



PROTECTED DISCLOSURES POLICY

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1. Introduction

The Office of An Coimisinéir Teanga is committed to fostering an appropriate environment to address concerns relating to serious wrongdoings which may occur in the workplace and to provide the necessary support to staff, and others working with us, who raise concerns in relation to such matters.

If you have a reasonable belief that a serious wrongdoing relating to the workplace has occurred, is currently occurring or may occur in the future, you must first report this to your line manager, informing him/her of your point of view. If your line manager is not available to listen to your disclosure, or if you feel for any other reason that you cannot raise the matter with your line manager, then you may disclose the information in writing to a more senior officer and send a copy to the Director of the Office.

The policy and procedures set out in this document will govern how disclosures will be dealt with.

One important aspect of the Policy is the impunity protection for workers who disclose information based on a reasonable belief. These safeguards apply even if the worker is finally found to be misled about his/her concerns or was incorrect, as long as the disclosure was based on a reasonable belief. There is no incentive in determining whether or not a disclosure is protected under the Act.

Any retaliation event against a person who reports under this policy may be subject to action under the Civil Service Disciplinary Code. Also, if a worker discloses information which they understand to be false or do not believe to be true, the Office may take disciplinary or other appropriate action.

The legislative framework for protecting workers against penalties if they disclose information is set out in the Protected Disclosures Act 2014. The Act came into effect on 15th July 2014 and can be downloaded at:

<https://www.oireachtas.ie/en/bills/bill/2013/76/>

The purpose of the Act is to provide a robust statutory framework within which workers can express concerns about a possible wrongdoing that has come to their attention in the workplace while being aware that they can avail of significant employment and other protections if their employer penalises them or if they suffer any harm from disclosing the information. The type of punishment is specified in section 3(1) of the Act, as follows:

“penalisation” means any act or omission that affects a worker to the worker’s detriment, and in particular includes—

- (a) suspension, lay-off or dismissal,*
- (b) demotion or loss of opportunity for 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) unfair treatment,*
- (f) coercion, intimidation or harassment,*
- (g) discrimination, disadvantage or unfair treatment,*
- (h) injury, damage or loss, and*

(i) *threat of reprisal,*

The Act obliges all public bodies to establish and maintain procedures for dealing with disclosures and to provide workers with written information in relation to those procedures.

Section 21 of the Act provides that the Minister for Public Expenditure and Reform may issue guidance to assist public bodies in the performance of their functions under the Act and also provides that public bodies shall have regard to any such guidance issued. This guidance has now been issued by the Minister and has been taken into account in the preparation of the policy set out in this document. This policy should be read in context and in conjunction with that guide <https://assets.gov.ie/8752/e34572256f064479a2ee4f0deaf37b0b.pdf>. The policy will be reviewed in the light of operational experience, as appropriate.

Persons Prescribed for Protected Disclosures

An Coimisinéir Teanga is one of the persons prescribed to enable workers to make protected disclosures with them. Accordingly, workers may make disclosures to An Coimisinéir Teanga on any matter relating to compliance by public bodies with the provisions of the Official Languages Act 2003 (No. 32 of 2003). The Statutory Instrument (S.I. 367) was updated on 24 September 2020 which contains the list of persons prescribed for this responsibility. The full list of prescribed persons can be found at: <https://www.irishstatutebook.ie/eli/2020/si/367/made/en/print?q=SI+367>

A worker may make a disclosure to a prescribed person from the list where the worker reasonably believes that the relevant wrongdoing falls within the area to which the prescribed person is attributed in S.I. 339.

2. Who does the Disclosures Policy apply to?

This policy is applicable to all workers in the Office, including contractors, consultants, agency staff, trainees and interns, as well as staff employed by the Office.

3. Key Principles of the Policy

A worker who reasonably believes that a serious wrongdoing relating to the place of work has occurred, is occurring or is likely to occur should disclose such. A worker who makes a protected disclosure is protected from penalisation (or threat of penalisation), for example, suspension, lay-off or dismissal, demotion, reduction of wages, harassment, threat of retaliation, loss or any other unfair treatment.

A worker who has a reasonable belief that the information constituting disclosure shows or tends to show that an injustice contained in this policy has occurred, is occurring or is likely to occur, is protected against penalisation even if the worker is finally found to be misled in his/her concern or was incorrect.

Where concerns are raised, the Office shall apply the following principles:

- the concern will be treated seriously and investigated if deemed appropriate

- where an investigation is initiated, the name of the person who expressed the concern will be kept confidential as far as practically possible
- the person who expresses the concern will be advised on how the issue has been addressed, including the outcome of any investigation
- the person who expresses the concern will not be put at a disadvantage in any way for making a disclosure, even if no wrongdoing is found **as long as the concern was based on a reasonable belief**. The Office’s assessment of whether a concern was based on a reasonable opinion shall be based on how a reasonable person would address the information available to him/her at the time the disclosure was made.

An incident of retribution against a person who reports under this policy may be subject to action under the Civil Service Disciplinary Code.

The Office shall take all reasonable steps to treat disclosures in a confidential and sensitive manner. The Office shall not disclose the worker’s name without permission, unless this is required by law or is necessary for the effective investigation of the relevant wrongdoing. If any employee feels that his or her identity is not being properly protected, they should inform the Office. An assessment or investigation shall be carried out where communicated and appropriate steps taken when necessary.

An employee may be subject to action under the Civil Service Disciplinary Code if he/she unduly discloses data which would result in the disclosure of the worker who made the protected disclosure. An employee who is making an inappropriate and unnecessary attempt to ascertain the name of the worker who made the protected disclosure may also be subject to action under the Civil Service Disciplinary Code.

If a worker believes that he/she is being penalised for disclosing a wrongdoing, they must inform the Director of the Office to rectify it.

4. What is a “protected disclosure”?

The disclosure of protected information is a disclosure of *‘relevant information’*. Information qualifies as relevant if:

- A worker must reasonably believe that the information he/she is disclosing indicates one or more ‘relevant wrongdoings’ — see Section 5 below.
- The wrongdoing must have come to the worker’s attention in relation to his/her employment. For example, his disclosure will not be protected if it concerns matters in a person’s personal life outside the workplace and without any involvement in the workplace.

5. What kind of disclosure is covered by the Policy?

A disclosure is covered by this Policy if the worker has a reasonable belief that a ‘relevant wrongdoing’ is occurring or likely to occur. Relevant wrongs include:

- criminal offences;

- failure to comply with legal duties;
- miscarriage of justice;
- endangering the health or safety of a person;
- significantly harming the environment;
- unlawful or improper use of funds or resources of a public body;
- fraudulent activity;
- an act or omission by or on behalf of a public body which is oppressive, discriminatory, grossly negligent or constitutes serious mismanagement; and
- concealment or destruction of evidence relating to important matters such as the above.

6. What kind of exposure is not covered?

The aim of this policy is to assist and support workers in speaking out about possible wrongdoing, as listed in Section 5 above, which has come to their attention in the workplace.

It is not intended to represent the day-to-day normal operational reporting.

This Policy does not cover anonymous disclosures. Although anonymous disclosure will be acted upon for as long as possible, the ability to do so would be limited without the identity of the discloser being known. Of course the Office would not be able to properly follow this policy in such a case because the details of that person would not be known, and therefore could not be protected from penalisation or reporting to them. An employee cannot claim protection under the Protected Disclosures Act without identifying themselves.

The safeguards provided under this policy **do not apply** in the case of disclosures of information which the worker is deliberately conveying as false, misleading, sporadic or trivial information. If a worker discloses information which is false or does not believe it to be true, the Office reserves the right to take disciplinary or other appropriate action.

The Policy **does not cover** personal complaints or complaints.

7. When should a worker disclose information?

A worker must disclose information if, in their reasonable opinion, any of the wrongs set out in Section 5 has occurred, is occurring or is likely to occur or if the policy of the Office or the civil service has been contravened so far as other persons or the Office may be prejudiced.

8. Disclosure of information

The Protected Disclosures Act 2014 provides for five ways of disclosing information:

- an employer or other responsible person;
- a prescribed person; (including An Coimisinéir Teanga)
- a Minister; (in the case of this Office, the Minister for Culture, Heritage and the Gaeltacht)

- to a legal adviser; or
- to a third party in other cases.

This policy deals with the first of these ways, that is, disclosing information to an employer or other responsible person.

The Director of the Office is assigned as the Office's Designated Recipient for disclosures. The Director will oversee the process of dealing with disclosures and will provide details of each disclosure to An Coimisinéir Teanga as they are received and subsequently dealt with.

If the Director is not available to deal with a disclosure for any reason, An Coimisinéir Teanga may assign another officer to deal with the matter.

Any worker who reasonably believes that a serious wrongdoing has occurred or is imminent should first disclose the relevant information to their line manager. If your line manager is not available to listen to your disclosure, or if you feel for any other reason that you cannot raise the matter with your line manager, then you may disclose the information in writing to a more senior officer and send a copy to the Director of the Office.

Employees may also first disclose information directly to the Director of the Office, if they so wish. Should a worker wish to disclose information relating to a wrong to which the Director may be attached, that information must be disclosed directly to An Coimisinéir Teanga.

Workers may also disclose information to any member of the Audit Committee of the Office. Where the Audit Committee receives a disclosure, the Audit Committee shall submit the protected disclosures to the Director of the Office.

In all cases, the specific nature of the potential wrongdoing must be indicated at the time the disclosure first occurs. The disclosure should, where possible, be made in writing or electronically to ensure that all relevant information is made available at the time the disclosure is first made. Where the disclosure is made orally, the recipient should record that disclosure. The discloser will be asked to confirm the information provided in order to avoid a dispute at a later stage where possible.

The details recommended for inclusion in disclosure are as follows:

- a. a statement that the disclosure is being made under the procedures;
- b. name of the discloser, place in the organisation, place of work and confidential contact details;
- c. the date of the alleged wrongdoing (if known) or the commencement or identification of the alleged wrong;
- d. whether the alleged wrongdoing is still taking place;
- e. whether the alleged wrongdoing has already been disclosed and, if so, the person to whom it was disclosed, when, and what action was taken in respect of it;
- f. information concerning the alleged wrongdoing (what is happening and how it is happening/what happened and how it occurred) and any supporting information;

g. name of the alleged person(s) involved in the alleged wrong (if the name of any person is known and the worker considers it necessary to identify an individual in the interests of bringing to light the wrong being disclosed); and

h. any other relevant information.

A worker who intends to raise their concerns should not undertake an investigation to confirm that the wrongdoing is taking place.

Support and advice (other than legal advice) to disclosers are available through the Employee Assistance programme and appropriate arrangements will be made for any other support or advice (other than legal advice) required.

9. Procedures for dealing with disclosures

There are two stages in the procedures for dealing with disclosures, the Initial Assessment stage and subsequently, if appropriate, the Full Investigation stage. The purpose of the Initial Assessment is to ascertain whether the matter reported falls under the umbrella of the Policy and if so, whether the matter is sufficiently serious to hold a full investigation. At every point in the process, the recipient of the disclosure under this policy, and any other person to whom the disclosure is submitted in the performance of their duties, must take all reasonable steps to ensure that no information is disclosed to anyone who may name the discloser.

Initial Assessment Stage

In the case of disclosures made to persons other than the Designated Recipient of the Office, the first recipient will inform the Director of the Office (i.e. the Designated Recipient of the Office) in writing that he/she has received a disclosure and provide details of the nature of the information contained in the disclosure.

As it is not possible at the time of the disclosure whether or not the disclosure is to be considered as protected under the subsequent Protected Disclosures Act, the recipient must keep a written record of his/her activities, including timelines, when dealing with the disclosure.

The Director of the Office shall first forward disclosures to the Manager responsible for the area in question for his/her first assessment. Where he/she considers it appropriate, the Director of the Office may carry out an independent assessment of the matter without first referring it to the relevant Manager. In the course of the Initial Assessment stage, the manager must:

- Record the disclosure and the steps taken to deal with it.
- Obtain clarification from the worker on the basis of his/her concerns.
- Find out what evidence is available that supports the concern.
- Undertake the relevant enquiries quickly, sensitively and discreetly, and take all reasonable steps to ensure that the person who made the disclosure is not named. If it is necessary to give the worker's name for an effective investigation, consult the worker.

The initial assessment of whether it is necessary to investigate the matter must be completed within 14 days. If the Manager decides that no further enquiries are necessary, he/she shall inform the discloser and provide the basis for this decision to him/her, as far as possible. The Manager shall also inform the Director of the Office of this in addition to the basis for the decision.

Review of the Initial Assessment

If the discloser is not satisfied with a decision not to proceed with an investigation, he/she may set out the reasons for which he/she considers it necessary to investigate the matter for the Director of the Office. The Director of the Office will then undertake an independent assessment of the matter and thereafter inform the discloser and the Manager within 14 days whether a more detailed investigation would be appropriate. The decision of the Director of the Office not to proceed with the matter is a final 'internal' decision.

Full Investigation Stage

Where an investigation is required, a full investigation must be initiated immediately. The main purpose of the investigation is to assess whether the disclosure is based on a reasonable and original opinion, based on a reasonable but unfounded opinion or whether it is a deliberately false report.

Depending on the nature of the disclosure, the recipient of the disclosure may decide to undertake an investigation himself/herself or may refer the matter to a more senior officer for an investigation if he/she considers this to be more appropriate. Advice should, if necessary, be taken from the Director of the Office.

The Investigation Officer must inform the Director of the Office of the commencement of an investigation within 3 working days. The Investigation Officer must also inform the Director of the Office of the outcome of the investigation and of any recommendations arising therefrom within 3 days of completion of the Investigation Stage.

Any investigation arising as a result of disclosure shall be carried out in a manner fully consistent with the principles of natural justice. The discloser shall be informed of the progress and outcome of the investigation, including any proposed action, within 14 days of completion of the Investigation Stage, having regard to the nature of the matter being investigated.

Precise timelines, or the steps that need to be taken, cannot be set, as this will depend on the nature of the questions raised. Without compromising the quality or scope of the investigation, all reasonable speeds may be taken to complete any investigation arising from the disclosure made by a worker as soon as possible.

If, following an investigation into the matter, it is found that there has been no wrongdoing and it is deemed that the informant did not have a reasonable opinion in alleging the wrongdoing, details of the case will be forwarded to the Director of the Office and the Head of Human Resources to consider whether disciplinary procedures should be imposed against the person concerned.

In summary, Managers undertaking a full investigation must:

- Record the disclosure and the steps taken to deal with it.
- Obtain clarification from the worker for the basis of his/her concerns.
- Find out what evidence is available that supports the concern.
- Obtain evidence from any relevant witness.
- Carry out a risk assessment of the issue and take immediate action if the wrongdoing involves a serious loss or danger to others.
- Undertake the relevant enquiries quickly, sensitively and discreetly, and take all reasonable steps to ensure that the person who made the disclosure is not named. If it is

necessary to give the worker's name for an effective investigation, the worker must be consulted.

- Assess whether the report of the disclosure is based on a reasonable but unfounded view, based on a reasonable but founded belief or deliberately false.
- Take appropriate action if disclosure is founded.
- If the disclosure is deliberately false, an action must be considered under the Civil Service Disciplinary Code.
- Report on the outcome and send all records to the Director of the Office within 3 days of completion of the Investigation Stage.
- Provide written feedback to the worker within 14 days of completion of the Investigation Stage, including any proposed action.

Review of the full investigation stage

An application for an independent review can be made to the Director of the Office or to the Internal Audit Committee, whichever is appropriate and was not involved in the initial decision, for the following items:

- i. Any decision which would reveal the identity of the discloser (except in exceptional cases);
- ii. Outcome of any assessment/investigation carried out in connection with the disclosure protections; and
- iii. Outcome of any assessment/investigation of any complaint concerning penalisation.

An opportunity for review shall be offered to the discloser before his identity comes to light in the event that such is decided upon.

No matter shall be eligible for two reviews.

10. Protection of the rights of Respondents & other

Where an allegation is made against an individual (the Respondent), it is important to ensure that the Respondent is protected properly. In dealing with allegations against an individual, the Office will adhere to the general principles of natural justice and fair procedures, as appropriate.

The right to fair procedures of the Respondent may include the right to object to the evidence. This right will need to be balanced with those of the 2014 Act, for example the right of the discloser to have his identity protected (which is not absolute and could not be enforced, for example, in cases where the recipient of the disclosure reasonably believes that it is necessary to reveal the identity of the discloser for the effective investigation of the wrongdoing in question). This will be particularly challenging if an anonymous protected disclosure is made.

The question whether it is necessary to reveal the identity of the discloser shall depend on the facts of the case, including, for example, the question of whether any allegation against an individual has been made in the disclosure, and the nature of such allegations. The recipient of the disclosure shall consider such matters in determining whether a protected disclosure can be investigated and the nature of any investigation carried out. Persons making a protected disclosure shall be encouraged to base the disclosure on information that has come to their attention, rather than seeking to draw conclusions on specific individuals or offences.

Although an investigation under the Procedures is different from a grievance investigation, workplace dignity investigation and disciplinary investigation, they all have certain key themes and common elements and the nature of any investigation under the Procedures will be based on the procedures normally applicable in the public sector body when investigating other allegations. If the investigation concludes that there has been some form of wrongdoing, the Office shall have to bear in mind that the report issued in respect of it may need to be used in any subsequent disciplinary process. It should therefore be able to follow scrutiny carried out as part of any disciplinary process and shall, where possible, take a common approach between such procedures.

In most cases where a protected disclosure is made during an investigation, disciplinary or other form of process, the disclosure should not affect those specific processes, unless the investigative, disciplinary or other form of action constitutes a penalisation for making a protected disclosure.

11. Records

The Director of the Office shall keep records of the concern, including the outcome, for at least five years after the closure of the case. The records will be kept confidential in a secure place.

The Office's Annual Report shall contain a summary description of all protected disclosures.

12. Further information/Review of the Policy

The policy will be reviewed from time to time or when required by the Office's Internal Audit Committee.

Appendix A: Guide to Disclosure Recipients

This addendum provides guidance to Office officials who are approached by a disclosure alleging serious wrongdoing. The primary aim of the Protected Disclosures Act 2014 ('the Act') is to protect workers from penalisation for making a disclosure in accordance with the provisions. The Office's Policy on Unfair Disclosure in the Workplace ('the Policy') is consistent with the provisions and intentions of the legislation.

Your task as the first recipient - initial assessment

It cannot be determined at the time of disclosure whether the discloser will subsequently report that they have been penalised for raising the matter. It is therefore necessary to keep in mind that a person reporting a serious wrongdoing may not describe their report as a potential protected disclosure.

The Policy makes a clear distinction between an initial assessment and a full investigation. The initial assessment will cover two distinct aspects — an assessment of whether the matter reported falls under the umbrella of the Policy and whether the reported matter is sufficiently serious to conduct a full investigation.

The Policy is consistent with the matters listed as wrongdoings in the Act. They are wide and wide-ranging in nature and are all considered to be serious. In many cases, the event does not necessarily have to take place: the possibility of its occurrence may be sufficient.

All matters submitted to you do not necessarily require a full investigation. Examples of cases where an investigation is not required include a case where the officer reporting to you is scarce of all relevant facts or where a simple misunderstanding has occurred.

If a complete investigation is deemed not to be necessary, the assessment leading to that conclusion must be sufficiently robust to inform the discloser for the basis of that decision.

Confidentiality

The Act and Policy recognise that it may not always be possible to keep the name of the discloser confidential. However, the Office is responsible for keeping the name of the discloser confidential to the fullest extent possible on a practical and realistic basis. It is therefore important to ensure that any consultation is carried out in a discreet and careful manner and that all reasonable steps are taken to keep the name of the discloser confidential. If it is necessary to give the worker's name for an effective investigation, the worker must first be consulted.

It is also important to note that the person who disclosed the information, in accordance with the Act, may take action if this requirement is not met, if that person suffers loss as a result of failure to comply.

Keep the discloser informed

Open and honest communication is a crucial aspect of ensuring that disclosure is treated seriously.

It should be explained that the initial assessment does not constitute a complete investigation and that the discloser is in no way disadvantaged for making the disclosure, based on a reasonable belief, even if no wrongdoing is found.

While there is a clear need to pay attention to the consequences of making a disclosure that is not based on a reasonable opinion, too much emphasis on this aspect may discourage reporting of wrongdoing. Such a result would go against one of the main objectives of the Policy, which is to encourage workers to speak out about injustice.

First recipient of disclosure — checklist

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| 1. | Have you read and understood the latest version of the Office's Policy of Unfair Disclosures in the Workplace? | <input type="checkbox"/> |
| 2. | Have you paid particular attention to your responsibilities to be careful not to release information that could release the discloser's name? | <input type="checkbox"/> |
| 3. | Have you provided a copy of the Policy to the discloser informing them that their concerns will be treated seriously? | <input type="checkbox"/> |
| 4. | Has the discloser informed you in a satisfactory manner that the matter being raised by him/her fall into one of the categories set out in Section 5 of the Policy? | <input type="checkbox"/> |
| 5. | If question 4 is answered by 'NO', did you inform the discloser that the subject of the disclosure must refer to one of the matters set out in Section 5? | <input type="checkbox"/> |
| 6. | If the answer to question 4 is 'YES', did you inform the discloser that you will take the initial assessment and return to him/her to inform him/her whether in your opinion the subject requires a full investigation? | <input type="checkbox"/> |
| 7. | Did you explain the difference between an initial assessment and a full investigation? | <input type="checkbox"/> |
| 8. | Have you explained to the discloser that if he/she is not satisfied with the outcome of the assessment that he/she can refer the matter to another senior official or the Director of the Office and that the other senior officer will bring the matter under his/her own independent assessment? | <input type="checkbox"/> |
| 9. | Have you explained that this will happen where it is deemed necessary that an investigation will be carried out and may be referred to another officer for an investigation if you consider it more appropriate? | <input type="checkbox"/> |
| 10. | Have you explained the limitations on confidentiality to the discloser, as set out in the Protected Disclosures legislation? | <input type="checkbox"/> |
| 11. | Where you have come to the conclusion that an independent investigation is not appropriate, have you informed the discloser, as far as possible, for the basis for your opinion? | <input type="checkbox"/> |
| 12. | Have you formally informed the Director of the Office that the disclosure has been received, the nature of the information contained, the outcome of your assessment and the name of the senior officer to whom the matter has been referred for investigation, if appropriate. | <input type="checkbox"/> |

Appendix B: Guide to Disclosures Investigation

This appendix provides guidance to officers in the Office responsible for investigating serious allegations of wrongdoing under the Protected Disclosures Act 2014 ('the Act'). The Act provides protection for workers from penalisation from their employer for making a disclosure in accordance with the provisions. The Office's Policy on Unfair Disclosure in the Workplace ('the Policy') is consistent with the provisions and intentions of the legislation.

Your task as an investigation officer

Your first task is to confirm to the recipient who initially received the disclosure (if the person is different) that the Director of the Office has been informed of the receipt of the disclosure, the nature of the information contained in the disclosure and the decision given to the discloser. Subsequently, you must inform the Director of the Office that the investigation is in progress.

As far as you wish to consult the officer who disclosed the information to you for an investigation, you must draw upon your own independent conclusion on the matter being investigated.

The manner in which you undertake your investigation with regard to the specific circumstances of the case is up to you. However, this is subject to two important considerations:

- *Question of confidentiality* — The Protected Disclosures Act 2014 and the Office's Policy recognise that it may not always be possible to keep the name of the discloser confidential. However, you are responsible for keeping the name of the discloser confidential as far as practical and realistic. It is therefore important to ensure that you take all reasonable steps to keep the name of the person who made the disclosure of wrongdoing confidential. If it is necessary to give the worker's name for an effective investigation, consult the worker.

It is also important to note that the person who disclosed the information, in accordance with the legislation, may take action if this requirement is not met, if they suffer loss as a result of failure to comply.

- *Fair procedures for an investigation* – It is clear in the Office's Policy that any investigation arising as a result of disclosure, such as all other internal enquiries, will be carried out in a manner fully consistent with the principles of natural justice. Remember, in addition to your responsibility to the discloser, you are responsible for ensuring that allegations of wrongdoing, which may be incorrect, are not made against innocent people.

If you require any specific guidance on fair procedures, you are advised to seek the advice of the Human Resources Unit.

Keep the discloser informed

Regular communication with the discloser is an essential element of the commitment to seriously treat disclosure.

You must take time to explain your role in the process as set out in the Policy and the type of investigation you will be undertaking. It should also be clearly explained that it is a basic principle of the Policy is that the discloser is not at a disadvantage in any way from making the disclosure, based on a reasonable belief, even if no wrongdoing is found to have been committed. This would also be an appropriate time to discuss the limits on confidentiality as set out in legislation.

While there is a clear need to pay attention to the consequences of disclosures that are not based on a reasonable opinion, too much emphasis on this aspect may discourage reporting of wrongdoing. Such a result would go against one of the main objectives of the Policy, which is to encourage workers to speak out about injustice.

If your investigation is taking sufficient time, you must, as far as possible and appropriate, keep the discloser informed of progress.

Upon completion of your investigation

Regardless of the nature of the outcome, you are obliged under the Policy to inform the Director of the Office of the outcome of your investigation. You also need to inform the discloser of your outcome.

Where you have concluded that the discloser was not fully aware of all the facts or was truly misled in their opinion as to what happened or what could happen, it is very important to explain to the discloser the basis for your conclusions. Since a discloser has a right under the legislation to disclose the information elsewhere this may happen if you are unable to properly explain matters to him/her.

Where you have come to the conclusion that the discloser has not made its disclosure on the basis of a reasonable opinion — that the disclosure was made for trivial or vexatious reasons — you must inform the Director of the Office and the Head of Human Resources who will decide whether disciplinary procedures should be taken against the person concerned.

The making of disclosures and the ensuing investigation is serious. You should keep a record of all the steps you take during your conversations with the discloser and during your investigation. A checklist has been prepared to guide you and you should sign it and keep it for your records. As there are no time limits set out in legislation or Policy, it is important that you keep your records until all material relating to the disclosure has been completed to your satisfaction.

Disclosure investigation - checklist

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| 1. | Have you read and understood the latest version of the Office's Policy of Unfair Disclosures in the Workplace? | <input type="checkbox"/> |
| 2. | Have you paid particular attention to your responsibilities to be careful that information may not be released that may identify the person who disclosed the information? | <input type="checkbox"/> |
| 3. | Have you met with the discloser and made them aware that their concerns will be treated seriously? | <input type="checkbox"/> |
| 4. | Have you confirmed with the first recipient (if the person is different) that the Director of the Office has been informed of the receipt of the disclosure, the nature of the disclosure, the outcome of his or her first assessment and that the matter has been referred to you for investigation? | <input type="checkbox"/> |
| 5. | Have you informed the Director of the Office that the investigation has started? | <input type="checkbox"/> |
| 6. | Have you informed the discloser that you are enquiring about the disclosure, you will keep him/her informed of the progress of the investigation as appropriate and will inform him/her of the outcome of the investigation when it is completed? | <input type="checkbox"/> |
| 7. | Have you explained the limitations on confidentiality to the discloser, as set out in the Protected Disclosures legislation? | <input type="checkbox"/> |
| 8. | Have you explained to the discloser if he/she is not satisfied with the outcome of your investigation that alternative options for the disclosure are open to him/her? | <input type="checkbox"/> |
| 9. | Are you aware of the procedures for conducting an investigation, taking into account the principles of natural justice? | <input type="checkbox"/> |
| 10. | Have you informed the discloser of the outcome of your investigation and have you explained, as far as possible, the reasons for your decision? | <input type="checkbox"/> |
| 11. | If you concluded that the discloser did not have a reasonable belief that there was a wrongdoing when disclosing the information, have you informed the Director of the Office and the Head of Human Resources for further attention? | <input type="checkbox"/> |
| 12. | Have you formally informed the Director of the Office of the outcome of your investigation? | <input type="checkbox"/> |