



Policy & Procedures for Raising Matters of Concern (Whistleblowing)

Horse Racing Ireland

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1. Who Does the Policy Apply to?

- 1.1 This policy applies to all workers of Horse Racing Ireland and its subsidiaries, Irish Thoroughbred Marketing, the Tote, and Leopardstown, Navan, Fairyhouse and Tipperary Racecourses (collectively "HRI") as defined under the Protected Disclosures Act 2014 (as amended) (the "**Act**"), which includes current and former employees, consultants, contractors, trainees, part-time, full-time, casual workers, volunteers, shareholders, job candidates and agency workers.
- 1.2 This policy aims to give effect to the Act and DPER Interim Guidance for public bodies and prescribed persons dated November 2022 (the "**Guidance**").
- 1.3 In addition to this policy, all workers should make themselves familiar with the Act and the Guidance.
- 1.4 It is also important to note that 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. Our Commitment

HRI is committed to maintaining an open culture with the highest standards of honesty and accountability where our workers can report any concerns in confidence and are protected when doing so.

3. Aims of this policy

- To encourage workers to feel confident and safe in raising concerns and disclosing information related to potential wrongdoing in HRI;
- To provide avenues to raise concerns in confidence and receive feedback on any action taken;
- To ensure that reporting persons receive a response where possible to concerns and information disclosed;
- To reassure workers that they will be protected from penalisation or any threat of penalisation.

Nothing in this policy shall prohibit or restrict the making of protected disclosures, exclude or limit the operation of any provision of the Act, preclude a person from bringing any proceedings under, or by virtue of, the Act and / or preclude a person from bringing proceedings for breach of contract in respect of anything done in consequence of the making of a protected disclosure.

4. What is a Protected Disclosure?

- 4.1 A protected disclosure is defined as a **disclosure of information**, which in the **reasonable belief** of the **worker**, tends to show one or more **relevant wrongdoings**, which has come to his/her attention in a work-related context and is disclosed in the manner prescribed in the Act.
- 4.2 This policy is intended to encourage and enable workers to raise concerns within HRI rather than overlooking a problem or feeling compelled to raise the matter externally. This policy also endeavours to provide transparency on how protected disclosures are managed in HRI. Under this policy, a worker is entitled to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

5. Disclosure of information

- 5.1 A protected disclosure should contain "information" which tends to show wrongdoing. This means conveying facts, such as stating that particular events have occurred. This is distinct from a general statement or opinion about the organisation.

- 5.2 While all disclosures will be considered by HRI within their own context on a case-by-case basis, the reporting person is encouraged to provide specific factual information in any disclosure to allow the appropriate assessment and investigation of the disclosure.
- 5.3 The reporting person is not required or entitled to investigate matters to find proof of the suspicion nor should they do so. The responsibility for investigating and addressing any wrongdoings lies with HRI and not the reporting person.

6. Relevant wrongdoings

6.1 Relevant wrongdoings include but are not limited to the following:

- a) Commission of an offence — has been, is being or is likely to be committed;
- b) Where 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) Miscarriage of justice has occurred, is occurring or is likely to occur;
- d) Health and safety of any individual has been, is being or is likely to be endangered;
- e) An unlawful or improper use of funds or resources of HRI or of other public money, has occurred, is occurring or is likely to occur;
- f) The environment has been, is being or is likely to be damaged;
- g) An act or omission by or on behalf of HRI which is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement,
- h) A breach that has occurred, is occurring or is likely to occur, or
- i) 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. .

6.2 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.

6.3 A disclosure of any wrongdoing that is part of the workers job to detect, investigate, or prosecute is outside the scope of the Act, and therefore, will not be considered under this policy.

7. Reasonable belief

7.1 When reporting a concern under this policy, the reporting person must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. This does not mean that the belief has to be correct. The reporting person is nonetheless entitled to be mistaken in their belief and will not be penalised simply for getting it wrong, so long as s/he has a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

7.2 The motivation for making a disclosure is irrelevant when determining whether or not it is a disclosure protected by the Act, all disclosures will be dealt with by HRI regardless of motivation.

7.3 A disclosure made in the absence of a reasonable belief will not attract the protection of the Act and may result in disciplinary action against the discloser. Further, the disclosure of a wrongdoing does not confer any protection or immunity on the reporting person in relation to any involvement s/he may have had in the wrongdoing.

8. What Types of Concerns Should not be Raised Under this Procedure?

- 8.1 A personal concern, for example an interpersonal grievance exclusively affecting the reporting person, such as grievances about his/her own contract of employment, interpersonal conflicts involving the worker and another worker, or a complaint to HRI or about HRI which concerns the worker exclusively is not a relevant wrongdoing. Such concerns are more appropriately addressed through our Grievance Procedure. Likewise, dignity at work concerns arising in regard to workplace relationships will generally be addressed through the Bullying and Harassment in the Workplace Policy. In this regard, this policy is not intended to act as a substitute for normal day to day operational reporting or other internal employment procedures.

9. Safeguards and Penalisation

- 9.1 Harassment, victimisation or penalisation of any worker who has raised concerns under this policy, will not be tolerated by HRI and may result in disciplinary action under HRI's disciplinary procedure where appropriate.

- 9.2 Penalisation refers to any direct or indirect act or omission occurring in a work-related context due to the making of a report, and which causes (or may cause) an unjustified detriment to the worker. The following represents a non-exhaustive list of examples under the Act and the Guidance:

- Suspension, lay off or dismissal;
- The imposition of any disciplinary action;
- Demotion or loss of opportunity for promotion or withholding of promotion;
- Transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- Discrimination, disadvantage or unfair treatment; • Coercion, intimidation, harassment or ostracism;
- Discrimination, disadvantage or unfair treatment;
- Injury, damage or loss;
- Withholding of training;
- A negative performance assessment or employment reference;
- Failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment;
- Failure to renew or early termination of a temporary employment contract;
- Harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- Blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry;
- Early termination or cancellation of a contract for goods or services; • Cancellation of a licence or permit; and
- Psychiatric or medical referrals.

- 9.3 As stated, this list is not exhaustive, and behaviour which constitutes penalisation will be considered on a case-by-case basis.

- 9.4 HRI deals with penalisation complaints promptly and separately to the actual protected disclosures report itself. If the reporting person believes that they are being subjected to penalisation as a result of making a disclosure under this procedure, s/he should contact the Director of People. Such complaints will be addressed by a member of HR or such suitable person(s) nominated by a member of HR as it deems appropriate.

10. Making complaints to the WRC/Circuit Court

- 10.1 We strongly encourage all workers to utilise these procedures, and resolve concerns regarding penalisation internally. However, in circumstances where the reporting person decides to proceed with a complaint of penalisation externally, s/he may pursue a claim before the Workplace Relations Commission (the “**WRC**”) within 6 months of the alleged penalisation (or up to 12 months where there is reasonable cause for any delay) and a claim for injunctive relief in the Circuit Court within 21 days (or such longer period as the Court may allow) of the last instance of penalisation.
- 10.2 The Act provides that an employee who is penalised by dismissal following the making of a protected disclosure may claim that s/he has been unfairly dismissed. There are extensive protections set out in the Unfair Dismissals Acts for protection against unfair dismissals. In addition (a) there is no minimum service requirement to avail of the Unfair Dismissal Acts arising from making a protected disclosure and (b) compensation for unfair dismissal on grounds of making a protected disclosure can be up to a maximum of 5 years remuneration. Where a worker is not in receipt of remuneration, for example a job applicant, or volunteer, the WRC can make an award of up to €15,000 to these individuals.
- 10.3 Furthermore, where an employee is dismissed on foot of having made a protected disclosure, protection in the form of “interim relief” on application to the Circuit Court is available to prevent an unfair dismissal proceeding in advance of an outcome being determined.
- 10.4 Penalising or threatening to penalise a reporting person or a person connected with a reporting person is a criminal offence under the Act, liable to:
- (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 €250,000 or to imprisonment for a term not exceeding 2 years, or both.
- 10.5 The normal management of a worker who has made a report does not constitute penalisation. This can include the taking of disciplinary action against the worker for matters unrelated to the substance of the report. Any disciplinary or other procedures to which an employee is already subject will not necessarily be halted as a result of raising concerns.

11. Confidentiality

11.1. Identity of the reporting person and person’s concerned

- 11.1.1 The Act imposes an obligation to protect the identity of the reporting person and as such, HRI is committed to protecting the identity of the worker raising a concern and ensures that relevant disclosures are treated in confidence. The focus will be on the wrongdoing rather than the person making the disclosure.
- 11.1.2 However, there are circumstances, as outlined in the Act, where confidentiality cannot be maintained, particularly in a situation where the worker is participating in an investigation into the matter being disclosed. Should such a situation arise, we will make every effort to inform the worker that his/her identity may be disclosed.
- 11.1.3 The designated person (or any other person in HRI who receives a report, or anyone else to whom a report is shared with to allow them to carry out their functions in relation to the report) cannot disclose the identity of the reporting person to anyone else (or any information that might reveal the identity of the reporting person) without the explicit consent of the reporting person, other than strictly within the provisions permitted in the Act.

- 11.1.4 This does not include people who the designated person reasonably considers it may be necessary to share the identity with for the purposes of the receipt, transmission, or follow up of the report. This can include a member of a team involved in follow-up or investigating the report, and also, for example, another staff member who may have the necessary technical expertise to assist with the investigation of the report. Such other persons also cannot disclose the identity of the reporting person.
- 11.1.5 The designated person will always ensure that the identity of the reporting person is only ever shared on a “*need to know*” basis and only where it is necessary to carry out proper follow up of a report. Where action is to be taken following a protected disclosure, it is recommended that a process is put in place for consulting with the reporting person and, where possible, for gaining the informed consent of the reporting person, prior to any action being taken that could identify them. This may include when reports are being referred by HRI to an external party.
- 11.1.6 It should be noted however that the Act allows the identity of the reporting person to be disclosed in certain prescribed circumstances even where the reporting person does not consent to their identity being disclosed. These specific cases are where:
- (I) The person to whom the disclosure was made or transmitted shows that he / she took all reasonable steps to avoid such disclosure. This relates to a situation where all reasonable steps were taken to avoid disclosure of the identity, but the identity has been revealed in some manner, for example through an unforeseeable error or other unavoidable occurrence.
 - (II) The person to whom the disclosure was made or transmitted had a reasonable belief that it was necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment;
 - (III) Where the disclosure is otherwise required by law;
 - (IV) 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. This relates to a statutory or criminal investigation or judicial proceedings. It does not relate to internal investigations conducted by HRI or a prescribed person.
- 11.1.7 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 II or IV 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:
- (I) The effective investigation of the wrongdoing,
 - (II) The prevention of serious risk to the security of the State, public health, public safety or the environment, or
 - (III) The prevention of crime or prosecution of a criminal offence.
- 11.1.8 The reporting person will also be informed of the applicable internal review process, which may be invoked by the reporting person in respect of this decision.
- 11.1.9 HRI takes a number of measures to ensure the identity of the reporting person and any person’s concerned with the investigation are protected. For example, HRI has a dedicated email address and phone number, with access to the email inbox or voicemail system limited to designated persons receiving reports. The contents of any disclosure will be kept secure and confidential and
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will only be available to the designated person or other members of their team or other appropriate persons, as required. Workers who are concerned that their identity is not being protected can notify HRI by contacting the Director of People. HRI will assess / investigate such notifications where appropriate; and take appropriate action where necessary.

11.1.10 Any attempt to identify the reporting person should not be made by persons within HRI to whom the identity has not been revealed as part of the receipt and follow-up of the report of a disclosure. If such attempts are made, whether successful or not, this may be addressed under HRI's disciplinary process.

11.1.11 If a complaint is made of penalisation contrary to the Act, then that complaint will be dealt with, having regard to the continued obligation to protect the identity of the reporting person under the Act.

12. Raising a Concern Anonymously

12.1A concern may be raised anonymously. This occurs where the identity is withheld by the reporting person. This can be distinguished from a confidential disclosure (where the identity is protected by the recipient).

12.2HRI is committed to acting on anonymous disclosures to the extent that is possible. However, on a practical level it may be difficult to apply important elements of these Procedures unless the reporting person's identity is disclosed. For example, it may be difficult for HRI to investigate such a concern, keep the reporting person informed and protect the reporting person from penalisation. In addition, where a report is received anonymously, HRI is not obliged to accept and/or follow up an anonymous report. It is also important to note that a reporting person cannot obtain redress under the Act without identifying themselves as part of the process of seeking redress.

12.3Therefore, we encourage workers to put their names to allegations, with our assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for us to assess the disclosure and take appropriate action including an investigation if necessary.

12.4Notwithstanding this, where the anonymous report contains enough information to allow HRI to conduct 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. For example, where it is possible to communicate with the reporting person (e.g. they have made their report via an anonymous email account), HRI may seek to obtain further information from the reporting person in order to make a better initial assessment or as part of further follow-up action.

12.5Anyone who makes an anonymous report will be entitled to all of the protections of the Act if their identity is subsequently revealed and they suffer penalisation for having made a protected disclosure.

13. Procedure: How to Raise Matters of Concern

13.1. Who should the reporting person raise their concern with?

13.1.1 All workers are encouraged to make reports under this policy internally in the first instance. All reports will be taken seriously and the reporting person will receive appropriate protection.

13.1.2 The internal reporting channels outlined below apply to individual(s) for whom HRI is not an employer under the Act. This includes for example, contractors and their employees, agency workers or persons working for suppliers.

- 13.1.3 All internal reports will be acknowledged, in writing, to the reporting person within 7 calendar days of its receipt. Further information in relation to the process will also be provided when acknowledging receipt of the report and will enclose this policy. Such information includes:
- Information in relation to the protection of the identity of the reporting person and protection from penalisation.
 - Information in relation to feedback will include the type of feedback that will be provided, as well as the type of feedback that will not be provided, and that the reporting person may request in writing further feedback at three month intervals. Personal information relating to another worker will not be provided, such as whether a disciplinary process has taken place and the outcome of any such process.
- 13.1.4 While reporting persons are encouraged to utilise the internal process, there are other external disclosure options (outside of HRI) provided for by the Act and detail on the various external disclosure avenues are contained in **Appendix A**.

13.2. Informal Internal Reporting

- 13.2.1 As a first step, concerns may be raised informally with the reporting person's immediate manager rather than using the formal internal channels. This may arise where the relevant wrongdoing is relatively straightforward, is not very serious, or does not require consideration of the making of an adverse finding about any individual. When the reporting person and their manager are comfortable doing so, these concerns can be addressed by the line manager in the first instance. The line manager may consult with the reporting person when determining if they are open to addressing the report informally.
- 13.2.2 Should a worker raise such concerns with a line manager, there is no obligation to follow the requirements in the Act regarding formal acknowledgement, follow-up, feedback, etc., since these reports are not being made through the formal channel. The line manager may need to follow up on the concern and provide feedback to the worker, but this can be done in a more informal manner.
- 13.2.3 It is recognised that there may be occasions where an informal process is commenced but the manager carrying out that informal process identifies in the course of that process that the matter is more suitable for a formal investigation, in which case, the report shall be made to the primary or secondary designated person as appropriate. This may be for example, given the seriousness and sensitivity of the issues involved.

13.3. Formal Internal Reporting

- 13.3.1. A formal report should be made to the primary designated person. The Head of Risk & Compliance or their designate is the primary designated person and as a result, has overall responsibility for the maintenance and operation of this policy within HRI. The primary designated person will maintain a record of concerns raised and the outcomes and will report as necessary to the secondary designated person, the Chief Financial Officer (the "**CFO**").

***Head of Risk &
Compliance/Primary
Designated Person***

Claire Rudd

Horse Racing Ireland,
Ballymany,
The Curragh
Co Kildare

- 13.3.2. Where depending on the circumstances, it is not appropriate to report to the primary designated person, reports should be made directly to the CFO.
- 13.3.3. The designated person will communicate, follow up and provide feedback to the reporting person in respect of their report. Where appropriate, the designated person may delegate some or all of its functions to an authorised person as appropriate.
- 13.3.4. Alternatively, where the reporting person considers it more appropriate (for example where matters of concern relates to senior executives or where it is not appropriate to raise the matter with the primary or secondary designated person), s/he may report their concerns to the Chairman of the HRI Audit & Risk Committee or the Chairman of the HRI Board using the following contact details:
- Victor Clarke, Acting Chairman, Audit & Risk Committee – victor@cj.ie
 - Nicky Hartery, Chairman of the HRI Board – nicky.hartery@gmail.com

14. How concerns are raised

- 14.1 Concerns may be raised verbally (by meeting in person, via telephone or video call) or in writing (electronically or in writing). Should the reporting person raise a concern verbally a written record of the conversation will be maintained and provided to the reporting person after the meeting. Should the reporting person raise a concern in writing, we ask that s/he provides the background and history of the concern, giving relevant details, insofar as is possible, such as dates, sequence of events and description of circumstances. The information required in such a report is set out at **Appendix B** below.
- 14.2 The earlier the concern is expressed the easier it will be to deal with the matter quickly/efficiently as possible.
- 14.3 Having raised the concern with HRI, a meeting will be arranged to discuss the matter with the reporting person on a strictly confidential basis. The reporting person can choose whether or not they want to be accompanied by a colleague who is not involved in the immediate area of work to which the concern relates. In regard to confidentiality, it is important that there should be an awareness of respecting sensitive company information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

15. How HRI will Deal with the Disclosure

15.1. Initial Assessment

- 15.1.1 A screening process will then take place which involves an initial assessment of the disclosure to seek to determine if there is prima facie evidence that a relevant wrongdoing may have occurred.
- 15.1.2 For the avoidance of doubt, it is not intended at this initial stage that an investigation will be carried out in order to make a decision as to whether or not the report is a protected disclosure, and the initial assessment will be limited to whether or not there is prima facie evidence that a relevant wrongdoing may have occurred.
- 15.1.3 It may also be necessary, as part of the screening process, to differentiate between protected disclosures and complaints exclusively affecting the worker and determine the appropriate

procedure to be used. The report will be assessed to determine the nature of the information disclosed and the procedure or procedures that is/are most appropriate to be used to investigate the individual elements of the allegation. If, having assessed the report, it is deemed to relate solely to a complaint exclusively affecting the worker then the reporting person should be encouraged to utilise other processes (for example, HRI's Grievance Procedure, Disciplinary Policy, or Dignity at Work Policy) and will be told that the report will not be considered under the Protected Disclosures Policy. If, having assessed the report, there is a mix of different issues (some involving a protected disclosure, some involving a complaint exclusively affecting the worker) then the appropriate process / processes will be applied to deal with each of the issues

- 15.1.4 If it is unclear whether the report qualifies as a protected disclosure, the designated person will treat the report as a protected disclosure (and protect the identity of the reporting person and any persons concerned, in accordance with the Procedures) until satisfied that the report is not a protected disclosure.
- 15.1.5 If, after the initial assessment, the designated person determines that there is no prima facie evidence that a relevant wrongdoing may have occurred, then the matter can be closed (or referred to another internal process, as above), and the reporting person notified.
- 15.1.6 If, after the initial assessment, the designated person determines that there is prima facie evidence that a relevant wrongdoing may have occurred, the designated person will take appropriate action to address the relevant wrongdoing. This will normally involve a consideration of whether the alleged wrongdoing is something that can or should be investigated by HRI or not, and, if so, what steps should be taken as part of such an investigation.

15.2. Investigation

- 15.2.1 If, on foot of the initial assessment, the designated person concludes that there are grounds for concern that cannot be dealt with at this point, an investigation will be conducted, which will be carried out fairly and objectively. The form and scope of the investigation will depend on the subject matter of the disclosure. If urgent action is required (for example to remove a health and safety hazard), this action will be taken.
- 15.2.2 The designated person may determine that there are matters of such seriousness that the investigation will more appropriately be carried out externally or by professional experts in a particular area. In such cases, disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the following appropriate authorities:
 - Be investigated further internally;
 - Be referred to the Human Resource Manager;
 - Be referred to the Internal Auditor;
 - Be referred to an independent external third party;
 - Be referred to relevant professional bodies;
 - Be referred to the Standards in Public Office Commission or other relevant statutory bodies;
 - Be referred to An Garda Síochána;
 - Form the subject of an independent inquiry.

15.2.3 The reporting person can be assured that their disclosure is taken seriously and that they will be kept informed of steps being taken by HRI. In this regard HRI undertake to communicate the following:

- The designated person will acknowledge receipt of the disclosure within (7) seven days of receipt of the report and arrange to meet with the reporting person as outlined above;
- The reporting person will be informed of how HRI proposes to investigate the matter and will be kept informed of actions, where possible, in that regard including the outcome of any investigation, and, should it be the case, why no further investigation will take place. However, it is important to note that sometimes the need for confidentiality and legal considerations may prevent HRI from giving specific details of an investigation.
- It is not possible to prescribe timescales or steps required for investigations, as this will vary depending on the nature of the issue. However, HRI will in any event commit to dealing with the matter as quickly as practicable.
- HRI will provide feedback to the reporting person within three months of acknowledgement of receipt of the report of a disclosure, and at (3) three month intervals thereafter, if so requested. Reporting persons should note that the provision of feedback does not require a full investigation report to be provided after three months but may consist of action taken or action expected to be taken to address the wrongdoing reported.
- It should be noted that the requirement for confidentiality may prevent HRI from giving specific details of the investigation and/or any disciplinary action taken as a result. Workers must treat any information about the investigation as confidential.
- For complex or serious investigations, it may be necessary to draw up Terms of Reference. Such Terms of Reference will give investigators scope to interview any witnesses and to review any documentation that they deem relevant. The scope and conduct of the investigation will not be unduly restricted by the Terms of Reference and the investigator will not be precluded from taking certain actions or examining further issues that may arise in the course of the investigation.
- Where an allegation is made against an individual (the “**Respondent**”) the principles of natural justice and fair procedures will be complied with as appropriate. The Respondent will have the right to know the allegations made against them and will also have the right to a fair and impartial hearing. These rights will be balanced against the reporting person’s right to have their identity protected as, under the Act, there are very limited cases where the identity of the reporting person may be disclosed to a Respondent. Where the identity of the reporting person cannot be disclosed to the Respondent, it may be possible for the Respondent to pose questions and challenge the evidence by way of an intermediary. In any case, whether the identity of the reporting person is known or not, the Respondent should be permitted to address the contents of the disclosure, and also to address an evidence or witness statements gathered as part of the investigation.
- In general, the Respondent’s right to representation will be limited to a co-worker or trade union representative. While the Respondent is entitled to obtain their own legal advice, there is no automatic right to legal representation at the investigation meetings themselves. The right to legal representation will only arise in exceptional circumstances taking into account the general circumstances of the case including:
 - a) the seriousness of the charge and of the potential penalty;

- b) whether any points of law are likely to arise;
- c) the capacity of the Respondent to present their own case and whether the Respondent is suffering from any condition that might affect their ability to do so;
- d) whether there is any procedural difficulty involved in the case;
- e) the formality of the investigation meeting (e.g. if there will be witnesses attending and if it will be necessary to challenge the evidence by putting information to the witnesses, and whether the Respondent would be capable of doing this without legal representation);
- f) the need for reasonable speed in conducting the investigation; and
- g) the general need for fairness as between the parties.

15.2.4 It is possible that in the course of an investigation the reporting person may be asked to clarify certain matters. To maximise confidentiality, such a meeting can take place off site and the reporting person can choose whether or not to be accompanied by a colleague who is not involved in the immediate area of work to which the concern relates.

15.2.5 Where a concern is raised or a disclosure is made in accordance with this policy, but the allegation is subsequently not upheld by an investigation, no action will be taken against the worker making the disclosure and the worker will be protected against any penalisation. It is important to note that if an unfounded allegation is found to have been with malicious intent, then disciplinary action may be taken.

15.3. Final Outcome

The final outcome of any investigation triggered by the report of the disclosure will be communicated in writing to the reporting person, subject to applicable legal restrictions concerning confidentiality, legal privilege, privacy and data protection or any other legal obligation. The full investigation report may not be provided to the reporting person.

16. Review

16.1A party affected by any of the following processes may request a review of that process/decision:

- I. The conduct or outcome of any follow-up actions (including any investigation) taken on foot of the receipt of a report;
- II. The conduct or outcome of any investigation into a complaint of penalisation; and
- III. Any decision to disclose the identity of a reporting person (except in exceptional cases).

16.2An affected party can request a review by contacting Director of People 5 days of the applicant's receipt of the process/decision, setting out the reason(s) they are seeking a review. The person conducting the review will be considered by a person (internal or external) not involved in the original process under review. Where the reviewer is internal, s/he will at least be of the same level of seniority as the person who carried out the original process.

16.3The reviewer will not re-investigate the matter in question but will address the specific issues the applicant feels have received insufficient consideration. The reviewer will therefore consider:

- Whether the correct procedures were followed;
- In the case of an investigation, whether the terms of reference were adhered to;

- Whether the conclusions/findings could or could not reasonably be drawn from the information/evidence on the balance of probability;
- Where a review finds significant shortcomings or failings in the process, HRI will then consider what further action(s) may or may not need to be taken in response to said findings; and
- The outcome of the review will be final and there is no entitlement to further reviews of the same issue.

17. Feedback

17.1. Initial and Further Feedback

- 17.1.1 Initial feedback will be provided to the reporting person so s/he is kept informed on the process and actions arising from the report made by them. This initial feedback will be provided to the reporting person no later than (3) three months of acknowledgement of receipt of the report of a disclosure or if no acknowledgement is sent within no later than (3) three months of receipt of the report.
- 17.1.2 The reporting person may request in writing that they wish to receive further feedback after the initial (3) three month period, in which case, HRI will do so at intervals of (3) three months until the procedure relating to the report is closed. Alternatively, where no such request is made, HRI may choose to provide further feedback where it considers it appropriate to do so within intervals of (3) three months.
- 17.1.3 If a report was made before 1 January 2023, and the report is still being considered in accordance with HRI's previous or current protected disclosures policy, then the reporting person may request in writing that feedback be provided. HRI will provide information on any actions taken or to be taken by HRI in relation to the report within has (3) three months of receipt of the request.

17.2. Content of feedback

- 17.2.1 Feedback is defined as the provision to the reporting person of information on the action envisaged or taken as follow-up and the reasons for such follow-up.
- 17.2.2 Follow-up is defined as any action taken, by the recipient of a report, or a person to whom the report is transmitted, to assess the accuracy of the information and, where relevant, to address the wrongdoing reported. Therefore, follow-up includes the assessment and investigation of the report of a disclosure and actions taken to address the wrongdoing.
- 17.2.3 No information will be communicated that could prejudice the outcome of the investigation or any action that ensues (e.g. disciplinary, or other legal action, including prosecution) for example, by undermining the right to fair procedures enjoyed by the person against whom a report or allegation is made.
- 17.2.4 The extent of the feedback will vary depending on the report itself. If there is no relevant wrongdoing identified, this can be communicated in the feedback. If an alleged relevant wrongdoing is identified, this can be noted in the feedback, as well as identifying actions that have been taken, or are intended to be taken, to address the wrongdoing, and the reasons for these actions.
- 17.2.5 Any feedback given is provided in confidence as part of the reporting process and the process of HRI addressing the report. The feedback should not be disclosed further by the reporting person, other than to the reporting person(s) legal advisor or trade union representative, or unless the information forms part of a further protected disclosure being made via another channel.

- 17.2.6 There is no obligation to inform the reporting person of the commencement, or progress, or outcome, of any disciplinary process involving another worker, which may arise on foot of an investigation occasioned by a protected disclosure. In general, such information is confidential between the employer and the person who is the subject of a disciplinary process.
- 17.2.7 Care will be taken to ensure that any feedback provided complies with data protection legislation and does not breach the data protection rights of any persons involved. Similarly, the requirement to provide feedback does not override any statutory obligations that might apply to HRI or a prescribed person as regards confidentiality and secrecy.

18. Communication of final outcome

18.1 HRI will communicate in writing to the reporting person the final outcome of any investigations triggered by the report of the disclosure, subject to legal restrictions applying concerning confidentiality, legal privilege, privacy and data protection or any other legal obligation.

18.2 This does not require the provision of the full investigation report, and the outcome of the investigation will be subject to the above restrictions.

19. Record Keeping

Any person to whom a report is made will keep a record of every report made to them, including anonymous reports. Where a meeting takes place in person, a written record of the meeting will be taken. The reporting person will be given the opportunity to review and provide their amendments to the minutes. As regards anonymous disclosures, the person receiving the report shall record the report in a manner they deem appropriate. Access to records relating to protected disclosures will be strictly limited to those who require access in accordance with this policy.

20. Data protection

20.1 HRI will comply with all obligations arising under data protection legislation in respect of a protected disclosure, as well as the provisions of the Act in relation to data protection.

20.2 In accordance with these provisions, the right of access to personal data may be restricted in certain circumstances, such as where if the request were granted, it would hinder reporting, or impede or frustrate follow-up or investigations, or would reveal the identity of the discloser or any person concerned. Any person affected by this restriction may bring a complaint to the Data Protection Commissioner.

20.3 All written records relating to a protected disclosure shall be retained in accordance with HRI's data protection policy, available on the intranet or on request from dpo@hri.ie.

21. Annual Report

The Act provides that every public body, including HRI, shall prepare and provide to the Minister not later than 1 March in each year a report in relation to the immediately preceding calendar year in a form which does not enable the identification of the reporting person or persons involved. The report will contain information relating to the following matters:

- a) the number of reports made to HRI;
- b) in respect of each report, the relevant wrongdoing concerned was a breach;
- c) the number of investigations and proceedings opened by HRI;
- d) the number of investigations and proceedings closed by HRI, the outcome of the investigation or proceedings and the decision taken by HRI;
- e) the estimated financial damage and the amounts recovered following any investigations and proceedings; and

- f) such other information relating to the performance of the functions of HRI as may be requested by the Minister.

HRI will prepare and publish a report on its website not later than 31 March each year in respect of the immediately preceding calendar year containing the following information:

- a) A statement confirming that HRI has in place internal and external reporting channels and procedures; and
- b) The information provided to the Minister contained in the above list (a)-(f).

22. How the Matter can be Taken Further

22.1 The aim of this policy is to provide an avenue within this workplace to deal with concerns or disclosures in regard to wrongdoing. We are confident that issues can be dealt with “in house” and we strongly encourage workers to report such concerns internally.

22.2 We acknowledge that there may be circumstances where an employee wants to make a disclosure externally, and the legislation governing disclosures — the Act and the channels outlined at Appendix A— provide for a number of avenues in this regard.

22.3 It is important to note however that while the reporting person need only have a reasonable belief as to wrong doing to make a disclosure internally, if s/he is considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made as set out at Appendix A below.

23. Publication

A copy of this policy shall be available to each employee in the organisation via the employee handbook and/or the intranet.

24. Review of this Policy

This policy shall be monitored and reviewed as appropriate on an ongoing basis .

25. Support

If any worker is finding any processes under this policy stressful, they can contact HRI’s employee assistance programme, which is run by Spectrum Life and how to avail of them can be found at <https://hub.hri.ie/Landing-Pages/Resources/Employee-Assistance-Programme> which is accessible directly while in the office. The phone number is **1800 903 542**. The service is strictly confidential.

Policy owner	Head of Risk & Compliance
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Appendix A

The Act identifies the following avenues for making a protected disclosure outside the employer:

- a) **Other responsible person:** Where the staff member reasonably believes that the wrongdoing relates to the conduct of a person other than the staff member’s employer or to something for which that other person has legal responsibility, then the staff member can disclose to that other person.

b) A prescribed person: Certain persons are prescribed by Statutory Instrument 367/2020 to receive protected disclosures (“**prescribed persons**”). At this time the Chief Executive Officer of Horse Racing Ireland is the only prescribed body under section 7(2) of the Act. The Chief Executive Officer of Horse Racing Ireland can receive protected disclosures in respect of all matters relating to the control of the operation of authorised bookmakers, the totalisator and the Registry Office.

The Act will only apply to disclosures made to a prescribed person in this way if:

- the person making the disclosure reasonably believes that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed,
- the person making the disclosure reasonably believes that the information disclosed, and any allegation contained in it, are substantially true. This is an additional requirement when disclosing to a prescribed body and provided for in the Act.

c) A Minister of the Government: A worker in HRI can make a protected disclosure to the Minister for Agriculture, Food and Marine. This type of disclosure can also be actioned by disclosing to the Department for Agriculture, Food and Marine under the Department’s Protected Disclosures Policy.

In order to make a disclosure to a the Minister, the worker must reasonably believe that the information disclosed tends to show one or more relevant wrongdoings; and one or more of the following must also apply:

I. The worker has previously made a disclosure of substantially the same information to their employer, other responsible person, prescribed person, or relevant Minister, as the case may be, but no feedback has been provided to the worker in response to the disclosure within the period allowed, or, where feedback has been provided, the reporting person reasonably believes that there has been no follow-up or that there has been inadequate follow-up;

II. The worker reasonably believes the head of the public body concerned is complicit in the relevant wrongdoing reported;

III. The worker reasonably believes that the disclosure contains information about a relevant wrongdoing that may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage.

To ensure that the relevant Minister is aware of the worker’s intention, it is recommended that the worker specify when making a disclosure under this channel that it is a disclosure to the named Minister under section 8 of the Protected Disclosures Act 2014. Disclosures received by Ministers are required to be forwarded by Ministers to the Commissioner.

d) Disclosure to relevant institutions, bodies, offices or agencies of European Union

A disclosure of information on “breaches” (as defined below) may be made to relevant institutions, bodies, offices or agencies of the European Union where the worker has reasonable grounds to believe that the information on the breaches reported was true at the time of reporting and that such information fell within the scope of the Directive (EU) 2019/1937. This Directive has been transposed into Irish law by the Act.

‘Breach’ means acts or omissions to which one or more of (a)-(d) applies and which:

- (a) are unlawful and fall within the scope of the Union acts set out in the Annex to the 2014 Act; or

- (b) defeat the object or the purpose of the rules in those Union acts;

In both cases (a) and (b), the Union acts concern the following areas:

- (i) public procurement;
 - (ii) financial services, products and markets, and prevention of money laundering and terrorist financing;
 - (iii) product safety and compliance;
 - (iv) transport safety;
 - (v) protection of the environment;
 - (vi) radiation protection and nuclear safety;
 - (vii) food and feed safety, animal health and welfare;
 - (viii) public health;
 - (ix) consumer protection;
 - (x) protection of privacy and personal data, and security of network and information systems;
- (c) and/or the acts or omission affects the financial interests of the Union as referred to in Article 325 TFEU and as further specified in relevant Union measures;
 - (d) and /or the act or omission relates to the internal market, as referred to in Article 26(2) TFEU, including breaches of Union competition and State aid rules, as well as breaches relating to the internal market in relation to acts which breach the rules of corporate tax or to arrangements the purpose of which is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law.

There are strict requirements to meet the definitions for disclosures under this heading. Workers who are considering doing so should consult the 2014 Act and Directive (EU) 2019/1937 for information on these requirements.

e) 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 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.

f) A legal adviser: The Act allows a protected disclosure to be made by a staff member 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).

g) Alternative external disclosures (in very limited circumstances) (section 10 of the Act): In very limited circumstances, a staff member can disclose in accordance with section 10. It should be noted that there are stringent requirements for alternative external disclosures (for example seeking to disclose directly to the media) to qualify as protected disclosures under section 10 of the Act.

Appendix B

Details that should be included in a disclosure:

It is recommended that, at a minimum, disclosures should include the following details:-

- a) that the disclosure is being made under the Procedure;
- b) the discloser'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 the person(s) allegedly involved in the alleged wrongdoing (if any name is known and the worker considers that naming an individual is necessary to expose the wrongdoing disclosed); and
- h) any other relevant information.