

# Protected Disclosures Policy



## Purpose

HRI is committed to maintaining an open culture with the highest standards of honesty and accountability where our employees can report any concerns in confidence. The purpose of this policy is

- To encourage you to feel confident and safe in raising concerns and disclosing information;
- To provide avenues for you to raise concerns in confidence and receive feedback on any action taken;
- To ensure that you receive a response where possible to your concerns and information disclosed;
- To reassure you that you will be protected from penalisation or any threat of penalisation.

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 employees to report such concerns internally.

## Scope

This policy applies to all employees of HRI and its subsidiaries.

## Policy

The Protected Disclosures Act 2014 was introduced to give protection to all employees who make a protected disclosure (also known as 'whistleblowing'). It provides protection to all workers, including employees, contractors, agency workers, and trainees. Protected Disclosures occurs when a worker raises a concern or discloses information which relates to wrongdoing, illegal practices or unethical conduct which has come to his/her attention through work. It is important to note that in order to enjoy the protections of the Act, disclosures must be made in accordance with the provisions set out in the Act.

The Act provides that if a disclosure is made by a worker in line with the channels set out in the legislation, a worker is protected from penalisation by the employer. Penalisation is defined in the Act and includes for example:

- Suspension/Layoff/Dismissal;
- Demotion;
- Transfer of duties, change of location, change in working hours, reduction in wages;
- Imposition of reprimand, discipline or other penalty;
- Unfair treatment;
- Discrimination;
- Harassment, threat of reprisal.

The Act provides that an employee who is penalised by dismissal following the making of a protected disclosure may claim that he/she 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.

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.

HRI’s protected disclosures policy is intended to encourage and enable workers to raise concerns within our workplace rather than overlooking a problem or “blowing the whistle” externally. 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. Relevant wrong doings can include but are not limited to the following:

- Commission of an offence — has happened, is happening, or is likely to happen;
- Failure to comply with any legal obligation (other than one arising under the worker’s contract of employment);
- Miscarriage of justice;
- Health and safety of any individual;
- Misuse of public money;
- Damage to the environment;
- Fraud or deliberate error in the preparation, evaluation, review or audit of the organisation’s management accounts or annual financial statements;
- Fraud or deliberate error in the recording and maintaining of the organisation’s financial records;
- Misrepresentations, untrue statements or omissions by or to management or the organisation’s independent auditor or to the internal auditor regarding the financial records, financial reporting or annual financial statements;
- Deficiencies in or non-compliance with the organisation’s internal controls;
- Fraud or other irregularities i.e. control weaknesses, causing loss or damage to the organisation, its customers or its agents.
- Destruction or concealment of information relating to any of the above.

It is acknowledged that there may be circumstances where an employee wants to make a disclosure externally, and the legislation governing disclosures — The Protected Disclosures Act 2014 — provides for a number of avenues in this regard.

The eight data protection principles contained within the 1998 Act and apply to the processing of all personal data are listed below:

- Personal data shall be processed fairly & lawfully and, in particular, shall not be processed for a number of reasons, which are available on request.
- Personal data shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or purposes.
- Personal data shall be adequate, relevant and not excessive in relation to the purposes or purposes for which they are processed.
- Personal data shall be accurate and where necessary kept up to date.
- Personal data processed for any purpose or purposes shall not be kept longer than is necessary for that purpose or purposes.
- Personal data shall be processed in accordance with the rights of data subjects under this Act.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

## Process for raising a concern

As a first step, appropriate concerns should be raised with your immediate manager. However, should you not wish to use this route, for example given the seriousness and sensitivity of the issues involved, you should approach the Head of Risk & Compliance using the following details:

### **Claire Rudd, Head of Risk and Compliance**

Telephone: 087 905 3973 or email [crudd@hri.ie](mailto:crudd@hri.ie)

Where matters of concern relate to senior executives, a staff member may report these concerns to either the Chairman of the HRI Audit & Risk Committee, the Chairman of the HRI Board or to the Department of Agriculture, Food and the Marine using the following contact details:

### **Victor Clarke, Acting Chairman, Audit & Risk Committee**

[victor@cj.ie](mailto:victor@cj.ie)

### **Nicky Hartery, Chairman of the HRI Board**

[nicky.hartery@gmail.com](mailto:nicky.hartery@gmail.com)

### **Liam Devine, Department of Agriculture, Food and the Marine**

[Liam.Devine@agriculture.gov.ie](mailto:Liam.Devine@agriculture.gov.ie)

Concerns may be raised verbally or in writing. Should you raise a concern verbally, a written record of the conversation between you and the Head of Risk & Compliance will be kept and you will be provided you with a copy after the meeting. Should you raise a concern in writing you will be asked to give 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 earlier you express the concern the easier it will be for to deal with the matter quickly.

Having raised your concern, a meeting will be arranged to discuss the matter with you on a strictly confidential basis. Clarification will be sought at this point to ascertain if the concern is appropriate to this procedure or is a matter more appropriate to our other procedures, for example our Grievance or Bullying and Harassment procedures. You can choose whether or not you 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.

Having met with you in regard to your concern and clarified that the matter is in fact appropriate to this procedure, an initial assessment will be carried out to examine what actions need to be taken to take to deal with the matter. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.

If, on foot of the initial assessment, the conclusion is 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.

Disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the appropriate authorities. The matters raised may:

- 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.

It is important to HRI that you feel assured that a disclosure made by you under this policy is taken seriously and that you are kept informed of steps being taken in response to your disclosure. In this regard you will be communicated with as follows:

- Receipt of your disclosure will be acknowledged, and arrangement made to meet with you as outlined above;
- A proposal will be outlined to you as to how to investigate the matter and keep you 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 us from giving you specific details of an investigation.
- You will be informed of the likely time scales in regard to each of the steps being taken but in any event, we commit to dealing with the matter as quickly as practicable.

It is possible that in the course of an investigation you may be asked to clarify certain matters. To maximise confidentiality such a meeting can take place off site and you 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.

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.

The Head of Risk & Compliance or their designate has overall responsibility for the maintenance and operation of this Policy within the organisation. The Head of Risk & Compliance will maintain a record of concerns raised and the outcomes and will report as necessary to the Chief Executive Officer and/or the Chief Financial Officer.

It is important to note that should you have a concern in relation to your own employment or personal circumstances in the workplace it should be dealt with by way of our Grievance Procedure. Likewise concerns arising in regard to workplace relationships should generally be dealt with through our Bullying and Harassment in the Workplace Policy.

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.

A concern may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern. Employees are encouraged on a confidential basis to sign their allegations, with the assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for to assess the disclosure and take appropriate action including an investigation if necessary.

## HRI Responsibilities

A worker who makes a disclosure and has a reasonable belief of wrongdoing will not be penalised by this organisation, even if the concerns or disclosure turn out to be unfounded.

Penalisation includes suspension/dismissal, disciplinary action, demotion, discrimination, threats or other unfavourable treatment arising from raising a concern or making a disclosure on the basis of reasonable belief for

doing so. If you believe that you are being subjected to penalisation as a result of making a disclosure under this procedure, you should inform your manager/senior manager immediately.

Harassment or victimisation of individuals, who have raised concerns, including informal pressures, will not be tolerated by the organisation and will be treated as a serious disciplinary offence which will be dealt with under the disciplinary procedures.

### **HRI Responsibilities (continued)**

Employees who penalise or retaliate against those who have raised concerns under this policy will be subject to disciplinary action.

Employees are not expected to prove the truth of an allegation. However, they must have a reasonable belief that there are grounds for their concern. It should be noted that appropriate disciplinary action may be taken against any worker who is found to have raised a concern or raised a disclosure with malicious intent.

Any investigation into allegations of misconduct will not influence or be influenced by any discipline or other procedures that may already affect an employee. Nor does it mean that any disciplinary or other procedures to which an employee is already subject will be halted as a result of raising concerns.

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.

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.

### **Line Manager Responsibilities**

HRI is committed to ensuring that all employees, subsidiaries and data processors are aware of their responsibilities to comply with the Acts and this policy.

Line Managers within HRI are required to ensure that all staff that handle/use or have access to Personal Data are aware of and comply with this policy and associated policies and/or procedures. In order to do this, line managers must comply with the eight Principles of Data Protection as above.

The relevant line manager will be responsible for the management of the breach or potential breach, investigating the cause and ensuring the necessary remediation (with guidance from the Committee) steps are implemented.

Each department/business unit will maintain a log of all Data Protection related incidents.

### **Employee Responsibilities**

An employee is entitled to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage. An employee will need only reasonable belief as to wrongdoing to make a disclosure internally, if you are considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made.

### **HR Responsibilities**

HR are responsible to ensure the policy and procedure is clearly communicated to all employees and to provide advice and guidance to all employees

Should you have any queries in relation to this policy please contact the HR Department.