



Protected Disclosure Policy and Procedure (Whistleblowing)

Revision & Approval

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1. Purpose

This document outlines the ALONE's policy and procedures for dealing with disclosures by stakeholders who have a reasonable belief that wrongdoing has occurred and/ or is ongoing i.e. protected disclosures.

2. Scope

The policy and procedure applies to all relevant stakeholders. The term 'staff' or 'staff member' will be used throughout this document as they are anticipated to be the primary user of the procedure. Encompassed within the term 'staff' are:

- Employees or former employees
- Trainees / Interns
- People working under a contract for services
- Independent contractors
- Agency workers
- TUS or CE Scheme workers

Where applicable, the policy and procedure may be extended to volunteers, Trustees or other relevant stakeholders.

3. Roles and Responsibilities

- Overall responsibility for implementing legislation, policies and guidance pertaining to protected disclosures rests with the CEO and Board of Trustees who are supported by Designated Persons (DPs). Within ALONE, DPs are the Quality and Compliance Officer and HR Manager who will have responsibility for assessing disclosures, determining if they are protected disclosures, leading investigations and/or referring cases to relevant management or authorities where applicable.

4. Introduction

4.1 Protected Disclosures Act 2014

The Protected Disclosures Act 2014 ('the Act') provides a statutory framework within which staff can raise concerns regarding potential wrongdoing that has come to their attention in the workplace. The Act provides staff members who contend that they have been penalised for making a report of possible wrongdoing with access to significant protections and scope for securing redress. ALONE is committed to fostering an appropriate environment for addressing concerns relating to potential wrongdoing in the workplace and to providing the necessary support for staff who raise genuine concerns.

4.2 What is a Protected Disclosure?

A protected disclosure is a disclosure of information which, in the '*reasonable belief*' of the staff member, tends to show one or more relevant wrongdoings. The wrongdoing must come to the staff member's attention in connection with his or her employment and

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should be disclosed as outlined in the procedure. The Act is intended to deal with disclosures in the public interest and for connected purposes. This normally involves wrongdoings that are likely to cause harm to the Organisation itself or to the public at large, as opposed to personal complaints.

‘Reasonable belief’

The term “reasonable belief” means that the belief that a wrongdoing has occurred is based on reasonable grounds. This does not mean that the belief has to be correct. A staff member has the right to be wrong in his/her reasonable belief.

The motivation of the staff member for making a disclosure is irrelevant in determining if it is a protected disclosure under the Act. The disclosure will be assessed on the basis of how a reasonable person would respond to the information available to him or her at the time that the disclosure was made.

‘Relevant wrongdoing’

The definition of ‘relevant wrongdoing’ includes:

- Criminal offences;
- Failure to comply with legal obligations;
- Miscarriages of justice;
- Health and safety matters;
- Environmental damage;
- Unlawful or improper use of funds or resources of a public body;
- An act or omission by or on behalf of a public body which is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement;
- Concealment or destruction of information relating to any of the foregoing.

‘In connection with their employment’

The information must come to the attention of the staff member in connection with their employment. A matter is not a relevant wrongdoing if it is a matter which it is the function of the staff member or the staff member’s employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

4.3 Exclusions

What type of Disclosure is not covered by this Policy and Guidance?

It is to be expected that concerns which relate to day to day operational matters will in the normal course of events, be brought to the attention of the relevant line manager and dealt with accordingly.

Personal concerns, for example, regarding an individual’s own terms and conditions of employment or bullying/harassment claims, would not be regarded as protected

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disclosures and would be more appropriately processed under the Grievance and Dignity at Work Procedures.

4.4 Anonymous Reporting

ALONE will accept anonymous disclosures and they will be acted upon to the extent that this is possible, given the constraints in obtaining further information when it is received anonymously.

However, the protections available under the Act and other elements of the protected disclosures procedure (e.g. keeping the discloser informed) cannot in those circumstances be accessed by a staff member who makes an anonymous disclosure unless the staff member is prepared to dispense with anonymity.

5. Policy Statement

In implementing protected disclosure legislation, ALONE's policy is:

- To encourage staff to raise reasonable concerns regarding possible wrongdoing in the workplace.
- To assess/ investigate disclosures in a thorough, competent and timely manner.
- To take reasonable steps to ensure that penalisation does not arise in the case of a discloser, provided the disclosure was made based on a reasonable belief. This includes investigation of claims of penalisation and consideration of disciplinary action where warranted.
- To treat seriously cases where staff make allegations of wrongdoing under the Act without a reasonable belief that the wrongdoing occurred. The protections of the Act may not apply to such staff and they may be subject to disciplinary action if, for example, an allegation of wrongdoing was known to be untrue or misleading or was frivolous or vexatious.
- To deal with allegations made against individuals having due regard for the principles of natural justice and fair procedures which may include a right to challenge the evidence against him/ her.

This policy is not intended to replace the normal handling of issues which takes place in the ordinary course of business.

The disclosure of a wrongdoing does not confer any protection or immunity on a staff member in terms of his/ her involvement in that wrongdoing.

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6. Procedures

6. 1. Making a Disclosure

Step 1: To whom should the disclosure be made?

Any staff member who has a reasonable belief in relation to a wrongdoing/s as set out in the Protected Disclosure Policy ('the policy') should disclose the relevant information to the DP in the first instance.

If for any reason it is not deemed appropriate to disclose the information to the DP, it should then be disclosed to the CEO or directly to the Chairperson.

Although staff are encouraged to use the internal channels to make a disclosure, they may contact an appropriate external body, as defined by the Act, to make a disclosure (e.g. the Charity or Housing Regulator, if applicable). However, more stringent requirements may need to be met for disclosures made externally to qualify as protected.

Step 2: How should a disclosure be made?

Staff may make disclosures either verbally or in writing. However, to help ensure details or accuracy of information is not lost, ALONE would encourage disclosures to be in writing.

Step 3: What information should be provided when making a disclosure?

Disclosers need to communicate information which on the basis of a reasonable belief either shows, or tends to show, wrongdoing which occurred and/or is ongoing in connection with their employment. This normally involves wrongdoing that is likely to cause harm to ALONE or the public, as opposed to personal complaints.

At a minimum, disclosures should include the following details:-

- The discloser's name, position in the organisation, place of work and contact details;

Where feasible, ALONE requests that the discloser provide further available information to help facilitate investigation:

- The date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- Whether or not the alleged wrongdoing is still ongoing;
- Whether the alleged wrongdoing has already been disclosed to any member of management and if so when and to what effect;
- The details of the alleged wrongdoing and any supporting information;
- The name of the person(s) (if known or applicable) allegedly involved in the alleged wrongdoing;
- Any other relevant information;

Disclosers should also report any alleged penalisation they have incurred in relation to the disclosure.

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Step 4: When should a Disclosure be made?

Staff should make disclosures of potential wrongdoing at the earliest possible time after it has come to their attention.

Staff are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so.

6.2 Management of Disclosures

Step 1: DP/s Receipt of a Disclosure:

Upon receipt of a disclosure DP/s should consult with the other DP and inform the CEO and Chairperson, unless inappropriate to do so, e.g. if the content of the disclosure relates to the other DP, CEO or Chairperson, or where notifying them could impair the investigation process.

It should be noted that, the Board and some external bodies, such as regulators, in line with compliance, may need to be informed that a disclosure has taken place and is being investigated. However, the protection of the discloser will be considered within this process.

Step 2: Assessment of a Disclosure

The disclosure will need to be assessed to determine whether or not

- the person making the disclosure has a reasonable belief that wrongdoing occurred and,
- the potential wrongdoing is a 'relevant wrongdoing' within the meaning of the Act and,
- the potential wrongdoing was/ is in connection with the staff member's work.

The DP/s will make a finding as to whether the disclosure is a protected disclosure or not. This finding can be subject to review.

A finding that a disclosure is a protected disclosure is not a finding that a wrongdoing took place. The investigation of wrong doing is separate and the DP/s will refer the protected disclosure to the relevant area for investigation as appropriate.

Step 3: Timeframe

Given that disclosures may be of varying complexity, no specific time limit for all assessments can be given, but it is expected that in most instances, an assessment will be completed within 28 days. Except where the disclosure is anonymous the discloser will be kept informed of progress of the assessment.

Step 4: Additional Support

To support the assessment and/or investigation process, the DP/s may require support from relevant management, the CEO or Board members. Where applicable, to help ensure the protection of the discloser, such additional support should only be sought if deemed

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appropriate and not be excessive. Any internal party involved in the assessment or investigation process are required to adhere to this policy and procedure.

Step 5: Internal Investigation

DP/s will lead an investigation into the disclosure. Dependent on the disclosure this may require interviews to be conducted with relevant parties, reviews of relevant documentation or data bases or other appropriate methods of investigation in line with compliance.

The CEO or Chairperson, supported by the Board of Trustees or relevant management, should take a lead on investigations if it is deemed inappropriate for DP/s to do so.

Dependant on the disclosure, ALONE may seek external support to investigate.

****If there is evidence of criminal activity then ALONE should inform the Gardaí. ALONE will ensure that any internal investigation does not hinder a formal police investigation.****

Step 6: Investigation by an external party

If the discloser makes a disclosure to an external party, that party may decide if it is a protected disclosure and the nature of any investigation that may take place. In such cases, ALONE will co-operate fully with the investigation.

Step 7: Confidentiality and Protection against Penalisation and Support

All reasonable steps will be taken to treat disclosures made through this policy in a confidential and sensitive manner. The staff member's identity will not be disclosed without his/her consent, unless it is required by law or necessary for the effective investigation of the relevant wrongdoing.

If it is determined that penalisation is taking place following a protected disclosure, then all possible steps to protect the discloser and to stop the penalisation will be taken. Disciplinary action against those responsible for the penalisation will be taken if appropriate.

Step 8: Feedback to Discloser

Where applicable, the discloser should receive feedback from ALONE of the progress/outcome of their protected disclosure investigation. It should be noted that, due to confidentiality, information provided may be limited in content and in some cases may simply be to inform that the disclosure has been investigated as per policy and procedure.

Step 9: Keeping Records

Records, including timelines, in relation to any assessment and any / investigation undertaken should be maintained.

Records of all concerns raised and the outcome of an assessment and subsequent investigation should be maintained for a minimum of five years after the closure of the case. These records will be maintained in a confidential and secure environment.