information under the internal process or to a Prescribed Person;
  - that the relevant wrongdoing is of an exceptionally serious nature.

### **5. Workers Outside the Company Reporting Concerns using the Internal Procedure**

Workers from outside The Company working for our customers, clients or suppliers who become aware of a relevant wrongdoing as part of their work with or for us may make a report to the ' Protected Disclosures Committee in respect of a relevant wrongdoing.

Workers from outside The Company making such disclosures are encouraged to use the same format as our employees and give an indication of whether they are willing to participate in any investigation that may take place in response to the disclosure.

## **6. Untrue Allegations**

If a worker makes a report in accordance with this policy, but the information or allegation is subsequently not confirmed by the investigation, no action will be taken against the person making the disclosure. They will be fully protected from any less favourable treatment, penalisation or victimisation.

The motive of the person making the disclosure is not relevant but if an allegation, known to be false is made maliciously, then disciplinary action may be taken.

## **7. A Worker who is the Subject of a Disclosure**

A worker who is the subject of a disclosure is entitled to fair treatment. While an investigation is on-going, all reasonable steps will be taken to protect the confidentiality of those who are the subject of allegations in a protected disclosure pending the outcome of the investigation. In some circumstances, where the fact of the investigation is widely known, the conclusion of the investigation may involve a statement of exoneration.

## **8. Protection from Penalisation**

The Company is committed to good practice and high standards and we want to support and protect workers who make disclosures under this policy. Direct or indirect pressure on workers not to make a disclosure or to make a disclosure contrary to this policy will not be tolerated.

The Company recognises that penalisation can take many forms; it can be direct and indirect and may be perpetrated by fellow workers, management or those who supply us with goods and services and our customers and clients.

Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) that result in the employee suffering any unfavourable change in his/her conditions of employment including (but not limited to):

- (i) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts) , or the threat of suspension, lay-off or dismissal,
- (ii) demotion or loss of opportunity for promotion,
- (iii) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (iv) imposition of any discipline, reprimand or other penalty (including a financial penalty),
- (v) unequal treatment under sick leave or disciplinary policies, unfair selection for tasks or attendance at events,
- (vi) coercion, intimidation,
- (vii) discrimination, disadvantage or unfair treatment,
- (viii) injury damage or loss,
- (ix) treats of reprisal,
- (x) Verbal harassment - jokes, comments, ridicule or songs;
- (xi) Written harassment - including faxes, text messages, emails, comments or postings on social media;

- (xii) Physical harassment - jostling, shoving or any form of assault;
- (xiii) Intimidatory harassment - gestures, posturing or threatening poses;
- (xiv) Isolation or exclusion from social activities;
- (xv) Bullying.

The Company will not penalise or threaten to penalise the worker for making a protected disclosure. The Company will not allow any other person to penalise or threaten penalisation (including informal pressure) for having made a disclosure in accordance with this policy.

The Company will take appropriate action to prevent and remedy any penalisation or breach of confidentiality of workers when they report a relevant wrongdoing or

- (i) are suspected of making a report about a relevant wrongdoing, or
- (ii) provide information or act as a witness as part of an investigation under this policy;
- (iii) seek redress under the provisions of the Protected Disclosures Act 2014;
- (iv) or are otherwise involved in actions under this policy.

These protections extend beyond the workplace, for example to conferences and training that occurs outside the workplace and to work-related social events.

Penalisation or threats of penalisation by members of staff will not be tolerated. Such behaviour may constitute misconduct and may lead to disciplinary action up to and including dismissal.

Penalisation or threats of penalisation of our workers by suppliers, customers, clients and others we do business with will not be tolerated and may lead to termination of contracts or suspension of services, or the exclusion from The Company's premises or the imposition of other sanctions.

## **9. Complaints Procedure**

A complaint of penalisation or for a breach of confidentiality under this policy can be made under The Company Grievance Policy.

A copy of the complaint of penalisation should be brought to the attention of the Protected Disclosures Committee.

Employees can make a complaint of Penalisation, under the Protected Disclosure Act 2014 to the Rights Commissioner (Adjudication Officer under the Workplace Relations Reform) in accordance with Schedule 2 of the Act.

## **10. Communication, Monitoring and Review**

This policy will be communicated to all employees, workers and others we do business with.

This policy will be monitored for its effectiveness and will be reviewed eve

<b>Policy</b>	<b>Protected Disclosure Policy</b>		
<b>Board Member</b>	<b>Approved?</b>	<b>Date Approved?</b>	<b>Notes.</b>
Aine McDonough			
Brendan Kerin			
Gemma Byrne			
Grainne Rafferty			
Paul Farrell			
Paul Murphy			
<b>Policy Approved by Minimum Quorum of 3?:</b>		<b>No</b>	
<b>Policy Adopted On Date Of:</b>		<b>00.00.2019</b>	