



Protected Disclosures (Whistleblowing) Policy and Procedures

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1. Document Control Summary

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2. Introduction / Context / Policy Statement

The Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022 (the “**Act**”) requires all public bodies to establish, maintain and operate internal reporting channels and procedures to allow for the making of disclosures and for follow-up.

The University and Governing Body are committed to creating a workplace culture that supports the making of protected disclosures and provides protection for reporting persons.

The University is committed to the highest possible standards of honesty and accountability where its Workers can report concerns in confidence. It recognises that Workers have an important role to play in achieving this goal. This policy is intended to encourage and enable Workers to raise concerns within the workplace rather than overlooking a problem or reporting the problem externally. Under this Protected Disclosure (Whistleblowing) Policy, a Worker is entitled to raise concerns or disclose Relevant Information appropriately without fear of Penalisation or threat of less favourable treatment, discrimination or disadvantage.

2.1 Protections and support for persons making a Protected Disclosure

The University encourages openness and will support a Reporting Person who raises a genuine concern under this policy, even if they turn out to be mistaken.

A Reporting Person who makes a disclosure under this policy must not suffer any Penalisation as a result of raising a concern. If a Reporting Person believes that they have suffered any such treatment, they should inform the **Head of Human Resources** immediately.

If the matter is not remedied, the Reporting Person should raise this formally using the University’s Grievance Procedure. The normal management of a Reporting Person does not constitute Penalisation.

Workers also have recourse to the Workplace Relations Commission if they believe that they have been penalised as a direct result of having made a protected disclosure. Such a claim must be made to the Workplace Relations Commission within 6 months of the penalisation occurring.

Workers may also apply to the Circuit Court for interim relief in cases of penalisation, which must be made within 21 days of the last instance of penalisation. Extensions to timescales may be sought in specific circumstances.

3. Purpose

The Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022 (the “**Act**”) requires all public bodies to establish, maintain and operate internal reporting channels and procedures to allow for the making of disclosures and for follow-up.

This document sets out those internal reporting channels and procedures and aims to:

- (a) encourage the reporting by Workers of suspected Relevant Wrongdoing as soon as possible in the knowledge that reports will be taken seriously and investigated as appropriate;
- (b) provide guidance as to how to raise those concerns and how those concerns will be dealt with in a clear, formal and safe manner; and
- (c) reassure employees that genuine concerns can and should be raised, even if they turn out to be mistaken, without fear of Penalisation.

4. Scope

This policy covers Reporting Persons i.e. Workers who disclose Relevant Information under this policy.

A student may come within the scope of this policy in certain circumstances such as when on work placement, carrying out research with employees and delivering contracted services to the University.

Employees should note that this policy does not form part of any contract of employment and may be amended by the University from time to time.

WHAT IS NOT IN SCOPE

This Act should not be used to raise complaints relating to interpersonal grievances exclusively affecting a Worker, namely grievances about interpersonal conflicts between a Worker and another Worker, or a matter concerning a complaint by a Worker to, or about, the University which concerns the Worker exclusively. In such circumstances, it may be more appropriate to raise complaints / grievances under a different University policy such as:

- the University’s Grievance Procedures [HRP005](#); or
- Dignity and Respect at Work [HRP003](#) ; or
- the Disciplinary Procedures for Employees where appropriate [HRP004](#).

These procedures are not designed to be used to re-open any matters which have been addressed under other University policies and procedures, nor should it be viewed as an alternative to those policies and procedures in respect of matters which would more appropriately be considered under them. Action arising from the implementation of this policy may lead to the invocation of other University policies and procedures, including Grievance Procedures and Disciplinary Procedures.

This policy does not include a wrongdoing which it is in a Worker’s function or the University’s function to detect, investigate or prosecute and does not involve an act or omission on the part of the University.

5. Definitions / Terminology

A **Protected Disclosure** is a disclosure of information which, in the **reasonable belief** of a **worker**, tends to show one or more relevant wrongdoings; came to the attention of the worker in a **work-related** context; and is disclosed in the manner prescribed in the Act.

Designated Person: the person within the University with primary responsibility for receiving and assessing a disclosure, and for communicating with a Reporting Person about the outcome of their disclosure.

Penalisation: means any direct or indirect act or omission which occurs in a work-related context, is prompted by the making of a disclosure and causes or may cause unjustified detriment to a Reporting Person and in particular includes:

- a) suspension, lay-off or dismissal;
- b) demotion, loss of opportunity for promotion or withholding of promotion;
- c) transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- d) the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- e) coercion, intimidation, harassment or ostracism;
- f) discrimination, disadvantage or unfair treatment;
- g) injury, damage or loss;
- h) threat of reprisal;
- i) withholding of training;
- j) a negative performance assessment or employment reference;
- k) failure to convert a temporary employment contract into a permanent one, where the Reporting Person had a legitimate expectation that he or she would be offered permanent employment;
- l) failure to renew or early termination of a temporary employment contract;
- m) harm, including to the Reporting Person's reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- n) 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;
- o) early termination or cancellation of a contract for goods or services;
- p) cancellation of a licence or permit; or
- q) psychiatric or medical referrals.

Reasonable Belief

A worker must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. The term 'reasonable belief' does not mean that the belief has to be correct. Workers may be mistaken in their belief but are acting on the assumption that their belief was based on reasonable grounds.

Relevant Information

Information that in the reasonable belief of the Worker tends to show one or more Relevant Wrongdoings and the information comes to the attention of the Worker in a work related context.

Relevant Wrongdoing

For the purposes of the Act, the following are relevant wrongdoings:

- 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 Reporting Person's contract of employment or other contract whereby the Reporting Person undertakes to do or perform personally any work or service;
- c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- d) that the health and safety of any individual has been, is being or is likely to be endangered;

- e) that the environment has been, is being or is likely to be damaged;
- f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur;
- g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- h) that a breach has occurred, is occurring or is likely to occur (i.e. that a breach of European Union law in any of the following areas has occurred, is occurring or is likely to occur: public procurement; financial services, products and markets, and prevention of money laundering and terrorist financing; product safety and compliance; transport safety; protection of the environment; radiation protection and nuclear safety; food and feed safety and animal health and welfare; public health; consumer protection; protection of privacy and personal data, and security of network and information systems; the financial interests of the European Union and/or the internal market); or
- i) that information tending to show any matter falling within any of the preceding bullets 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.

Reporting Person: a Worker who discloses Relevant Information under this policy.

Worker: former or current employees, independent contractors, suppliers, agency workers, volunteers, unpaid trainees, work experience students, board members, shareholders, members of administrative, management or supervisory bodies, an individual who acquires information on a relevant wrongdoing during a recruitment process and an individual who acquires information on a relevant wrongdoing during pre-contractual negotiations.

6. Roles and Responsibilities

6.1 REPORTING PERSON

A **Protected Disclosure** is a disclosure of information which, in the **reasonable belief** of a **worker**, tends to show one or more relevant wrongdoings; came to the attention of the worker in a **work-related** context; and is disclosed in the manner prescribed in the Act.

A Reporting Person is a Worker who discloses Relevant Information under this policy.

The University will ensure that a Reporting Person will not be at risk of suffering any form of Penalisation as a result of making a disclosure of Relevant Information. The University recognises that a decision to report can be a difficult one to make and, for this reason, the University shall provide reasonable support for any Reporting Person.

A Worker should not pursue their own investigations, however well intended, as a flawed or improper investigation could compromise the University's ability to take effective action. A reasonable but mistaken disclosure of Relevant Wrongdoing will not lose protection under this policy.

The motivation of the Worker for making a disclosure is irrelevant to whether or not it is a disclosure protected by the Act. All disclosures will be dealt with regardless of the worker's motivation for making the disclosure, and the worker will be protected so long as the worker reasonably believes that the information disclosed tended to show a relevant wrongdoing.

However, a disclosure made in the absence of a reasonable belief will not attract the protections of the Act and may result in disciplinary action against the Reporting Person. In addition, disclosure of a wrongdoing does not confer any protection or immunity on the Reporting Person in relation to any involvement they may have had in that wrongdoing.

6.2 DESIGNATED PERSON

The primary point of contact in the University in relation to Protected Disclosures is the 'Designated Person'. The Designated

Person is the **Head of Governance and Compliance** who can provide advice on this policy, receive protected disclosures, and will maintain communication with a Reporting Person about progress on a protected disclosure.

6.3 PROTECTED DISCLOSURES REVIEW GROUP

There is a **Protected Disclosures Review Group (PDRG)** comprising a **minimum of three** people to include:

1. the Vice President for Partnerships (Chair),
2. the Vice President for Organisation, Change and Culture; and
3. **one** of the following depending on the nature of the report:
 - Academic matters – Head of Academic Affairs
 - Research matters – Vice President for Research and Innovation
 - Financial matters– Head of Finance
 - A senior manager with expertise in the matter reported

The Designated Person acts as secretary to the PDRG.

The PDRG may seek additional members or specialist support it considers necessary to complete the Review/Investigation. Any person who is the subject of the Protected Disclosure under review will not serve on the PDRG.

7. Procedure Details:

7.1 How to Make a Disclosure

Informal Internal Reporting Process

If the disclosure relates to a minor concern, albeit a relevant wrongdoing (for example a minor health and safety concern), a worker can raise the disclosure informally rather than using the formal internal reporting process. These concerns should be raised in writing with a worker's line manager who, if they are comfortable to do so, will address the concerns in the first instance.

If a disclosure is made using the informal process, the worker may still be entitled to the protections of the Act. However, there is no obligation on the line manager to provide the worker with a formal acknowledgment, follow-up or feedback. Instead, any follow-up or feedback may be provided to the worker by their line manager in an informal manner. If, in the opinion of the line manager, a matter is more appropriate for the formal process, the line manager may direct a worker to submit the disclosure using the formal internal reporting channel.

Formal Internal Reporting Process

All disclosures by a Reporting Person should be made in writing to the 'Designated Person', who is the **Head of Governance and Compliance** by email to Protected.disclosures@TUDublin.ie

If a disclosure relates to possible Relevant Wrongdoings by the Designated Person, then the report can be made to the **Deputy President and Registrar** by email to Registrar@TUDublin.ie

7.2 Internal Disclosure - Procedure Details

7.2.1 Information to be included in a Protected Disclosure

The Reporting Person will need to be able to demonstrate and support the reasons for their concerns and provide evidence of their concerns where such evidence is available. Any reports setting out an individual's concerns should be factual (to the best of their knowledge) and should address the following key points to the extent that such information is known to the individual in relation to the Relevant Wrongdoing:

- (a) what has occurred;
- (b) when and where it occurred;
- (c) who was involved;
- (d) has the University been put at risk or suffered loss as a result;
- (e) has it happened before;
- (f) has it been raised with anyone else either within the University or externally;
- (g) if so, when/whom;
- (h) are there any other witnesses;
- (i) is there any supporting information or documentation; and
- (j) how the matter came to light.

7.2.2 Next steps

The Designated Person will:

- Acknowledge receipt, in writing to the Reporting Person not more than 7 days after receipt of the disclosure.
- Carry out an [initial assessment](#) of the disclosure
- Maintain communication with the Reporting Person and, where necessary, request further information from, and provide feedback to, that Reporting Person

The Reporting Person must not:

- Mention the disclosure to anyone except the Designated Person.
- Send information relating to the disclosure to any person other than the Designated Person.
- Contact the person about whom the disclosure is made, or tell them about the disclosure.

7.2.3 Initial Assessment

After receipt of the disclosure, the Designated Person, or authorised nominee will carry out an initial assessment to determine whether there is prima facie evidence that a Relevant Wrongdoing may have occurred and whether or not it should be treated as a potential protected disclosure. If necessary to make an initial assessment, the Designated Person will seek further information from the Reporting Person. If it is unclear whether the disclosure qualifies as a protected disclosure, the Designated Person should treat the information as a protected disclosure until satisfied that the information is not a protected disclosure.

Following the initial assessment, the Designated Person may decide that

- i. there is no prima facie evidence that a relevant wrongdoing may have occurred and that the process/procedure should be closed; or
- ii. the matter should be referred to such other agreed policy/procedures within the University; or
- iii. there is prima facie evidence that a relevant wrongdoing may have occurred, and that the matter referred to the PDRG for review.

The Designated Person will conduct the initial assessment in a timely and appropriate manner, and will inform the Reporting Person, in writing, as soon as practicable, of the decision and the reasons for it.

7.2.4 Examination and Investigation Procedures

If following the initial assessment the Designated Person is satisfied that there is evidence that a Relevant Wrongdoing may have occurred the Designated Person should refer the matter to the PDRG who will meet to consider what appropriate action is required to address the Relevant Wrongdoing and to consider the nature and extent of any investigation required.

Depending on the seriousness of the Relevant Wrongdoings this could consist of:

- i. An informal investigation/approach conducted internally by the University; or

- ii. A formal investigation conducted internally by the University; or
- iii. A detailed and extensive investigation by an external investigator/statutory body

The scope and terms of reference of any investigation will be determined by the PDRG prior to the investigation being carried out.

The Reporting Person may be invited to attend additional meetings in order to provide further information. The Reporting Person is entitled to bring a colleague or an employee representative with them to any meeting if they so wish.

The Investigator(s) whether internal to the University, or External, will draft a report on the investigation (the “**Report**”).

The Report will be sent to the PDRG who will determine what (if any) action should be taken by the University. Such action could include:

- i. changes to the way the University conducts its operations;
- ii. referral of the matter for consideration under a specific University policy or procedure including the Disciplinary Procedure; or
- iii. a report to an appropriate third party, such as An Garda Síochána.

It is important that a Reporting Person feels assured that a disclosure made by them under this policy is taken seriously and that the Reporting Person is kept informed of steps being taken in response to the disclosure. The Designated Person will provide feedback to the Reporting Person within a reasonable time, being not more than 3 months from the date the acknowledgement of receipt of the disclosure was sent to the Reporting Person or, if no such acknowledgement was sent, not more than 3 months from the date of expiry of the period of 7 days after the disclosure was made. Where the Reporting Person so requests in writing, the Designated Person will provide further feedback at intervals of 3 months until such time as the procedure concerned is closed.

Feedback should include information on the progress of the investigation and its likely timescale.

However, sometimes the need for confidentiality may prevent the University from giving the Reporting Person specific details of the investigation or any action taken as a result. Where appropriate, an outline of the final outcome of any investigations triggered by the report of the disclosure will be communicated in writing to the discloser, but this will be subject to legal restrictions applying concerning confidentiality, legal privilege, privacy and data protection or any other legal obligation. The Report will not be provided to the discloser.

The Reporting Person should treat any information about the investigation as strictly confidential. Any breach of this confidentiality may result in disciplinary action up to and including dismissal.

It should be noted that fair and due process requires that any person accused of wrongdoing should be made aware of and given the opportunity to respond to any allegations made against them.

If the Investigator(s) conclude(s) that the Reporting Person has made a false or malicious complaint, they may be subject to disciplinary action in accordance with the University's disciplinary policies, procedures and regulations.

In certain circumstances the PDRG may determine that the disclosure should be the subject of referral under the University's Anti-Fraud Policy or notified to the following:

- The University Insurers;
- An Garda Síochána;
- HSE;
- TUSLA;
- Any third party aligned with the University affected by the disclosure;
- Higher Education Authority;
- Department of Further and Higher Education, Research and Skills; and
- Any other relevant authority.

The Designated Person will report to the University Executive Team on Protected Disclosures. In such reporting, the confidentiality of the Reporting Person and other individuals will be maintained as required.

7.2.5 Review

Separately and if requested, a Reporting Person or a third party named in a disclosure who is affected by actions taken as a result of the report, will be entitled to have a right of review in respect of the following:

- the conduct or outcome of any follow-up actions (including any investigation) taken on foot of the receipt of a report;
- the conduct or outcome of any investigation into a complaint of penalisation; and
- any decision to disclose the identity of a Reporting Person (except in exceptional cases).

A request for review, in this context, should be made within 7 days of a report issuing or a decision being made as applicable, to the University Legal Counsel or their nominee who shall appoint an independent person to carry out the review.

A paper-based review will be conducted and the Reporting Person or third party will be advised of the outcome of the review as soon as practicable.

7.3 External Disclosure

The University acknowledges that there may be circumstances where a Worker wants to make a disclosure externally. It is important to note that while a Reporting Person need only have a reasonable belief as to wrongdoing to make an internal disclosure, if a Reporting Person is considering an external disclosure, different and potentially more onerous obligations may apply.

7.3.1 Disclosure to a Prescribed Person

A list of Prescribed Persons for the purpose of making an external disclosure of Relevant Information is set out on the website of the Government available [here](#). This website may be updated by the Government from time to time.

A report can be made to the Chief Executive of the Higher Education Authority if it relates to:

- i. matters relating to the planning and development of higher education and research in the State.
- ii. matters relating to funding for universities and certain institutions of higher education designated under the Higher Education Authority Act 1971 (No. 22 of 1971).

A Reporting Person may make a disclosure to a Prescribed Person if the Reporting Person reasonably believes:

- i. that the Relevant Wrongdoing falls within the description of matters in respect of which the person is prescribed; and
- ii. that the information disclosed, and any allegations contained in the information disclosed, are true.

7.3.2 Disclosure to the Minister for Further and Higher Education, Research and Skills

A Worker can make a disclosure of Relevant Information to the Minister for Further and Higher Education, Research and Skills (the “**Minister**”), if they reasonably believe that the information disclosed, and any allegations contained in the information disclosed, are true, and one or more of the following conditions are met:

- i. the Worker has previously disclosed substantially the same information but no feedback has been provided in response to the disclosure within the specified period or, where feedback has been provided, the Worker reasonably believes that there has been no follow up or that there has been inadequate follow up;
- ii. the Worker reasonably believes that the head of the University is complicit in the Relevant Wrongdoing concerned;
- iii. the Worker reasonably believes that the Relevant Wrongdoing concerned 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.

7.3.3 Disclosure to a Legal Advisor

The Act allows a Protected Disclosure to be made 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).

7.3.4 Other Disclosure Channels

Alternative external disclosures can be made under Section 10 of the Act, but there are stringent requirements for such disclosures to qualify as Protected Disclosures, and the Reporting Person will not qualify for protection in relation to Protected Disclosures made through other channels unless they:

- i. reasonably believe that the information disclosed and any allegation contained in it, are substantially true; and
- ii. have previously made a disclosure of substantially the same information to the University, Prescribed Person or Minister but no appropriate action was taken within the specified period; or
- iii. reasonably believe that:
 - a. the Relevant Wrongdoing concerned 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, or
 - b. if they were to make a report to a Prescribed Person or Minister there is a risk of Penalisation, or there is a low prospect of the Relevant Wrongdoing being effectively addressed due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where a Prescribed Person may be in collusion with the perpetrator of the wrongdoing or involved in the wrongdoing.

7.3.5 External Reporting Procedures

The University does not have control over external reporting procedures.

If a Reporting Person makes an external disclosure they should expect the following procedure:

- acknowledgement, in writing, to the Reporting Person of receipt of the report not more than 7 days after receipt of it, save where the Reporting Person explicitly requested otherwise or the recipient reasonably believes that acknowledging receipt of the report would jeopardise the protection of the identity of the Reporting Person;
- diligent follow-up by the recipient or a person designated by the prescribed person or recipient including an initial assessment and a decision thereafter based on the initial assessment.

7.4 Procedure In Relation To Anonymous Notifications

A Reporting Person is encouraged to identify themselves when making a disclosure whenever possible.

It is not always possible to examine or investigate anonymous disclosures, but they will be considered by the Designated Person.

Any individual who subsequently identifies themselves as the discloser shall be afforded protection under this policy.

7.5 Record Keeping, Data Protection and Freedom Of Information

Records associated with a Protected Disclosure will be retained in accordance with the University's Records Retention policy. These records will be maintained securely so as to comply with the requirements of confidentiality under the Act and with relevant obligations under the GDPR and the Data Protection Acts 1988-2018 (as amended from time to time).

7.6 Confidentiality

All reasonable steps shall be taken to protect the identity of the Reporting Person. However, the identity of the Reporting Person may need to be disclosed in the following circumstances:

- i) where the disclosure is a necessary and proportionate obligation imposed by law in the context of investigations

- or judicial proceedings, including with a view to safeguarding the rights of defence of others;
- ii) where the Designated Person and/or PDRG took all reasonable steps to avoid disclosing the identity of the Reporting Person or any information from which the identity of the Reporting Person may be directly or indirectly deduced, or reasonably believes that disclosing the identity of the Reporting Person or any such information is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment; or
- iii) where the disclosure is required by law.

In these circumstances, the Reporting Person will be notified, in writing by the Designated Person, before their identity is disclosed, unless such notification would jeopardise:

- i) the effective investigation of the disclosure;
- ii) the prevention of serious risk to security of the State, public health, public safety or the environment; or
- iii) the prevention or prosecution of a crime.

7.7 Reporting

Internally - the Designated Person will report to the University Executive Team on Protected Disclosures. In such reporting, the confidentiality of the Reporting Person and other individuals will be maintained as required.

Externally - the University will prepare and publish an Annual Report in accordance with Section 22 of the Act. The Annual Report shall maintain the anonymity of all those involved. The Annual Report will be presented to Governing Body in advance of publication.

7.8 Key Contacts

| Designation | Email |
|-----------------------------------|--|
| Head of Governance and Compliance | Protected.Disclosures@TUDublin.ie |
| Deputy President and Registrar | Registrar@TUDublin.ie |

These contact details will be kept under review and updated as necessary.

7.9 Approval process

This document is prepared by the Head of Governance and Compliance and Legal Counsel, reviewed by UET in advance of submission to the TU Dublin Governing Body Audit and Risk Committee for recommendation to Governing Body for approval.

7.10 Change Process

This document will be reviewed and updated at least every three years in accordance with the TU Dublin Policy on Policy and Procedure Development.

8. Related Documents

None as of time of drafting.

9. Document Management

9.1 Version Control

| VERSION NUMBER | VERSION DESCRIPTION / CHANGES MADE | AUTHOR | DATE |
|----------------|---|-------------------------|---------------------------|
| 1.2 | Updated for Protected Disclosure amendment Act 2022 | TU Dublin Legal Counsel | 31 st May 2023 |
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9.2 Document Approval

| VERSION NUMBER | APPROVAL DATE | APPROVED BY (NAME AND ROLE) |
|----------------|-----------------------------|---------------------------------------|
| 1.2 | 19 th April 2023 | TU Dublin UET |
| | 31 st May 2023 | TU Dublin GB Audit and Risk Committee |
| | 21 st June 2023 | TU Dublin Governing Body |

9.3 Document Ownership

The Head of Governance and Compliance is the document owner and is responsible for keeping the document up to date.

9.4 Document Review

This policy will be reviewed having regard to legislation, operational use and other relevant indicators, not less that every three years.

9.5 Document Classification

This document is Public and available on the University website.