

# Protected Disclosures Policy

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## 1 Introduction to Protected Disclosures

In the Republic of Ireland, specific laws give legal protections to employees wanting to report wrongdoing in the workplace – this is called a **Protected Disclosure**, also known as ‘Whistleblowing’. This means that anyone who has information regarding wrongdoing in the workplace cannot be penalised or face retaliation for sharing this information.

Under the Protected Disclosure Act 2014 and the Protected Disclosures (Amendments) Act 2022, workers are protected against punishment, even if their concerns are mistaken or misguided. The Acts cover wrongdoings that are happening, have already happened or might be likely to happen. It is always appropriate for a worker to raise a concern, and these laws ensure all workers are protected to do so.

In some instances, workers might need to differentiate between a Protected Disclosure, a complaint or grievance. A protected disclosure is unlikely to relate directly to the workers own employment. For example, the allocation of overtime, promotions or interpersonal issues relating directly to your own employment are best addressed by the Peter McVerry Trust Grievance Policy. Instances which are more likely to be Protected Disclosures include breaches of health and safety guidelines, improper use of funds, bribery or fraud.

If you are looking to make a Protected Disclosure, it is also important to understand the difference between **anonymous** and **confidential**. Anonymous means that no one has any understanding of who you are. Confidential is where someone may know who you are, but all identifying information is removed to ensure that your identity is kept private. If you are making a report to a manager, this is a confidential disclosure – the manager knows who you are. An email from an unknown email address, would be an anonymous disclosure.

Finally, this policy identifies who can help you understand if the information you would like to share counts as a Protected Disclosure. It is always best to speak with a line manager first who can help you to make a disclosure, but the Designated Person(s) are the best avenue for navigating the Protected Disclosure Process.

## 2 Policy Statement

- 2.1 The Peter McVerry Trust [PMVT] is committed to cultivating a workplace environment that values honesty, trust and seeks to support workers with genuine concerns regarding potential wrongdoings in the workplace. This policy is designed to promote a culture of accountability and openness that is in line with our values, aims, and objectives.
- 2.2 In Ireland, everyone falls under the remit of the Protected Disclosures Act 2014, and the Protected Disclosures (Amendment) Act 2022. This gives legal protection to workers who uncover instances of wrongdoing in the workplaces.

## 3 Purpose of this Policy

- 3.1 The PMVT Protected Disclosures Policy is intended to encourage all PMVT staff members, and relevant third parties to report suspected or actual occurrence(s) of illegal, unethical, and/or inappropriate behaviours and/or practices without retribution or penalisation.

## 4 Scope of this Policy

- 4.1 This policy covers all PMVT Board Members, staff members, relief staff members, students and researchers within the organisation, both currently and previously in service. It also applies to any and all job applicants, regardless of the outcome of their application, and relevant third parties contracted by the organisation. For the purposes of this policy, in line with the Acts, all of the above persons will be referred to as 'workers.'
- 4.2 This policy is not a replacement for existing mandatory reporting requirements, in particular mandatory reporting for Children First. In the instance of a Protected Disclosure that relates to a Child Protection and Safe Guarding issue, the obligation to report remains.

## 5 Glossary of Terms and Definitions

- 5.1 **Anonymous**, unidentified or unidentifiable.
- 5.2 **'The Acts'** is used in this policy to refer to the Protected Disclosure Act 2014, and the Protected Disclosure (Amendments) Act 2022.

- 5.3 **‘Confidential’**, kept private. For the purposes of this policy, understood to be where an individual makes a report with the understanding that their name and other identifying details will not be shared by the recipient.
- 5.4 **‘Penalisation,’** is defined in the Acts as any direct or indirect act or omission which occurs in a work-related context, is prompted by the making of a report and causes or may cause unjustified detriment to a worker. This includes:
- 5.4.1 Suspension, lay-off or dismissal,
  - 5.4.2 Demotion, loss of opportunity for promotion or withholding of promotion,
  - 5.4.3 Transfer of duties, change of location of place of work, reduction in wages or change of working hours,
  - 5.4.4 The imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),
  - 5.4.5 Coercion, intimidation, harassment or ostracism,
  - 5.4.6 Discrimination, disadvantage, or unfair treatment,
  - 5.4.7 Injury, damage or loss,
  - 5.4.8 Threat of reprisal,
  - 5.4.9 Withholding of training,
  - 5.4.10 A negative performance assessment or employment reference,
  - 5.4.11 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,
  - 5.4.12 Failure to renew or early termination of a temporary employment contract,
  - 5.4.13 Harm, including to the worker’s reputation, particularly in social media, or financial loss, including loss of business and loss of income.
  - 5.4.14 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,
  - 5.4.15 Early termination or cancellation of a contract for goods or services,

- 5.4.16 Cancellation of a licence or permit, and
- 5.4.17 Psychiatric or medical referrals.
- 5.5 A **Protected Disclosure**, as defined by the Acts, is the disclosure by a worker of relevant information regarding potential wrongdoings in a work-related context. This does not cover personal complaints.
- 5.6 **'Relevant Information'**, within the scope of this policy, is defined as –
  - 5.6.1 Information that, in the reasonable belief of the worker, tends to show one or more relevant wrongdoings, and
  - 5.6.2 Information that came to the attention of the worker in a work-related context.
- 5.7 **'Retribution'** is defined as-
  - 5.7.1 Suspension/Dismissal,
  - 5.7.2 Disciplinary actions,
  - 5.7.3 Discrimination, threats, and/or
  - 5.7.4 other unfavourable treatment.
- 5.8 A **'Worker'** is defined as any individual who is, or has been, in contract with PMVT including, but not limited to –
  - 5.8.1 A member of staff,
  - 5.8.2 A member of a Board,
  - 5.8.3 An independent contractor and/or consultant,
  - 5.8.4 A student, intern, job applicant, and/or a volunteer.
- 5.9 **'Wrongdoings'**, is defined in the Acts, as:
  - 5.9.1 A criminal offence that has been, is being, or is likely to be committed;
  - 5.9.2 The failure to comply with any legal obligations, other than one arising under the worker's contract of employment;
  - 5.9.3 A miscarriage of justice that has occurred, is occurring, or is likely to occur;
  - 5.9.4 The endangerment of any individual's health and safety;
  - 5.9.5 The damaging of the environment;

- 5.9.6 The unlawful and/or improper use of funds and/or resources of a public body;
- 5.9.7 The gross mismanagement by, or on behalf of, a public body, and/or the public body has been, or is being, oppressive and/or discriminatory;
- 5.9.8 The concealment and/or destruction of information relating to any of the above.

## 6 Relevant Personnel

- 6.1 The **'Reporting Person'** is the worker reporting instances of wrongdoing.
- 6.2 The **'Disclosure Recipient'** is the person or person(s) to whom the worker makes the disclosure to.
- 6.3 The **'Designated Person'** is an impartial person or persons, designated by the organisation who will follow up on reports, maintain communication with the reporting person and, where necessary, request further information from, and provide feedback to, the reporting person. The designated persons should be contacted at [protecteddisclosures@pmvtrust.ie](mailto:protecteddisclosures@pmvtrust.ie)
- 6.4 A **'Prescribed Person'** is an external person, nominated by the Minister for Public Expenditure, to provide independent and autonomous avenues for reporting. Prescribed persons can receive disclosures that are related directly to their specific responsibilities or functions. For example:
  - 6.4.1 The Director General of the Workplace Relations Commission is the Prescribed Person for disclosures related to workplace relations.
  - 6.4.2 The Chief Executive of the Charities Regulator is the Prescribed Person for disclosures relating to the regulation of charities.  
[protecteddisclosures@charitiesregulator.ie](mailto:protecteddisclosures@charitiesregulator.ie)

## 7 Key Principles

- 7.1 All Protected Disclosures made in line with the Acts and this policy should be dealt with responsibly, in a reasonable and timely manner.
- 7.2 PMVT encourages staff to make internal protected disclosures, commits to ensuring the confidentiality of the discloser and to seeking a resolution to any wrongdoing brought to the attention of the organisation.

- 7.3 Where staff feel that an internal disclosure is not feasible, this policy details the avenues for making an external protected disclosure and acknowledges the rights of staff to do so under the Acts.
- 7.4 In line with the Acts, all workers shall be protected from retribution and penalisation when making a disclosure.
- 7.5 Under the Acts, the motivation for making a disclosure is irrelevant to whether it is a protected disclosure – the content of the disclosure, and its relation to the workplace are the key factors.

## **8 Confidentiality**

- 8.1 Under the Protected Disclosures Acts, PMVT is committed to protecting the identity of the reporting person and keeping all disclosures confidential where possible.
- 8.2 PMVT commits to investigating all disclosures equally, however anonymous disclosures may be more difficult to investigate than non-anonymous disclosures.
- 8.3 The Designated Persons, or anyone to have received a disclosure as per this policy or otherwise, must not reveal any information that may identify the disclosures, with the exception of specific cases, such as –
  - 8.3.1 The disclosure recipient shows that they took all reasonable steps to avoid such disclosure;
  - 8.3.2 The disclosure recipient has a reasonable belief that the reporting person did not object to their identity being disclosed;
  - 8.3.3 The disclosure recipient had a reasonable belief that it was necessary for the investigation of the wrongdoing concerned, and/or to prevent serious risk to the security of the state, public health, public safety, or the environment, and/or the prevention of crime or prosecution of a criminal offence.
  - 8.3.4 Where the disclosure is otherwise necessary in the public interest or is required by law.
- 8.4 Along with the requirements for confidentiality under the Acts, all personal information will be kept in line with the requirements of GDPR and the PMVT Data Protection Policy.

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## 9 Retribution and Penalisation

- 9.1 All staff are protected from any Retribution and Penalisation by the Acts, even if the disclosure is unfounded.
- 9.2 Any staff, managers, directors, board members or trustees found to be enacting retribution or penalising a staff member who is making, or has made a protected disclosure, will be met with disciplinary action, including their termination of board or employment status.
- 9.3 Workers who have made protected disclosures anonymously, but their identity is later uncovered, are protected from retribution and penalisation under the Acts.
- 9.4 As well as the protections of the Unfair Dismissal Acts, the Acts give further protections to staff undertaking a protected disclosure:
  - 9.4.1 There is no minimum service requirement for availing of the Unfair Dismissal Acts when making a protected disclosure; and
  - 9.4.2 Compensation for unfair dismissal due to a protected disclosure can be up to five years.

## 10 Internal Disclosures

- 10.1 For a disclosure of information to be covered by the Acts, the worker must make their disclosure in the manner set out by the Acts and within this policy. Further details on making a protected disclosure can be found in the PMVT Protected Disclosures Procedure.
- 10.2 Making a disclosure
  - 10.2.1 All internal disclosures should be made directly to the worker's line manager or the Designated Person(s) either verbally or in writing.
  - 10.2.2 Workers who do not feel comfortable reporting to their line managers can report to another manager or above at PMVT.
- 10.3 Receiving a Disclosure
  - 10.3.1 Anyone who receives a disclosure must act promptly and either report, or support the worker to report to the Designated Persons Committee.
  - 10.3.2 The reporting person must receive written acknowledgement of the disclosure within no more than 7 business days of making the disclosure.

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- 10.3.3 Investigations of the disclosure must be led by the Designated Persons Committee
  - 10.3.4 The Reporting Person shall be notified, in writing, within no more than 3 months of acknowledgement of the disclosure, regarding the investigation, disposition, or resolution of the issue.
  - 10.4 Should the worker disagree with the outcome of the initial investigation, the worker has the right to appeal the decision within 5 days of the receipt of the outcome.
  - 10.5 If the investigation of a disclosure is not to the worker's satisfaction, then they have the right to report the event to the appropriate legal or investigative agency.

## 11 External Disclosure

- 11.1 As provided by the Acts, a worker is entitled to making their disclosure to external channels. It should be noted that criteria for making an external disclosure may differ from criteria for making internal disclosures (i.e. the worker must believe that the information being disclosed is substantially true).
- 11.2 External channels for protected disclosures covered by the Acts are as follows:
  - 11.2.1 A Minister of the Government;
  - 11.2.2 A Prescribed Person (See full list at gov.ie);
  - 11.2.3 A legal advisor; or
  - 11.2.4 In the seeking of support and advice regarding the Acts with a trade union, barrister, or solicitor.
- 11.3 In order to receive the same protections under the Acts when disclosing to a third party, the reporting person must reasonably believe that the information disclosed in the report, and any allegation contained in it, is substantially true, and that at least one of the following conditions is met:
  - 11.3.1 The worker had previously made a disclosure to their place of employment, a prescribed person, the Protected Disclosures Commissioner, or to a relevant Minister, with no appropriate action taken in response to the disclosure;
  - 11.3.2 The worker reasonably believes that the relevant wrongdoing could be for imminent or manifest danger to the public interest; or

- 11.3.3 The worker reasonably believes that reporting to the other persons listed such as a prescribed person or the Protected Disclosures Commissioner would not result in an effective response, due to evidence being concealed or destroyed, or where a prescribed person may be in collusion with the perpetrator of wrongdoing.

## 12 Roles and Responsibilities

12.1 It is the **worker's** responsibility to-

- 12.1.1 Make any and all disclosures and in a manner set out by the Acts and this policy.

12.2 It is the **manager's** responsibility to-

- 12.2.1 Acknowledge and react to any and all protected disclosures made in a responsible and timely manner.

- 12.2.2 Ensure the confidentiality or anonymity of the reporting person where possible.

- 12.2.3 Ensure their staff are aware of their rights under the Acts and this policy.

- 12.2.4 Ensure that any protected disclosures have been included in relevant reporting.

12.3 It is the **Designated Person's** responsibility to –

- 12.3.1 Ensure that all disclosures are acknowledged and investigated thoroughly.

- 12.3.2 Ensure they are impartial, and if not, assign the role of designated person to an impartial person.

- 12.3.3 Ensure the confidentiality or anonymity of the reporting person where possible.

- 12.3.4 Ensure all Protected Disclosures are reported.

## 13 Compliance and Review

- 13.1 This Policy will be reviewed every 2 years, unless an earlier review is necessary following any related changes such as legislative amendments, updated regulatory requirements or good practice requirements.

- 13.2 Any amendments must be approved by the Finance, Audit and Governance Committee and the Board of Trustees.
- 13.3 Relevant training will be provided to staff and Board members to ensure understanding and compliance with the policy.

## **14 Related Documentation**

- 14.1 Protected Disclosures Act 2014
- 14.2 Protected Disclosures (Amendment) Act 2022
- 14.3 Workplace Relations Committee Code of Practice on Protected Disclosures Act 2014 (Declaration) Order 2015
- 14.4 PMVT Confidentiality Policy
- 14.5 PMVT Data Protection Policy
- 14.6 PMVT Grievance Policy