



**EXTERNAL PROTECTED DISCLOSURES POLICY GOVERNING THE  
RECEIPT OF DISCLOSURES IN RELATION TO THE REGULATORY  
FUNCTION OF THE CHIEF EXECUTIVE OFFICER**

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**Horse Racing Ireland Group**

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## 1. INTRODUCTION

- The Protected Disclosures Act 2014 (“**the Act**”) provides a framework to protect reporting persons who wish to disclose information about certain wrongdoings. A worker may choose to disclose information internally to their employer or if certain conditions are satisfied, can choose to make their disclosure externally to a prescribed person.
- This policy governs receipt of external reports. External reports refer to reports made to a prescribed person which relate to matters for which the prescribed person is prescribed.
- Where workers connected to HRI wish to make internal reports that relate to matters for which we are not prescribed, such reports are governed by a separate policy, namely the Internal Protected Disclosures Policy. Internal reports are received in our capacity as employer and not as prescribed person.
- When making an external report to a prescribed person the reporting person must reasonably believe that the relevant wrongdoing falls within the description of matters in respect of which the prescribed person is prescribed, and also that the information disclosed, and any allegation contained in it, are substantially true.
- A list of prescribed persons and the matters for which they are prescribed are contained in a Statutory Instrument which may be viewed at [S.I. No. 367/2020 - Protected Disclosures Act 2014 \(Disclosure to Prescribed Persons\) Order 2020 \(irishstatutebook.ie\)](#)

## 2. AIMS OF THIS POLICY

HRI is committed to maintaining an open culture with the highest standards of honesty and accountability where workers can report any concerns in confidence and are protected when doing so. These standards will be achieved through these procedures in order to encourage and facilitate the disclosure of wrongdoings and the protection of workers who make protected disclosures.

HRI aims to:

- Encourage workers to feel confident and safe in raising concerns and disclosing information related to potential wrongdoing in HRI;
- Provide avenues to raise concerns in confidence and receive feedback on any action taken;
- Ensure that all reports are fully assessed and that workers are kept appropriately informed; Reassure workers that they will be protected from penalisation or any threat of penalisation.

## 3. RESPONSIBILITY UNDER THIS POLICY

- The Chief Executive Officer of HRI (“**this prescribed person**”) is prescribed to receive disclosures of relevant wrongdoings falling within the following description of matters:
  - *All matters relating to the control of the operation of authorised bookmakers, the totalisator and the Registry Office.*
- This prescribed person had overall responsibility for these procedures.
- A specifically trained Designated Person is responsible for the handling of reports. In accordance with section 7A1(b) of the Act, this includes the carrying out of an initial assessment and seeking additional information from the reporting person if required, as to whether—

- (I) there is prima facie evidence that a relevant wrongdoing may have occurred, and
  - (II) the report concerns matters that fall within the scope of the matters for which the prescribed person has responsibility by virtue of the functions conferred on the prescribed person under the Act.
- If a report is received through channels and procedures other than those set out or is received by a member of staff other than a Designated Person, it will be forwarded promptly without modification to the Designated Person.
  - Members of staff are not permitted to disclose any information that might identify the reporting person or any person concerned. A person concerned is any person referred to in a report to whom wrongdoing is attributed and is also a person associated with that person.

#### 4. TRANSMITTED REPORTS

- Where reports are made to other prescribed persons or to the Protected Disclosures Commissioner about matters for which this prescribed person is prescribed, these reports may also be transmitted to this prescribed person. Such transmitted reports will also be managed under the terms of this policy.
- Where this prescribed person receives a report that does not relate to a matter for which we are prescribed, the report may be transmitted to such other appropriate prescribed person or persons as this prescribed person considers appropriate or to the Protected Disclosures Commissioner..
- If a report is transmitted the reporting person must be notified in writing as soon as practicable of the decision and the reasons for it.
- Where a report is transmitted to the Protected Disclosures Commissioner, the Commissioner may also further transmit the report to an appropriate prescribed person or other suitable person. If this happens the reporting person will be notified in writing, as soon as practicable, of the transmission and the reasons for it.
- If a prescribed person or other suitable person cannot be identified, the Commissioner will act as recipient of last resort, and will notify the reporting person in writing that this has happened. Access to the website of the Protected Disclosures Commissioner is [available here](#).

#### 5. WHO CAN MAKE A REPORT

A “worker” can make a report under the Act. A worker is broadly defined under the Act and includes an employee, a consultant, a contractor, a sub-contractor, an agency worker, temporary workers, trainees, interns, persons on work experience, shareholders, members of the administrative, management or supervisory body of an undertaking, volunteers, and individuals who acquire information during a recruitment process or during pre-contractual negotiations. It does not include members of the general public who are not workers within the definition contained in the Act.

#### 6. WHAT IS A PROTECTED DISCLOSURE

- Under the Act, a discloser is protected when s/he makes a “protected disclosure”. This is defined in the Act as a disclosure of information which, in the reasonable belief of the worker, tends to show one or more “relevant wrongdoings”, which came to the attention

of the worker in a work-related context, and is disclosed in the manner prescribed in the Act. A discloser must, therefore, satisfy the following conditions to qualify for protection under the Act.

- For a disclosure of relevant information made to the HRI CEO (in their capacity as a prescribed person) to qualify as a protected disclosure under the Act, the following conditions must be met:
  - (a) the relevant information came to the worker’s attention in a work-related context;
  - (b) the worker has a reasonable belief that the information tends to show relevant wrongdoing;
  - (c) that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed (i.e. All matters relating to the control of the operation of authorised bookmakers, the totalisator and the Registry Office), and
  - (d) the worker has a reasonable belief that the information disclosed, and any allegation contained in it, are substantially true.
- The requirement for there to be a disclosure of “information” is key and mere conjecture is not protected.
- Only disclosures of information that in the reasonable belief of the worker tend to show one or more relevant wrongdoings will be protected under the Act.

## **7. WHAT IS RELEVANT INFORMATION**

Relevant information is information which in the reasonable belief of the worker tends to show one or more relevant wrongdoings and it came to the attention of the worker in a work-related context. For a disclosure to be protected under the Act, it must convey facts - a bare allegation or an expression of concern that is based on suspicion and not founded on anything tangible will not be protected.

## **8. WHAT IS A REASONABLE BELIEF**

- For the worker’s disclosure to be protected, the worker’s belief must be reasonable, but it is not a requirement that the worker is ultimately correct. Workers may be mistaken in their belief, so long as their belief was based on reasonable grounds i.e., there was an objective basis for holding that belief.
- This is different to knowingly making a false report which is an offence.

## **9. WHAT IS SUBSTANTIALLY TRUE**

There is an additional requirement that must be met for an external disclosure to HRI, in its role as a prescribed person, to be a protected disclosure. The worker must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true.

## **10. WHAT ARE RELEVANT WRONGDOINGS**

The following are relevant wrongdoings:

A “relevant wrongdoing” includes the following:

- (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 a breach of certain EU law has occurred, is occurring or is likely to occur.

(h) That an act or omission by or on behalf of a public body is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement.

(i) That information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

The full list of relevant wrongdoings is available at section 5(3) of the Act.

## 11. MATTERS THAT ARE NOT RELEVANT WRONGDOINGS

- A matter is not a relevant wrongdoing which it is the function of the worker or the worker's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.
- There are also certain exceptions for information disclosed to a legal representative and covered by legal professional privilege.
- The Act also confirms that a matter concerning interpersonal grievances exclusively affecting a reporting person, namely, grievances about interpersonal conflicts between the reporting person and another worker, or a matter concerning a complaint by a reporting person to, or about, his or her employer which concerns the worker exclusively, shall not be a relevant wrongdoing for the purposes of that Act.
- Purely interpersonal grievances as defined may be more appropriately addressed under the Grievance Procedure, or other internal procedure as applicable, of the worker's employer.
- Failure to comply with a legal obligation that arises solely under the worker's contract of employment or other contract where the worker undertakes to do or perform personally any work or services is not a relevant wrongdoing.

## 12. WHAT IS A WORK-RELATED CONTEXT

As stated, to qualify as a protected disclosure under the Act, the information must have come to the discloser in a work-related context. The Act defines work-related context as current or past work activities in the public or private sector through which, irrespective of the nature of those activities, persons acquire information concerning a relevant wrongdoing and within which those persons could suffer penalisation if they reported such information.

### 13. MOTIVATION

- The motivation of the worker is irrelevant to whether or not a report is a protected disclosure .
- If the investigation of the wrongdoing was not the sole or main motivation of the worker then the amount of redress that may be awarded to a worker if a claim is brought and succeeds may be reduced by up to 25%.

### 14. WHO ARE PERSONS CONCERNED

Section 16A of the Act provides that a person to whom a disclosure is made in HRI, and any person to whom such disclosure is referred in the performance of that person's duties, shall protect the identity of a person concerned for as long as any investigation triggered by the report is ongoing. In this context, "person concerned" means a natural or legal person who is referred to in a report as a person to whom the relevant wrongdoing is attributed or with whom that person is associated.

### 15. WHAT PROTECTIONS DOES THE ACT OFFER REPORTING PERSONS

- The Act provides that a worker should not be dismissed or penalised by their employer for making a protected disclosure. The Act also provides a person should not cause detriment to another person because the other person or a third person made a protected disclosure.
- "Penalisation" means 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 the worker, for example suspension, layoff, dismissal, demotion, loss of opportunity for promotion, transfer of duties, adverse changes to conditions of employment, reduction in wages, disciplinary measures, unfair treatment, discrimination, threats and injury. Such actions are also potential examples of detriment.
- A claim for unfair dismissal or penalisation is made to the Workplace Relations Commission, and the discloser also has the option of making an application for interim relief to the Circuit Court. A claim for detriment is made as a tort claim in the civil Courts. Further information on these protections are contained in sections 11 to 13 of the Act and related employment statutes referenced in that Act.
- Workers may bring a complaint internally to their employer if penalisation occurs.
- The identity of a reporting person must be protected save for in exceptional circumstances. A failure to comply with the protection of identity obligations in section 16 of the Act is actionable by the discloser if they suffer any loss by reason of the failure to comply. This cause of action is in the civil courts. Further information on these protections is contained in section 16 of the Act.
- A discloser is afforded civil immunity from a damages claim, and has qualified privilege in defamation law, in respect of the making of a protected disclosure. It is a defence to a criminal charge concerning unauthorised disclosure of information to show that , at the time of the alleged offence, the discloser reasonably believed that the disclosure of information was a protected disclosure. These provisions provide certain protections where a discloser breaches confidentiality when making a disclosure, but are subject to the discloser meeting the tests required by the Act. Further information on these protections is contained in sections 14 and 15 of the Act and related statutes referenced in the Act.

## 16. WHO CAN THE DISCLOSURE BE MADE TO

- This policy governs external reports made to Chief Executive Officer a prescribed person.
- Workers may make an internal disclosure to their employer, and are encouraged to do so in the first instance. Access to HRI's internal disclosure process is available here on the intranet/HUB. Other workers will need to access their own employers internal disclosure process if they wish to make an internal disclosure.
- If an internal disclosure to the employer is not appropriate or is unsatisfactory, a worker may wish to consider making an external report to a prescribed person who regulates the area to which the wrongdoing relates.
- The reporting person when making a report to a prescribed person must reasonably believe that the relevant wrongdoing falls within the description of matters in respect of which the prescribed person is prescribed and that the information disclosed, and any allegation contained in it, are substantially true.
- The Act also provides for other external disclosure options and these are referred to under the Other External Disclosure Options heading in this policy.
- Different criteria apply depending on who the disclosure is made to. If the criteria are not satisfied the report will not be a protected disclosure.

## 17. WHERE TO GET ADVICE OR SUPPORT

- Workers may wish to seek advice and support prior to making a disclosure or after having made a disclosure.
- Advice and support, including legal advice, may be sought from Transparency International Ireland's Speak Up helpline at Freephone (1800 844 866), or via their website at [The Speak Up Helpline | Transparency International Ireland](#)

## 18. MAKING A PROTECTED DISCLOSURE TO THE CHIEF EXECUTIVE OFFICER (EXTERNAL REPORTS)

- HRI has established independent and autonomous external reporting channels that operate in a secure manner.
- Reports can be made in writing and orally as follows:
  - **Postal address:** Chief Executive Officer of Horse Racing Ireland, Ballymany, The Currgh, Co Kildare R56 XE37
  - **Email:** [protecteddisclosure@hri.ie](mailto:protecteddisclosure@hri.ie)
  - **Dedicated Dial In: 045 455695** This is a secure, recorded voicemail, subsequent telephone conversations are not recorded.
- The designated person is responsible for providing information on making an external disclosure, receiving, and following up on reports, maintaining communication with the reporting person and where necessary, requesting further information from and providing feedback to the reporting person. The designated person for HRI:
  - **Postal address:** Claire Rudd, Head of Risk & Compliance, Horse Racing Ireland, Ballymany, The Currgh, Co Kildare R56 XE37
  - **Email:** [disclosure@hri.ie](mailto:disclosure@hri.ie)



- **Dedicated Dial In:** 045 455 5602 (to secure, recorded voicemail, subsequent telephone conversations are not recorded).
- For a disclosure of relevant information made to the HRI CEO (in their capacity as a prescribed person) to qualify as a protected disclosure under the Act, the following conditions must be met:
  - (a) the relevant information came to the worker’s attention in a work-related context;
  - (b) the worker has a reasonable belief that the information tends to show relevant wrongdoing;
  - (c) the worker has a reasonable belief that the relevant wrongdoing falls within the matters in respect of which the HRI CEO is prescribed i.e., they relate to: All matters relating to the control of the operation of authorised bookmakers, the totalisator and the Registry Office; and
  - (d) the worker has a reasonable belief that the information disclosed, and any allegation contained in it, are substantially true.
- A reporting person may ask to make a report by means of a physical meeting with the prescribed person or Designated Person.
- Where a report is made orally, a record of the report will be made in accordance with the Record Keeping section of these procedures.
- Reports should contain at least the information set out in **Appendix A** of these procedures.
- Reports of serious wrongdoing may be dealt with as a matter of priority.
- Reporting persons must co-operate with the prescribed person.

## 19. PROTECTING THE IDENTITY OF THE REPORTING PERSON & PERSONS CONCERNED

- The channels for receiving reports are designed, established and operated in a manner that ensures completeness, integrity and confidentiality of the information concerned.
- Access to the channels is restricted to Designated Persons and authorised staff.
- The identity of a reporting person, or any information from which the identity of a reporting person can be directly or indirectly deduced, may not without the express consent of the reporting person, be disclosed to any person other than those who are reasonably considered necessary for the transmission or follow-up on reports as required by the Act, unless an exception applies. Persons to whom reports are transmitted are required to protect the identity of the reporting person unless an exception applies.
- This obligation does not apply to disclosures to people who the designated person reasonably considers it may be necessary to share the identity with on a ‘need to know basis’ for the purposes of the receipt, transmission, or follow-up of the report. For example, this may include a team member involved in the assessment or investigation of an alleged disclosure. Such other persons have an obligation not to disclose the identity of the reporting person.
- There are limited exceptions to this general protection and these are as follows:

(a) The person to whom the protected disclosure was made or referred shows that he/she took all reasonable steps to avoid so disclosing any such information, but the identity has been revealed.

(b) The person to whom the disclosure was made or transmitted had a reasonable belief that disclosing the identity of the reporting person was necessary for the prevention of serious risk to the security of the State, public health, public safety, or the environment.

(c) Where the disclosure is otherwise required by law.

(d) Where the disclosure is a necessary and proportionate obligation imposed by Union law or the law of the State in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned.

If an exception applies then the express consent of the discloser is not required.

- Where it is decided that it is necessary to disclose the identity of the reporting person or other information that may or will disclose the identity of the reporting person, in the cases referred to at (b) or (d) above, the reporting person will be informed of this decision in advance of the disclosure, and the reasons for the disclosure, unless the notification would jeopardise the:
  - I. effective investigation of the wrongdoing;
  - II. prevention of serious risk to the security of the State, public health, public safety, or the environment; or
  - III. prevention of crime or prosecution of a criminal offence.
- Unless exceptional circumstances apply, where any action is to be taken following the receipt of a protected disclosure, HRI will implement a process for consulting with the discloser and, where possible, gaining the informed consent of the discloser, prior to any action being taken that could identify them.
- If any decision is taken that it is necessary to disclose information that may or will disclose the identity of the discloser, the discloser will be informed of this decision in writing advance of the disclosure, unless exceptional circumstances apply.
- The protection of identity applies in respect of the report that is made or transmitted to this prescribed person, or a report that is transmitted to another prescribed person, , or a report that is transmitted to the Protected Disclosures Commissioner, or a report that is transmitted to the other suitable person identified by the Protected Disclosures Commissioner.
- Prescribed persons must protect the identity of persons concerned for as long as any investigation triggered by the report is ongoing.
- A reporting person may, unless exceptional circumstances apply, request a review of a decision to disclose their identity under our System of Review at clause 23 of this Policy.
- A reporting person has a right of action in tort against a person who fails to protect their identity.

- A complaint of a breach of confidentiality under these procedures should be made to the **Head of Risk & Compliance** of HRI. Such a complaint will be considered and where appropriate, investigated where necessary.
- Other employees of the prescribed person must not attempt to identify reporting persons or persons concerned.

## 20. ANONYMOUS DISCLOSURES

- Unless prohibited by any other enactment, anonymous disclosures will be acted upon to the extent that this is possible.
- Where the anonymous report contains enough information to allow an initial assessment that there is prima facie evidence that a relevant wrongdoing has occurred, follow-up action will be taken by HRI to the extent that is possible from the information provided.
- If a reporting person chooses to remain anonymous, we may not be able to fully address the wrongdoing. Elements of the Procedures such as maintaining communication and providing feedback may not be possible.
- An anonymous discloser who has made a protected disclosure and who is subsequently identified and penalised is a protected discloser and is protected by the Act.
- A record shall be made of anonymous reports.

## 21. PROCESS ONCE A DISCLOSURE IS RECEIVED

### 21.1 Acknowledgement

- Unless the reporting person specifically requests otherwise, or this prescribed person reasonably believes that acknowledging receipt would jeopardise the protection of the identity of the reporting person, all reports will be acknowledged in writing within 7 days of receipt.
- The acknowledgement shall include:
  - a copy of these procedures
  - further information about the protected disclosures process explaining to the reporting person what will happen and when,
  - information on the protection of the identity of the reporting person and the protection from penalisation,
  - information in relation to feedback and what type of feedback will and will not be given,
  - information that the reporting person may in writing request further feedback at 3 month intervals.

### 21.2 Initial Assessment

- The Designated Person shall perform an initial assessment to assess whether or not there is prima facie evidence that a relevant wrongdoing may have occurred and also that the report concerns a matter which falls within the scope of the matters for which this prescribed person is prescribed.

- The Designated Person may if required request the reporting person to clarify the information reported or to provide additional information.
- If it is unclear as to whether or not a report is a protected disclosure, the report will be treated as a protected disclosure until a definitive conclusion can be made.
- It may be necessary to differentiate the information contained in the report. It may be the case that not all of the issues are within the scope of this Protected Disclosures Policy. Different parts of the report may need to be approached separately and some issues may need to be directed to another appropriate policy/procedure.
- The Designated Person may decide that there is no prima facie evidence that a relevant wrongdoing has occurred and close the procedure and notify the reporting person in writing of this decision as soon as practicable and the reasons for it.
- The Designated Person may decide that there is prima facie evidence that a relevant wrongdoing had occurred but that the relevant wrongdoing is clearly minor and does not require follow up. If this decision is made the procedure will be closed and the reporting person will be notified in writing as soon as practicable of the decision and the reasons for it.
- The Designated Person may decide that the report is a repetitive report that does not contain any meaningful new information compared to a previous report and may close the procedure. If this decision is made the procedure will be closed and the reporting person will be notified in writing as soon as practicable of the decision and the reasons for it.
- The Designated Person may decide that the report concerns matters which are not within the scope of matters for which this prescribed person is prescribed and may transmit the report to such other prescribed person or persons as this prescribed person considers appropriate or where there is no such other prescribed person to the Protected Disclosures Commissioner. If this decision is made the procedure will be closed and the reporting person will be notified in writing as soon as practicable of the decision and the reasons for it.
- The Designated person may decide that there is prima facie evidence that a relevant wrongdoing may have occurred. If this decision is made the Designated Person must take appropriate action in accordance with the functions and statutory powers conferred on the prescribed person.
- If a decision to close the matter or refer it to another process is made, the discloser may request a review of this decision under our System of Review.

### **21.3 Decision to Investigate**

- The Designated Person shall decide whether or not an investigation is required.
- If an investigation is required the Designated Person shall decide how the matter should be investigated.
- In some cases the matter may be referred to an outside body, including An Garda Síochána or another body with the statutory power and function of investigation of particular matters.

- Investigations will be undertaken in accordance with the general principles of natural justice and fair procedures and any other relevant procedures and statutory powers of the prescribed person, as appropriate. In this regard, statutory powers includes reference to the Act, the Irish Horseracing Industry Act, Horse Greyhound Racing Act 2001 and Horse Racing Ireland Act 2016
- A review may be requested of a decision of the Designated Person not to investigate via our System of Review.
- Responsibility lies with the prescribed person and not the reporting person to investigate. Reporting persons should not attempt to investigate wrongdoing themselves.

#### **21.4 Feedback**

- Where a report is made directly by the reporting person to the prescribed person feedback will be provided to the reporting person within a reasonable time period and no later than 3 months after the initial acknowledgement of the report unless due to the complexity of the report an extension of time of up to 6 months is required. If an extension of time is required the reporting person will be notified of this in writing.
- Where a report is transmitted to this prescribed person, the report will have been originally acknowledged by the person from whom the report is transmitted. Feedback will be provided to the reporting person no later than 3 months after the date of that original acknowledgement unless due to the complexity of the report an extension of time of up to 6 months is required. If an extension of time is required the reporting person will be notified in writing.
- If a reporting person requires further feedback at 3 month intervals, the reporting person can request this in writing. On receipt of a written request further feedback shall be provided at 3 month intervals.
- The prescribed person may choose to provide further feedback even if not requested. In such circumstance the interval for further feedback will not be greater than 3 months.
- Any feedback given is provided in confidence and should not be disclosed by the reporting person other than to their legal advisor or trade union representative or unless the information forms part of a further protected disclosure.
- Feedback will not include any information on any disciplinary or confidential regulatory action. Such information is confidential as between the employer, the regulator and the employee concerned, as the case may be.
- Feedback may include information on the action envisaged or taken as follow-up to the report and also the reasons for such follow-up.
- Feedback will exclude any information that could prejudice the outcome of an investigation or any other action that might follow.
- If an investigation determines that no relevant wrongdoing has occurred, the reporting person can be informed of this.
- If no further action is required to be taken the reporting person can be advised of this.

## 22. COMMUNICATION OF THE FINAL OUTCOME

- The final outcome of an investigation triggered by the report shall be communicated in writing to the reporting person. The final outcome shall only be provided subject to legal restrictions concerning confidentiality, legal privilege, privacy and data protection or any other legal obligation. The communication of the final outcome does not require the provision of the full investigation report.

## 23. SYSTEM OF REVIEW

- A party affected by either of the following processes may request a review:
  - I. The conduct or outcome of certain follow-up actions taken on foot of the receipt of a report;
  - II. Any decision to disclose the identity of a reporting person (except in exceptional cases).
- It is noted that scope for a review may be limited if an investigation is conducted pursuant to statutory powers of the prescribed person.
- A request for a review must be made to Head of Risk & Compliance within 5 days of the issue the subject of the review arising.
- A request for review must set out the reasons for the request.
- The review will be considered by a person not involved in the original process under review.
- The reviewer will not re-investigate the matter in question. The reviewer will address the specific issues the applicant feels have received insufficient consideration. Where a review finds significant shortcomings or failings in the process, the prescribed person will then consider what further action(s) may or may not need to be taken in response to said findings.
- The outcome of the review is final and there will be no entitlement to further reviews of the same issue.

## 24. DISCIPLINARY RECORD OF DISCLOSER AND OTHER MATTERS

- The focus of these procedures will be the alleged wrongdoing and protecting the reporting person.
- The reporting person's disciplinary record is irrelevant.

## 25. FALSE REPORTS

- Any person who suffers damage resulting from the making of a report, where the reporting person knowingly reported false information, has a right of action in tort against the reporting person.
- A reporting person who makes a report containing any information that he or she knows to be false commits an offence and is liable: (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or (b) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 2 years, or both.

## 26. MANDATORY REPORTING

- Mandatory reporting applies to situations where there is a legal requirement to report certain serious issues. Making a protected disclosure under the Act is a voluntary action and not a legal requirement.
- Mandatory reporting where applicable is dealt with in separate policies and procedures.

## 27. SECTORAL LEGISLATION

- Where the relevant wrongdoing relates to a matter which is also covered by sectoral legislation, the worker may choose to report the wrongdoing under the sectoral legislation.
- It is important to note that different rules, and different protections may apply to reports under sectoral legislation and the worker should appraise themselves of the particular rules and protections that apply when considering making a report.

## 28. RECORD KEEPING

- A record of every report must be kept, including anonymous reports.
- If a recorded telephone line or voice messaging system is used, a recording or complete and accurate transcript of the conversation may be kept, with the consent of the reporting person. Where the reporting person has disclosed his or her identity they will be offered an opportunity to check, rectify and agree by way of signature the transcript.
- If the call is not recorded, minutes of the call may be made, and where the reporting person has disclosed their identity they must be offered the opportunity to check, verify and agree the minutes by signing them.
- If a meeting takes place in person, subject to the consent of the reporting person, either an audio recording of the meeting may be made or accurate minutes taken by the person receiving the report. Where the reporting person has disclosed their identity they must be offered the opportunity to check, verify and agree the minutes by signing them.
- In the case of anonymous reports, a record will be made in such form and manner as is considered appropriate, to record information that is considered necessary and appropriate for the purposes of the application of the Act should the reporting person be subsequently identified and penalised for having made the report.
- Reports shall be retained for no longer than is necessary and proportionate to comply with the Act or any other enactment.

## 29. DATA PROTECTION/FREEDOM OF INFORMATION

- The general principles governing the collection of data under GDPR apply, however the Act imposes certain restrictions on data subject rights.
- Where the exercise of a right under GDPR would require the disclosure of information that might identify the reporting person or persons concerned, or prejudice the effective follow up, including any investigation of the wrongdoing concerned, exercise of that right is restricted.
- GDPR rights are restricted to the extent, and as long as, necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of reporting persons or persons concerned.

- GDPR rights are also restricted to the extent that is necessary and proportionate for the purposes of safeguarding important objectives of general public interest, including the effective operation of the Act; and also to the extent that is necessary and proportionate for the purposes of the protection of the data subject or the rights and freedoms of others.
- If a right under GDPR is restricted the data subject will be given the reasons for the restriction unless the giving of such reasons would necessitate the disclosure of information that would identify the reporting person, or persons concerned or prejudice the effective follow up of a report, or prejudice the achievement of any important objectives of general public interest as set out in the Act.
- A person whose data subject rights are restricted shall be informed at the time of restriction that they may make a complaint to the Data Protection Commissioner or seek a judicial remedy in respect of the restriction.
- A data privacy notice is contained in **Appendix B**.
- The Freedom of Information Act does not apply to a record relating to any protected disclosure, irrespective of when it was made.

### 30. OTHER EXTERNAL REPORTING OPTIONS

#### 30.1 External Reporting To Another Responsible Person

- Where the worker reasonably believes that the relevant wrongdoing which the disclosure tends to show relates solely or mainly—
  - (i) to the conduct of a person other than the worker’s employer, or
  - (ii) to something for which a person other than the worker’s employer has legal responsibility,
 a report may be made to that other person.
- An example is if a worker is working as a contractor and wishes to report wrongdoing on the site at which they were working, this wrongdoing can be reported to the person to whom they were contracted to do the work.
- The report must be of relevant information which in the reasonable belief of the worker tends to show a relevant wrongdoing, and the information must have come to the worker in a work related context.

#### 30.2 External reporting to the Protected Disclosures Commissioner

- The Act also provides that a reporting person who is uncertain as to whom the most appropriate prescribed person they can report to is, may make a disclosure under section 7 to the “Protected Disclosures Commissioner” (“**the Commissioner**”). The Commissioner also has a role under the Act in assessing and referring all disclosures made to Ministers of the Government and Ministers of State. Further [Information for Whistleblowers from the Office of the Commissioner is available here.](#)
- The Commissioner’s primary duty is to refer any reports received under the Act to the most appropriate prescribed person (or other suitable person, if a prescribed person cannot be identified). Only as a last resort should the Commissioner directly follow-up on a report.



- The Commissioner may receive disclosures by means of external reporting channels, which must meet the same criteria as the external reporting channels for prescribed persons.
- For a disclosure of relevant information to the Commissioner to be protected under the Act, the following conditions must be met:
  - (a) the relevant information came to the worker’s attention in a work-related context;
  - (b) the worker has a reasonable belief that the information tends to show relevant wrongdoing; and
  - (c) the worker has a reasonable belief that the information disclosed, and any allegation contained in it, are substantially true.
- If this standard is not met the protections of the Act will not engage

### **30.3 External reporting to EU institutions, bodies, offices or agencies**

- A reporting person may also make a report under specific rules that relate to the reporting of breaches which are contained in certain Union Acts set out in the [Annex](#) in Schedule 6 of the Act.
- The reporting person will need to inform themselves of the sector specific rules and the protections afforded under the specific legislation.
- The requirement for a valid disclosure under such legislation and the protections available may differ from those available under the Protected Disclosures Act.

### **30.4 External reporting to a relevant Minister**

- If a worker is or was employed in a public body, then under section 8 of the Act they may make a disclosure of relevant information to a relevant minister, which in the case of HRI is the Minister for Agriculture, Food and Marine.
- A worker may make a disclosure to a relevant Minister if the worker is or was employed by a public body and if one or more conditions are met.
  - (a) the relevant information came to the worker’s attention in a work-related context;
  - (b) the worker has a reasonable belief that the information tends to show relevant wrongdoing;
  - (c) the worker is or was employed in a public body; and
  - (d) at least one of the following conditions is met:
    - (i) the worker has reported internally or externally (or both) but they have not been provided with feedback or, if they have received feedback, the worker reasonably believes that there has been inadequate follow-up action;
    - (ii) the worker reasonably believes that the head of the public body concerned is complicit in the relevant wrongdoing; or
    - (iii) the worker reasonably believes that the relevant wrongdoing may constitute an imminent or manifest danger to the public interest.

- Information on how to make a report to a Minister is published on the relevant Minister's website.
- If such a report is made to the Minister, it will within 10 days of receipt, be transmitted without consideration directly to the Protected Disclosures Commissioner.

### 30.5 External Section 10 Reports

- There are specific legal requirements that must be met for a reporting person to be protected if they make a disclosure to any person other than an employer, another legally responsible person, a prescribed person, a relevant Minister, or the Protected Disclosures Commissioner.
- The worker must reasonably believe that the information disclosed in the report, and any allegation contained in it, are substantially true, as well as satisfy the specific conditions set out below.
- The following conditions must be met for such a disclosure of relevant information to be protected:
  - (a) the relevant information came to the worker's attention in a work-related context;
  - (b) the worker has a reasonable belief that the information tends to show relevant wrongdoing;
  - (c) the worker has a reasonable belief that the information disclosed, and any allegation contained in it, are substantially true; and
  - (d) the worker:
    - (i) has reported internally or externally (or both) but appropriate action was not taken in response to the report within the applicable time limits set out in the Act; or
    - (ii) reasonably believes that:
      - (I) the relevant wrongdoing may constitute an imminent or manifest danger to the public interest; or
      - (II) if he or she were to make a report to a prescribed person, the Commissioner, or the relevant Minister, in accordance with sections 7 and 8 of the Act, then:
        - (A) there is a risk of penalisation; or
        - (B) there is a low prospect of the relevant wrongdoing being effectively addressed, due to the particular circumstances of the case e.g., where evidence may be concealed or destroyed or where a prescribed person may be in collusion with the perpetrator of the wrongdoing or involved in the wrongdoing.

### 31. ANNUAL REPORTS TO MINISTER AND PUBLISHING REPORTS

- HRI will provide an annual report to the Minister for Public Expenditure and Reform by 1 March in each year which will include the required reporting information in respect of the preceding calendar year.

- The information required by the Minister for Public Expenditure and Reform will be provided in such a way that it does not enable the identification of reporting persons or persons concerned. This information will be published online by the Minister, in aggregate form.
- HRI will also publish a report by 31 March each year in respect of the previous calendar year on the HRI website (and in any other format that may be appropriate). This report will contain the same information as required for the report to the Minister for Public Expenditure and Reform and a statement confirming that HRI has in place external reporting channels and procedures as required.

### **32. REVIEW OF PROCEDURES**

The External Procedures for Making a Protected Disclosure to the Chief Executive Officer of HRI will be reviewed at least once every three years.

## **Appendix A**

Reports should contain at least the following information:

- a. that the report is a protected disclosure and is being made under the Procedures;
- b. the reporting person's name, position in the organisation, place of work and confidential contact details;
- c. the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- d. whether or not the alleged wrongdoing is still ongoing;
- e. whether the alleged wrongdoing has already been disclosed and if so, to whom, when, and what action was taken;
- f. information in respect of the alleged wrongdoing (what is occurring / has occurred and how) and any supporting information;
- g. the name of any person(s) allegedly involved in the alleged wrongdoing (if any name is known and the worker considers that naming an individual is necessary to report the wrongdoing disclosed); and
- h. any other relevant information.

## **Appendix B**

**HRI Privacy Policy link**