**Whistleblowing Policy and Procedure**

**General Comments -**

* This is a template/precedent document only. It should be tailored as appropriate to suit the needs of each individual firm.
* All sections should be considered and implemented as deemed appropriate for the firm. This cover page should not be included.
* The LQSI cannot accept any responsibility for any errors or omissions contained in this template document.
* The document should be reviewed on an annual basis, or as required.

**Specific Comments -**

* This policy was updated in February 2023 to take into account the [Protected Disclosures (Amendment) Bill 2022](https://www.gov.ie/en/press-release/affa6-minister-mcgrath-publishes-protected-disclosures-amendment-bill/) , which transposed the EU Whistleblowing Directive into Irish law.
* The new protections afforded by the Bill came into effect on the 1 January 2023.
* The requirement to have a whistleblowing policy in place applies to private entities with between 50-249 employees and such policy is required to be in place by 17 December 2023.
* Private entities with 250+ employees are required to have a whistleblowing policy in place by 1 January 2023.

**The Legal Quality Standard of Ireland**

**Reviewed February 2023**

**[FIRM NAME]**

**Whistleblowing Policy and Procedure**

1. **Background**

Whistleblowing means the reporting of suspected misconduct, wrongdoing, illegal acts or failure to act and it is often employees who are the first to realise that there is or may be something seriously wrong.

At [Name of Firm] whistleblowing is viewed as a positive act that can make a valuable contribution to our efficiency and long- term success. It is not disloyal to colleagues or to [Name of Firm] to speak up. We are committed to achieving the highest possible standards in everything we do.

The Protected Disclosures Act 2014 and updated Protected Disclosures (Amendment) Act 2022 aim to protect people who raise concerns about possible wrongdoing in the workplace and provide for redress for employees who are dismissed or otherwise penalised for having reported possible wrongdoing in the workplace.

1. **Scope**

In accordance with the Protected Disclosures (Amendment) Act 2022, this policy applies to:-

* Employees or former employees
* Trainees
* People working under contract for services
* Independent contractors
* Agency workers
* People on work experience
* Unpaid trainees
* Board members
* Shareholders
* Volunteers
* Job applicants
* You will also be protected under the Acts if you make any anonymous disclosure but your identity becomes known and you are penalised for having made a protected disclosure

**3.0 Aims and Objectives**

[Name of Firm] is committed to having effective whistleblowing arrangements in place in order to support, encourage and protect individuals (as defined at section 2.0 above) who have genuine cause for raising concerns.

[Name of Firm] will take all reports of improper activity seriously and will investigate all concerns raised fairly and consistently.

[Name of Firm] will protect the person raising the concerns against victimisation, harassment and / or recrimination and recognises they may wish to raise concerns on a confidential basis.

The overarching objective of the Whistleblowing policy is to outline a framework which encourages potential whistleblowers to communicate their concerns within a safe environment without fear of recrimination. Specifically, it aims to:

* encourage employees to feel confident in raising serious concerns at the earliest opportunity
* ensure employees receive a response to those concerns and that they are aware of how to pursue them if they are not satisfied
* reassure employees that they will be protected from possible reprisals or victimisation, if they have a reasonable belief that they have made any disclosures in good faith

1. **What should be reported**

Disclosures may be made under the whistleblowing policy relating to the following concerns:

* Commission of criminal offences
* Failure to comply with legal obligations
* Breaches of certain European Union Law
* Endangering the health and safety of individuals
* Damaging the environment
* Miscarriage of justice, misuse of public funds
* Oppressive, discriminatory, grossly negligent or grossly mismanaged acts or omissions by a public body
* Concealment or destruction of information about any of the above wrongdoing
* Neglect or abuse of clients or
* Any other unethical conduct or malpractice

Wrongdoing can take place in or outside Ireland.

Even if the information is proved to be incorrect, you are still protected, provided you had reasonable belief in the information.

The following are generally not considered wrongdoings:

* Workplace grievances which are exclusively personal
* Disputes with your employer about your contract
* Information that is disclosed in a legally privileged setting
* If it is your job to detect, investigate or prosecute any wrongdoing and if the wrongdoing reported relates to a person other than the employer. For example, a member of An Garda Síochána who reports wrongdoing by a person outside of An Garda Síochána will not be covered by this Act.

[You should be aware that the above lists are non- exhaustive and other examples may exist.]

1. **Employers Commitment, Safeguards and Support**

[Name of Firm] is committed to good practice and high standards and to being supportive of you as an employee. [We offer comprehensive whistleblowing training to all employees.]

[Name of Firm] recognises that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer, your colleagues and those for whom you are providing a service/training.

[Name of Firm] will not tolerate any harassment or victimisation of a whistleblower and will take appropriate action to protect you when you raise a concern in good faith and will treat this as a serious disciplinary offence which will be dealt with under the disciplinary rules and procedures.

Throughout this process you will be given full support from Senior Management, your concerns will be taken seriously; and [Name of Firm] will do all it can to help you through any investigation.

1. **Confidentiality**

Where requested, [Name of Firm] will use its best endeavours to treat in confidence all concerns raised and will do its utmost not to reveal your identity without your agreement. However, [Name of Firm] cannot guarantee that any investigation process will not reveal the source of the information, particularly in matters of criminal or civil law. If it is necessary to disclose your identify, [Name of Firm] will make every effort to discuss this with you first, including arrangements that can be put in place to support you.

**7.0 Anonymous Disclosures**

This policy encourages you to put your name to your allegation whenever possible. In some instances, we recognise that individuals may have genuine concerns about their safety, security or well-being which may prevent them from revealing their identity. Under such circumstances, this policy allows for anonymous disclosures and these are always preferable to remaining silent.

If you choose to remain anonymous it will be more difficult for us to protect your position or give you feedback and anonymity may limit the actions that the firm can take, (e.g. we would be unable to contact you for any follow-up information).

**8.0 False Disclosures**

If you make a disclosure in good faith and honestly and reasonably believe it to be true, but it is not confirmed by an investigation, [Name of Firm] will recognise your concern and you have nothing to fear. If, however, you make an allegation frivolously, maliciously or for personal gain appropriate action (that could include disciplinary action) may be taken against you.

**WHISTLEBLOWING PROCEDURE**

1. **How to report a concern**

You can report a concern in different ways – to [NAME OF FIRM] as your employer, to a prescribed person, to an external person or to the office of the Protected Disclosures Commissioner.

**9.1 Disclosure to your Employer**

The simplest form of disclosure is to the firm as your employer. In this case all that is required is a reasonable belief that the information disclosed shows or tends to show that the wrongdoing is occurring. You may make your disclosure in writing, orally or both. The earlier you express your concern, the easier it is to take action.

You will need to provide the following information:

* The nature of your concern and why you believe it to be true
* The background and history of the concern (with relevant dates)
* And, any evidence you may have.

Depending on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, you are encouraged in the first instance to raise concerns with:

[ Your Managing Partner

 Your department head

 Your HR Manager]

The firm has also nominated [firm to insert name of external third party authorised and competent to deal with disclosures impartially while ensuring the confidentiality of the identity of the whistleblower] to handle your disclosure.

**9.2 What [Name of Firm] will do**

[Name of Firm] will respond to your concerns as quickly as possible. In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

The investigation may need to be carried out under terms of strict confidentiality (i.e. not informing the subject of the complaint until or if it becomes necessary to do so.) In certain cases however, such as allegations of ill treatment of others, suspension from work may have to be considered immediately. Protection of others is paramount in all cases.

Within 7 working days of a concern being raised, the person investigating your disclosure will write to you:

* Acknowledging that the report has been received
* Indicating how the firm proposes to follow up on the report
* Explaining what advice and support is available to you; and
* Telling you whether further investigations will take place and, if not, why not

Within 3 months of the receipt of the report, the firm will give you feedback on actions taken or planned

* 1. **Disclosure to a prescribed person**

You may choose to report to one of the prescribed persons listed in Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) Order 2020.

In general, prescribed persons have regulatory functions in the area which are the subject of the allegations.

Examples: The Health and Safety Authority, the Data Protection Commission, the WRC.

You can get a full list of prescribed persons by sector on <https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/> This list will help you find the right person or body to report to.

A disclosure you make to a prescribed person is a protected disclosure if:

* You reasonably believe that the relevant wrongdoing is within the remit of the prescribed person and
* The information you disclose and any allegation in it are substantially true (this is a higher standard than is required for disclosure to your employer)
  1. **Disclosure to an external person**

A disclosure made to a solicitor, barrister or trade union official in the course of getting legal advice is also a protected disclosure.

A disclosure made to another external person, for example, a journalist, may be a protected disclosure if it meets these conditions:

* You must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true

And one of the below applies:

* You previously made a report to another person specified above but no appropriate action was taken in response to it
* You reasonably believe that there is an imminent or manifest danger to the public interest
* There is a risk of penalisation if the report was made through other channels
* There is a risk of the report being effectively addressed if the report was made through other channels such as where you reasonably believe that key evidence will be concealed or destroyed.
  1. **Disclosure to the Office of the Protected Disclosures Commissioner**

You can make a protected disclosure to the new Office of the Protected Disclosures Commissioner. This office was set up under the 2022 Act and will be part of the Office of the Ombudsman.

The Office of the Protected Disclosures Commissioner will identify a prescribed person or another suitable person competent to take appropriate action to follow up on your disclosure.

Where no other suitable person with the required competence can be identified by the Office of the Protected Disclosures Commissioner, the Commissioner will follow up directly on the report.

For further information in relation to disclosures made to prescribed persons, external persons or to the Office of the Protected Disclosures Commissioner, see <https://www.citizensinformation.ie/en/employment/enforcement_and_redress/protection_for_whistleblowers.html>

**10. Details of Helpline**

If you need help making a protected disclosure or reporting a wrongdoing you can get free support from Transparency International Ireland. You can access this via the Speak Up helpline on 1800 844 866. See also the link <https://www.transparency.ie/helpline>

**11.** **Your legal rights**

This Policy has been written to take account of the Protected Disclosures Act 2014 and the Protected Disclosures (Amendment) Act 2022 which protects employees making disclosures. The Act makes it unlawful for [Name of Firm] to dismiss anyone or allow them to be victimised as a result of making an appropriate lawful disclosure in accordance with the Acts.

**Signed:**

**Dated:**

**Date of next review**