

Public Appointments Service – Protected Disclosures Policy

Policy Owner:	Catherine Dobbins, Head of Corporate Services, in conjunction with the Compliance & Information Governance and People & Culture units
Head of Division:	Catherine Dobbins, Head of Corporate Services
Most recent review:	April 2024 (#9)
Approval date:	Approved by Management Board April 2024
Effective date:	1 May 2024
Next review date:	31 December 2025

This Policy has been prepared in accordance with the provisions of Section 21 of the Protected Disclosures Act 2014 (the Act). This Policy must be read in conjunction with the Act. Nothing in this Policy can override the provisions of the Act. The Policy has been updated in line with amendments to the Act in 2022 and with Statutory Guidance for Public Bodies and Prescribed Persons 2023.

Background

This Policy is in place to ensure compliance by the organisation with the Protected Disclosures Acts 2014 – 2022. This is a robust statutory framework within which people can raise concerns regarding potential wrongdoing that have come to their attention in the workplace in the knowledge that they can avail of significant employment and other protections if they are penalised or suffer any detriment from doing so.

Protected disclosures can assist in uncovering wrongdoing within an organisation and this can prevent accidents, financial issues, criminal offences and regulatory breaches. Disclosures of wrongdoing can also result in early detection and remediation of issues and limit the reputational damage to the organisation. We are committed to preserving the highest standards of integrity, ethics, transparency, probity and accountability, and recognise that our workers (and others covered by the amended legislation) play a key role in achieving these aims. Wrongdoing such as corruption or malpractice, or the concealing of these, can have a devastating effect on the reputation of the organisation and public service recruitment generally, the outcome of our processes, and our organisational culture.

People may become aware when someone working in or for the organisation, or in some relationship with us, is involved in improper practices (including illegal practices or practices which breach the CPSA Codes, employment legislation, or our own recruitment policies).

Those who become aware of potential issues may be wary of reporting concerns because they fear a potential negative impact.

We have put this Policy in place to ensure there are formal procedures and a secure pathway for reporting concerns about wrongdoing in the workplace and that people know that they can safely make such disclosures and are protected against penalisation for having reported those concerns. We will support those who make such disclosures that they reasonably believe demonstrate a suspected wrongdoing (even where they turn out to be mistaken). Safeguards will be put in place to deter mischievous reporting.

This Policy has been put in place through the Partnership process and through consultation with the relevant staff representative bodies in the organisation.

We are a participant in the Integrity at Work programme, a Transparency International (TI) Ireland initiative and has signed the Integrity at Work Pledge. This is a public commitment to protect anyone who raises a concern of wrongdoing from being penalised; to take action in response to those concerns; and to signpost them to sources of guidance and support including the Speak Up Helpline operated by TI Ireland. A copy of the Pledge is in *Appendix C*.

We undertake not to ask a worker or former worker to waive their right to make a protected disclosure under any circumstances or restrict the making of a protected disclosure, or exclude or limit the operation of any provision of the Act. We will focus on the report and not the reporting persons (or any issues related to the reporting person).

Purpose

The purpose of this Policy is to encourage workers, or former workers, and all those covered by the amended legislation (including the Public Appointments Service Board Members and Applicants), to make a disclosure in respect of significant matters and to provide protections for the person making the disclosure.

This policy will apply to all major concerns a person may have regarding any aspect of our activities.

This document sets out how to make a report, the types of wrongdoing that constitute a protected disclosure, what happens when a report is received, the protections that are available against penalisation for reporting a concern about wrongdoing.

This policy aims to protect people from penalisation where they make a disclosure of information that comes to their attention in a work related context. A protected disclosure under this policy involves the disclosure of information which a person reasonably believes demonstrates a suspected wrongdoing or danger in the organisation.

We will:

- Keep the identity of the reporting person and any person named in a report confidential;
- Not tolerate any penalisation or threat of reporting person or persons associated with the reporting person;
- Acknowledge all report within 7 days;
- Follow up diligently on all reports of relevant wrongdoing;
- Provide feedback to the reporting person within 3 months of the acknowledgement; and
- Provide further feedback at 3 monthly intervals where required.

The Head of Corporate Services has overall responsibility for the Procedures set out in this Policy.

The Head of Compliance and Information Governance is the designated person with day-to-day responsibility for the handling of reports. An alternative designated person will be appointed where the designated person is implicated in the relevant wrongdoing or where there is any perceived conflict of interest.

Please read this document before making a report. It is solely your responsibility to ensure you meet the criteria for protection under the Act. If you have any queries about this policy, please contact Emma Adams (emma.adams@publicjobs.ie). If you require confidential, independent advice (including legal advice) on the making of a protected disclosure, please see the information in this Policy on Transparency International Ireland supports.

What is a Protected Disclosure?

Making a report in accordance with the Protected Disclosures Act is referred to as “making a protected disclosure”. A “protected disclosure” means a disclosure of “relevant information” made by a “worker” in the manner specified in the Act. The relevant information must, in the reasonable belief of the worker, tend to show one or more relevant wrongdoings and have come to the attention of the worker in a work-related context. These requirements are explained in more detail below.

What is relevant information?

Relevant information is information which in the reasonable belief of the worker tends to show one or more relevant wrongdoings and it came to the attention of the worker in a work-related context. The information should disclose facts about someone or something, rather than a general allegation that is not founded on any facts.

Workers should not investigate allegations of wrongdoing. The Designated Person is responsible for the appropriate follow up of all reports

What is a reasonable belief?

The worker’s belief must be based on reasonable grounds but it is not a requirement that the worker is ultimately correct. Workers are not expected to prove the truth of an allegation. No disciplinary or other action will be taken against a worker who reasonably believes the information they have reported tends to show a wrongdoing even if the concern raised turns out to be unfounded. The motivation of the worker in making a report is irrelevant as to whether or not it is a protected disclosure. The worker will be protected if they reasonably believe when making the report that the information disclosed tended to show a relevant wrongdoing.

A report made in the absence of a reasonable belief is not a protected disclosure and may result in disciplinary action. It is a criminal offence to make a report that contains any information the reporting person knows to be false. A person who suffers damage resulting from the rather making of a known to be false report has a right to take legal action against the reporting person.

What are relevant wrongdoings?

To qualify as a protected disclosure, the matter reported must be a “relevant wrongdoing”.

The following are relevant wrongdoings:

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

It does not matter whether a relevant wrongdoing occurred, occurs or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other country or territory. allegations of wrongdoing.

The Designated Person is responsible for the appropriate follow up of all reports.

Workers may be subject to mandatory reporting obligations relevant to their role or profession. There is mandatory reporting set out in our Child Safeguarding Statement. Such reports may or may not amount to protected disclosures under the Protected Disclosures Act depending on whether the requirements of the Act are met. Legislation other than and in addition to the Protected Disclosures Act may provide for making reports. Workers should ensure that they are aware of what protections, if any, such other legislation and/or the Protected Disclosures Act makes available to them and seek legal advice if necessary.

What is not a relevant wrongdoing?

A matter is not a relevant wrongdoing which it is the function of the worker or the worker's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

A matter concerning interpersonal grievances exclusively affecting a worker is not a relevant wrongdoing and will not be dealt with under this procedure.

Failure to comply with a legal obligation that arises solely under the worker's contract of employment or other contract where the worker undertakes to do or perform personally any work or services is not a relevant wrongdoing.

Protected disclosures can only be made by workers and be made in a work-related context.

Reports of wrongdoing that do not fulfil this criteria may be dealt with under the Grievance Procedure, Dignity at Work Policy or other relevant Policy.

What is a work-related context?

"Work-related context" means current or past work activities through which, irrespective of the nature of those activities, persons acquire information concerning a relevant wrongdoing and within which those persons could suffer penalisation if they reported such information.

If a person has genuine concerns related to suspected wrongdoing or danger affecting any our activities s/he should report it under this Policy. The wrongdoing must have come to the person's attention in connection with the work of the organisation (a disclosure will not be protected if it relates to matters in someone's personal life outside and unconnected to the organisation).

Workers can also disclose breaches in relation to compliance with the CPSA Codes or the Civil Service Code of Standards and Behaviour; however these are not covered by the Act and will only attract internal protection as opposed to statutory protection under the Act. We welcome such disclosures and do commit to providing the same internal protections for workers who make such disclosures as provided for those workers making protected disclosures.

Scope

The Policy applies to staff members (and former staff members). All references to workers also relate to former workers and staff members from other organisations working (currently or previously) in PAS. It also applies to independent contractors working in PAS, those who acquire information on a relevant wrongdoing during pre-contractual negotiations, agency workers, trainees, volunteers, Public Appointments Service Board Members and individuals who come across wrongdoing during the recruitment process.

This Policy does not cover personal complaints or personal grievances, such as instances where a worker believes that they have been unfairly treated or spoken to by a colleague or manager in a disrespectful way or to other matters within the scope of the Staff Grievance Procedure or within our Dignity at Work Policy (or to matters previously dealt with under these procedures). Such matters may be protected under general employment law however and should generally be dealt with under the Grievance Procedure or the Dignity at Work Policy (copies of which are available on the Intranet or from People & Culture).

PAS has existing management structures and internal controls and has mechanisms in place to highlight irregularities. However, if for any reason, the existing structures cannot be used, then this Policy should be used. The Act involves a stepped disclosure regime with varying evidential thresholds required for each stage. Issues can be reported internally without the provision of evidence; people are encouraged to raise concerns as soon as possible (the reasonable suspicion of a wrongdoing is acceptable without the need for supporting evidence).

Reporting provisions already exist in the following policies:

- PAS Fraud and Anti-Corruption Policy
- Guidelines for Staff on the Code of Standards and Behaviour
- Health and Safety Statement

The relevant reporting provisions in relation to these policies are included in Appendix A. Issues raised under these various procedures may also be considered to be a protected disclosure and workers may also use the reporting procedures set out in this policy.

If unsure whether a concern is a grievance or a protected disclosure, workers can seek advice from TI Ireland's Speak Up Helpline at 1800 844 866, Monday to Friday 10am to

6pm. Enquiries can also be made via secure online form or encrypted text. For further information, please see www.speakup.ie. Where appropriate, the Speak Up Helpline can refer callers to access free legal advice from the Transparency Legal Advice Centre (see <https://www.transparency.ie/helpline/TLAC>). A guide to making a Protected Disclosure is also available at <https://transparency.ie/resources/whistleblowing/speak-safely-guide>

A worker does not need to be certain about the facts in their disclosure, it is sufficient that in the reasonable belief of the worker, the information tends to show one or more relevant wrongdoings and the information came to the attention of the worker in connection with their employment.

Reporting Procedures

The Head of Corporate Services has overall responsibility for this Policy and for reviewing the effectiveness of actions taken in response to concerns arising under this policy.

All disclosures under this policy should be made to the relevant recipient as set out below. This alternative reporting line should be treated as a last resort and the existing management structures and internal controls are the normal mechanisms to detect and draw attention to irregularities.

Initial Disclosure Routes

A worker should raise their concerns with their line manager or the senior manager for their area; selection board members and contractors should raise their concerns with the relevant Recruitment/Unit Manager or senior manager for that area.

Concerns raised with line managers do not require formal acknowledgement and the provision of reports and feedback in line with this policy as they form part of the informal process. Line Managers should however follow up on all concerns and provide feedback to the reporting person until the matter has been resolved.

If for any reasonable grounds the worker does not wish to report the concern to the line manager or senior manager, the worker may escalate it to:

- any Assistant Principal or Principal Officer level manager;
- the Head of Compliance and Information Governance (Designated Person);

- the Chairperson of the Board of PAS (Tom Moran).

Workers may also choose to report their concerns to a Minister of the Government on whom any function relating to PAS is conferred or imposed by or under any enactment (including the Minister for Public Expenditure, NDP Delivery and Reform). A worker should specify that any disclosure to a Minister is made under Section 8 of the Protected Disclosures Act.

PAS Board Members may report their concerns to the CEO, with escalation channels to the Chairperson of the Board or the Chair of the Audit Committee.

Applicants (who come across wrongdoing during the recruitment process) should report their concerns to a Formal Reviewer at CEOMailbox@publicjobs.ie with an escalation channel to the Head of Compliance and Information Governance.

Workers and others making a disclosure (and the person to whom the disclosure is made) must use discretion and commit to keeping the reporting and investigation process confidential where possible.

Disclosures to Prescribed Persons, Protected Disclosures Commissioner and Other Responsible Person

A list of prescribed persons and or bodies for reporting certain types of concerns is available on the Intranet or at [gov.ie - Protected Disclosures \(Whistleblowing\): List of prescribed persons \(www.gov.ie\)](#).

Disclosures may be made to a prescribed person if the worker has a reasonable belief that their disclosure is substantially true. Reports can be made both orally and in writing. The identity of a person concerned must also be protected by a prescribed person.

Reports can also be made to the Protected Disclosures Commissioner ([About the Protected Disclosures Commissioner | OPDC.ie](#)) (both orally and in writing) who will refer the report usually to a suitable regulator, for acknowledgement, follow-up and feedback.

If a worker believes that the wrongdoing relates solely/mainly to the conduct of another person (not this organisation) or to something the other person has a legal responsibility, the worker can make the disclosure to them.

Disclosures in Other Cases

In most cases people should not find it necessary to make disclosures to anyone externally; it is accepted that those making a disclosure can safely or properly contact an appropriate external body. In some circumstances it might be appropriate and required to report to an external body such as An Garda Síochána or a Regulator. However, it is important to note that (in particular in relation to disclosures to the media) stringent requirements apply under Section 10 of the Act for such disclosures to qualify as protected disclosures. We strongly encourage workers to seek advice before reporting a concern externally.

In the event of such a disclosure being made:

- the person making the disclosure must have a reasonable belief that the matters being disclosed are substantially true;
- the disclosure must not be made for personal gain;
- it must be reasonable to make the disclosure (reasonableness will be influenced by the identity of the person to whom the disclosure is made, the seriousness of the relevant wrongdoing, and whether the wrongdoing is continuing or is likely to continue);
- the person making the disclosure must reasonably believe he/she may be penalised **or** if there is no prescribed person and the worker believes that evidence may be destroyed; **or** the worker had previously made a disclosure of substantially the same information (and PAS had not dealt with it); **and/or** the relevant wrongdoing is exceptionally serious.

Workers are encouraged to make their disclosure internally, even if they have already made an external report. This enables us to identify and address any wrongdoing as quickly as possible. It also enables us to protect the worker from any potential penalisation which could arise as a result of a disclosure.

Making a Disclosure

All disclosures should, where possible, be made in writing or made electronically. It is recommended that, at a minimum, reports should include the following details:-

- (a) that the report is a protected disclosure and is being made under the Procedures;
- (b) the reporting person's name, position in the organisation, place of work and confidential contact details;

- (c) the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- (d) whether or not the alleged wrongdoing is still ongoing;
- (e) whether the alleged wrongdoing has already been disclosed and if so, to whom, when, and what action was taken;
- (f) information in respect of the alleged wrongdoing (what is occurring / has occurred and how) and any supporting information;
- (g) the name of any person(s) allegedly involved in the alleged wrongdoing (if any name is known and the worker considers that naming an individual is necessary to report the wrongdoing disclosed); and
- (h) any other relevant information.

If a disclosure is made verbally, it will be documented by the recipient and the record will include the discloser's name in addition to the information outlined above (where available). A report can be made by way of a physical meeting upon request. The reporting person will be given the opportunity to check and rectify any minutes/documented disclosure and to sign same.

Obtaining expert advice early can help ensure that the discloser makes their report in the correct way to the appropriate person or body. As part of the IAW Pledge, we have committed to 'encourage our workers to seek professional advice both prior or subsequent to making a report'.

As this organisation is a member of the Integrity at Work programme, a Transparency International (TI) Ireland initiative, independent and confidential advice for workers considering reporting a concern or making a protected disclosure is available via TI Ireland's Speak Up Helpline at 1800 844 866, Monday to Friday 10am to 6pm. Enquiries can also be made via secure online form or encrypted text. For further information, please see www.speakup.ie. Where appropriate, the Speak Up Helpline can refer callers to access free legal advice from the Transparency Legal Advice Centre (see <https://www.transparency.ie/helpline/TLAC>). A guide to making a Protected Disclosure is also available at <https://transparency.ie/resources/whistleblowing/speak-safely-guide>

Confidentiality

We hope that workers will be able to convey their concerns openly under this policy.

The Public Appointments Service is committed to protecting the confidentiality of the identity of both workers who raise a concern under these procedures and any third party mentioned in a report and to treating the information disclosed in confidence.

Only those in receipt of the disclosure and those in the compliance team involved in investigating the matter will have access to all confidential information in relation to the investigation and the disclosure.

Subject to the exceptions below, the identity of the reporting person or any information from which their identity may be directly or indirectly deduced will not be shared with anyone other than persons authorised to receive, handle or follow-up on reports made under this policy without the explicit consent of the reporting person.

The Protected Disclosures Act provides for certain exceptions where a reporting person's identity or information that could identify the reporting person can be disclosed without the reporting person's consent. They are:

- (a) Where the disclosure is a necessary and proportionate obligation imposed by EU or national law in the context of investigations or judicial proceedings, including safeguarding the rights of defence of persons connected with the alleged wrongdoing;
- (b) Where the person to whom the report was made or shared shows they took all reasonable steps to avoid disclosing the identity of the reporting person or any information that could identify the reporting person;
- (c) Where the person to whom the report was made or shared reasonably believes disclosing the identity of the reporting person or information that could identify the reporting person is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment; and
- (d) Where the disclosure is otherwise required by law.

Where a reporting person's identity or information that could identify a reporting person is to be disclosed under exceptions (a) to (d), above, the reporting person will be notified in writing in advance, unless such notification would jeopardise:

- The effective investigation of the relevant wrongdoing reported;
- The prevention of serious risk to the security of the State, public health, public safety or the environment; or
- The prevention of crime or the prosecution of a criminal offence.

A reporting person may request a review of a decision to disclose their identity under the System of Review set out in this policy.

Circumstances may arise where protection of identity is difficult or impossible – e.g. if the nature of the information disclosed means the reporting person is easily identifiable. If this occurs, the risks and potential actions that could be taken to mitigate against them will be outlined and discussed with the reporting person.

Other employees must not attempt to identify reporting persons. Attempts to do so may result in disciplinary action.

A worker should make a complaint to the Head of Corporate Services if they believe their identity has been disclosed.

The principles of natural justice do not require the identification of the name of the person who reports a possible wrongdoing in order to protect the rights of the person against whom the allegation has been made. Not all reports involve allegations against named individuals. Where they do, the rights of the person against whom an allegation of wrongdoing has been made will be protected and they will be dealt with fairly and consistently. They will be informed of any alleged wrongdoing and be given the opportunity to respond in full and will receive a fair and impartial hearing.

Where it is deemed that reports of wrongdoing require an investigation a preliminary examination may be conducted to establish if there is any basis to the report. Reports that on a preliminary analysis do not demonstrate any wrongdoing will not be subject to a full investigation and the person who made the allegation will be advised accordingly.

If it gets to the stage where it is required to discuss the allegation with the subject or seek information from him/her, he/she will be given the details of the allegation and given the opportunity to respond and contest the allegation. This will not require the identity of the worker who made the allegation to be revealed. The person against whom the allegation is made will be informed in writing that:

- an allegation has been made against them;
- the disclosure has been received and is being formally investigated by a named individual to establish the facts;

- no conclusions will be drawn until the facts have been established;
- they are expected to assist the investigator as far as is reasonably possible;
- the investigator wishes to interview them at a specific time and place;
- they may have a person of their choice present at the interview;
- they have a right to make a statement in respect of the allegation, orally or in writing;
- as far as possible, their confidentiality and privacy will be respected.

Where action is taken on foot of a disclosure that could lead to the identification of the discloser, the discloser will be consulted where possible with a view to obtaining informed consent (this will include any disclosure to an external party). If it becomes clear that the confidentiality of the discloser cannot be ensured, the discloser will be advised of the supporting strategies being put in place to assist them.

It will be a disciplinary offence for the recipient of the disclosure or the person to whom it is referred, to disclose the discloser's identity or information that may lead to him/her being identified unless there is a good reason for doing so. If the discloser suffers any loss as a result, he/she may take actions as outlined in the Act.

All records of disclosures will be securely maintained in order to comply with the requirements of confidentiality under the Act and in compliance with the Data Protection legislation.

Anonymous Disclosures

The person making the disclosure is encouraged to identify him/herself wherever possible. Reports can be made anonymously. Persons who choose to report anonymously and whose report meets the requirements of the Act remain entitled to all of the protections of the Act. Anonymous reports will be followed-up to the greatest extent possible where the information provided is sufficient to allow an investigation to take place. However, it may not be possible to fully assess and follow-up on an anonymous report. In addition, implementing certain elements of this policy – such as seeking further information, maintaining communication and protecting the reporting person's identity or protecting them from penalisation – may not be possible.

Assessment, Investigation and Outcome

Upon receipt of any written disclosure under this policy, the recipient will pass the information on to the Head of Compliance and Information Governance (Designated Person). The Head of Compliance and Information Governance will be responsible for the assessment and investigation of all disclosures in a timely and appropriate manner. All reports will be acknowledged (within 7 days) and a copy of these procedures will be provided with the acknowledgement (in addition to an estimated timeframe for the assessment and investigations process).

The Head of Compliance and Information Governance 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 (including whether there is prima facie evidence of wrongdoing). This assessment will be based on an appropriate risk prioritisation of the requirement for investigation and the nature and extent of the investigation that should be carried out (ranging from a detailed and extensive investigation of serious wrongdoings to less formal approaches for reports that are assessed to relate to less serious wrongdoings). As part of this assessment, if required, contact may be made with the reporting person, in confidence, in order to seek further information or clarification regarding the matter(s) reported.

It may be necessary to differentiate the information contained in the report. It may be the case that not all of the matters reported fall within the scope of this policy or the Protected Disclosures Act. Different parts of a report may need to be approached separately and some matters may be directed to another, more appropriate, policy or procedure (e.g. personal grievances).

The Head of Compliance and Information Governance may decide that there is no prima facie evidence of a relevant wrongdoing and either close the procedure or refer the matter to another relevant procedure. The Head of Compliance and Information Governance will communicate the outcome of the assessment to the person who made the disclosure (including whether the matter will be investigated further, and what action has been taken, or whether no action will be taken) and to the recipient (if appropriate). Feedback will be provided to the reporting persons at all key stages of the process and within 3 months of the initial report (and at 3 monthly intervals thereafter, on request, should the investigation process extend that far).

If it is determined that an investigation will be held, the scope and terms of reference of the investigation will be determined prior to the investigation. The Head of Compliance and Information Governance will appoint an appropriate person from within PAS to conduct the investigation or will conduct the investigation themselves depending on the potential level of wrongdoing.

Some matters may require that the investigation will have to be carried out by a specific professional or subject matter expert or it may need to be reported to and investigated by An Garda Síochána. In some other cases, the Head of Corporate Services may also appoint an external third party to investigate the matter, in circumstances where the third party has relevant and necessary specialised knowledge of the subject matter. The Investigator will update the discloser periodically (if possible) on the progress with the investigation, and in line with the timelines set out previously.

An informal process may be used to address a disclosure where the alleged relevant wrongdoing is relatively straightforward or not very serious, or does not require consideration of the making of adverse findings about any individual. There may be occasions where an informal process is commenced but the matter may subsequently be forwarded for formal investigation.

The discloser may be required to meet with the investigator and provide further information. The investigator will report on his/her investigation.

Investigations will be undertaken in accordance with the general principles of natural justice and fair procedures. Investigations will be carried out in an impartial manner and fully consistent with due process. The confidentiality of the worker making the report, the person(s) against whom the allegation was made and any other connected persons must be protected.

Responsibility for investigating and addressing allegations of wrongdoing lies with the Public Appointments Service and not the reporting person. Reporting persons should not attempt to investigate wrongdoing themselves.

The investigator's report will be sent to the Head of Compliance and Information Governance and he/she will determine what, if any, action should be taken. The Head of Compliance and Information Governance will keep the discloser informed of the progress of the investigation and the likely timescale. Sometimes the need for confidentiality, or to facilitate

a fair and comprehensive investigation, may prevent the Head of Compliance and Information Governance from passing on specific details of the investigation.

Any feedback is provided in confidence and should not be disclosed by the reporting person other than:

- (a) as part of the process of seeking legal advice in relation to their report from a solicitor or a barrister or a trade union official; or
- (b) if required in order to make a further report through this or another reporting channel provided for under the Act.

Feedback will include information on the action taken or envisaged to be taken as follow-up to that report and also the reasons for such follow-up. Feedback will not include any information that could prejudice the outcome of an investigation or any other action that might follow.

Feedback will not include any information relating to an identified or identifiable third party. In particular, feedback will not include any information on any disciplinary process involving another worker. Such information is confidential between the employer and the worker concerned. If the follow-up process determines that no relevant wrongdoing has occurred, the reporting person will be informed of this in writing and the reasons for this decision. A review of this decision may be requested.

The final outcome of the process triggered by the report will be communicated to the reporting person, subject to any legal restrictions concerning confidentiality, legal privilege, privacy and data protection or any other legal obligation.

If the Head of Compliance and Information Governance concludes that the worker has made a false allegation, deliberately or maliciously or with a view to personal gain, he/she may be subject of disciplinary action in accordance with the Disciplinary Code and will be referred to the Head of People and Culture in respect of same. In such circumstances the worker would not have any protection under the Act. Such false allegations, in addition to the impact on the persons to whom they relate, are very damaging to the objectives of the Act, and will be treated as a very serious disciplinary matter.

If the Head of Compliance and Information Governance concludes that an applicant has made a false allegation, deliberately or maliciously or with a view to personal gain, he/she may be subject of further action in accordance with the Unreasonable Conduct Policy. In

such circumstances the applicant would not have any protection under the Act. Such false allegations, in addition to the impact on the persons to whom they relate, are very damaging to the objectives of the Act, and will be treated as a very serious matter.

In the case of a disclosure where it is determined by the Head of Compliance and Information Governance that there is no prima facie case to answer, a summary of the disclosure will be reported to the Audit Committee and the Board of PAS.

Following any investigation, and subsequent decision made by the Head of Compliance and Information Governance, a written report will be submitted to the Audit Committee and the Board of PAS, containing the following information:

- a description of the disclosure and the findings of the investigation
- the effect the disclosure had on PAS, if any
- the means of perpetrating the malpractice or impropriety
- the measures taken to prevent a recurrence
- the action required to strengthen further responses under this policy
- a conclusion as to the way forward
- whether any report has been made, or is required to be made, to any third party
- any other relevant material

Protection and Support for Persons Making a Disclosure

We aim to encourage openness and will support those who raise genuine concerns under this policy, even if they turn out to be mistaken.

We will protect workers from formal or informal sanctions as a result of them making a report unless they have knowingly made a false disclosure.

We will not tolerate any penalisation of those who make a report of possible wrongdoing based on a reasonable belief and will treat any acts of penalisation or attempted penalisation as a disciplinary matter (those suffering penalisation may also take separate legal action under the Act). Penalisation of a reporting person is now also a criminal offence.

Penalisation includes, but is not limited to:

- (a) Suspension, layoff or dismissal;

- (b) Demotion, loss of opportunity for promotion or withholding promotion;
- (c) Transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- (d) The imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- (e) Coercion, intimidation, harassment or ostracism;
- (f) Discrimination, disadvantage or unfair treatment;
- (g) Injury, damage or loss;
- (h) Threat of reprisal;
- (i) Withholding of training;
- (j) A negative performance assessment or employment reference;
- (k) Failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment;
- (l) Failure to renew or early termination of a temporary employment contract;
- (m) Harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- (n) Blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry;
- (o) Early termination or cancellation of a contract for goods or services;
Cancellation of a licence or permit; and
- (q) Psychiatric or medical referrals.

Appropriate action, which may include disciplinary action, will be taken against a worker who penalises a reporting person or other individual due to the making of a protected disclosure.

The normal management of a worker who has made a protected disclosure is not penalisation.

If a protected disclosure is made during an investigation or disciplinary process to which the reporting person is subject, it will not automatically follow that the making of the report will affect the investigation or disciplinary process. Separate processes unconnected with the disclosure will ordinarily continue to proceed.

Disclosure of an alleged wrongdoing does not confer any protection or immunity on a worker in relation to any involvement they may have had in that alleged wrongdoing.

The person in receipt of a formal protected disclosure will conduct a risk assessment into the potential for penalisation. This will involve consultation with the reporting person in relation to factors such as:

- Whether the reporting person is concerned in relation to potential penalisation and why;
- The nature of the alleged wrongdoing and its seriousness and status of the alleged wrongdoer;
- Vulnerability of the reporting person in relation to employment status and any other factors;
- Past history of the reporting person and past history of the organisation in terms of any previous penalisation.
- The investigator will check-in with the reporting person during the investigation to ensure no penalisation is taking place.

The Protected Disclosures Act provides that a worker who suffers penalisation as a result of making a protected disclosure can make a claim for redress through either the Workplace Relations Commission or the courts, as appropriate. A claim concerning penalisation or dismissal must be brought to the Workplace Relations Commission within 6 months of the date of the act of penalisation or the date of dismissal to which the claim relates.

A claim for interim relief pending proceedings at the Workplace Relations Commission or the courts must be made to the Circuit Court within 21 days of the last date of penalisation or date of dismissal.

It is a criminal offence to penalise or threaten penalisation or permit any other person to penalise or threaten penalisation against any of the following:

- The reporting person (i.e. the person who makes the report);
- A facilitator (a person who assists the reporting person in the reporting process);
- A person connected to the reporting person, such as a colleague or a relative; or
- An entity the reporting person owns, works for or is otherwise connected with in a work-related context.

If a discloser believes that s/he has suffered any such detrimental treatment, s/he should inform the line manager, relevant recruitment manager, senior manager for the area or in the case of applicants the Information Governance and Compliance Lead. It is the responsibility of the manager notified of such claims to take the necessary action in relation to this,

including referral to the Head of Corporate Services. In incidents where the person's manager or relevant recruitment manager or senior manager is involved in the alleged victimisation, the worker should report the matter to the Head of Corporate Services, the CEO or the Chairman of the Board of the Public Appointments Service.

The Public Appointments Services gives a commitment to assess and investigate all notifications of penalisation and take appropriate action where necessary. Any complaints of penalisation will be investigated by an independent senior manager appointed by the Head of Corporate Services, CEO or Chair of the Board. If it is determined that penalisation is taking place then all possible steps to protect the worker and stop the penalisation will be taken.

If a person causes detriment to another person because the other person or a third person has made a protected disclosure, the person to whom the detriment has been caused has a right of action in tort against the person by whom the detriment is caused.

Protection and Support for Persons Against Whom an Allegation has been made

We will protect any worker against whom an allegation has been made at all times during the investigation process. As set out previously in this policy, he/she will be provided with full information on the allegation against them and be given every opportunity to respond fully to such allegations. He/she can opt to be accompanied at any interviews (and other staff will be given the time to attend such meetings should the person against whom any allegation has been made opt to be accompanied to meetings by a colleague). He/she will also be able to receive advice on the Policy from the organisation's contact person (Emma Adams), or any other specified member of senior management not involved in the investigation. He/she will also have recourse to the Employee Assistance Service and may make appointments to attend within working hours (contact: Tel: 0818 008120 or [Email: cseas@per.gov.ie](mailto:cseas@per.gov.ie)). No conclusions will be drawn until the investigation, and any appeals process, have been exhausted.

Review

A review may be sought:

- By the reporting person into a decision, following assessment, to close the procedure or refer the matter to another process.

- By any affected party in respect of the conduct or outcome of any follow-up actions (including any investigation) taken on foot of the receipt of a report;
- By any affected party in respect of the conduct or outcome of any investigation into a complaint of penalisation; and
- Except in exceptional cases, by any party affected by any decision to disclose the identity of the reporting person to persons other than those authorised under these procedures to handle reports.

A review will be conducted by an independent reviewer (with no involvement in the initial investigation) appointed by the Head of Corporate Services. The conduct of such a review does not preclude the discloser from reporting his/her concerns elsewhere in accordance with the provisions of the Act.

Workers will be asked for feedback on the response of PAS to their disclosure after the process comes to an end.

Reporting

The Head of Compliance and Information Governance will maintain a record of all allegations received, and investigations conducted under this policy. A quarterly report will issue to the Audit Committee and the Board of PAS and will include information on:

- the number of protected disclosures made;
- the number of disclosures investigated and not upheld;
- the number of disclosures upheld and actions taken in response to these.

An Annual Report will also be prepared by 30th June each year. This report will not identify any persons involved and will contain information on the number of protected disclosures, the actions taken, and any further information deemed appropriate.

The Head of Compliance and Information Governance will also keep a record of any reported penalisation and any checks with the reporting person in relation to this matter. It may be necessary depending on the nature of the alleged wrongdoing and the outcome of the investigation to continue to check in with the reporting person going forward to ensure they have not experienced any penalisation.

The Management Board will be informed about the receipt of all protected disclosures but the confidentiality of the disclosure will be protected in line with this policy. The Management Board will be informed about the nature of wrongdoing and where there is any significant evidence arising which appears to suggest the wrongdoing had occurred. This will be provided to allow consideration of the implications arising for the organisation as a result of the protected disclosure and to ensure measures can be put in place to ensure the wrongdoing is being addressed and all risks are being mitigated.

Training and Awareness

All staff members were made aware of this policy targeted awareness sessions and will be provided with an update on the operation of the policy on an annual basis (the Policy will be made available on the Intranet). The Policy will be brought to the attention of all new staff as part of their induction process. Managers, and those responsible for conducting investigations, will be provided with additional specialised training to help them deal with issues arising out of investigations into disclosures.

Support is available from TI Ireland: Transparency International (TI) Ireland's Speak Up Helpline can provide support to a discloser at any stage, before, during or after speaking up. The Speak Up Helpline can be contacted at 1800 844 866, Monday to Friday 10am to 6pm. An enquiry can also be made via secure online form or encrypted text. For further information, please see www.speakup.ie. A guide to making a Protected Disclosure is also available at https://transparency.ie/sites/default/files/14.12.02_speak_up_safely_final.pdf

Contact Points

If you wish to discuss any aspect of this Policy you can contact:

Catherine Dobbins (catherine.dobbins@publicjobs.ie)

Policy review

This policy will be reviewed annually and included as part of the induction process for new Board members. The policy will also be reviewed on receipt of any updated Guidance from the Minister for Public Expenditure and Reform.

Appendix A

Fraud and Anti-Corruption Policy

It is the policy of PAS to identify and promptly investigate any possibility of fraudulent or related dishonest activities and, when appropriate, to pursue legal remedies available under the law. PAS aims to promote an organisational culture which encourages the prevention of fraud by raising awareness of the need for high standards of personal conduct. Any act of fraud ascertained upon investigation, or pursuant to a criminal conviction, or through written acknowledgment by the person(s) concerned, shall result in the appropriate disciplinary and legal actions against the employee(s) and/or entities, to include the possibility of termination of employment, termination of contract, restitution and/or forwarding information to the appropriate authorities for criminal prosecution. The repayment of losses will be sought in all cases and PAS would normally expect to recover all costs in addition to the recovery of losses.

Reporting Fraud

Reporting Fraud or Unethical Behaviour

It is the responsibility of all concerned to report any suspicion of fraud immediately according to the procedure laid out below. Persons who cover up, obstruct, fail to report, or monitor a fraud that they become aware of, or ought to have been aware of, will be considered to be an accessory after the fact and may be subject to disciplinary action and/or termination of employment. Persons who threaten retaliation against a person reporting a suspected fraud shall be subject to disciplinary action up to and including termination of employment.

Great care must be taken in dealing with suspected dishonest or fraudulent activities to avoid:

- Incorrect accusations
- Alerting suspected individuals to an investigation underway
- Treating the person(s) accused unfairly
- Making statements that could lead to claims of false accusations or other charges.

In all cases, the incident, facts, suspicions or allegations should not be discussed with anyone inside or outside of PAS unless specifically directed to do so by the officer investigating the incident. In particular, the matter should not be discussed with the individual suspected of fraud.

Fraud can be detected at any level within PAS and the following general principles should apply in the reporting of suspected fraud:

- A person who suspects that fraudulent practice may be operating should, in the first instance, report the matter to his/her manager. Should it be inappropriate to make such a report to an immediate manager, the report should be made to the senior manager, Head of Corporate Services or directly to the CEO;
- Once a report of suspected fraud is made to the manager that person should report the suspicion to a senior manager, the Head of Corporate Services or the CEO;
- A senior manager on receipt of a report of a suspected fraud should report the matter to the Head of Corporate Services and CEO.

Suspected fraud may also be reported using the procedures set out in the Protected Disclosures Policy, and the person reporting fraud (through either mechanism) may also be entitled to protections set out in the Protected Disclosures Act 2014.

No investigation of the suspected fraud should take place until the Head of Corporate Services and/or CEO has been informed. If the case involves either/both of these individuals, the Chairperson of the Internal Audit Committee should be informed.

Guidelines for PAS on the Civil Service Code of Standards and Behaviour

The 'Civil Service Code of Standards and Behaviour' indicates that each Department/Office would provide additional guidance for their own staff relevant to the work of their organisation.

Additional guidelines are set out for staff in the Public Appointments Service (the full version is available on the People & Culture Intranet page).

As our main role involves recruitment and selection for the Public Service, it is essential that our business is based on the principles of integrity, impartiality, effectiveness, equity and accountability.

Staff are required to maintain high standards in service delivery and the highest standards of probity. Staff must also behave appropriately at work. All staff should also ensure that their standard of dress is appropriate to the business of this organisation, and that they show consideration and respect to the public, customers and colleagues.

All of the requirements of the Code apply to staff in this organisation. There are also particular issues which apply to our office, including ensuring that proper standards are maintained in relation to our access to recruitment and selection material and processes for all the posts for which we recruit. It is essential that this access is not abused in any way.

You should report any suspected violations of the Code to your Manager or People & Culture. These reports will be kept confidential to the fullest extent possible and consistent with the conduct of an appropriate investigation.

Health and Safety Statement

Line Management

Line Management will be held accountable for health and safety performance and standards in respect of those activities which are within their control. Compliance with the safety statement will be expected and they must bring to the attention of the Health and Safety Officer any incidents where conflicts in health and safety could occur.

All Staff

Employees have the following legal duties under *Section 13 and 14 of the Safety, Health and Welfare at Work Act 2005*. All staff members must:

- take reasonable care of their own safety, health and welfare and that of others;
- ensure they are not under the influence of an intoxicant to the extent that they may endanger themselves or others;
- co-operate with their employer or any other person as appropriate;
- not engage in improper conduct or behaviour (including bullying/harassment);
- attend all necessary training;
- use safety equipment or clothing provided, or other items provided for their safety, health and welfare at work;
- report to the Health and Safety Officer as soon as practicable:
 - (i) any work, which may endanger the health and safety of themselves or others;
 - (ii) any defect in the place of work, systems of work, articles or substances;
 - (iii) any breach of health and safety legislation of which he or she is aware.
- Department of Finance Circular 8/2009: Civil Service Alcohol and Drugs Misuse Policy states that all officers share the responsibility of addressing alcohol and drug misuse in the workplace.
- adhere to Key Holders and IT On-Call Procedures.

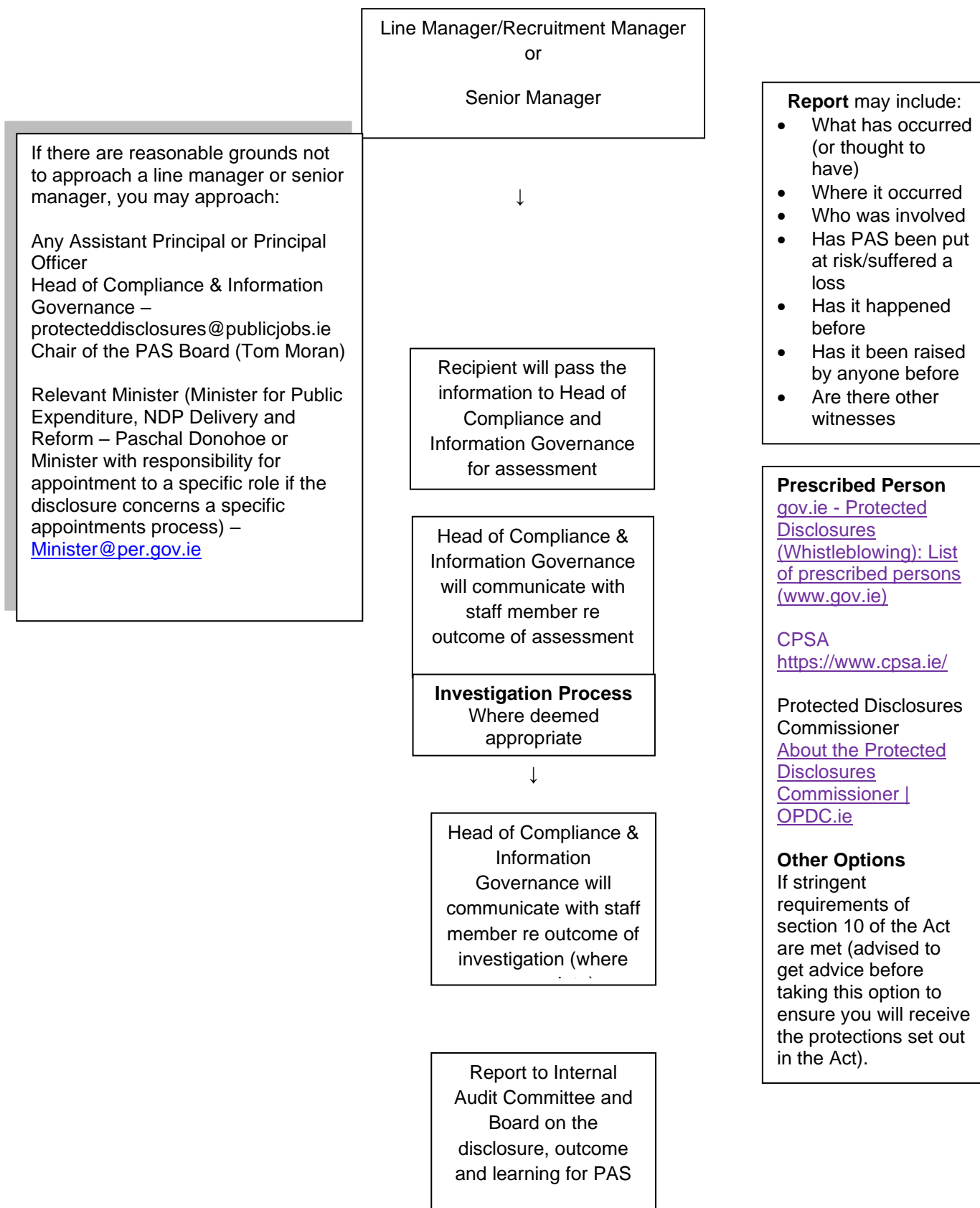
Employees must not:

- (i) Interfere with, misuse or damage anything provided for securing the health, safety and welfare of those at work;
- (ii) Place anyone at risk in connection with work activities;
- (iii) Intentionally or recklessly interfere with or misuse any appliance, or safety equipment provided to secure the safety health or welfare of persons at work.

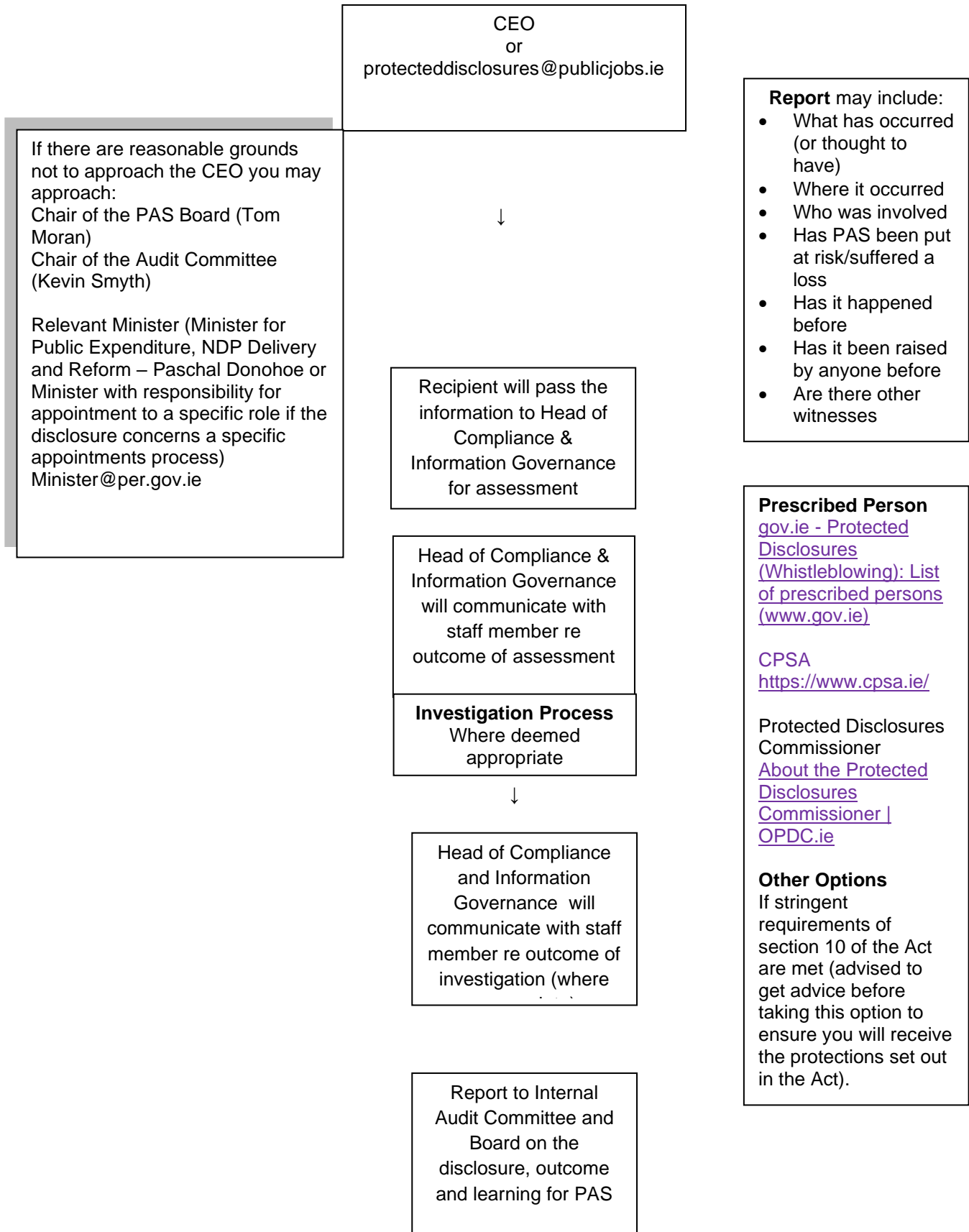
Appendix B

Charts re Protected Disclosures Reporting

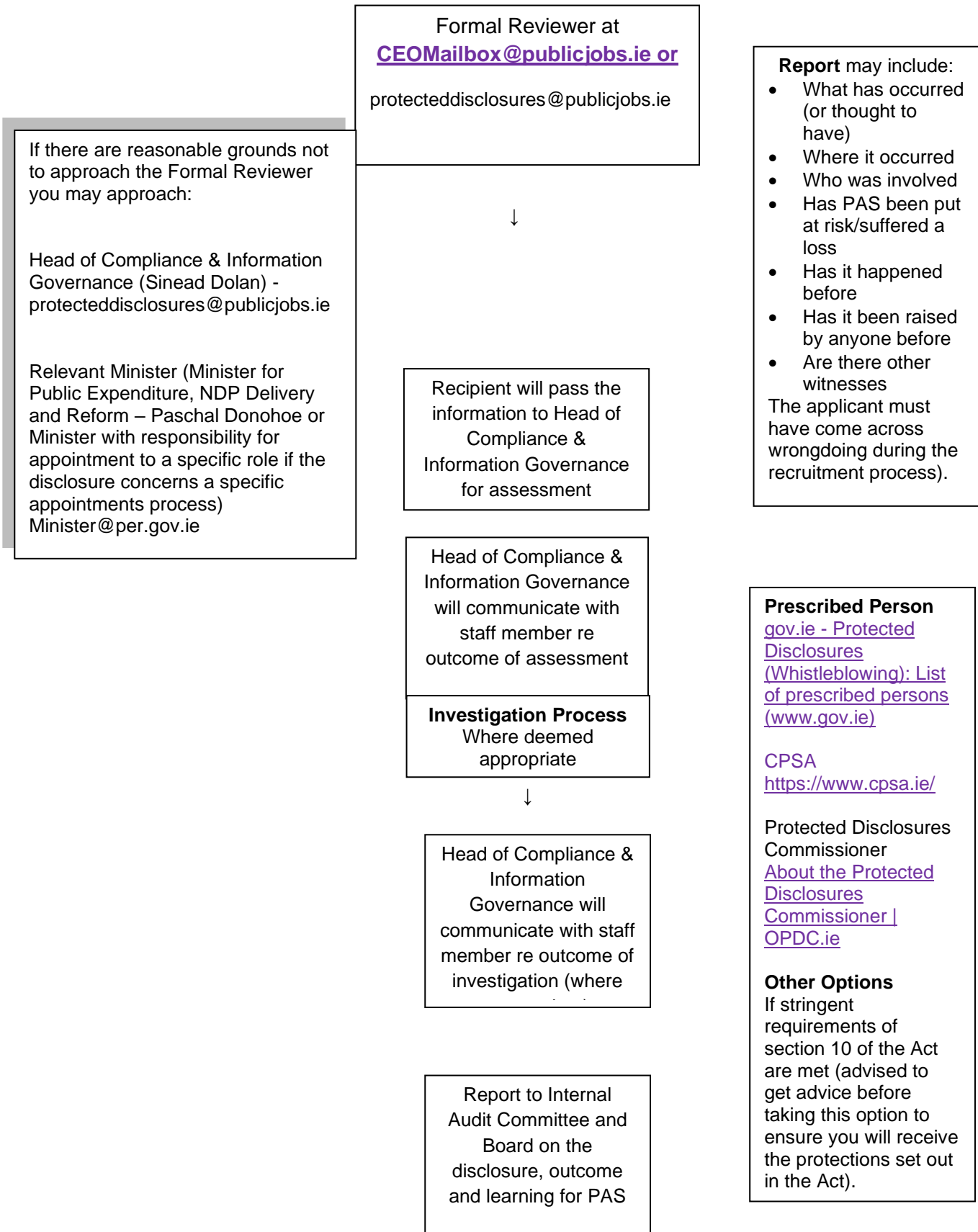
Protected Disclosure Options for Workers (including selection board members and contractors)



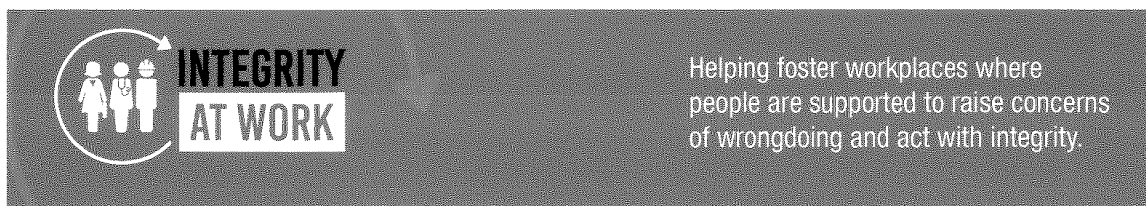
Protected Disclosure Options for PAS Board Members



Protected Disclosure Options for PAS Applicants



Appendix C



THE INTEGRITY AT WORK PLEDGE

Public Appointments Service 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 on our website at www.publicjobs.ie

Margaret Mc Cabe
Signed

CEO
Position Held

05/09/22
Date

[Signature]
Signed

Chairman
Position Held

05/09/22
Date