

Protected Disclosures Procedures

Office of the Authorised Person, An Clochar,
Ballyshannon Health Campus, College Street,
Ballyshannon, Co. Donegal

August 2018

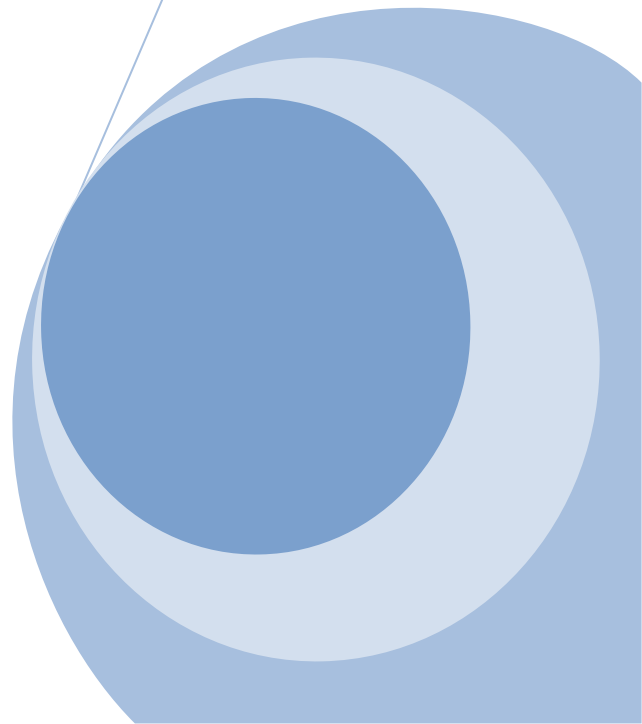


TABLE OF CONTENTS

1.	INTRODUCTION	1
2.	OBJECTIVES OF THESE PROCEDURES	2
3.	RESPONSIBILITY	2
4.	TO WHOM DO THESE PROCEDURES APPLY?	3
5.	MAKING A DISCLOSURE IN ACCORDANCE WITH THE ACT	5
6.	PENALISATION (INCLUDING DISMISSAL AND DETRIMENT)	7
7.	CONFIDENTIALITY / PROTECTION OF IDENTITY	7
8.	ANONYMOUS DISCLOSURES	8
9.	PERSONAL COMPLAINTS AND PROTECTED DISCLOSURES	9
10.	MOTIVATION	9
11.	HOW TO MAKE A PROTECTED DISCLOSURE TO THE HSE	9
11.5	SCREENING/EXAMINATION/INVESTIGATION	10
12.	PROTECTION OF RIGHTS OF RESPONDENTS	10
13.	DISCIPLINARY RECORD OF DISCLOSER AND OTHER RELATED MATTERS	10
14.	REVIEW	11
15.	FEEDBACK	11
16.	SUPPORT	11
17.	MANDATORY REPORTING	12
18.	RECORDS	12
19.	ANNUAL REPORTING	12
20.	AMENDMENTS	12

APPENDICES

APPENDIX 1 **LIST OF GENERAL STEPS RELATED TO THE PROCESSING OF A PROTECTED DISCLOSURE**

APPENDIX 2 **PROTECTED DISCLOSURES REPORTING FORM**

1. INTRODUCTION

- 1.1 The HSE is committed to maintaining the highest possible standards of care for patients and clients, to providing employees with a healthy and safe working environment and to complying with its legal obligations. These Procedures seek to promote a culture of openness and accountability in which protected disclosures, as defined in paragraph 4 below, can be made without fear of reprisal. The HSE has in place a range of employee supports including employee assistance schemes and encourages disclosers and others affected to avail of these supports if required.
- 1.2 The HSE operates under two sets of legislation and two sets of Procedures related to Protected Disclosures. These are the Health Act 2004 (as amended in 2007) and the Protected Disclosures Act 2014. Two separate sets of Procedures also operate in relation to these sets of legislation ([link](#)). While the Protected Disclosures Act 2014 introduced a number of amendments in relation to the Health Act 2004, the Health Act also remains in operation.
- 1.3 There are a number of differences between the two Acts. Key differences relate to :
 - a) Who can make a disclosure and to whom: the Health Act provides for disclosures of relevant wrongdoings to be made to an Authorised Person by employees of the HSE and of Bodies funded under sections 38 and 39 of the Health Act. The Protected Disclosures Act provides for the making of disclosures to the person/agencies named by workers as defined. This does not provide a clear pathway for workers in s38 and s39 funded agencies to make protected disclosures to the HSE.
 - b) The list of relevant wrongdoings differs between the Acts
 - c) There is a "good faith" provision in the Health Act
 - d) Motivation is not relevant in the Protected Disclosures Act
 - e) The Health Act requires the Authorised Person to have the relevant wrongdoings examined/investigated. The Protected Disclosures Act does not have a similar requirement.
- 1.4 Prior to making a disclosure persons should give consideration to the perceived relevant wrongdoings (see section 4.6 below) in relation to which they wish to raise concerns and also to the issue of whether or not they wish to have their identity protected. It would be preferable that persons would raise their concerns directly with recipients rather than through third parties. To avoid duplication it would be desirable also if persons who raise concerns with more than one person or organisation, would advise the protected disclosure recipient of this.
- 1.5 In general terms concerns should be made in writing and on the prescribed form. Where concerns are being raised verbally they will need to be documented and there are limitations to the ability to investigate anonymous disclosures. Upon receipt of a disclosure the HSE will follow agreed processes in relation to screening, examination or investigation and/or referral to relevant external

parties if required. While the HSE recognises that persons who make disclosures may have a significant interest in relation to all processes related to same they will appreciate that it is the responsibility of the HSE to deal with information provided as appropriate While they will endeavour to keep the Discloser advised of progress their ability to do so may be limited by the nature and actions proposed particularly if they relate to other individuals.

- 1.6 This document aims to clarify what constitutes a protected disclosure, how to make it and to whom. It will concentrate on disclosures made to the HSE but will provide information also on the other persons/agencies to whom a protected disclosure can be made and the circumstances in which such disclosure may be made. It also provides some information in relation to the protections available.
- 1.7 In line with Section 21 of the Protected Disclosures Act 2014 the Health Service Executive (“**HSE**”) is required to develop Procedures for HSE workers (as defined) to make protected disclosures, and these are set out below.

The Protected Disclosures Act was enacted in 2014. A review of the Act has been completed which has highlighted a number of issues. It is likely that the Act will be amended over time in line with new developments and case law.

2. **OBJECTIVES OF THESE PROCEDURES**

- 2.1 The principal objectives of these Procedures are to:
 - (a) encourage workers (as defined) to make protected disclosures internally and at the earliest opportunity; and
 - (b) provide protection where such disclosures are made.
- 2.2 These Procedures are designed to ensure that all protected disclosures will be the subject of appropriate actions as outlined later in this document and will be dealt with as soon as possible in the circumstances.
- 2.3 These Procedures set out the mechanism for workers (as defined below) to make protected disclosures, as defined in paragraph 5 below, internally in the confidence that:
 - (a) their identity will be protected by the recipient and any person to whom the protected disclosure is referred, in accordance with the Act;
 - (b) their disclosure will be dealt with appropriately; and
 - (c) they will be entitled to the protections set out in the Act and will not, for example, be penalised as a consequence of making a protected disclosure.

3. **RESPONSIBILITY**

- 3.1 These Procedures were drafted through a consultation process which involved nominees from within the HSE with the support of legal advisers. They will be subject to ongoing review. Overall responsibility for these Procedures rests with National Director Quality Assurance Verification Division. Day-to-day responsibility for the ongoing review of the Procedures is delegated to the Authorised Person for Protected Disclosures.

4. TO WHOM DO THESE PROCEDURES APPLY?

4.1 These Procedures apply to a "worker", as defined in the Act. A "worker", for the purposes of these Procedures, is an individual who is or was:

- (a) an employee;
- (b) an independent contractor to the HSE, whether or not the work/services were provided personally by the individual to the HSE, or, otherwise;
- (c) an agency worker;
- (d) provided with work experience under a training course or programme or with training for employment otherwise than: (i) under an employment contract, or, (ii) by an educational establishment on a course provided by that establishment.

4.2 The Act and its protections do not apply to volunteers, that is individuals who provide services on a non-remunerated basis to the HSE.

4.3 WHAT IS A PROTECTED DISCLOSURE?

4.3.1 For the purposes of the Act and these Procedures, a protected disclosure is a disclosure of relevant information which, in the reasonable belief of the worker, tends to show one or more relevant wrongdoings; and came to the attention of the worker in connection with the worker's employment; and is disclosed in the manner set out in the Act.

4.3.2 It is immaterial whether the relevant wrongdoing occurred, occurs or would occur in Ireland or outside Ireland. It is also immaterial whether the law applying to the relevant wrongdoing is Irish law or the law of any other country. This may have relevance for a HSE worker where, for example, the worker is involved in the administration of treatment to patients availing of treatment or services abroad and the worker becomes aware of relevant information tending to show a relevant wrongdoing in that regard.

4.4 What is relevant information?

4.4.1 In order for a disclosure to be protected under the Act and covered by these Procedures, it is essential that it convey relevant information which in the worker's reasonable belief tends to show a relevant wrongdoing i.e. facts about someone or something, as opposed to simply conveying a generalised allegation, not founded on any facts. For example, if a worker makes the following disclosure to the HSE "*Yesterday, used sharps were left lying around the hospital*", this would qualify as a disclosure of information. However, a disclosure to the effect that "*The HSE is not complying with its health and safety obligations*" would not, without further detail, qualify as a disclosure of information.

4.4.2 Workers are not required or entitled to conduct an investigation/enquiry to attempt to obtain proof that a relevant wrongdoing has occurred, is occurring or is likely to occur. Workers who have formed a reasonable belief of wrongdoing should solely disclose information which tends to show such wrongdoing, in accordance with these Procedures.

4.5 What is a reasonable belief?

- 4.5.1 It is essential for the worker to have a reasonable belief that the information which she/he discloses tends to show one or more of the relevant wrongdoings set out in paragraph 4.6 below. It is not essential, however, for the reasonable belief to be correct. All that is required is that the worker's belief was founded on reasonable grounds, regardless of whether the belief is mistaken or not. For example, it may be reasonable for a worker to believe, based on what she/he knows and has witnessed, that a relevant wrongdoing has occurred because she/he is not aware of all relevant facts.
- 4.5.2 No worker will be deprived of the protections set out in the Act, including protection from penalisation, if it transpires that a relevant wrongdoing did not occur, is not occurring or is not likely to occur, provided that she/he had a reasonable belief, as set out above.

4.6 What are relevant wrongdoings?

- 4.6.1 The following are relevant wrongdoings for the purposes of these Procedures:
- (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 worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services;
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - (d) that the health or 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;
or
 - (h) that information tending to show any matter falling within any of paragraphs (a) to (g) above has been, is being or is likely to be concealed or destroyed.

4.7 In connection with the worker's employment

- 4.7.1 For the disclosure of information to be protected and covered by these Procedures, it must come to the worker's attention in connection with the worker's employment. However, the Act does state that a matter is not a relevant wrongdoing where it relates, as specified, to the functions of the worker or HSE. In this regard it states that if it is the function of the disclosing worker or the HSE to detect, investigate or prosecute the information which the

worker discloses, the protections set out in the Act will not be available to such worker, provided that there has been no act or omission on the HSE's part.

- 4.7.2 The Act provides that legal advisors are excluded from its protections, where information comes to their attention while providing legal advice.

5. MAKING A DISCLOSURE IN ACCORDANCE WITH THE ACT

- 5.1 A worker must make a disclosure in the manner set out in the Act to be entitled to the protections of the Act. Different standards apply depending on the person or body to whom the worker makes a protected disclosure. A protected disclosure can be made in the following ways:

5.1.1 To the HSE

The HSE encourages all workers to make disclosures internally to the HSE and to use these Procedures. Such disclosures will be taken seriously and the worker making a protected disclosure, as defined by and in accordance with the Act, will be entitled to the protections set out in the Act. Workers should make disclosures to one of the parties referred to in paragraph 11.1 below.

5.1.2 Disclosure outside the HSE

A worker may make a disclosure to persons other than the HSE in certain circumstances. Different requirements need to be met in different cases, as set out at (a) to (e) below:

(a) Other responsible person

Where the worker reasonably believes that the relevant wrongdoing which the disclosure tends to show relates solely or mainly to, the conduct of a person other than the worker's employer or something for which that other person has legal responsibility, then the worker may disclose to that other person. For example, a worker employed or engaged by a section 38/39 organisation may make a disclosure to the HSE under this legislation where that individual reasonably believes that the wrongdoing relates solely or mainly to, the conduct of the HSE or something for which the HSE has legal responsibility.

(b) A prescribed person

The Minister may prescribe by order by certain persons to receive disclosures ("**prescribed persons**") of relevant wrongdoings. These prescribed persons include the heads or senior officials of a range of statutory bodies. Further details in relation to the prescribed person are contained in statutory instruments SI 339 of 2014 and SI 448 of 2015 which are available on the Protected Disclosures web page ([link](#)).

A worker may make a disclosure to a prescribed person if the worker reasonably believes that the relevant wrongdoing falls within the description of matters in respect of which the person is a prescribed person. In the case of such a disclosure, the worker must believe that the information disclosed, and any allegation contained in it, are substantially true.

(c) **A Minister of the Government**

If a worker is or was employed in a public body, she/he may make a disclosure to the Minister on whom any function related to the HSE is conferred or imposed by or under any enactment. Accordingly, workers covered by these Procedures may make a disclosure to the Minister for Health, the Minister for Finance or the Minister for Public Expenditure and Reform, and any other relevant Minister.

(d) **A legal adviser**

A disclosure may be made by a worker in the course of obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body (as defined in the Act).

(e) **Alternative external disclosures (in circumstances as outlined below)**

It is preferable in most circumstances to disclose to the HSE and, if that is not appropriate, to use one of the disclosure options at (a) to (d) above. It will rarely be appropriate to make alternative external disclosures where the disclosure could be dealt with through one of the other disclosure options above. There are stringent requirements for alternative external disclosures to qualify as protected disclosures under the Act.

The protections will only be available if the following conditions are met: The worker must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true; *AND* the disclosure must not be made for personal gain; *AND*

At least one of the following conditions at (i) to (iv) must be met:

- (i) At the time the disclosure was made the worker reasonably believed that she/he would be penalised if he/she made the disclosure to the employer, a responsible person, a prescribed person or a Minister; or
- (ii) Where there is no relevant prescribed person, the worker reasonably believed that it was likely that evidence would be concealed or destroyed if the worker made the disclosure to the employer or responsible person; or
- (iii) The worker has previously made a disclosure of substantially the same information to the employer, a responsible person, a prescribed person or a Minister; or
- (iv) The wrongdoing is of an exceptionally serious nature;

AND

- (v) In all these circumstances, it is reasonable for the worker to make an alternative external disclosure.

The assessment of what is reasonable takes account of, among other things:

- the identity of the person to whom the disclosure is made,
- the seriousness of the wrongdoing,
- whether the wrongdoing is ongoing or likely to occur in future,

- whether any action had been taken in cases where a previous disclosure was made and
- whether the worker complied with any Procedures in place when making that previous disclosure.

6. PENALISATION (INCLUDING DISMISSAL AND DETRIMENT)

- 6.1 The Act provides specific remedies for workers who are penalised for making a protected disclosure. Penalisation means any act or omission that affects a worker to the worker's detriment and includes suspension, lay-off, dismissal, demotion, loss of opportunity for promotion, transfer of duties, change of location of place of work, reduction in wages, change in working hours, the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty), unfair treatment, coercion, intimidation, harassment, discrimination, disadvantage, injury, damage, loss or threat of reprisal.
- 6.2 A worker is also entitled to protection from detriment suffered by the worker because that worker, or a third party, has made a protected disclosure. A detriment in this context includes coercion, intimidation, harassment, discrimination, disadvantage, adverse treatment in relation to employment (or prospective employment), injury, damage, loss or threat of reprisal.
- 6.3 All reasonable steps will be taken to protect workers from penalisation. Workers who consider that they have experienced any act of penalisation should notify [their line manager or, where this is not appropriate or possible, another senior manager] and the notification will be investigated and appropriate action taken where necessary. Workers also have recourse to the Workplace Relations Commission within certain time limits if they believe that they have been penalised as a direct result of having made a protected disclosure.

7. CONFIDENTIALITY / PROTECTION OF IDENTITY

- 7.1 The Act provides that a disclosure recipient (which in this context includes any person to whom a disclosure is referred in the performance of his/her duties) must not disclose to another person any information that might identify the Discloser, except where:
- (i) the disclosure recipient shows that he or she took all reasonable steps to avoid so disclosing any such information,
 - (ii) the disclosure recipient reasonably believes that the Discloser does not object to the disclosure of any such information,
 - (iii) the disclosure recipient reasonably believes that disclosing any such information is necessary for —
 - (a) the effective investigation of the relevant wrongdoing concerned,
 - (b) the prevention of serious risk to the security of the State, public health, public safety or the environment, or
 - (c) the prevention of crime or prosecution of a criminal offence,

OR

(iv) the disclosure is otherwise necessary in the public interest or is required by law.

7.2 Where action is to be taken following a disclosure, except in exceptional cases, the disclosure recipient should contact the Discloser and, where possible, gain the informed consent of the discloser, prior to any action being taken that could identify her/him.

7.3 Where it is decided that it is necessary to disclose information that may or will disclose the identity of the discloser, the discloser should be informed of this decision, except in exceptional cases. The discloser may request a review of this decision and a review should be carried out, where practicable.

7.4 All reasonable steps will be taken to protect the identity of the Discloser, and her/his identity will not be disclosed, except as set out in paragraph 7.1 above. Workers who are concerned that their identity is not being protected should notify the recipient or a senior manager for the service concerned. Such notifications will be investigated and appropriate action taken where necessary.

8. ANONYMOUS DISCLOSURES

8.1 There is a distinction between anonymous disclosures (where identity is withheld by the Discloser) and confidential disclosures (where identity is protected by the recipient). Anonymous disclosures made by workers are not excluded from the protection of the Act and the HSE will investigate such disclosures to the extent that this is possible in the circumstances.

8.2 The HSE encourages workers to provide as much information as possible in relation to the alleged relevant wrongdoing. This will enhance the HSE's ability to engage with the worker and seek further information, as required, and to thereby investigate the alleged relevant wrongdoing as effectively and efficiently as possible. Workers should note that in many instances, it may be difficult or impossible for the HSE to investigate a disclosure unless the worker is prepared to identify herself/himself. This is because the HSE may not be able to investigate a disclosure properly or at all without obtaining further information from the worker making the disclosure. Where the worker withholds his/her identity, it will not be possible for the HSE to seek and obtain such further information as may be required to conduct an investigation in relation to the alleged relevant wrongdoing, thereby inhibiting or preventing the HSE from conducting an investigation.

8.3 Workers should further note that important aspects of these Procedures (protecting a discloser from penalisation) may be difficult or impossible to apply unless workers identify themselves. Furthermore, workers cannot obtain redress under the Act without identifying themselves.

9. PERSONAL COMPLAINTS AND PROTECTED DISCLOSURES

- 9.1 The Act is intended to deal with disclosures of relevant wrongdoings. This normally involves wrongdoings that are likely to cause harm to an organisation itself or to the public at large, as opposed to personal complaints.
- 9.2 These Procedures are not intended to act as a substitute for normal day to day operational reporting or other internal employment Procedures. Personal complaints are generally dealt with under the HSE's Grievance or Dignity at Work procedures.
- 9.3 If a complaint is made of penalisation contrary to the Act, such complaint will be dealt with under these Procedures so as to ensure that the obligation to protect the identity of the discloser (as set out in paragraph 7.1 above) is complied with.

10. MOTIVATION

- 10.1 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.
- 10.2 However, a disclosure made in the absence of a reasonable belief (or other relevant standard specified in paragraph 5 above) will not attract the protections of the Act and may result in disciplinary action against the Discloser. In addition, disclosure of a wrongdoing does not confer any protection or immunity on a worker in relation to any involvement they may have had in that wrongdoing.

11. HOW TO MAKE A PROTECTED DISCLOSURE TO THE HSE

- 11.1 A worker who wishes to make a protected disclosure as defined in these Procedures, should address such disclosure to either:
- (a) his/her manager/point of contact or, where the disclosure relates to such person, to another manager in the HSE; or
 - (b) The Authorised Person
 - (c) Internal Audit (as appropriate)
- 11.2 Workers are encouraged to make protected disclosures by using the Protected Disclosures Reporting Form. However, it is recognised that on occasion it may be necessary for a protected disclosure to be made otherwise than via the Form i.e. verbally or electronically. Workers who make a disclosure otherwise than by using the Form are encouraged to indicate that the disclosure is being made as a protected disclosure under the Act.
- 11.3 When a disclosure, which appears to be a protected disclosure, is made verbally it should be documented by the recipient. Where practicable, the discloser will be asked to confirm the information provided to ensure that there is clarity with regard to the information disclosed.

11.4 The Act does not make any provision in relation to the withdrawal of a disclosure. If the information provided tends to show a relevant wrongdoing then the HSE may decide to continue to examine/investigate this in so far as is possible in circumstances where a Discloser chooses to withdraw from the process.

11.5 SCREENING/EXAMINATION/INVESTIGATION

11.6 When a disclosure of an alleged relevant wrongdoing is made, an initial screening process will be undertaken by [the recipient] under these Procedures. This screening process will involve an assessment of the disclosure to seek to determine whether or not it should be treated as a potentially protected disclosure. If it is unclear whether the disclosure qualifies as a protected disclosure, the recipient should treat the information as a protected disclosure (and protect the identity of the discloser, subject to paragraph 7.1 above) until satisfied that the information is not a protected disclosure.

11.7 It may be necessary, as part of this screening process, to differentiate between protected disclosures and personal complaints, e.g. where the information provided may involve a personal complaint and a protected disclosure. In these circumstances, it may be necessary to separate the different elements of the complaint/disclosure and determine whether any specific disclosure of information relating to a relevant wrongdoing has taken place.

11.8 If after screening a disclosure in an appropriate and timely manner it is assessed as being potentially a protected disclosure it will be referred to the relevant manager for examination or investigation as required. This manager will be responsible for arranging for the matter contained in the protected disclosure to be examined or investigated and should be guided by the appropriate HSE policies in this regard. It is important to note that some matters may be of such seriousness that an investigation will more appropriately be carried out externally or by professional experts in a particular area. In some cases the matter may need to be reported to, and investigated by An Garda Síochána or another body with the statutory power and function of investigation of particular matters.

11.9 If, after an appropriate examination or investigation has been undertaken, it is determined that wrongdoing has occurred then the findings will be addressed and appropriate action will be taken where necessary (general process is outlined in appendix 1 attached).

12. PROTECTION OF RIGHTS OF RESPONDENTS

12.1 Where an allegation is made against an individual (the respondent), the principles of natural justice and fair procedures will be complied with, as appropriate.

13. DISCIPLINARY RECORD OF DISCLOSER AND OTHER RELATED MATTERS

13.1 Where a worker makes a disclosure of alleged wrongdoing it will be given appropriate consideration under these Procedures. The HSE will focus on the disclosure made i.e. the information which, in the worker's reasonable belief tends to show one or more relevant wrongdoings.

13.2 In general where a protected disclosure is made during an investigation, disciplinary or other HSE process, this should not affect those distinct processes. However, an exception might be made where the worker can demonstrate that the investigation, disciplinary or other action is a form of penalisation for making a protected disclosure.

14. **REVIEW**

14.1 While not provided in legislation the Guidance issued to Public Bodies by the Department of Public Expenditure and Reform makes provision for a number of reviews. A review may therefore be sought in relation to the following:

- (a) by the discloser in respect of any decision made to disclose his/her identity (except in exceptional cases);
- (b) by the discloser in respect of the outcome of any assessment/investigation undertaken in respect of the disclosure which may be notified to her/him under these Procedures; and/or
- (c) by the discloser in respect of the outcome of any assessment/investigation in respect of any complaint of penalisation.

14.2 Any review will be undertaken by a person who has not been involved in the investigation or decision. They will review the decision taken in the context of available information which may include submissions from the review requester and other relevant parties.

14.3 Where a decision is taken to disclose the identity of the Discloser (otherwise than pursuant to a review conducted under paragraph 14.1(a) above), where practicable, the Discloser should be offered a review before his/her identity is disclosed.

14.4 There is no entitlement to more than one review in respect of any of the issues referred to in paragraph 14.1 (a) to (c) above.

15. **FEEDBACK**

15.1 Workers making disclosures will be provided with periodic and confidential feedback as considered appropriate by the HSE or the HSE appointed investigator (as the case may be) in relation to the matters disclosed and will be advised when consideration of the disclosure is complete, except in exceptional cases. When providing feedback no information will be communicated that could prejudice the outcome of the investigation or any action that might ensue (e.g. disciplinary or other legal action, including prosecution).

16. **SUPPORT**

16.1 The Employee Assistance Programme is available at all times to HSE employees, including those who make a protected disclosure and those involved in the investigation of a protected disclosure.

17. MANDATORY REPORTING

- 17.1 The Act does not oblige a worker to make a disclosure and disclosures made under this act are therefore voluntary. These disclosures are different from the mandatory obligations to report contained in other legislation.

18. RECORDS

- 18.1 All records of disclosures should be maintained securely so as to comply with the requirements of confidentiality under the Act and with relevant obligations under the Data Protection Acts 1988, 2003 and 2018 (as amended from time to time).

19. ANNUAL REPORTING

- 19.1 In accordance with its obligations under the Act, no later than 30 June each year, the HSE will prepare and publish a report in relation to the previous year, setting out (i) the number of protected disclosures made to the HSE; and (ii) any action taken in response to such protected disclosures. The report shall be published in a form which does not enable the identification of persons involved in the protected disclosures.
- 19.2 The HSE will also publish this information in its Annual Report.

20. AMENDMENTS

- 20.1 These Procedures may be revoked, replaced or amended at any time.

Appendix 1

List of general steps related to the processing of a protected disclosure

- 1) Initial screening by recipient to determine whether the disclosure appears to fit within the framework for Protected Disclosures.
- 2) Notification to the office of the Authorised Person for the issue of a reference number for this disclosure.
- 3) Determination of the wishes of the Discloser in relation to protection of identity.
- 4) Advice on support available from employee assistances programme as required.
- 5) Referral to appropriate commissioning manager ensuring that this manager has not been the subject of any of the content of the disclosure. This principle applies at all stages of the process
- 6) Initial examination /assessment of the issues by or on behalf of relevant commissioning manager to determine the appropriate next steps. Decision by commissioning manager as to the appropriate actions required to address the concerns which may include a fuller examination or investigation of the issues identified.
- 7) On completion of the required process a report to be completed which outlines how the issues were addressed and any consequential actions.
- 8) Assurances to be provided to the recipient by relevant senior manager in relation to how this Protected Disclosure was addressed and in relation to the implementation of any recommendations.
- 9) Notification to the Discloser of relevant information related to the outcome, where this is appropriate.
- 10) Reviews as provided in the guidance document.
- 11) Records in relation to each disclosure should be retained.
- 12) It is the responsibility of the relevant senior managers to assure themselves that these Procedures are being complied with. The HSE may seek to review such compliance.
- 13) The office of the Authorised Person will require documentation to confirm for each protected disclosure that the matter has been examined, that the issues raised, if they have been established ,have been addressed and that an appropriate response has issued to the Discloser
- 14) Given the diverse nature of disclosures a timescale for the processing a disclosure is not being prescribed. However each disclosure should be dealt with as expeditiously as possible in the circumstances of the particular case

APPENDIX 2

PROTECTED DISCLOSURES REPORTING FORM

The HSE welcomes workers making protected disclosures under the Protected Disclosures Act 2014. Where possible, this form should be used for making a protected disclosure.

Before completing this form, a worker should:

- (a) Consider whether what is being disclosed is a protected disclosure and whether the HSE’s Protected Disclosures Procedures (the “**Procedures**”) are relevant and applicable or whether another HSE policy (such as the Grievance Procedure/Dignity at Work Policy) is applicable.
- (b) Ensure that she/he has a reasonable belief that the information being disclosed tends to show one or more relevant wrongdoings, as set out in paragraph 4.6 of the Procedures.

1. Name of worker making the disclosure

.....

2. Job title

.....

3. Department

.....

4. Name and address of organisation

.....

.....

.....

.....

5. Please provide contact details at which the Authorised Person may contact you:

Address:

.....

.....

Tel no.

E-mail

6. Please indicate whether you want your identity protected? YES
NO

7. Details of the disclosure (care should be taken to only include the name(s) of individual(s) directly relevant to the report)

Details that should be included in a disclosure:

- type of wrongdoing in accordance with the provisions of legislation (if known)
- 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 and if so, to whom, when, and what action was taken;
- information in respect of the alleged wrongdoing (what is occurring/has occurred and how) and any supporting information;
- any other relevant information.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

**Please add additional pages if necessary*

Signature

Date

Completed forms are to be returned to:

**HSE Office of the Authorised Person,
An Clochar,
Ballyshannon Health Campus
College Street
Ballyshannon
Co. Donegal**

For further information please contact *The Office of the Authorised Person*, in confidence

Tel: 071 98 34651

E-mail: protected.disclosures@hse.ie .

**Office hours are 10am to 1pm and 2pm to 5pm Monday to Friday*

or

Visit our webpage at: <https://www.hse.ie/eng/about/qavd/protected-disclosures/>