

# Transparency International Ireland Protected Disclosures Policy

## Purpose

The purpose of the policy is to outline the responsibilities under the Protected Disclosures Act 2014 and subsequent amendments and to demonstrate Transparency International Ireland's (TI Ireland) commitment to observing and maintaining the highest standards of honesty, openness and accountability in all of our practices. Our Protected Disclosures policy is intended to encourage and enable individuals such as Employees, Contractors and Volunteers to raise, rather than overlook, information related to potential wrongdoing, as outlined within this policy, within our workplace without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

All individuals are encouraged to be familiar with this policy and to feel confident to disclose any information related to potential wrongdoing internally, at the earliest possible stage.

## Scope

This policy is not appropriate for dealing with issues of harassment, sexual harassment, bullying or individual grievances which may relate to dissatisfaction with workplace relationships, the work environment or a term or condition of employment. Such matters should be addressed through the appropriate procedures as set out by TI Ireland in the Staff Handbook.

In general, where a Protected Disclosure is made during an investigation, disciplinary or other process, this should not affect these distinct processes, except where the investigation, disciplinary or other action represents, in essence, a form of penalisation for making a Protected Disclosure.

## Policy

TI Ireland is committed to encouraging its workforce to raise concerns about wrongdoing. This policy sets out TI Ireland's procedures for such concerns with the aim of complying with the Protected Disclosures Act 2014 (Act).

Further guidance on making a protected a disclosure can be found in TI Ireland's 'Speak Up Safely' Guide, which is available in hard copy in the office or online at [https://transparency.ie/sites/default/files/20.01\\_speak\\_up\\_safely.pdf](https://transparency.ie/sites/default/files/20.01_speak_up_safely.pdf). We strongly recommend that this policy is read in conjunction with the Guide.

Please also note the list of suggested recipients and responsible persons in paragraphs 11.3 to 11.5 of this policy.

### **1. What is a protected disclosure?**

- 1.1 The Act protects workers (as listed in paragraph 5.1) who make certain types of reports about wrongdoing. These reports are known as 'protected disclosures'.

### **2. Purpose of this policy**

- 2.1 This policy sets out the process by which a worker can make a protected disclosure.
- 2.2 It also explains what will happen when a protected disclosure is made and what TI Ireland will do to protect a worker who makes such a disclosure.

### **3. Board/management commitment**

The Board and management of TI Ireland are committed to the following:

- (a) Facilitating the disclosure of wrongdoing;
- (b) Encouraging workers to make protected disclosures at the earliest possible opportunity;
- (c) Providing workers with guidance as to how to make protected disclosures;
- (d) Assisting, supporting and protecting workers who make protected disclosures;
- (e) Protecting a worker's identity in a manner consistent with the requirements of the Act and taking action where those requirements have been breached;
- (f) Assessing any disclosure made, conducting an investigation, as appropriate, and addressing all findings that require attention; and
- (g) Ensuring that workers are not penalised for making protected disclosures

### **4. Responsibility**

- 4.1 Overall responsibility for this policy rests with the Chief Executive of TI Ireland. Day-to-day responsibility is delegated to TI Ireland's Legal Counsel.
- 4.2 TI Ireland's Legal Counsel will notify workers of any amendments to the policy.

### **5. Who is covered by the policy?**

- 5.1 Broadly speaking, the Act covers:
  - (a) Employees;
  - (b) Contractors;
  - (c) Agency workers; and
  - (d) Those who are on work experience pursuant to a training course or being provided with training for employment (other than students on placement).

All of the above individuals are covered by this policy.

- 5.2 The Act does not explicitly cover other types of workers, including Volunteers.
- 5.3 TI Ireland recognises and appreciates the significant contribution Volunteers make to the organisation. It welcomes reports of wrongdoing from workers who are not covered by the Act and will not penalise such workers or allow other workers to penalise them. However, such workers should be aware that they may not have the wider benefits of being protected by the Act. For example, it may be possible for a third party to successfully sue them for defamation.

### **6. What type of concerns are covered by the policy?**

- 6.1 The Act covers information (known as 'relevant information') which:
  - (a) comes to the attention of the worker in connection with his or her employment; and
  - (b) which the worker reasonably believes tends to show 'relevant wrongdoing'.
- 6.2 Relevant wrongdoings for the purposes of the Act are:
  - (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; or
  - (h) 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.<sup>1</sup>
- 6.3 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.
- 6.4 TI Ireland welcomes reports of suspected violations of [TI Ireland's Code of Conduct and policies](#) (contained in the Staff Handbook or elsewhere: see <https://transparency.ie/about-us/governance>). It will not penalise workers who raise such concerns or cause or permit others to penalise them. However, where the suspected violation does not fall within one of the categories of 'relevant wrongdoing' (as set out above), such workers should raise their concern through the appropriate procedures as set out by TI Ireland, Transparency International or in the Staff Handbook. They should also be aware that they may not have the wider benefits of the legislation if they seek to make a protected disclosure about a violation that is not 'relevant wrongdoing'. For example, it may be possible for a third party to sue them for defamation.
- 6.5 Nothing in this policy affects TI Ireland's right and responsibility to assess, investigate or address any wrongdoing that may have been committed by a worker making a disclosure or a connected person. In such cases, the initial disclosure or report of penalisation will be assessed and investigated separately from any assessment or investigation into any wrongdoing allegedly committed by the same worker.
- 6.6 Likewise, nothing in this policy affects TI Ireland's right and responsibility to address any failure by the worker to meet their contractual or legal obligations to TI Ireland. However, this does not affect the worker's right to make a protected disclosure under the Act.
- 7. Reasonable belief**
- 7.1 As set out above, a worker must have a reasonable belief that the information they wish to disclose tends to show a relevant wrongdoing. 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.

---

<sup>1</sup> See section 5 of the Act for more detail.

- 7.2 It may be reasonable for a worker to believe that a wrongdoing is occurring on the basis of what they observe. A worker may not know all the facts of the case but may have reasonable grounds for believing that some form of wrongdoing is occurring.
- 7.3 It may subsequently turn out that the worker was mistaken. Workers are not required to investigate matters themselves to find proof of their belief and should avoid doing so unless absolutely necessary. It should be borne in mind that workers have no legal rights or responsibilities to gather evidence in support of a disclosure. Instead, they should raise their concerns with the relevant person as soon as possible so that an appropriate person can investigate and/or address the concern.
- 7.4 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, wrongdoing.

## **8. Motivation**

- 8.1 The motivation of the worker will be considered to be irrelevant for the purposes of assessing the disclosure or affording the worker any protections contained in the Act. It should be noted that if a case progresses to a formal investigation, the motivation of the worker may be examined to establish the veracity of the disclosure. This will not affect any protections the worker is entitled to under the Act.
- 8.2 TI Ireland will not penalise a worker for making a protected disclosure where they acquire, use or share information containing a 'trade secret' (e.g. information that is considered to have commercial value because it is secret), or require that they show they were motivated by the general public interest in doing so. It will be enough for the worker to show that they acquired, used or shared information containing a 'trade secret' for the purpose of making a protected disclosure to avail of the protections outlined in this policy. It should be noted that where a worker acquires, uses or shares information containing a 'trade secret', the worker may be at risk of legal action by third parties. For this reason, it is suggested that the worker obtain legal advice before acquiring, using or sharing any information that might be considered a trade secret.

## **9. What types of concerns are not covered by the policy?**

- 9.1 Complaints or disputes about a worker's contract with TI Ireland are not covered by the Act or this policy. Examples include:
- (a) a dispute over whether to award a pay increase;
  - (b) a complaint about having to travel on business; and
  - (c) a dispute over a job title.
- 9.2 Knowingly false disclosures are not protected under this policy. TI Ireland will consider taking disciplinary action against those workers who make such disclosures. The initial disclosure will be assessed and investigated separately from any assessment or investigation into any knowingly false disclosure that might have been made by the same worker.

## **10. Independent advice**

- 10.1 We encourage seeking to make a protected disclosure, to obtain independent advice beforehand. Advice can be sought at any time from [a solicitor, barrister](#) or Protect

(formerly known as Public Concern at Work). Details on how to contact Protect's helpline are available at <https://protect-advice.org.uk/>.

## **11. With whom should I raise my concern?**

- 11.1 As explained more fully in the Speak Up Safely Guide, in order for a report of relevant information to be protected by the Act, it must be made in a manner set out in the legislation.
- 11.2 The first point of contact for raising a concern covered by the policy is the worker's immediate manager.
- 11.3 If the worker does not feel confident about raising a concern with their line manager (whether or not they suspect that they are implicated in the wrongdoing), or where they have already raised a concern in this way but consider that the issue has not been properly addressed<sup>2</sup>, workers can make a disclosure to :
- TI Ireland's Legal Counsel, Judy O'Loan at [joloan@transparencylegal.ie](mailto:joloan@transparencylegal.ie)
  - Chief Executive, John Devitt at [jkdevitt@transparency.ie](mailto:jkdevitt@transparency.ie) or the
  - Chair of the Board of Directors, Olivia Lally at [chair@transparency.ie](mailto:chair@transparency.ie)
- 11.4 If someone does not feel confident about raising a concern with a TI Ireland staff or Board member, they can also make a disclosure to the Transparency International Secretariat's Governance Unit at [governance@transparency.org](mailto:governance@transparency.org) or by calling +49 30 3438 200.
- 11.5 Queries or concerns about financial probity and related compliance issues can also be raised in confidence with:
- TI Ireland's accountant, Angela Maguire at [accounts@transparency.ie](mailto:accounts@transparency.ie),
  - Chair of the Board Audit Committee, Liam Silke at [audit@transparency.ie](mailto:audit@transparency.ie)
  - TI Ireland's external auditors, Donal Ryan & Associates [info@drassociates.ie](mailto:info@drassociates.ie)

## **12. How should I raise my concern?**

- 12.1 A disclosure falling under this policy can be made orally or in writing. If a concern is raised orally, a note will be taken of the information and a summary will be shared with the worker. Concerns should be raised as soon as possible.
- 12.2 Disclosures may be made anonymously, however, we would ask that, in doing so, workers provide us with an anonymous email address that will allow the recipient of the disclosure to correspond with them. It should be noted that, in certain circumstances and for the purposes of conducting an investigation, the worker may need to reveal their identity, for example, to determine whether the person making a disclosure is a TI Ireland worker. This will not affect the worker's rights or TI Ireland's responsibilities to protect their confidentiality – see also paragraph 12.3.
- 12.3 If the worker chooses not to disclose their identity to us when making a protected disclosure, we will do our best to investigate the concerns that have been raised. However, we may not be able to keep the worker updated on the progress and/or outcome of any investigations into the report.

---

<sup>2</sup> If a worker raises a concern covered by this policy with a senior manager other than those specified in the policy, this will not prejudice the protection offered by the Act.

### 13. What happens next?

- 13.1 We will acknowledge the receipt of the worker's concern within seven days of the Chief Executive, Legal Counsel, Chair or Chair of the Audit Committee being notified of it and, where possible, will provide the worker with a clear timeframe and details of the steps we will take in following up on their report.
- 13.2 We will keep the worker informed of progress and the outcome of any assessment and/or investigation arising from their disclosure (insofar as we can, taking into account any obligations of confidentiality to others).
- 13.3 A worker's identity will be protected and will not be disclosed unless:
- (a) we obtain their consent;
  - (b) its disclosure is required by law;
  - (c) disclosure is necessary to protect against a serious risk to:
    - i. the security of the State;
    - ii. public health;
    - iii. public safety;
    - iv. the environment; or
  - (d) disclosure is necessary for the prevention of crime or the prosecution of a criminal offence.
- 13.4 Where a decision is taken to disclose the identity of the worker, where at all possible, the worker will be provided with advance notification and the opportunity to make any representations.
- 13.5 The Act also permits the disclosure of the worker's identity where this is necessary for the effective investigation of wrongdoing. Our preference is to avoid disclosure of identity for this reason. However, if it is necessary to reveal a worker's identity, we will discuss this with them in advance. Workers who are concerned that their identity is not being protected should notify the Chief Executive, Legal Counsel or the Chair of the Board of Directors of TI Ireland as soon as possible. Such notifications will be addressed promptly. Where a worker is not confident that penalisation will be or is being adequately addressed by TI Ireland, they may also bring their concern to the attention of the TI Secretariat Governance Unit.

### 14. External disclosures

- 14.1 While we hope that this policy encourages workers to raise concerns internally, there are options for reporting externally, too. This can be to a 'prescribed person' (a body designated by law to receive protected disclosures, such as a regulator) or others, provided that certain conditions are satisfied, as set out in our Speak Up Safely Guide.
- 14.2 The following prescribed persons may be of most relevance to TI Ireland workers.

Prescribed person	Description of matters in respect of which the person is prescribed	Contact details
The Comptroller and Auditor General	All matters relating to improper use of public funds and resources or matters concerning value for money in respect of	Comptroller and Auditor General Treasury Block

	entities that fall within the remit of the Comptroller and Auditor General.	Dublin Castle Dublin 2  Phone: 01 603 1000
Registrar of Companies	All matters relating to the registration of companies and business names and the enforcement of the filing obligations of companies under the Companies Acts.	Companies Registration Office Parnell House 14 Parnell Square Dublin 1  Postal address: Companies Registration Office, O'Brien Road, Carlow  LoCall: 1890 220 226 Phone: 01 804 5200
The Data Protection Commissioner	All matters relating to compliance with the Data Protection Acts .	Canal House Station Road Portarlinton Co. Laois  LoCall: 1890 252 231 Phone: 057 868 4800
Director of Corporate Enforcement	All matters relating to the enforcement by the Director, under the provisions of the Companies Acts.	Office of the Director of Corporate Enforcement 16 Parnell Square Dublin 1  LoCall: 1890 315 015 Phone: 01 858 5800
Chief Executive Officer of the Health and Safety Authority	All matters associated with legislation enforced by the Health and Safety Authority, and accreditation of laboratories, certification bodies and inspection bodies through the Irish National Accreditation Board within the Health and Safety Authority.	The Metropolitan Building James Joyce Street Dublin 1  Lo call: 1890 289 389 Phone: 01 614 7000

## 15. Protection against reprisal

- 15.1 TI Ireland will not penalise any worker who has raised a concern under this policy or is believed to have done so. Furthermore, it will not penalise or allow the penalisation of anyone connected to a worker (a 'connected person') who has made a disclosure under this policy. Connected persons include colleagues, friends, or the employer of a worker.
- 15.2 In addition, TI Ireland does not tolerate any reprisal by a co-worker against a worker or a connected person as a result of having made a disclosure under this policy. Any such reprisal will be treated as a disciplinary matter, which might lead to dismissal.
- 15.3 Penalisation means any act or omission to the worker's detriment. Penalisation includes, but is not limited to:
- (a) suspension, lay-off or dismissal;
  - (b) demotion or loss of opportunity for 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) unfair treatment;
- (f) coercion, intimidation or harassment;
- (g) discrimination, disadvantage or unfair treatment;
- (h) injury, damage or loss; and
- (i) threat of reprisal

Also see pages 17 and 28 of the Speak Up Safely Guide for an explanation of different types of penalisation and how to address them.

- 15.4 Workers who experience any act of penalisation (including a threat of penalisation) should notify the Chief Executive, Legal Counsel or the Chair of the Board of Directors of TI Ireland as soon as possible. Such notifications will be assessed, investigated and addressed promptly. In the event the worker is not confident that the penalisation is being addressed adequately, they may also bring their concerns to the attention of TI Secretariat's Governance Unit.

## **16. Review**

- 16.1 A worker who makes a protected disclosure can seek a review of the following:
- (a) Any decision made to disclose the identity of the worker;
  - (b) The outcome of any assessment / investigation undertaken in respect of the protected disclosure; and/or
  - (c) The outcome of any assessment / investigation in respect of any complaint of penalisation.
- 16.2 Any review will be undertaken by a person who has not been involved in the initial assessment, investigation or decision.
- 16.3 There is no entitlement to two reviews in respect of the same issue.