## POLICY COVER SHEET

This policy does not form part of the employment contract and Dyslexia Ireland reserves the right to review, amend or replace this policy. Dyslexia Ireland may also vary the procedure set out in this policy, as appropriate in any case and in line with legal requirements.

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# 1. Introduction and Policy Statement

## 1.1. Introduction

The Protected Disclosure Acts 2014 to 2022 (the "Acts") underpin this policy, and provide a framework where staff can raise concerns regarding potential wrongdoing that has come to their attention while working in Dyslexia Ireland, in the knowledge that they can avail of significant employment protections.

The purpose of this document is to set out Dyslexia Ireland's policy and procedures on Protected Disclosures in the workplace under the Acts. The vast majority of concerns that staff might experience in their day to day working environment can and should be addressed through normal workplace reporting – for example through Dyslexia Ireland's Grievance Procedure or Anti-Bullying and Harassment Policy. This particular policy refers to specific wrongdoings as identified within the legislation (as set out below). Where such concerns are not reported, the alleged wrongdoing may continue, to the detriment of Dyslexia Ireland.

The Acts require employers to establish and maintain procedures for the making of protected disclosures and procedures for dealing with such disclosures. They also require that employers provide written information relating to the procedures established. This policy is provided in line with these requirements and takes into account the provisions of the Acts.

## 1.2. Policy Statement

Dyslexia Ireland's Protected Disclosure Policy is intended to encourage and enable workers to raise serious wrongdoing within our workplace rather than overlooking a problem or reporting externally. Workers should never turn a blind eye to something which they know to be illegal, unethical or wrong at work and should report any suspected wrongdoing as soon as possible. Under this policy a worker is entitled to report serious wrongdoings or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

This policy does not replace any legal reporting or disclosure requirements. Where statutory reporting requirements and procedures exist these must be complied with fully.

# 2. Differentiating between Protected Disclosures and Personal Complaints

## 2.1. What is a "Protected Disclosure"?

A Protected Disclosure is defined in the Acts, as a disclosure of relevant information related to wrongdoing made by a worker in the manner specified under the Acts. For the purposes of the Acts, information is "relevant" if:

- In the reasonable belief of the worker it tends to show one or more 'relevant wrongdoings' and
- It came to the attention of the worker in  a work-related context.

### 2.2. Personal Complaint vs. Protected Disclosures

These procedures are not intended to act as a substitute for normal day to day operational reporting or other internal employment procedures. A Protected Disclosure involves the disclosure of information which, in the reasonable belief of the worker making the disclosure, shows that one or more of the following relevant wrongdoings has been committed or is likely to be committed:

- Unlawful or improper use of public funds or resources
- Failure 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
- Endangerment of the health or safety of any individual
- Damage to the environment
- The commission of an offence
- Miscarriage of justice
- Breach of EU law, as defined in the EU Whistleblowing Directive. This includes but it is not limited to breaches of EU law in the areas of public procurement, financial services, environmental protection, public health, products and markets, product safety and compliance, consumer protection, prevention of money laundering and terrorist financing, protection of privacy and personal data, and security of network and information systems
- Gross negligence or gross mismanagement by public bodies
- The concealment or destruction (or attempted concealment or destruction) of any of information in relation the above

A full definition of wrongdoing can be found in Section 5(3) of the Acts at https://revisedacts.lawreform.ie/eli/2014/act/14/revised/en/html#SEC5.

All workers are encouraged to raise genuine concerns about possible wrongdoing at the earliest opportunity, and in an appropriate way.  It should be noted that it is immaterial 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.

If a worker makes a disclosure and feels they have been penalised as a result of making a disclosure, then that complaint will be dealt with in accordance with Section 14 of this policy.

A matter is not regarded as a relevant wrongdoing if:

- it is a matter 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 organisation; or

- it is a matter concerning an interpersonal conflict between a worker and another worker or relating to a worker's own personal circumstances, such as complaints regarding a worker's own contract of employment, duties, terms and conditions, or working practices. Such concerns are not protected disclosures and should be raised under the Grievance Procedure or the Dignity and Respect at Work Policy.

## 3. To Whom Does this Policy Apply?

This policy applies to all employees, contractors, consultants, agency workers, trainees, temporary workers, interns, volunteers, board members, applicants for employment and all other individuals working for Dyslexia Ireland ("workers").

## 4. Commitment and Responsibility

### 4.1. Commitment

Dyslexia Ireland is committed to maintaining the highest standards of honesty, openness and accountability and actively encourages those with knowledge of wrongdoing to come forward. In relation to Protected Disclosures, the Board of Dyslexia Ireland is committed to the following:

a) The disclosure of wrongdoing
b) A culture of openness and accountability within the organisation in order to ensure that workers feel confident and safe to raise concerns and disclose information
c) Facilitating or encouraging workers to make protected disclosures at the earliest possible opportunity in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that all reasonable steps will be taken to respect their confidentiality where possible
d) Providing workers with guidance as to how to make protected disclosures and setting out the procedure that should be followed when raising those concerns
e) Assisting, supporting and protecting workers who make protected disclosures
f) Protecting a worker's identity in a manner consistent with the requirements of the Acts and taking action where those requirements have been breached
g) Assessing any disclosure made, conducting an investigation when warranted, and addressing all findings that require attention in an effective and timely manner
h) Providing reassurance that workers will not be penalised for reporting relevant wrongdoings where they have a 'reasonable belief' as to the grounds of their concern
i) Taking appropriate action against workers who make disclosures without 'reasonable belief' in the truth of the disclosure.

### 4.2. Responsibility

Overall responsibility for these procedures' rests with the Board of Directors of Dyslexia Ireland. Day to day responsibility for these procedures is delegated to the CEO.

## 5. The Context

### 5.1 Values and behaviours of Dyslexia Ireland

Dyslexia Ireland has developed a set of values and behaviours that set out a firm commitment to service users, stakeholders and staff about how Dyslexia Ireland will act.

- **Courage and Trust**
  - Reliable, committed and accountable
  - Professional, ethical and responsible
  - Willing to stand up for our values.
- **Respect and Compassion**
  - Putting the individual at the heart of our services
  - Protecting the most vulnerable
  - Respectful and considerate towards all.
- **Empathy and Inclusion**
  - Fair, responsive and transparent
  - Promoting collaboration and connected thinking
  - Taking a long-term, whole-system view.

### 5.2 Standards of Integrity

In the performance of their duties workers must:

- **Maintain high standards in service delivered by:**
  - Discharging responsibilities conscientiously, honestly and impartially
  - Always acting within the law
  - Performing their duties with efficiency, diligence and courtesy.
- **Observe appropriate behaviours at work by:**
  - Dealing with all individuals sympathetically, fairly and promptly
  - Treating their colleagues with respect.

- **Maintain the highest standards of probity by:**
  - Conducting themselves with honesty, impartiality and integrity
  - Never seeking to use improper influence
  - Abiding by guidelines in respect of offers of gifts or hospitality
  - Avoiding conflicts of interests.
- **Support and be loyal to Dyslexia Ireland by:**
  - Supporting colleagues and Dyslexia Ireland in the performance of its functions
  - Promoting the goals and objectives of Dyslexia Ireland and not undermining any of them through action or omission
  - Seeking to resolve grievances and concerns through agreed channels (this includes the relevant HR policies)
  - Ensuring any actions taken maintain public confidence in Dyslexia Ireland and its good name.

## 6. Key Principles Underlying the Policy

Dyslexia Ireland is committed to addressing concerns and supporting workers in speaking-up relating to potential wrongdoing in the workplace and to providing the necessary support for workers who raise genuine concerns. A worker who makes a protected disclosure is protected from penalisation (or threatened penalisation), which includes but is not limited to suspension, lay-off or dismissal, demotion, and unfair treatment.

Any worker who has a reasonable belief that the information contained in his or her disclosure shows or tends to show a relevant wrongdoing (see section 2.2 for a list of the types of wrongdoing that are covered by the legislation) will be protected against penalisation even if the worker's concern is ultimately misguided or mistaken. The motivation of the worker for making a disclosure is irrelevant. Disclosures will be dealt with regardless of the worker's motivation for making the disclosure so long as the worker reasonably believes that the information disclosed tends to show a relevant wrongdoing.

However, a disclosure made in the absence of a reasonable belief of wrongdoing will not attract the protection of the Acts and this may result in disciplinary action against the discloser. In addition, 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.

Where a protected disclosure is made, the following principles will apply:

- The concern will be treated seriously and investigated

- In accordance with Section 16 of the Acts, where an investigation takes place, appropriate steps will be taken to safeguard the identity of the person raising the concern (see Section 15 of this document)
- Where appropriate, the person raising the concern will be advised on how the issue has been addressed, including the outcome of any investigation
- The person raising the concern should not be disadvantaged in any way for having made the disclosure, even if no wrongdoing is identified, providing the concern was based on a reasonable belief.

Dyslexia Ireland will take all reasonable steps to treat disclosures made in accordance with this Policy in a confidential and sensitive manner. Dyslexia Ireland will not disclose the worker's identity without their consent; unless it is required by law or necessary for the effective investigation (e.g. a disciplinary investigation of a staff member may require the discloser's name to be revealed to afford due process) of the relevant wrongdoing (see Section 15 below for further details on "Confidentiality/Protection of Identity") and, if this happens, Dyslexia Ireland will make every effort to inform the worker that their identity may be disclosed , subject to the limitations set out in Section 15.

If a worker believes that they have been penalised for the making of a disclosure of wrongdoing in accordance with this Policy, they should inform the CEO (see Section 15 below for further details on "Penalisation").

## 7. What Type of Disclosure is Not Covered?

The Policy does not cover personal complaints or personal grievances. Nor does it cover a disclosure where the worker knowingly conveys false, misleading or frivolous information as these disclosures do not fall within the Acts. If it transpires that a worker makes a disclosure, which they know to be false or do not believe to be true, Dyslexia Ireland reserves the right to take disciplinary or other appropriate action.

## 8. To Whom Do You Make a Disclosure?

A worker must make a disclosure in the manner set down in the Acts to gain the protections of the Acts. A disclosure can be made in two ways:

1. Within Dyslexia Ireland
2. Outside of Dyslexia Ireland

### 8.1. Disclosure within Dyslexia Ireland

Workers wishing to discuss a potential protected disclosure should contact the Protected Disclosures Recipient (PDR) who is usually the CEO. The CEO may delegate this function to

an authorised senior member of staff where appropriate; this will be advised to the person making the disclosure.

Disclosures relating to the Senior Executive of Dyslexia Ireland should be made to the CEO at ceo@dyslexia.ie.

Disclosures relating to the CEO should be made to the Chairperson of the Board of Directors by email at board@dyslexia.ie.

Alternatively, all of the above can be written to at Dyslexia Ireland's registered national offices in Dublin.

Workers are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so. All workers should do is disclose what they consider to be an alleged wrongdoing based on a reasonable belief that it has, is or will occur.

The term 'reasonable belief' does not mean that the belief has to be correct. A worker is entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds.

No worker will be penalised simply for getting it wrong, so long as the worker had a reasonable belief that the information disclosed showed, or tended to show, a relevant wrongdoing.

### 8.2. Disclosure outside Dyslexia Ireland

The Acts allow a worker to make a disclosure to persons other than their employer in certain circumstances. Workers are encouraged to raise concerns within the workplace rather than outside the organisation. The aim of this policy is to provide workers with an internal channel to raise concerns within the organisation. Dyslexia Ireland is confident that issues can be dealt with internally and that there should not be a need to alert anyone externally.

Dyslexia Ireland acknowledges that there may be circumstances where a worker wants to make a disclosure externally, and the law provides for a number of avenues in this regard. However, in most cases a worker is required to raise their concern internally within the organisation in the first instance. It will rarely, if ever, be appropriate to alert the media. Where a worker decides to make an external disclosure, it is important that it is limited to information relevant to the wrongdoing and should not unnecessarily disclose confidential information of Dyslexia Ireland or its service users unrelated to the alleged wrongdoing.

Different requirements need to be met in different cases, as set out below:

(a) Another responsible person

Where a worker reasonably believes that the alleged wrongdoing relates to the conduct of a person other than their employer, or to something for which another person has legal responsibility, then the worker can make the disclosure to that other person.

(b) A "Prescribed person" or the Protected Disclosures Commissioner

Certain persons are prescribed by the Minister for Public Expenditure and Reform (currently by way of Statutory Instrument No. 367 of 2020 (as amended)) to be the recipient of disclosures ("prescribed persons"). A worker may make a disclosure to a prescribed person if the worker reasonably believes that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed. However, the Acts also provides an additional requirement in this case. The worker must believe that the information disclosed, and any allegation contained in it, are substantially true.

A list of prescribed persons can be found here:

https://www.gov.ie/en/department-of-public-expenditure-infrastructure-public-service-reform-and-digitalisation/collections/protected-disclosures-whistleblowing-list-of-prescribed-persons/

For information, certain Officers of Agencies are amongst those listed as prescribed persons, and they include (among many):

- CEO of the Adoption Authority of Ireland
- The Comptroller and Auditor General
- The Chairperson of the Data Protection Commission
- Director General of the Environmental Protection Agency
- Chief Executive of the Health and Safety Authority
- Members of the Garda Siochana Ombudsman Commission
- CEO of the Health and Social Care Professional Council (CORU)
- CEO of Health Information and Quality Authority (HIQA)
- Chief Executive of each local authority in Ireland.

Workers can also report to the Protected Disclosures Commissioner (disclosures@opdc.ie) who will refer the report usually to a suitable prescribed person, for acknowledgement, follow-up and feedback.

(c) Relevant institutions, bodies, offices or agencies of the European Union

A worker can make a disclosure to a relevant institution, body, office or agency of the European Union, where they have reasonable grounds to believe that there has been a breach of EU law, the information reported was true at the time of reporting and that such information fell within the scope of the EU Whistleblowing Directive.

(d) A Minister of the Government

If a worker is or was employed in a public body, they may make a disclosure to the Minister on whom any function related to the public body is conferred or imposed by or under any enactment.

(e) A legal adviser

The Acts allow a disclosure to be made by a worker in the course of obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body (an excepted body is a body which negotiates pay and conditions with an employer but is not a trade union as defined in Section 6 of the Trade Union Act, 1941).

(f) Alternative external disclosures (in very limited circumstances)

It is preferable in most circumstances to disclose to the employer and, if that is not appropriate, to one of the disclosure options at (a) to (e) above. It will rarely be appropriate to make alternative external disclosures where the disclosure could be dealt with through one of the other disclosure options above, as there are stringent requirements for alternative external disclosures to qualify as protected disclosures under the Acts.

The protections will only be available if the following conditions are met:

- The worker must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- At least one of the following conditions must be met:

  (i) The worker reasonably believed that they would be penalised if they made the disclosure to the employer, a responsible person, a prescribed person or a Minister; or

  (ii) The worker reasonably believed that there was a low prospect of the relevant wrongdoing being effectively addressed due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where a prescribed person may be involved in the wrongdoing or colluding with the perpetrator; or

  (iii) The worker has previously made a disclosure of substantially the same information to the employer, a responsible person, a prescribed person or a Minister; or

  (iv) The wrongdoing is of an exceptionally serious nature and may constitute an imminent or manifest danger to the public interest.

## 9. How to Make a Disclosure

Dyslexia Ireland recommends that the disclosure be submitted on the template at Appendix A and should include the following at a minimum:

- Date submitted
- Subject
- Detail of wrongdoing

- Detail of whether the wrongdoing was previously raised and to whom
- Confidential contact details of the discloser (as appropriate).

The detail of the disclosure should be sufficient to enable a person without prior knowledge to understand the issue.

Disclosures should be submitted to the appropriate person as outlined in section 8.

The disclosure should be identified as a disclosure arising under this policy and the Acts.

The earlier a concern is raised the easier it will be for us to deal with the matter quickly.

## 10. Anonymous Disclosures

There is a distinction between an anonymous disclosure (where identity is withheld by the discloser) and confidential disclosures (where identity is protected by the recipient).

Anonymous disclosures made by workers are not excluded from the protection of the Acts but an employer can decide whether or not to accept or follow up on anonymous disclosures. Reports or concerns expressed anonymously will be acted upon to the extent that this is possible given the constraints in obtaining further information on the alleged wrongdoing when it is received anonymously. On a practical level it may be difficult to investigate such a concern.

Dyslexia Ireland, therefore, encourages workers to identify themselves in making a report, with the assurance of confidentiality to the extent possible as set out in this policy, to facilitate a full investigation, where it is deemed such an investigation is warranted. Workers should note, however, that important elements of these Procedures (e.g. keeping the discloser informed and protecting a discloser from penalisation) may be difficult or impossible to apply unless the worker is prepared to identify themselves.

## 11. Protected Disclosure Process

### 11.1. Receipt of Disclosure

In all instances, where a report has been made under this policy, a record will be made of its receipt and a file opened.

Throughout the Protected Disclosure process all reasonable steps in keeping with section 15 of this policy, will be taken to avoid disclosing to another person any information that might identify the person who made the disclosure or any third party mentioned in the disclosure.

### 11.2. Preliminary Evaluation

On receipt of a Protected Disclosure report, the disclosure will be acknowledged within seven days of receipt and a preliminary evaluation will be conducted by the appropriate person, to determine whether the matter meets the requirements of the legislation. The

preliminary evaluation process involves an assessment to determine whether the matter should be treated as a protected disclosure. This may involve meeting with the discloser on a strictly confidential basis.

It might be necessary, as part of the preliminary evaluation process, to differentiate between protected disclosures and personal complaints/grievances. In some instances, information provided may involve a personal complaint/grievance and protected disclosure matters. In such circumstances, it may be necessary to separate the different elements of the complaint and disclosure, and determine whether any specific disclosure of information relating to a relevant wrongdoing has taken place.

Where matters raised involve Directors of the Board, the CEO of Dyslexia Ireland will determine the appropriate preliminary investigation. Where matters raised involve the CEO of Dyslexia Ireland, the Chair will determine the appropriate preliminary investigation.

Where the matter is found not to meet the criteria of legislation, the Protected Disclosures Recipient (PDR), or the CEO or the Chair will inform the discloser of the reasons why. The PDR or Chair may advise an alternative route if appropriate.

In cases where the preliminary evaluation identifies the matter as meeting the criteria a full investigation will usually be carried out.

It is important to note that some matters may be of such seriousness, that the investigation will be more appropriately carried out externally or by professional experts in a particular area. In such instances the matter may be the subject of a full investigation and/or be referred to an outside body, including An Garda Síochána. If urgent action is required (for example to remove a health and safety hazard), this action will be taken.

### 11.3. Investigation

If the preliminary evaluation establishes that the matter meets the criteria of a Protected Disclosure, an investigation will be initiated. Financial matters will be investigated by the external Auditor. Non-financial matters which involve Directors may be independently investigated and overseen by the CEO or the CEO's nominee. Non-financial matters which involve the CEO may be independently investigated and overseen by the Chair or the Chair's nominee. In all other instances the investigation will be overseen by the PDR. Where investigations are carried out by persons other than the PDR, the worker reporting the concern will be notified of the name of the investigating person. In all investigations, the worker may be asked to provide additional assistance if required.

In order to ensure that the principles of fair procedure and natural justice are complied with during the investigative process, the CEO or an independent HR representative may be advised in writing of any disclosures. The PDR will not disclose the identity of the person who has made the disclosure unless required to do so under Section 15.

Investigations will include interviews with all appropriate individuals. Statements from all parties will be recorded in writing and a copy given to the person making the statement.

Interviewees will be advised that they are entitled to be accompanied by a work colleague, should they so wish.

Communication will be maintained with the worker who has made the disclosure, who will be provided with regular feedback (at least once every three months, where appropriate) for purposes of reassurance that the investigation is being progressed. It may be necessary to seek further information from the discloser. In line with due process and fair procedure, Dyslexia Ireland may need to limit the information provided to the discloser, including where it would breach the legal rights of any person who is subject to the investigation.

All investigations will be carried out confidentially and third parties will not be notified about the investigation unless necessary in the interests of the investigation (see further below).

At the conclusion of the process the worker who has made the disclosure will be informed of the general outcome of the investigation. Dyslexia Ireland will take appropriate action to address any wrongdoing that is found to have taken place. Anyone responsible for any wrongdoing may be subject to the Disciplinary Procedure.

The protections of the legislation remain in place even if the findings of the investigation conclude there is no wrongdoing. Therefore, the PDR will maintain written records of actions and decisions taken. This information will be held safely and securely by the PDR and the CEO in accordance with the confidentiality obligations and GDPR and Data Protection legislation.

## 12. Data Protection/GDPR

Whenever a protected disclosure is made the PDR must consider the rights of any person named in the report in keeping with GDPR and data protection legislation.

## 13. Protection of the Rights of the Respondent

Where an allegation is made against an individual (the respondent), the principles of natural justice and fair procedures will be adhered to.

The respondent will be included in the investigation process and made aware of the details of any allegation against them in so far as is possible having regard to the requirements of confidentiality contained in the Act and will be given the opportunity, as part of a full investigation, to put forward their case in response to the allegation(s).

## 14. Penalisation (Including Dismissal and Detriment)

The Acts provide specific remedies for workers who are penalised for making a disclosure. Penalisation means any act or omission that affects a worker to the worker's detriment and includes but is not limited to suspension, lay-off, dismissal, demotion, loss of opportunity for promotion, transfer of duties, change of location of place of work, reduction in wages, change in working hours, the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty), unfair treatment, coercion, intimidation, harassment, discrimination, disadvantage, injury, damage, loss or threat of reprisal. Penalisation is prohibited and anyone who penalises or threatens a worker for raising a concern under this policy may be subject to disciplinary action, up to and including dismissal.

Workers who feel they have been subjected to penalisation should refer their concern as a grievance to the CEO (or the Chairperson of the Board of Directors where the penalisation is by the CEO) and the concern will be assessed and investigated and appropriate action taken, where necessary.

### 14.1. Right to Make a Complaint to the Workplace Relations Commission

Workers who believe that they may have been penalised (defined in Section 3 of the Acts) may make a complaint to the Workforce Relations Commission. Workers are encouraged to raise any complaint internally in the first instance.

## 15. Confidentiality and Protection of Identity

Dyslexia Ireland will take all reasonable steps to treat disclosures made in accordance with this Policy in a confidential and sensitive manner. Dyslexia Ireland will not disclose information that might identify the worker who made the disclosure without their consent unless it is required by law or necessary for the effective investigation of the relevant wrongdoing. In order to protect the discloser, the PDR will advise the discloser of the need for their discretion regarding the matter.

A PDR must not disclose to another person any information that might identify the discloser, except where:

(i) The disclosure recipient shows that they took all reasonable steps to avoid so disclosing any such information

(ii) The disclosure recipient reasonably believes that the discloser does not object to the disclosure of any such information

(iii) The disclosure recipient reasonably believes that disclosing any such information is necessary for:

(a) The effective investigation of the relevant wrongdoing concerned,

(b) The prevention of serious risk to the security of the State, public health, public safety or the environment, or

(c) The prevention of crime or prosecution of a criminal offence,

or

(iv) The disclosure is otherwise necessary in the public interest or is required by law.

Where it is necessary to disclose the identity of the discloser, the PDR should contact the discloser and, where possible, gain the consent of the discloser, prior to any action being taken that could identify them. Where it is decided that it is necessary to disclose information that may or will disclose the identity of the discloser, the discloser should be informed of this decision unless such notification would jeopardise the internal investigation, or any judicial proceedings. The discloser may request a review of the decision to disclose their identity and a review should be carried out, where practicable before any such disclosure of information is made. All reasonable steps will be taken to protect the identity of the discloser, except as set out above. Workers who are concerned that their identity is not being protected should notify the person investigating their disclosure. Such notifications will be assessed and or investigated and appropriate action taken where necessary.

It is also important that there should be an awareness of respecting sensitive organisation information (including sensitive information of service users), which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process. Workers should treat any information about the investigation or disclosed during the investigation as confidential. This obligation of confidentiality applies equally to any colleague who may act as a witness or companion in the investigation.

## 16. Review of decisions

In the event that the discloser is not satisfied with

(a) the decision made to disclose the identity of the discloser

(b) the outcome of any preliminary evaluation investigation undertaken in respect of the disclosure

(c) the outcome of any preliminary evaluation investigation in respect of any complaint of penalisation

the discloser can submit a request for review to the Chair who will oversee an independent evaluation of the matter. This decision will represent a final internal decision on the matter. In instances relating to the CEO, the Chair will usually nominate an independent reviewer.

## 17. Records

Written records, including timelines, in relation to any preliminary evaluation and or investigation undertaken will be maintained, in keeping with Dyslexia Ireland's GDPR and data protection obligations.

Records of concerns raised, including the outcome, will be maintained by the PDR, after the closure of the case and in keeping with Dyslexia Ireland's records retention policy and data protection legislation. These records will be maintained in a confidential and secure environment.

A summary report on all protected disclosures will be included in Dyslexia Ireland's Annual Report. No individual will be identified in this report. If the person making the disclosure does not consent to the use of part of their disclosure being used for this purpose, they need to notify the PDR of their refusal.

The PDR will supply the Board of Dyslexia Ireland with a summary report on the status and outcomes on all Protected Disclosure reports annually. This summary should not breach the confidentiality obligations set out in this policy.

## 18. Further information and review of guidance

Dyslexia Ireland is committed to communicating this policy throughout the organisation and training will be provided to staff with specific responsibilities under the policy as necessary.

The Policy will be reviewed at a minimum of two-year intervals or when required by the Board of Dyslexia Ireland. This policy does not form part of the employment contract and Dyslexia Ireland reserves the right to review, amend or replace this policy. Dyslexia Ireland may also vary the procedure set out in this policy, as appropriate in any case and in line with legal requirements.

The Protected Disclosures Act 2014 can be downloaded at:

Protected Disclosures Act 2014 (consolidated version)

The Protected Disclosures (Amendment) Act 2022 can be downloaded at:

pdf (irishstatutebook.ie)

## Appendix A – Protected Disclosures Reporting Form

Dyslexia Ireland welcomes the reporting of disclosures under the Protected Disclosure Policy.

The Protected Disclosure Policy is part of the Dyslexia Ireland approach to good governance as it seeks to deter, prevent and detect relevant wrongdoings as set out in the Policy.

Before completing this form, you should:

a) Consider whether the Protected Disclosures Policy is the appropriate policy under which to report your concern (matters of personal interest may be more appropriately reported under grievance or other policies)

b) Ensure that the report is being made in relation to a matter that you have a reasonable belief shows a relevant wrongdoing.

Reports should be submitted to an appropriate person as outlined in Dyslexia Ireland's Protected Disclosures Policy.

| | | |
|---|---|---|
| **Name of Worker reporting the concern:** (Anonymous reports will be considered but are not encouraged – see Policy for further information) | | |
| | | |
| **Confidential contact number:** | | |
| | | |
| **Email Address:** | | |
| | | |
| **Details of alleged wrongdoing including dates, if applicable:** (Care should be taken to only include the name(s) of individual(s) directly relevant to the report) | | |
| | | |
| **Has the alleged wrongdoing been reported previously?** (if so please specify when and to whom) | | |
| | | |
| **Date:** | | |
| | | |
| **Signature:** | | |

# Appendix B – Guidance for the Protected Disclosures

## Recipient

This Appendix provides guidance for Dyslexia Ireland staff members who are responsible for investigating alleged serious wrongdoing under the Protected Disclosures Acts 2014 to 2022 (the "Acts"). The Acts provide protection for workers from penalisation for having made a disclosure in accordance with its provisions. Dyslexia Ireland's Policy on Protected Disclosures in the Workplace reflects the provisions and intent of the legislation.

## Preliminary Evaluation

The Protected Disclosure Recipient (PDR) should acknowledge receipt of the disclosure within 7 days of receipt.

Dyslexia Ireland's Policy makes a distinction between a preliminary evaluation and an investigation. The PDR's preliminary evaluation will consist of two separate elements – an assessment as to whether the matters reported to you fall within the scope of the Policy and an assessment as to whether the matters reported are sufficiently serious to merit an investigation.

The Policy mirrors the matters listed as wrongdoings in the Acts. They are broad and wide ranging in nature and are all considered to be serious matters. In many cases there is no requirement for an actual event to have occurred with just the possibility of occurrence being sufficient.

Part of the preliminary evaluation process may involve making discreet enquiries or may involve meeting with the discloser in order to obtain further information in order to carry out the preliminary evaluation. The PDR must be careful not to give the impression that an investigation is underway.

If the PDR concludes that an investigation is not necessary or that the matter should be considered under another company policy, the PDR must record this decision and the reasons why and communicate this to the discloser. The PDR should not make any findings in relation to whether or not wrongdoing did or did not occur (which should be considered as part of the investigation).

The PDR (and the investigator) should consider whether the matter needs to be referred externally to An Garda Síochana where the disclosure gives rise to serious concerns of a criminal nature.

## Role of the Investigator

The first task is to confirm with the initial recipient of the disclosure (if this is a different person) that they have advised the CEO. The confidentiality requirements in the Policy should be kept in mind in doing so. Following that, you must advise the same individuals that the matter has been passed to you for investigation. Consideration should be given to compiling terms of reference for the investigation.

Insofar as you may wish to consult with the person who may have passed the disclosure to you for investigation, it is important that you arrive at your own independent conclusions in relation to the matter under investigation. Notes of any discussions should be kept.

The manner in which you conduct your investigation is one for determination by you having regard to the particular circumstances of the case. This is, however, subject to two very important considerations:

- The issue of confidentiality - The Acts and Dyslexia Ireland's Policy recognise that it may not always be possible to completely protect the identity of the discloser. You do, however, have a responsibility to safeguard the identity of the discloser insofar as is practically and pragmatically possible. It is, therefore, important to ensure that you take all reasonable steps to maintain the confidentiality of the identity of the person who made the disclosure of wrongdoing in line with the Policy. Where this is not possible for the reasons set out in the Policy, the person should be informed unless this would jeopardise the investigation. It is also important to note that in accordance with the legislation a failure to comply with this requirement is actionable by the person by whom the disclosure was made if that person suffers any loss by reason of the failure to comply.
- Fair investigatory procedures – Dyslexia Ireland's Policy makes it clear that any investigation arising as a consequence of a disclosure will, as with all other internal investigations, be carried out in a manner which is fully consistent with existing investigatory procedures which embody the principles of fairness and natural justice. Remember that, in addition to your responsibility to the discloser, you also have a responsibility to ensure that any accused person's rights to fairness and natural justice are complied with, including the right to know the allegations against them and to respond to the allegations.
- Should you require any particular guidance in relation to fair procedures you should seek advice from the CEO.

Where it is necessary to interview individuals during the course of the investigation, they should be advised that they are entitled to be accompanied by a work colleague, should they wish. Notes of all interviews should be kept (and provided to the interviewees for comment) and may, depending on the circumstances, need to be shared with the discloser and the person accused of wrongdoing as part of the investigation.

### Keeping the discloser informed

Regular communication with the discloser is a vital element in the provision of assurance that the disclosure will be taken seriously.

You should take the time and trouble to explain your role in the process as set out in Dyslexia Ireland's Policy, and the nature of the investigation you will undertake. You should also make it clear that an underlying principle of the Guidance is that the discloser is not disadvantaged in any way for having made a disclosure based on a reasonable belief, even if no wrongdoing is identified. This would also be an appropriate time to discuss the limits on confidentiality as set out in the legislation.

While there is a clear necessity to draw attention to the consequences of making a disclosure not based on a reasonable belief, an over emphasis on this aspect could potentially discourage persons from making reports of wrongdoing. Such an outcome would be contrary to one of the main purposes of the Guidance which is to encourage workers to speak up about wrongdoing.

If your investigation is taking some time you should provide the discloser, in so far as is possible and appropriate, with regular updates of progress. The Acts require that feedback is provided to the discloser within a reasonable period being not more than three months of the date of acknowledgement of receipt of the disclosure. If the discloser requests in writing, further feedback must be provided at intervals of three months until the investigation is closed. You should ensure these timelines are complied with at a minimum.

## Upon completion of your investigation

Regardless as to the nature of the findings you are required under Dyslexia Ireland's Policy to advise the CEO of the outcome of your investigation. The confidentiality requirements in the Policy should be kept in mind in doing so. The discloser should also be informed that the investigation has concluded and, where appropriate, should be advised of the outcome. There may be circumstances where it is not appropriate to share the outcome with the discloser or where some aspects of the outcome should not be shared and guidance should be sought in such circumstances. Anyone accused of wrongdoing in the disclosure may also need to be informed of the outcome.

When you have arrived at a conclusion that the discloser was not fully aware of all the facts or was genuinely mistaken in their belief of the occurrence or likely occurrence of a relevant wrongdoing, it is especially important to explain the basis of your finding to the discloser. As a discloser has a right under the legislation to disclose the information elsewhere a failure on your part to adequately explain matters may lead to such an outcome, which it would be preferable to avoid.

In a case where you have arrived at a conclusion that the discloser did not make their disclosure based on a reasonable belief, you should advise the CEO, who will consider whether disciplinary proceedings ought to be initiated against the person concerned.

The making of a disclosure and subsequent investigation is a serious matter. You should carefully record all of the steps you have taken during the course of your discussions with the discloser and during the course of your investigation. A checklist has been prepared for your guidance which you should sign and maintain for your records. As there are no time limits set out in the legislation or Dyslexia Ireland's Policy, it is important that you maintain your records until such time as all matters connected with the disclosure have been disposed of to your satisfaction and in line with GDPR requirements and Dyslexia Ireland's records management policies.

Throughout the investigation, and following it, all conclusions, records should be filed and stored securely in keeping with GDPR and data protection legislation, and Dyslexia Ireland's data management policies.

## Investigation of a disclosure – checklist

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| 1. Has the investigator read and familiarised themselves with the content of Dyslexia Ireland's Protected Disclosure policy? | |
| 2. Has the investigator familiarised themselves with the procedures for conducting an investigation, taking account of the principles of natural justice? | |
| 3. Has particular note been taken of their responsibilities regarding the avoidance of the disclosure of information that might identify the person by whom the disclosure was made? | |
| 4. Has particular note been taken of their responsibilities regarding the avoidance of the disclosure of information that might identify any person who is mentioned in the disclosure? | |
| 5. Has the investigator discussed the disclosure with the PDR and confirmed that the PDR acknowledged receipt of the disclosure within 7 days of receipt? | |
| 6. Has the investigator met with the discloser to discuss the disclosure and advised them that their concerns will be taken seriously? | |
| 7. Has it been confirmed with the discloser that they have read the most up to date version of Dyslexia Ireland's policy on Protected Disclosures? | |
| 8. Has it been confirmed that the CEO (or an independent HR executive if appropriate): | |
| • Has had receipt of the disclosure,<br>• Is aware of the nature of the information contained therein,<br>• Is aware of the outcome of the preliminary evaluation and that the matter has been referred to investigator for investigation | |
| 9. Has the Discloser been advised: | |
| • Who is carrying out the investigation?<br>• That they will be kept updated of the progress of the investigation as appropriate? | |
| 10. Have the limits of confidentiality as set out in the Protected Disclosure legislation been explained to the Discloser? | |
| 11. Where it is decided that it is necessary to disclose information that may or will disclose the identity of the discloser, has the Discloser been informed of this decision? | |
| 12. Has feedback been provided to the Discloser within 3 months of the PDR's acknowledgement of the disclosure? | |
| 13. Has the Discloser been advised of the outcome of the investigation and the reasons for this decision explained as far as possible? | |
| 14. Has the Discloser been advised that they have the right to seek a review of any decisions made? | |
| 15. Has the CEO been advised of the outcome? | |
| 16. Where the investigation has concluded that in making a disclosure, the discloser did not have a reasonable belief in the wrongdoing, has the matter been referred to the CEO for consideration? | |