



An tÚdarás Clárúcháin Maoine
Property Registration Authority

Protected Disclosures Policy 2021

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Property Registration Authority Protected Disclosures Policy

1. WHAT IS (OR IS NOT) A PROTECTED DISCLOSURE?

Under the **Protected Disclosures Act 2014** ('the Act'), a protected disclosure is made by a *Worker* who discloses *relevant information* in the *reasonable belief*¹ that *relevant wrongdoing* has taken, is taking or is likely to take place in connection with their work.

This policy deals with disclosures that relate to *relevant wrongdoings*, which are categorised in the Act (Section 5, Subsections 3(a) to (h)) and in summary these are:

- a. Offences that are or are likely to be committed;
- b. Failing to comply with legal obligations;
- c. Miscarriage of justice;
- d. Health and Safety risks, including risks to the public as well as other Workers;
- e. Damage to the environment;
- f. The unauthorised use of public funds or resources;
- g. Oppressive, discriminatory or grossly negligent action or inaction by a public body;
- h. Information showing that any matter falling into any of categories above has been, is being, or is likely to be concealed or destroyed.

The relevant wrongdoing may be one that is happening now; that took place in the past; or that is about to happen.

It is also important to be as clear as possible as to what is NOT a protected disclosure. This policy should not be used for raising matters that may be dealt with in the normal course of events through the existing policies and procedures of the Property Registration Authority (PRA) and the Civil Service. To this end, Workers should be aware of the Civil Service Grievance Procedures set down in Circular 11/2001, the Commission for Public Service Appointments Codes of Practice, the PRA's Dignity at Work Circular 10/2015 and the PRA ICT Facilities Acceptable Usage Policy.

As set out in the PRA's Policy on Managing Staff Complaints (HR Office Notice 2020), the Workplace Relations Commission (WRC) in its Code of Practice on the 2014 Act provides useful guidance in distinguishing between whether a complaint should be dealt with as a grievance or as a protected disclosure.² A grievance is a matter specific to the Worker i.e. that Worker's employment position around their duties, terms and conditions of employment, working procedures or working conditions. A grievance should be processed

¹ The term "reasonable belief" means that the belief that a wrongdoing has occurred is based on reasonable grounds. A worker has the right to be wrong in his/her reasonable belief. The motivation of the worker for making a disclosure is irrelevant in determining if it is a protected disclosure under the Act.

² Industrial Relations Act 1990 (Code of Practice on Protected Disclosures Act 2014) (Declaration) Order 2015 SI464 of 2015

under the Civil Service Grievance Procedure. On the other hand, a protected disclosure is where a Worker has information about a relevant wrongdoing.

Examples of grievances may include:

- Complaint around selection criteria for a promotional post;
- Dispute over a Worker's contract and/or working conditions;
- Matters concerning interpersonal issues exclusively affecting the worker.

Examples of a whistleblowing disclosure

- In a hazardous work situation information regarding a failure to provide or wear protective clothing and adhere to health and safety guidelines;
- Information about the improper use of funds, bribery and fraud.

Also, where a Worker may feel that they are being bullied or harassed by a colleague, this type of complaint should generally be dealt with under the Dignity at Work procedure.

Of course, there may be cases where relevant wrongdoing cannot or would not be dealt with through those mechanisms. It should also be noted that other statutory reporting provisions for disclosures already exist in Irish legislation, and the Act does not absolve any Worker from those pre-existing mandatory reporting obligations (see **Appendix A**).

It is also important to be clear that the PRA's Protected Disclosures Policy aims to protect Workers who make a protected disclosures (**Disclosers**). The policy also aims to protect Workers who may be the subject of such disclosures (**Respondents**) during the process.

2. BACKGROUND TO THE POLICY

The PRA values the dedication of its staff and is committed to supporting them in delivering a high quality service to its customers. The PRA is also committed to compliance with high standards of governance, accountability and probity, and to conducting its business impartially, transparently and in accordance with best practice.

The PRA is a member of the Integrity at Work programme, a Transparency International Ireland initiative. As part of its commitment to protecting Workers who make protected disclosures, the PRA has signed and complies with the Integrity at Work Pledge to ensure that Workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised (see **Appendix B**).

Wrongdoing such as theft, fraud, corruption or malpractice, and / or their concealment, can have a devastating effect on the professional reputations of the PRA and its staff, and on working relationships and morale. Any perception that such wrongdoing is not dealt with appropriately could ultimately impact on perceptions regarding the integrity of the PRA, with the potential for far reaching consequences.

Workers, who may become aware or concerned about illegal activity, or inappropriate or improper behaviour or practices, may be reluctant or apprehensive in regard to reporting their concerns. There may be real and genuine fears of appearing disloyal to colleagues or to the organisation, or that they may be subsequently victimised. The Act provides for the

protection of persons from the taking of action against them for making disclosures in the public interest.

The purpose of the PRA's **Protected Disclosures Policy**, made pursuant to Section 21 of the Act, is to set down the internal procedures for dealing with protected disclosures made by Workers. If any Worker related to the PRA has a **reasonable belief** related to suspected wrongdoing affecting any of the PRA's activities, they should report it under this policy.

The concept of reasonable belief is important. A Worker does not need to be certain about the facts in their disclosure, it is sufficient that they hold the reasonable belief that relevant wrongdoings have taken place, are taking place or will take place, and the information came to the attention of the Worker in connection with their employment.

The Act contains a broad definition of "Worker" that includes a person who is a civil servant (within the meaning of the Civil Service Regulation Act 1956) as well as former civil servants. The definition of Worker also includes individuals working as contractors in / for the PRA, as well as those on work experience / interns. This policy applies to all such "Workers".

The Protected Disclosures Act 2014 does not in any way change the existing rights of Workers who are subject of an allegation. In particular, other Workers (Respondents) who are the subject of a protected disclosure must have their right to natural justice and fair procedures upheld. To ensure fair procedures in all cases, the PRA will uphold the following basic principles:

- All procedures will be open and transparent and in line with the legislation and the rules of natural justice.
- Once an allegation has been made, the subjects of those allegations (Respondents) will have the presumption of innocence.
- Respondents will have a right to know as soon as possible in writing the allegations made against them, as far as is possible with regard to the confidentiality requirements of the Act .
- All parties have a right to a fair and impartial hearing.
- All parties have a right to have a companion or representative with them during any proceedings.
- Timelines will be notified to all parties and adhered to strictly.
- All parties will be kept informed of the progress of each stage of the process.
- Assessments and investigations will be undertaken by officers who can be considered impartial and unbiased. Conflicts of interest on the part of those officers will be declared.
- There will be a right of appeal within an agreed timeframe.
- To mitigate against unconscious bias, including affinity bias, no assumption will be made either about the guilt or otherwise of a Respondent, or about the motivation or intent of the Discloser without sufficient evidence.

The motivation of a Discloser is irrelevant for the purpose of making a protected disclosure. However, a deliberately false allegation is unlikely to meet the reasonable belief standard and the Discloser will not be entitled to protection under the Act.

This policy should also be considered in the context of the PRA's commitment to the Public Sector Equality and Human Rights Duty, including through its Public Sector Duty Strategy and Action Plan.

It should be noted that this Protected Disclosures Policy continues to operate in full during the Covid-19 emergency.

3. OBJECTIVES

The aims of this policy are:

- a) To encourage "Workers", as defined by the Act, employed in the PRA to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate;
- b) To provide guidance to "Workers" on raising their concerns;
- c) To reassure "Workers" that they can raise genuine concerns without fear of reprisals;
- d) To protect the rights and reputation of individuals and the organisation where they may be unfairly or falsely the subject of a disclosure (the Respondent).

4. MAKING AN INTERNAL PROTECTED DISCLOSURE

The Chief Executive Officer of the PRA has overall responsibility for this policy, and for reviewing the effectiveness of actions taken in response to concerns arising under this policy.

Concerns should, in general, be reported to the Worker's line manager. If the Worker believes there are circumstances preventing them from reporting concerns to their own line manager, then the Worker may contact one of the other relevant Recipients listed below.

The relevant Recipients are:

- Divisional Manager;
- Member of the Management Board, other than the Chief Executive Officer.

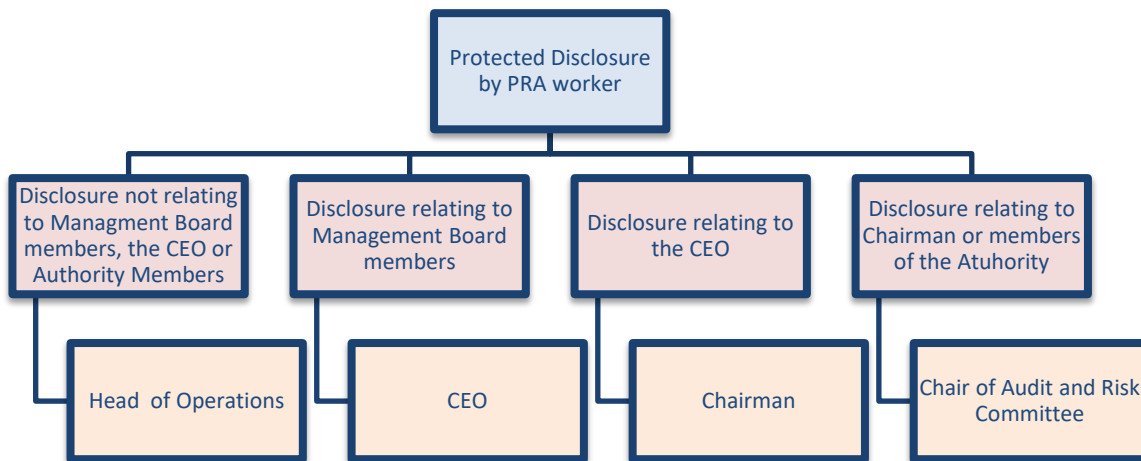
Where there is good reason why a Worker may not wish to use the above recipients, protected disclosures may also be made to:

- The Chair of the Authority³;
- The Chair of the Authority's Audit and Risk Committee⁴.

A chart setting out the high level responsibility for the progression of disclosures that might be made involving specific high-level roles is set out below.

³ In writing and marked confidential, to Chair of the Property Registration Authority, Chancery Street, Dublin 7.

⁴ In writing and marked confidential, to Chair of the Property Registration Authority Audit & Risk Committee, Chancery Street, Dublin 7.



In all cases, the reporting Worker (Discloser), Recipient and any other person involved in a disclosure should exercise discretion and commit to keeping the reporting and investigation process confidential.

5. MAKING A DISCLOSURE

Disclosures to the relevant Recipient should be made in accessible formats e.g., verbally, electronically or in writing. Where a disclosure is made orally, the Recipient will ensure that accurate details of the disclosure are recorded. The reasons and the evidence, where such evidence is available, must be fully set out in the disclosure.

The Discloser is not required to investigate their concerns in order for them to have a “reasonable belief”. The facts, grounding the disclosure, must be fully set out to the best of the Discloser’s knowledge, information and belief (“reasonable belief” as stated in the Act).

Where possible, the Discloser shall be required to set out, in writing, the specific grounds upon which they assert that the disclosure should be treated as a protected disclosure within the meaning of the Act.

The PRA will not ask a Worker or former Worker to waive their right to make a protected disclosure under any circumstances.

The following is a non-exhaustive list of the factual information that should be provided, where possible:

- What has occurred, or is believed to have occurred;
- When and where it occurred;
- Who was involved (including any witnesses);
- Whether the PRA has been put at risk or suffered a loss as a result;
- Whether the behaviour of concern has happened before;

- Whether (and if so, how) the matter has been raised with anyone else, internally or externally;
- Details of why they believe the disclosure is a relevant wrongdoing;
- Information relating to the relevant wrongdoing so as to assist in the assessment of the matters raised in the disclosure;
- Date of the disclosure and Discloser contact details;
- A statement that the disclosure is made under the Protected Disclosures Act and state if you do/do not expect confidentiality.

As it is not possible to know at the time whether a disclosure will subsequently be deemed protected under the 2014 Act, the Recipient should keep a written record of their actions, including timelines.

A flow chart representing the main roles in the Protected Disclosures process can be seen at **Appendix C**. A high-level process map representing the main steps involved can be seen at **Appendix D**.

The **PRA's Protected Disclosures Officer** is the Assistant Human Resources Manager. Where that person may be the subject of a disclosure, the PRA's Head of Quality and Compliance will fulfil the Protected Disclosures Officer role.

As soon as a disclosure has been received (and within one working day), the Recipient of the disclosure should report to the PRA's Protected Disclosures Officer, who in turn will convene a meeting of the Protected Disclosures Assessment Committee. If the Protected Disclosures Officer is unavailable, the report should be passed to the Head of Quality and Compliance, who will convene the above multi-disciplinary committee. This report should state that a disclosure has been made and should include the nature of the information contained in the disclosure. The Recipient may also initially raise the disclosure verbally with the Protected Disclosures Officer but must subsequently confirm the substance of the disclosure in writing as soon as is reasonably practicable thereafter.

The timeframes for the various stages of the assessment and investigation processes are set out in this document and summarised at **Appendix E**. It is important for the wellbeing of both the Discloser and the Respondent that there are no avoidable delays in this process.

It should be noted that while the Discloser may withdraw their disclosure at any time, it may still be decided by the Protected Disclosures Assessment Committee that an assessment, and possibly an investigation, should still proceed.

6. EXTERNAL DISCLOSURES

Workers are encouraged to raise their concerns internally under this policy in the first instance. Indeed, the sooner the PRA knows of the issue, the sooner the Worker can be protected. However, it is recognised that this may not always be appropriate. Therefore this policy, in line with the Protected Disclosures Act 2014, provides for external reporting to 'Prescribed Persons' and to 'Other Persons'.

Before reporting a concern externally, Workers may wish to consult (for advice) with the Internal Recipients as set out in Section 4 of this policy.

The Act identifies Prescribed Persons⁵ to accept disclosures relating to specific issues or sectors. If making a protected disclosure to a Prescribed Person, the following guide / format may be useful:

- State that you are making the disclosure under Section 7 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 tends 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 and provide your preferred contact details;
- Make it clear (i) that you expect confidentiality or (ii) that you want your name associated with the disclosure.

'Other Persons' may be anyone outside of the persons referenced in the Act. It is difficult to recommend a format for making a protected disclosure to an Other Person as the nature of the criteria depends on the specifics of the situation and the nature of the relevant wrongdoing. For example, it will rarely be appropriate to alert the media. Workers considering making a protected disclosure to an Other Person should consider Section 10 of the Protected Disclosures Act 2014 and should ensure that a number of criteria are satisfied as follows:

- The worker reasonably believes that the relevant information and allegations are substantially true, and the disclosure is not being made for personal gain.

And one or more of the following conditions are met:

- The worker reasonably believes that they will be penalised by their employer if they make the disclosure to the employer, a Prescribed Person or (if they work for a public body) a relevant Minister;
- Where there is no Prescribed Person for the type of issues to be reported and the worker reasonably believes that evidence will be concealed or destroyed if a report is made to their employer;
- The worker has previously made a disclosure of substantially the same information to their employer, a Prescribed Person (or if they work for a public body) a relevant Minister.

It may also be appropriate where the relevant wrongdoing is exceptionally serious and the disclosure is reasonable in all the circumstances of the case.

⁵ <http://www.irishstatutebook.ie/eli/2014/si/339/made/en/print>

It is also worth noting that any worker who has already made an external disclosure may also make an internal disclosure, and vice versa.

Transparency International Ireland (TII) has produced a useful guide – *Speak Up Safely*⁶ – which among other things sets out the circumstances where an external disclosure might be appropriate. The TII’s SPEAK UP Helpline⁷ is also available to provide advice and guidance.

7. ASSESSMENT

The Protected Disclosures Officer will convene a meeting of the PRA’s Protected Disclosures Assessment Committee, which shall be responsible for the initial assessment and investigation of all disclosures in a timely and appropriate manner. Members should be suitably trained and informed, and a terms of reference developed and agreed by the Management Board.

The Committee will be multi-disciplinary and comprise:

- Protected Disclosures Officer (Chair of Assessment Committee);
- Head of Quality and Compliance;
- Casework and Corporate Services Manager;
- Professional legally qualified representative from the Legal Service Unit.

The Protected Disclosures Assessment Committee will carry out an initial assessment of the disclosure to determine whether it falls within the scope of this policy and whether it is necessary to carry out an investigation into the disclosure. This assessment process should have regard to the questions of:

- (i) whether or not there was a disclosure of relevant information;
- (ii) disclosure made by a Worker;
- (iii) which in the Discloser’s belief tended to show one or more of the relevant wrongdoings set out in the Act; and
- (iv) which came to the Discloser’s attention in connection with their employment.

The Protected Disclosures Assessment Committee, via the Protected Disclosures Officer, may, through the Recipient, seek such further information from the Discloser or raise such questions as they consider appropriate and relevant in order to carry out their assessment. All relevant organisational records and files both paper and digital must be identified and consulted as appropriate in each context to ascertain and confirm pertinent factual details. During the assessment, the Protected Disclosures Assessment Committee, via the Protected Disclosures Officer, may also consult on a confidential basis with other staff members regarding technical points, for clarification. The Recipient should, in advance, make the Discloser aware that this may happen.

⁶ <https://transparency.ie/resources/whistleblowing/speak-safely-guide>

⁷ TII SPEAK UP Helpline: 1800 844 866; helpline@transparency.ie; www.speakup.ie

In assessing whether a disclosure is a protected disclosure, other PRA and Civil Service policies and procedures should be taken into account (see **Appendix F**). A Checklist of issues to be considered in the assessment can be seen at **Appendix G**.

Where reasonably practicable, the Protected Disclosures Assessment Committee will conclude their assessment and issue a report on their assessment, within **ten working days** of their receipt of the disclosure. Where it appears that this deadline cannot be met, the Protected Disclosures Officer will notify the Discloser, through the Recipient, of the new deadline as soon as possible.

The Protected Disclosures Officer will communicate the outcome of the assessment to the Recipient of the original disclosure. This will include the decision as to the next steps (if any) to be taken, including whether the matter will be investigated further. Contemporaneously with the Discloser being informed by the Recipient of the outcome, the Protected Disclosures Officer will communicate the information to the Respondent, where appropriate.

If the Protected Disclosures Assessment Committee concluded that the disclosure should not be treated as a protected disclosure, the Protected Disclosures Officer will notify the Recipient to inform the Discloser of their right to seek a **review of that assessment**, as set out in Section 14 of this policy.

Even where it is concluded that the disclosure is not a protected disclosure as such, the Protected Disclosures Assessment Committee may recommend to the relevant parties that further investigation / action is warranted under a different process⁸.

The Management Board and, where warranted, the Authority, should be informed by the Protected Disclosures Officer, through the HR Manager, on a quarterly basis of any protected disclosures, and investigations and their outcomes. This should be done in a way that protects the confidentiality of the people involved. To assist in this process, the Protected Disclosures Officer should keep a log of disclosures and key events (see template at **Appendix H**) and provide this to the HR Manager when required. This is in addition to maintenance of a file containing all documents and / or records pertaining to the particular protected disclosure.

8. INVESTIGATION

If the Protected Disclosures Assessment Committee decides that the disclosure falls within the PRA's Protected Disclosures Policy and that it should be further investigated, the scope and terms of reference of any investigation will be determined prior to the investigation being carried out. The Protected Disclosures Officer will notify the Discloser (through the Recipient) that an investigation will be undertaken by a member of the PRA's Management Board.

⁸ See Policy on Management of Staff Complaints in the PRA HR Office Notice 2020.

The PRA's HR Manager will nominate a person or persons from the Management Board to carry out the investigation. The **Investigator(s)** may be assisted by persons outside of the PRA if deemed necessary. The Management Board Investigator(s) who carry out the investigation will not have been previously involved in the matter as a Recipient of the original disclosure, or at the assessment stage. Similarly, it is important to ensure that there are no conflicts of interest or risk of bias in their appointment in terms of reporting lines and relationships. If no member of the Management Board is considered suitably independent in this context, the HR Manager will seek an **external investigator**.

Building on the assessment report of the Protected Disclosures Assessment Committee, the Investigator(s) will determine the details of the case and provide their views on whether there was any relevant wrongdoing. In the course of the investigation, the Discloser may be requested to attend meetings and / or to provide further information to the Investigator(s). Organisational records and files should be made available to assist in confirming and/corroborating relevant details obtained from all parties involved.

Similarly, the subject(s) of the disclosure (Respondent) may be requested to attend meetings with and / or provide information to the investigator(s) to assist in the investigation. Indeed, where possible the respondent should be included in the investigation process and given the opportunity, as part of a full investigation, to put forward their case in response to the allegation(s). This interaction will need to be very carefully managed in line with the principles set out in Section 2 of this policy, and with full consideration of the Respondent's rights, reputation and wellbeing. The common law duty of care to employees⁹ and the obligations of the PRA under the Safety, Health and Welfare at Work Act 2005¹⁰ will be adhered to at all times.

The Investigator(s) should keep a written record / log (see **Appendix H**) of the key events and their actions, including timelines.

The Investigator(s) will issue the report on their findings to the Protected Disclosure Officer within (and as early as possible before) **sixty working days** of the date upon which the investigation is commissioned. Where this is not reasonably practicable, a further period may be agreed with the Protected Disclosures Officer.

The investigation report will then be sent by the Protected Disclosures Officer to the Chief Executive Officer, who will determine within **ten working days** (this timeframe may be extended if there is good reason and by agreement with the Protected Disclosures Officer) what action should be taken.

⁹ Under common law when an employer becomes aware of an employee with mental health issues there is a duty of care to ensure in so far as is reasonable, that employee has access to facilities and arrangements for his/her welfare in line with providing a safe working environment.

¹⁰ The employer is responsible, as far as is reasonably practicable, for the safety, health and welfare of employees. This duty extends to hazards that can adversely affect the employee physically and psychologically. The Employer is required:

- to identify and assess risks and the content and context of work; and
- monitor risk factors in work practices to ensure no adverse impact on employees' mental and physical wellbeing.

Such action could take a number of forms, for example, quality interventions such as changes to practices and procedures, introduction of a new policy, process or practice, or disciplinary action in accordance with the Civil Service Disciplinary Code as set down in Circular 19/2006. It may also be necessary to furnish a report to an appropriate third party, such as An Garda Síochána. The Chief Executive Officer may also wish to consult with the PRA's parent Department (Department of Housing, Planning and Local Government) and with the Department of Public Expenditure and Reform, who have central expertise on this and related matters. Depending on the report and its implications, other possible bodies who may be consulted include the State Claims Agency, the Office of the Chief State Solicitor and the Office of the Attorney General.

In the case of a disclosure where it is determined by the Investigator(s) that there is no *prima facie* case to answer, a summary of the disclosure shall still be reported to the Chief Executive Officer, through the Protected Disclosure Officer.

Following any investigation and outcome, a written report shall be submitted by the Chief Executive Officer to a meeting of members of the Authority (board of the PRA). That report shall contain the following information:

- a) A description of the disclosure and the findings of the investigation;
- b) The effect the disclosure has had on the PRA, if any;
- c) The means of perpetrating the malpractice or impropriety (if any);
- d) The measures taken to prevent a recurrence;
- e) The action required to strengthen future responses under this policy;
- f) A conclusion as to the way forward;
- g) Whether any report, has been made or is required to be made, to any third party;
- h) Any other relevant material.

Notwithstanding the need to protect Workers who may make a disclosure under this policy, if the Investigator(s) concludes that the Discloser has made false allegations deliberately, they may be subject to disciplinary action in accordance with Civil Service Disciplinary Code as set down in Circular 19/2006. It should also be noted that the making of a disclosure will not absolve the discloser from any disciplinary action, investigation or any other sanction in respect of any misconduct on his or her own part which has been disclosed.

There is also a burden of responsibility on the PRA to ensure that Workers who are the subject of a protected disclosure (Respondents) are informed and protected during an investigation, including notification of the investigation before it begins. In addition to a general sensitivity on the part of all staff members involved in the assessment and investigation procedures, there is an obligation to ensure that such procedures are carried out confidentially and that there is a right of reply at the appropriate junctures, either during or subsequent to any investigation.

Where an investigation finds no evidence of wrongdoing to justify any further action, this should be communicated to the respondent, and to other parties who may be aware that a complaint had been received and that the investigation has been completed, as necessary for the protection of the respondent's reputation.

9. CONFIDENTIALITY

The PRA recognises the sensitivity of making a protected disclosure and will take all reasonable steps to treat disclosures made through this policy in a confidential and sensitive manner, unless the Discloser clearly states that they do not object to having their name associated with the disclosure.

Disclosures will be kept secure and in a format 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 Discloser.

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 Section 16 (2) of the Act. In such incidences, the organisation will consult with the Discloser before making such a disclosure.

Similarly, the Respondent has the right to a good name and the PRA has a duty of care and confidentiality to those individuals.

10. ANONYMOUS, PSEUDONYMOUS AND CONFIDENTIAL DISCLOSURES

It is important to understand that disclosures may be **anonymous disclosures** (where identity is withheld by the Discloser), **pseudonymous disclosures** (where the Discloser is using a false name or identity but ongoing contact may be possible) and **confidential disclosures** (where the identity of the Discloser is protected by the Recipient).

Anonymous and pseudonymous disclosures are not excluded from the protection of the Act. While the PRA undertakes to act upon an anonymous or pseudonymous disclosure, it may be more difficult to investigate the potential wrongdoing and protect the Discloser. Nevertheless, the PRA may commence investigating anonymous or pseudonymous disclosures in accordance with this policy, where it is considered that enough information has been provided to enable such investigation. When exercising this discretion, the PRA shall take into account the seriousness of the issues raised, the sufficiency of information available and the capacity of the PRA to investigate the allegation.

In the case of anonymous and pseudonymous disclosures, where it is clear that a false allegation was deliberately made (following investigation), the PRA may seek to identify the Discloser as part of the Civil Service Disciplinary Code.

11. PROTECTION FROM PENALISATION

The Act provides specific remedies for Workers who are penalised for making a protected disclosure. **Penalisation** means any action, or omission, that affects a Discloser to their detriment and includes suspension, lay-off, dismissal, demotion, loss of opportunity for promotion, transfer of duties, change of location of place of work, reduction in wages,

change in working hours, the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty), unfair treatment, coercion, intimidation, harassment, discrimination, disadvantage, injury, damage, loss or threat of reprisal.

A Discloser is also entitled to protection from **detriment** suffered by them because they, or a third party, has made a protected disclosure. A detriment in this context includes coercion, intimidation, harassment, discrimination, disadvantage, adverse treatment in relation to employment (or prospective employment), injury, damage, loss or threat of reprisal.

All reasonable steps will be taken to protect Disclosers from penalisation. Disclosers who consider that they have experienced any act of penalisation, should notify the Protected Disclosures Officer as soon as possible. The Protected Disclosures Officer will acknowledge receipt of the complaint of penalisation within **ten working days**, or, where this is not reasonably practicable, as soon as possible.

The Protected Disclosure Officer will arrange for an investigation of the complaint of penalisation to be undertaken by an external investigator. The external investigator will investigate the complaint and issue a report of their findings within **sixty working days** of the date upon which the investigation is commissioned. Where this is not reasonably practicable, the Protected Disclosure Officer may extend the time period for delivery of the report, by such period as is considered reasonable, in the circumstances.

Where the external investigator concludes that the Discloser was penalised within the meaning of the Act, the PRA will take such action as it considers appropriate in respect of any employee who has been determined to have been engaged in any such penalisation. Where appropriate, this action may include disciplinary action up to and including dismissal.

A Discloser who considers that they have been penalised (as defined above), may separately make a complaint under the Act to the Workplace Relations Commission. The complaint must be made within six months of the alleged penalisation. They may wish to consider contacting the TII Speak Up Helpline or obtaining legal advice for clarity and further information around these procedures.

12. PROTECTION OF RIGHTS OF INDIVIDUALS

The PRA aims to encourage openness and transparency and will support Workers who, based on **reasonable belief**, raise issues under this policy, even if such concerns turn out to be unfounded. Where an allegation is made against an individual (referred to as the Respondent in the Act), it is important to ensure that the Respondent is afforded appropriate protection. The procedures for dealing with allegations against an individual (Respondent) must comply with general principles of natural justice and fair procedure, as appropriate and as set out in Section 2 of this policy.

Staff who make disclosures under this policy are protected under Part 3 of the Act. As stated previously, the PRA shall not tolerate any form of detrimental treatment as a result of a disclosure of a reasonably held concern, and shall take all appropriate action to support

any member of staff who raises such a concern. Appropriate disciplinary action, in accordance with Civil Service Disciplinary Code as set down in Circular 19/2016, shall be taken against any employee who is found to have subjected a Discloser to any detriment for raising a concern under this policy.

Similarly, Workers who have made vexatious¹¹ or false disclosures will also be subject to the Civil Services Disciplinary Code. Furthermore, they will be unable to rely on the defence of qualified privilege to any defamation claim taken against him/her by the accused.

13. FEEDBACK

The overriding requirement when providing feedback to Disclosers (via Recipients if necessary) is that no information is communicated that could prejudice the outcome of the investigation, or any action, that ensues (e.g. disciplinary, or other legal actions, including prosecution) - for example, by undermining the right to fair procedures enjoyed by the person, against whom a report or allegation is made. Subject to those conditions, Disclosers should be provided with periodic feedback in relation to the matters disclosed and be advised when consideration of the disclosure is complete, except in exceptional cases.

This does not require the PRA's Protected Disclosures Officer to give a complete account of what the situation is, at a particular point in time, in terms of progress, but the Protected Disclosures Officer should generally give reassurance and affirmation, that the matter is receiving attention.

Any information and feedback should be provided in confidence. There is no obligation to inform the Discloser of the progress, or outcome, of any disciplinary process involving another Worker, which may arise on foot of an investigation. In general, such information is confidential between the employer and the Worker who is the subject of a disciplinary process (Respondent). A Discloser should be informed that appropriate action has been taken but is not generally entitled to know what that action was.

If the PRA's Recipient of a disclosure does not take action that might be reasonably expected to be taken, a Court or Adjudication Officer may consider this when determining if it was reasonable for that Worker to make a disclosure, in respect of the matter, outside of the PRA.

14. PROCESS REVIEW

A review may be sought where a Discloser is dissatisfied with the outcome, or any part of the process, including a disclosure of their identity. Such reviews will be undertaken by the PRA's **Head of Quality and Compliance** (or another member of the Management Board not previously involved in the investigation) and should take no longer than **ten working days**. Where necessary, the review may be undertaken by an appropriate external person or body.

A review may be sought in relation to the following:

¹¹ Where it can be proved that the unfounded allegations were intended to waste organisational resources

- by the Discloser, in respect of any decision made to disclose their identity (a review should be offered to the Discloser before their identity is disclosed);
- by the Respondent (the subject of the disclosure) in respect of a decision made not to disclose the identity of the Discloser (it should be noted that, under the Act, the Recipient does not have the automatic right to know the identity of the Discloser);
- the outcome of the assessment undertaken in respect of the disclosure, which may be notified to them under this policy;
- the outcome of the investigation undertaken in respect of the disclosure, which may be notified to him/her under this policy; and
- the outcome of the investigation in respect of any complaint of penalisation.

The Discloser concerned shall be required to notify the Protected Disclosures Officer of their desire to seek a review of any of the matters, referred to above within **ten working days** of their being notified of the decision/outcome. The Protected Disclosures Officer may extend the time period, within which a Discloser may seek such a review, by an additional period of up to **ten working days**, where the Protected Disclosures Officer is satisfied that reasonable cause prevented the Discloser from seeking the review within the period of **ten working days**.

There is no entitlement to more than one review in respect of any of the issues referred to above.

The PRA (Head of Quality and Compliance) may, where possible, ask the Discloser for feedback on the response of the PRA to their disclosure after the process comes to an end.

15. SUPPORT

The **Employee Assistance Service** is available at all times to staff of the PRA, including those who make a protected disclosure, those against whom a disclosure is made and those involved in the investigation of a protected disclosure.

The PRA is a member of the Integrity at Work (IAW) programme, an initiative of **Transparency International Ireland (TII)**. The IAW programme is aimed at promoting a safer working environment for people who speak up about wrongdoing. Independent and confidential advice is available to Workers (who have made or are considering a disclosure) via the TII's SPEAK UP helpline at 1800 844 866 (or email helpline@transparency.ie), Monday to Friday 10am to 6pm. Workers can also make an enquiry via secure online form or encrypted text. For further information, please see www.speakup.ie.

A guide to making a protected disclosure is available at:

https://transparency.ie/sites/default/files/14.12.02_speak_up_safely_final.pdf

Workers may wish to seek legal advice and / or representation (including through co-workers or unions) before and after they make protected disclosures.

16. REPORTING AND POLICY REVIEW

The PRA's Protected Disclosures Officer shall maintain a "Protected Disclosures Log" of all disclosures received and investigations carried out under this policy. This will be stored securely. A template for this can be seen at **Appendix H**.

A report, required by Section 22 of the Act, will be published, not later than 30th June each year, in the PRA Annual Report in relation to protected disclosures received in the preceding calendar year. The report shall maintain the anonymity of all those involved and shall include the information required by Section 22(2) of the act, namely:

- (a) The number of protected disclosures made;
- (b) The action (if any) taken in response to those protected disclosures; and
- (c) Such other information relating to those protected disclosures and the action taken as may be requested by the Minister for Public Expenditure and Reform from time to time.

The PRA's Protected Disclosures Policy shall be reviewed by the Head of Quality and Compliance, on behalf of the Management Board, every two years, or sooner, if required.

In March 2019, the European Parliament and the Member States reached provisional agreement on new rules that will guarantee a high level of protection for "Whistleblowers" who report breaches of EU law. This means that an EU Whistleblowing Directive (Directive (EU) 2019/1937: Protection of persons who report breaches of EU law)¹² will need to be transposed into Irish law by 17th December 2021 and a review of the PRA's Protected Disclosures policy will be undertaken at that stage.

Head of Operations
July, 2021

¹² <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937>

Appendix A – Other Legislation Facilitating Disclosures

Other legislation providing for the making of disclosures includes:

- [Ethics in Public Office Acts 1995](#)
- [Garda Síochána Act 2005](#)
- [Safety Health and Welfare at Work Act 2005](#)
- [Prevention of Corruption \(Amendment\) Act 2001](#)
- [Criminal Justice \(Corruption Offences\) Act 2018](#)
- [Regulation of Lobbying Act 2015](#)
- [Freedom of Information Act 2014](#)
- [Criminal Justice \(Money Laundering and Terrorist Financing\) \(Amendment\) Bill 2018](#)

Appendix B – Integrity at Work Pledge

PROPERTY REGISTRATION AUTHORITY THE INTEGRITY AT WORK PLEDGE

The Property Registration Authority recognises the importance of maintaining an ethical workplace and the valuable contribution of those who raise concerns about wrongdoing. We commit to not penalising, or permitting penalisation against, a worker* who reports risks or incidents of wrongdoing and to responding to or acting upon those concerns.

In committing ourselves to this pledge we will work towards implementing a 'whistleblowing'/protected disclosures policy and procedures which will:

- a. Promote the reporting of wrongdoing or the risk of harm to a responsible person inside the organisation or external bodies as appropriate.
- b. Provide comprehensive information about the types of disclosures that can be made, by whom and in respect of what.
- c. Encourage our workers to seek professional advice both prior or subsequent to making a report.
- d. Assure our workers that any report will be dealt with in the strictest confidence and that their identity or identifying information will not be disclosed to third parties unless required by law or necessary for the purposes of conducting an investigation.
- e. Provide our workers with sufficient notice and a timely explanation in the event that his or her identity is to be disclosed to a third party.
- f. Confirm that reports will be acted upon within a reasonable time frame and take whatever remedial action is deemed necessary by the organisation to address any wrongdoing or the risk of wrongdoing that might have been identified in response to the report.
- g. Commit to keeping any worker who makes a report informed on the progress of investigations.
- h. Provide for appropriate disciplinary action to be taken against anyone found to have penalised a worker for:
 - (i) having reported wrongdoing or
 - (ii) refusing to engage in wrongdoing.
- i. Additionally, the organisation commits to record anonymised data each year on i) the number of reports made to it under the Protected Disclosures Act 2014, ii) the nature of each report, iii) the number of complaints of retaliation against workers who have made disclosures and iv) the action taken in response to each report.
- j. Share this data (as set out in paragraph i) with senior management, including the Board, or with the Minister of Public Expenditure and Reform (where appropriate).
- k. Ensure that our managers and responsible persons are aware of our commitments under this Pledge and related policies and procedures and are adequately trained in handling a report.
- l. Publicise our commitment to the Integrity at Work initiative with our workers and other relevant stakeholders.

* "Worker" refers to staff, contractors, consultants, agency staff and interns

Details of our Protected Disclosures Policy and Procedures can be found at: <http://opra/human-resources/hr-policies/protected-disclosures/>



Signed

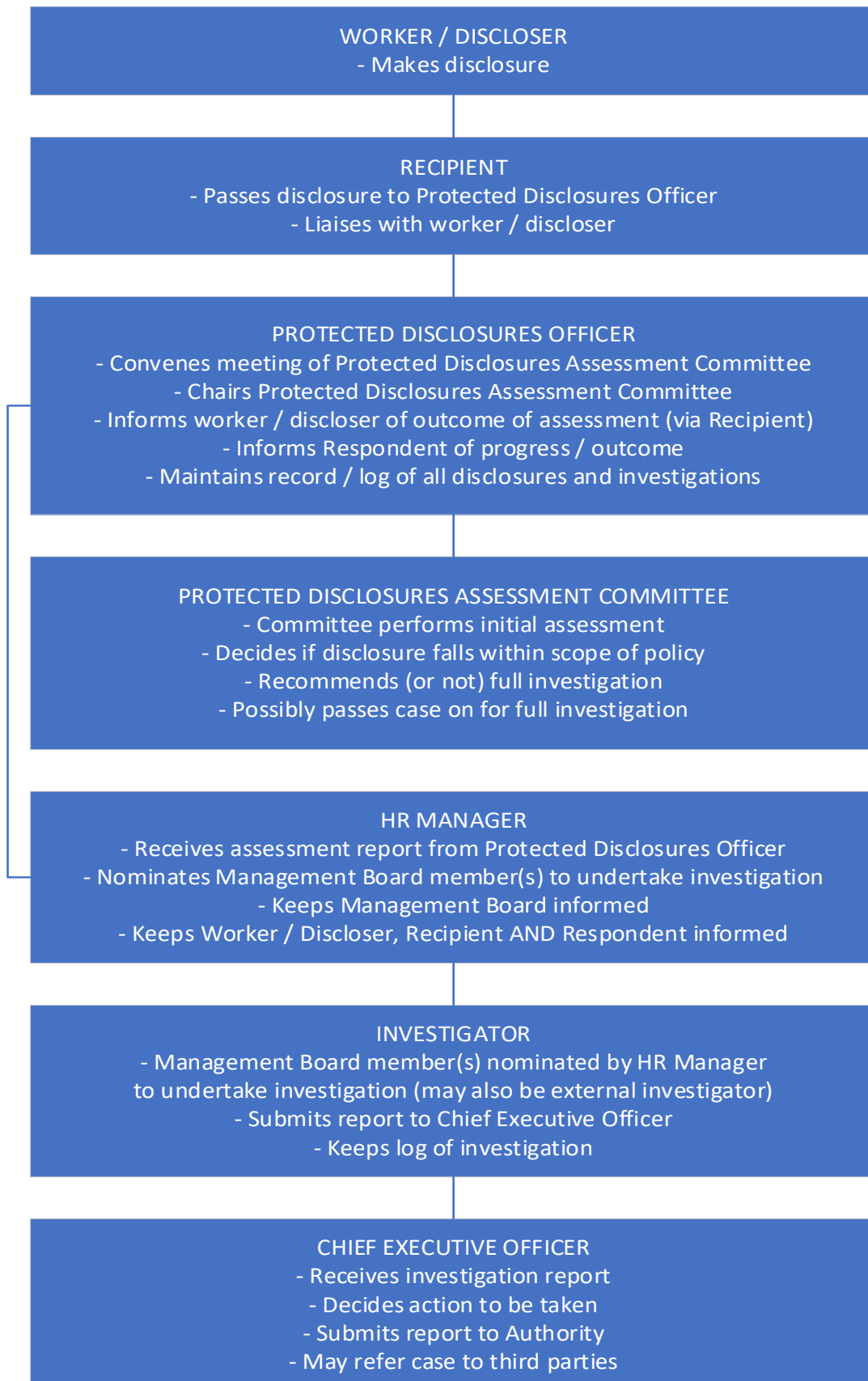
Liz Pope
Chief Executive Officer, PRA



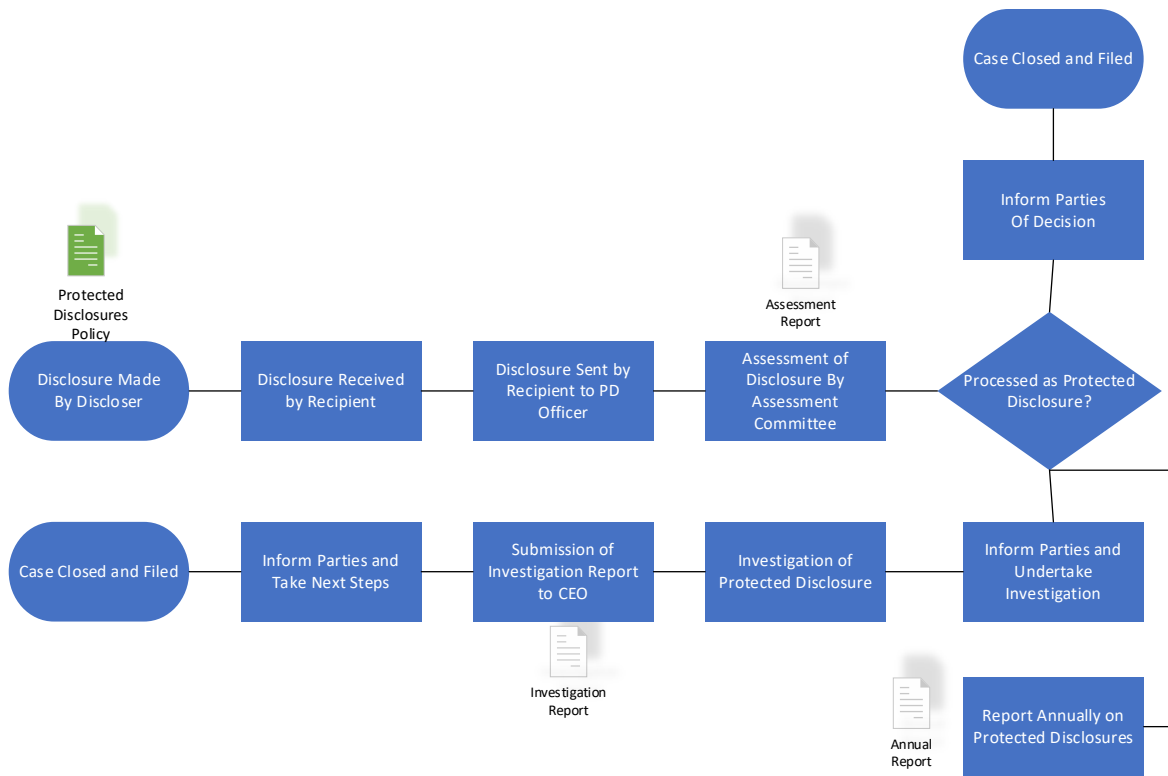
Signed

John T. Coleman
Chairperson, PRA

Appendix C – Main Roles and Relationships



Appendix D – High Level Process Map for Protected Disclosures



Appendix E – Timeframes for Various Stages

Activity	Timeframe
Recipient receives potential protected disclosure and informs Protected Disclosures Officer	1 working day from receipt
Protected Disclosures Officer convenes meeting of Protected Disclosures Assessment Committee, which reports on initial assessment	10 working days from receipt
Investigation of protected disclosure ends with report to Chief Executive Officer	60 working days from request to investigate
Identification by Chief Executive Officer of action to be taken	10 working days from receipt of report
Request for appeal by Discloser	10 working days from receipt of decision and provision of feedback
Review by Head of Quality and Compliance on foot of appeal of assessment and or investigation process	10 working days from request for appeal
Acknowledgement by Protected Disclosures Officer of receipt of complaint of penalisation	2 working days
Investigation of complaint of penalisation	60 working days from receipt of complaint
Provision of information on protected disclosures to Management Board	On quarterly basis – standing item
Review of PRA Protected Disclosures Policy	Within 2 years of publication of previous policy

Appendix F – Related PRA and Civil Service Policies & Procedures

1. Dignity at Work: an Anti-Bullying, Harassment and Sexual Harassment Policy for the Civil Service 2015 *Circular 10 of 2015*
<https://assets.gov.ie/15821/9be8902af6bb408f9927aa0e51b8967f.pdf>
2. Commission for Public Service Appointments (CPSA) Code of Practice: Appointment to Positions in the Civil or Public Service <https://www.cpsa.ie/codes-of-practice/what-are-the-codes/Code-of-Practice-CS-PS.pdf>
3. Protected Disclosures Act 2014 *No. 14/2014*
<http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en/html>
4. PRA ICT Facilities Accepted Usage Policy
<http://opra/information-and-communication-technology-facilities-acceptable-usage-policy-ip-ict-office-notice-4-2021/>
5. Policy on Managing Staff Complaints in the Property Registration Authority
<http://opra/wp-content/uploads/2021/06/Policy-on-Managing-Complaints-Concerning-Staff-Final-version-10062021.pdf>
6. Civil Service Disciplinary Code Circular 19/2016
<https://circulars.gov.ie/pdf/circular/per/2016/19.pdf>
7. Revised Procedure for dealing with Grievance Problems
<https://circulars.gov.ie/pdf/circular/finance/2001/11.pdf>
8. Civil Service Code of Standards and Behaviour Circular 26/04 http://opra/download/human-resources/hr_policy/standards/Circular_26_2004_The_Civil_Service_Code_of_Standards_and_Behaviour-1.pdf
9. PRA Code of Ethics (Revised 2019) http://opra/download/human-resources/hr_policy/standards/PRA-Code-of-Ethics-2019.pdf
10. Living Our Values: PRA Behaviours Framework 2019 http://opra/download/human-resources/hr_policy/standards/Living-Our-Values.pdf
11. PRA Governance Framework (Revised 2019) http://opra/download/human-resources/hr_policy/standards/Living-Our-Values.pdf
12. PRA Public Sector Equality and Human Rights Duty Strategy
http://opra/download/strategy_and_corporate/reports_and_publications/Public-Sector-Equality-and-Human-Rights-Duty-Strategy-2020.pdf
13. Protocol for the Reporting of Potential Money Laundering to An Garda Síochána
<http://opra/protocol-for-the-reporting-of-potential-money-laundering-to-an-garda-siochana-ip-cs-office-notice-5-2021/>

Appendix G – Checklist of Issues to Consider in an Assessment

Consideration	Conclusion
Assessment	
Requirement to transfer case to Head of Quality and Compliance?	
Disclosure made as formal Protected Disclosure?	
Anonymous, pseudonymous or known discloser?	
Disclosure of relevant information?	
Disclosure made by “Worker”?	
Discloser’s belief that relevant wrongdoing took place?	
Wrongdoing in connection with Discloser’s employment?	
Protected disclosure or grievance?	
Requirement for investigation?	
Relevant records and files identified and checked?	
Communications with Discloser and Respondent?	
Health and welfare concerns of all parties monitored and addressed?	
Fair procedures in place and being followed for all parties?	
Investigation	
Allegation well founded?	
Arrangements in place to prevent Discloser penalisation?	
All relevant organisational records and files identified and reviewed?	
Requirement for further investigation?	
Findings compiled?	
Submission of report to CEO?	
Communications with Discloser and Respondent?	
Communications to third parties as relevant including notification of result of investigation?	
Decision:	

Appendix H – Template for Event / Activity Log

Protected Disclosure [DATE OF INITIAL DISCLOSURE]		
Date	Event / Activity	Notes