



The Health Service Executive [HSE]

Annual Report - Protected Disclosures 2022

Introduction

The HSE welcomes the raising of concerns and is committed to creating a culture within which its employees and other workers feel safe when speaking up and confident that their concerns will be taken seriously. It also provides an opportunity to identify potential issues and address risks to the organisation. The HSE will ensure that those who raise concerns are afforded the protections provided under the Protected Disclosures Act 2014 (amended 2022).

The HSE's Authorised Person is responsible for overseeing the HSE's Protected Disclosures Framework and for assessing the concerns, referring protected disclosures for examination and investigation, monitoring and reporting on outcomes and on compliance with the framework. In 2022, the HSE also established a National Office for Protected Disclosures [NOPD].

1. Reports made to the HSE under the Protected Disclosures Act 2014

1.1 Making a protected disclosure

Under the Protected Disclosures Act 2014, workers can make disclosures to any manager and to a range of other parties including relevant Government Ministers, prescribed bodies and other parties. Workers who make disclosures provide information which came to their attention in connection with their employment and which in their reasonable belief, tends to show one or more relevant wrongdoings. While reporting persons may not be fully clear about the category of wrongdoing to which their concern relates, they tend to fall within the following categories:

- 1) That the health or safety of any individual has been, is being or is likely to be endangered;
- 2) 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;
- 3) That an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- 4) A combination of those outlined above.

1.2 Protected Disclosures made to in 2022

The tables below provide more detail on the protected disclosures received during 2022, including analysis of the disclosures by relevant alleged wrongdoing.

Table 1: Total number of Protected Disclosures 2022

| | |
|---|-----------|
| Total Reports 2022 | |
| Total Received | 56 |
| Total Assessed | 56 |
| Determination following Assessment | |
| Total: Not a Protected Disclosure | 9 |
| Total: A Protected Disclosure | 47 |
| Total protected disclosures 2022 | 47 |
| Cases closed | 1 |
| Open/ongoing at year end | 46 |

Table 2: Protected Disclosures by Category of alleged wrongdoing in 2022

| | |
|---|-----------|
| Alleged misuse of resources | 3 |
| Alleged health and safety endangerment | 5 |
| Alleged mismanagement | 4 |
| Alleged failure to comply with a legal obligation | 1 |
| Combination of the above [See Table 3 below] | 34 |
| Total protected disclosures 2022 | 47 |

Table 3: Combination reports for 2022

| | |
|---|-----------|
| Combination reports: Reports that contain two or more allegations of wrongdoing. | |
| Number of reports | 34 |
| Number of alleged wrongdoings | 81 |

Table 4: Summarises the action taken by the HSE for every report received in 2022

| Initial assessment | Considered a Protected Disclosure | Considered not a Protected Disclosure |
|---|--|--|
| 56 Reports received were subject to a full assessment to determine whether they were protected disclosures within the meaning of the Act. This included in many cases, engaging directly with the reporting person. | 47 of the 56 reports were determined to be protected disclosures after assessment. These reports were then referred to the relevant senior accountable person in the area the alleged wrongdoing occurred, for their further examination/investigations. | 9 of the 56 reports were determined not to be a protected disclosure after assessment. Each of these reports were then referred to the relevant senior accountable person for review and appropriate action. |

1.3 Protected disclosures that remain open

1.3.1 Protected disclosures that remain open as of the 31 December 2022

The HSE received **366** reports under the protected disclosures framework between 2017 and 2022. While **68%** of reports received have been closed during this period, **117** remained open at the end of 2022. [71 for the period 2017 – 2021].

Table 5: Protected Disclosures that remain open as of the 31 December 2022

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | Total |
|-----------------------------|------|------|------|------|------|------|-------|
| Disclosure Reports Received | 78 | 52 | 61 | 54 | 65 | 56 | 366 |
| Closed | 76 | 45 | 53 | 31 | 34 | 10 | 249 |
| Total Open | 2 | 7 | 8 | 23 | 31 | 46 | 117 |
| Total 2017 - 2021 | 71 | | | | | | |

1.3.2 Protected disclosures that remain open as of the 28 February 2023

While it is recognised that examining a report can often be a complex and protracted process, the HSE is currently undertaking an in depth review of all open cases with a view to concluding examination processes as soon as possible. As a result of the Review, a further **26** cases were closed in the period between the 31 December 2022 and the 28 February 2023.

Table 6: Protected Disclosures closed between the 31 December 2022 and the 28 February 2023.

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | Total |
|--------------|------|------|------|------|------|------|-------|
| Total Closed | 0 | 3 | 1 | 5 | 11 | 6 | 26 |

2. Protected Disclosures: HSE Priorities 2023

The HSE has established the NOPD as its central, specialist office for the receipt and management of protected disclosures. Priorities for the Office in 2023 include:

Monitoring and Reporting Systems: Developing effective monitoring, recording and reporting systems for Protected Disclosures in response to the increased reporting requirements under the Act. This will also support our ability to capture and share the learning from Protected Disclosures.

Outcome Reporting: From 2023 onward the HSE will gather information on outcome and look at steps to be put in place to share relevant learning from the disclosures received.

Investigations: Develop processes for properly investigating relevant wrongdoings and communicating with reporting persons.

Penalisation: As the burden of proof shifts from the reporting person to the employer, the HSE will strengthen its monitoring of any potential penalisation of a reporting person.

Making a disclosure within the HSE: Reports of alleged wrongdoing can be directed in confidence to the Office of the Authorised Person, HSE, Dr Steevens' Hospital, Dublin 8, D08 W2A8. Tel: 01 635 2202 [Office hours: 10am to 1pm & 2pm to 5pm Monday to Friday] or by email to protected.disclosures@hse.ie. Additional information on making a report and the HSE's Protected Disclosures Procedures can be found at <https://www.hse.ie/eng/about/who/protected-disclosures/>