

## Coillte Group – Protected Disclosures Policy

### Contents

1. INTRODUCTION .....	2
2. WHO THIS POLICY APPLIES TO .....	3
3. WHAT IS A PROTECTED DISCLOSURE? .....	3
<b>4. HOW TO MAKE A REPORT .....</b>	<b>4</b>
5. ANONYMOUS REPORTS.....	5
6. PROCESS FOLLOWING RECEIPT OF A REPORT.....	5
7. OTHER REPORTING CHANNELS .....	7
8. PROTECTION FROM PENALISATION .....	8
9. PROTECTION FROM LEGAL LIABILITY .....	9
10. CONFIDENTIALITY AND PROTECTION OF IDENTITY .....	10
11. SYSTEM OF REVIEW .....	11
12. RELATED POLICIES AND PROCEDURES.....	12
13. SUPPORTS AND INFORMATION .....	12
14. REVIEW OF THIS POLICY.....	12

## 1. INTRODUCTION

The Coillte Group is committed to conducting its business activities in compliance with legal and regulatory requirements and with fairness, honesty and integrity. We are committed to fostering a working environment where workers feel comfortable to report concerns about wrongdoing or suspected wrongdoing, without fear of criticism, retaliation, subsequent discrimination, penalisation or threat of less favourable treatment. Workers are encouraged to speak out and report any genuine concerns about wrongdoing or suspected wrongdoing.

This policy aims to foster a culture of openness and honest communication to ensure compliance with all legal, regulatory and other requirements and to protect the integrity of all workers. The policy applies to the Coillte Group.

The Protected Disclosures Act 2014 (“the Act”) (as amended) protects workers who report certain workplace wrongdoings. A formal channel for reporting such concerns has been established in accordance with the Act.

Coillte will: -

- Keep the identity of the reporting person and any person named in a report confidential;
- Not tolerate any penalisation or threat of penalisation of the reporting person or persons associated with the reporting person;
- Acknowledge all reports within 7 days;
- Follow-up diligently on all reports of relevant wrongdoing;
- Provide feedback to the reporting person within three months of acknowledgement; and
- Provide further feedback at three-month intervals on written request.

This Policy is an internal document to assist staff to understand the obligations as required by the Act. Under the Act Coillte must have regard to Statutory Guidance issued by the DPENDR Minister in relation to Protected Disclosures. The current guidance was issued in November 2023 and Coillte has had regard to that guidance when preparing this policy.

In accordance with the Statutory Guidance, the Chief Executive of Coillte has overall responsibility for the Procedures set out in this policy.

Oversight of the policy rests with the Coillte Board of Directors, who are responsible for: -

- Approving the Procedures and ensuring they are in compliance with the Act and have had due regard to the Statutory Guidance.
- Ensuring adequate resources are allocated and assigned to operate the Procedures effectively.
- Ensuring the Procedures are integrated into Coillte’s business processes including financial management, risk management, procurement, audit, HR, and IT.
- Reviewing the Procedures at regular intervals and improving and updating them as required.

The Assurance and Compliance Director is the Designated Person with day-to-day responsibility for the handling of reports.

If you have any queries about this policy or if you are uncertain whether a matter is a Protected Disclosure within the scope of this Policy, you should seek guidance from the Assurance and Compliance Director or the Company Secretary & Director of Legal Affairs.

## **2. WHO THIS POLICY APPLIES TO**

This policy applies to all “workers”. A “worker” is an individual in a work-related relationship with the Coillte Group who acquires information on relevant wrongdoings in a work-related context and who is or was: -

- (a) an employee.
- (b) an independent contractor.
- (c) an agency worker.
- (d) a trainee.
- (e) a shareholder of an undertaking.
- (f) a member of the administrative, management or supervisory body of an undertaking including non-executive members.
- (g) a volunteer.
- (h) an individual who acquired information on a relevant wrongdoing during a recruitment process; or an individual who acquired information on a relevant wrongdoing during pre-contractual negotiations (other than a recruitment process).

This policy applies equally to all workers of the Coillte Group.

## **3. WHAT IS A PROTECTED DISCLOSURE?**

A “Protected Disclosure of Wrongdoing” is a situation where a worker discloses relevant information in relation to wrongdoing that has come to the attention of the worker in a work-related context. These requirements are explained in more detail below.

### **3.1 What is “relevant information”?**

Relevant information is information which in the reasonable belief of the worker tends to show one or more relevant wrongdoings and it came to the attention of the worker in a work-related context.

The information should disclose facts about someone or something, rather than a general allegation that is not founded on any facts.

A worker is not required or entitled to investigate matters themselves to find proof of their suspicion and should not attempt to do so. The Designated Person is responsible for the appropriate follow-up of all reports.

### **3.2 What is a Reasonable Belief?**

The worker’s belief must be based on reasonable grounds, but it is not a requirement that the worker is ultimately correct. Workers are not expected to prove the truth of an allegation.

No disciplinary or other action will be taken against a worker who reasonably believes the information they have reported tends to show a wrongdoing even if the concern raised turns out to be unfounded.

The motivation of the worker in making a report is irrelevant as to whether or not it is a protected disclosure. The worker will be protected if they reasonably believe when making the report that the

information disclosed tended to show a relevant wrongdoing. A reporting person will not be penalised simply for getting it wrong, so long as the reporting person had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

A report made in the absence of a reasonable belief is not a protected disclosure and may result in disciplinary action. It is a criminal offence to make a report that contains any information the reporting person knows to be false. A person who suffers damage resulting from the making of a known to be false report has a right to take legal action against the reporting person.

### **3.3 What are Relevant Wrongdoings?**

To qualify as a protected disclosure, the matter reported must be a “relevant wrongdoing”. The following are relevant wrongdoings:

- (a) that a criminal offence has been, is being or is likely to be committed.
- (b) failing to comply with any legal obligation (other than a contract of employment).
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur.
- (d) endangerment of the health or safety of any individual.
- (e) damage to the environment.
- (f) unlawful or improper use of funds or resources of a public body.
- (g) oppressive, discriminatory or grossly negligent behaviour that constitutes gross mismanagement.
- (h) a breach of EU law
- (i) concealing or destroying or attempting to conceal or destroy evidence of wrongdoing.

It does not matter whether a relevant wrongdoing occurred, occurs or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other country or territory.

### **3.4 Matters that are not Relevant Wrongdoings**

Relevant wrongdoings are usually not any of the following: -

- (a) Exclusively personal workplace grievances. Such matters are dealt with under Coillte’s Grievance Procedures.
- (b) Disputes in relation to the worker’s employment contract.
- (c) When it is a function of the worker’s job to detect, investigate or prosecute the wrongdoing, and does not consist of or involve an act or omission on the part of the employer.

### **3.5 What is a Work-Related Context?**

The information must come to the attention of the reporting person in a work-related context. This means current or past work activities through which the reporting person acquires information concerning a relevant wrongdoing.

## **4. HOW TO MAKE A REPORT**

Coillte has designed internal reporting channels that are operated in a secure manner that ensures the protection of the confidentiality of the identity of the reporting person and any third party mentioned in a Protected Disclosure.

Disclosures made under the internal procedures can be made: -

- (a) in writing by email
- (b) in writing by post
- (c) orally by telephone
- (d) in person by personal visit

Disclosures can be made to one of the following: -

- (a) Assurance and Compliance Director
- (b) Group HR Director
- (c) Company Secretary & Director of Legal Affairs
- (d) Director of HR & Sustainability (Medite Smartply)

Contact details are set out at Appendix A to this policy.

Reports should contain at least the information set out in Appendix B.

## **5. ANONYMOUS REPORTS**

Reports can be made anonymously. Persons who choose to report anonymously and whose report meets the requirements of the Act remain entitled to all of the protections of the Act.

Coillte encourages workers to put their name to the Protected Disclosure on the basis that they will benefit from confidentiality as outlined above. Concerns expressed anonymously will be treated seriously and considered in accordance with this policy to the extent that this is possible. However, an anonymous Protected Disclosure may create significant challenges for Coillte in carrying out an effective investigation and in adhering to the principles of natural justice.

## **6. PROCESS FOLLOWING RECEIPT OF A REPORT**

This process will apply to all reports made in the manner specified in section 4 of this policy. This process may not apply if a report or other communication is made in a manner other than that specified in section 4.

### **6.1 Acknowledgement**

Coillte is committed to following up on all reports of wrongdoing quickly and effectively. All reports shall be acknowledged within 7 days of receipt. The acknowledgement will include a copy of these procedures.

### **6.2 Assessment**

The Designated Person will carry out a preliminary assessment of the report as to whether there is *prima facie* evidence that a relevant wrongdoing may have occurred and if the report should be treated as a protected disclosure, having regard to the provisions of the Act.

The Designated Person may, if required, make contact with the reporting person, in confidence, in order to seek further information or clarification regarding the matter(s) reported.

If it is unclear as to whether or not a report is a protected disclosure, the report will be treated as a protected disclosure until a definitive conclusion can be made.

It may be necessary to differentiate the information contained in the report. It may be the case that not all of the matters reported fall within the scope of this policy or the Protected Disclosures Act. Different parts of a report may need to be approached separately and some matters may be directed to another, more appropriate, policy or procedure (e.g. personal grievances).

The Designated Person may decide that there is no *prima facie* evidence of a relevant wrongdoing and either close the procedure or refer the matter to another relevant procedure. If this occurs, the Designated Person will notify the reporting person in writing of this decision, the reasons for it and the fact no further steps will be taken under this Policy.

If the Designated Person decides that there is *prima facie* evidence of a relevant wrongdoing, appropriate action will be taken to address the wrongdoing, having regard to the nature and seriousness of the matter.

The nature and seriousness of the matter reported will inform whether the matter can or should be investigated internally. In some circumstances it may be more appropriate for an investigation to be carried out by external experts, or a statutory body, or for the matter to be reported to An Garda Síochána or other body. If urgent action is required (for example to remove a health and safety hazard) this will be taken before any other investigation is conducted.

An informal process may be used to address a disclosure where the alleged relevant wrongdoing is relatively straightforward or not very serious or does not require consideration of the making of adverse findings about any individual.

If a decision to close the matter or refer it to another process is made, a party affected by this decision may request a review of this decision, via the system of review set out in section 11 of this policy.

### **6.3 Investigation**

The Designated Person shall decide whether or not an investigation is required.

If an investigation is required, the Designated Person will initiate a formal investigation in consultation with relevant senior managers. The nature and extent of the investigation will depend on the complexity and seriousness of the matter. Investigations will be undertaken in accordance with the general principles of natural justice and fair procedures and any other relevant procedures of Coillte, as appropriate.

The Assurance and Compliance Director will report to the Audit and Risk Committee in respect of any disclosures received, investigations undertaken and the outcome of investigations. Following the investigation, a report will be prepared and may include recommendations arising from the investigation.

Responsibility for investigating and addressing allegations of wrongdoing lies with Coillte and not the reporting person. Reporting persons should not attempt to investigate wrongdoing themselves.

A review of a decision not to investigate can be requested via the system of review set out in section 11 of this policy.

#### **6.4 Feedback**

Feedback will be provided to the reporting person within a reasonable time period and no later than three months after the initial acknowledgement of the report.

A reporting person can request, in writing, that the Designated Person provide further feedback at three-month intervals until the process of follow-up is completed.

Any feedback is provided in confidence, should be treated as confidential and should not be disclosed by the reporting person other than:

- (a) as part of the process of seeking legal advice in relation to their report from a solicitor or a barrister or a trade union official; or
- (b) if required in order to make a further report through this or another reporting channel provided for under the Act (see next section).

Feedback will include information on the action taken or envisaged to be taken as follow-up to that report and also the reasons for such follow-up.

Feedback will not include any information that could prejudice the outcome of an investigation or any other action that might follow.

Feedback will not include any information relating to an identified or identifiable third party. In particular, feedback will not include any information on any disciplinary process involving another worker. Such information is confidential between the employer and the worker concerned.

If the follow-up process determines that no relevant wrongdoing has occurred, the reporting person will be informed of this in writing and the reasons for this decision. A review of this decision may be requested via the system of review set out in section 11 of this policy.

The final outcome of the process triggered by the report will be communicated to the reporting person, subject to any legal restrictions concerning confidentiality, legal privilege, privacy and data protection or any other legal obligation.

#### **7. OTHER REPORTING CHANNELS**

The aim of this policy is to provide a means by which workers can safely and securely raise concerns about relevant wrongdoing and to give certainty that all such concerns will be dealt with appropriately. Coillte is confident that issues can be dealt with internally and strongly encourages workers to report such concerns internally in accordance with this policy.

There may, however, be circumstances where a worker may not wish to raise their concern internally or if they have grounds to believe that an internal report they have made has not been followed-up properly.

The Protected Disclosures Act sets out a number of alternative external channels for workers to raise concerns. Information regarding these channels is set out in Appendix C of this policy.

It is important to note, however, that if a worker is considering making a disclosure using these other channels, different and potentially more onerous conditions may apply. Workers are advised to seek professional advice before reporting externally. Information on where to seek independent, confidential advice in this regard can be found at section 13 of this policy.

## **8. PROTECTION FROM PENALISATION**

Coillte recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal or penalisation. Coillte's strong commitment to this Policy means that reporting persons can raise concerns about suspected wrongdoing in the knowledge that they will be supported and protected from any adverse repercussions. Coillte gives a firm commitment that penalisation of workers who make a report will not be tolerated. In addition, any form of direct or indirect pressure on reporting persons not to make a Protected Disclosure or to make a disclosure contrary to this Policy will not be tolerated.

If a worker is penalised or threatened with penalisation this can be reported to the Group HR Director for Coillte CGA and to the Director of HR and Sustainability for Medite Smartply. The report will be assessed / investigated and appropriate action taken where necessary.

Penalisation is any direct or indirect act or omission that occurs in a work-related context, which is prompted by the making of a protected disclosure and causes or may cause unjustified detriment to a worker.

Penalisation includes, but is not limited to: -

- (a) Suspension, layoff or dismissal.
- (b) Demotion, loss of opportunity for promotion or withholding promotion.
- (c) Transfer of duties, change of location of place of work, reduction in wages or change in working hours.
- (d) The imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- (e) Coercion, intimidation, harassment or ostracism.
- (f) Discrimination, disadvantage or unfair treatment.
- (g) Injury, damage or loss.
- (h) Threat of reprisal.
- (i) Withholding of training.
- (j) A negative performance assessment or employment reference.
- (k) Failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment.
- (l) Failure to renew or early termination of a temporary employment contract.
- (m) Harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income.



- (n) Blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry.
- (o) Early termination or cancellation of a contract for goods or services.
- (p) Cancellation of a licence or permit.
- (q) Psychiatric or medical referrals.

Appropriate action, which may include disciplinary action, will be taken against a worker who penalises a reporting person or other individual due to the making of a protected disclosure. The normal management of a worker who has made a protected disclosure is not penalisation.

If a protected disclosure is made during an investigation or disciplinary process to which the reporting person is subject, it will not automatically follow that the making of the report will affect the investigation or disciplinary process. Separate processes unconnected with the disclosure will ordinarily continue to proceed.

Disclosure of an alleged wrongdoing does not confer any protection or immunity on a worker in relation to any involvement they may have had in that alleged wrongdoing.

The Protected Disclosures Act provides that a worker who suffers penalisation as a result of making a protected disclosure can make a claim for redress through either the Workplace Relations Commission or the courts, as appropriate.

A claim concerning penalisation or dismissal must be brought to the Workplace Relations Commission within 6 months of the date of the act of penalisation or the date of dismissal to which the claim relates.

A claim for interim relief pending proceedings at the Workplace Relations Commission or the courts must be made to the Circuit Court within 21 days of the last date of penalisation or date of dismissal.

It is a criminal offence to penalise or threaten penalisation or permit any other person to penalise or threaten penalisation against any of the following: -

- a) The reporting person;
- b) A facilitator (a person who assists the reporting person in the reporting process);
- c) A person connected to the reporting person, such as a colleague or a relative; or
- d) An entity the reporting person owns, works for or is otherwise connected with in a work-related context.

## **9. PROTECTION FROM LEGAL LIABILITY**

Civil legal action, with the exception of defamation, cannot be taken against a worker who makes a protected disclosure. Workers can be sued for defamation but are entitled to the defence of “qualified privilege”. This means that it should be very difficult for a defamation case against a worker to succeed if the worker can show they have made a protected disclosure. There is no other basis under which a worker can be sued if they have made a protected disclosure.

If a worker is prosecuted for disclosing information that is prohibited or restricted, it is a defence for the worker to show they reasonably believed they were making a protected disclosure at the time they disclosed the information.

It is not permitted to have clauses in agreements that prohibit or restrict the making of a protected disclosure, exclude or limit any provision of the Act, preclude a person from bringing proceedings under or by virtue of the Act or preclude a person from bringing proceedings for breach of contract in respect of anything done in consequence of making a protected disclosure.

Please refer to section 13 of this policy on how to obtain further information and independent, confidential advice in relation to these statutory rights.

## **10. CONFIDENTIALITY AND PROTECTION OF IDENTITY**

Coillte Group is committed, in accordance with the Act, to protecting the confidentiality of the identity of workers who raise a concern under these procedures, as well as any third party mentioned in a report, and to treating the information disclosed in confidence.

The identity of a person who makes a Protected Disclosure and any third party named in a Protected Disclosure will be kept confidential by the person to whom the disclosure is made and will not be disclosed to other people other than those who need that information in order to follow up and investigate the concerns raised (i.e., on a need-to-know basis). Appropriate measures will be taken to protect the identity of reporting persons which may include the use of code names, document security measures (password protection, redaction, etc.) and IT measures (restricted access rights).

Subject to the exceptions below, the identity of the reporting person or any information from which their identity may be directly or indirectly deduced will not be shared with anyone other than persons authorised to receive, handle or follow-up on reports made under this policy without the explicit consent of the reporting person.

The Protected Disclosures Act provides for certain exceptions where a reporting person's identity can be disclosed without the reporting person's consent. These are: -

- (a) Where the disclosure is a necessary and proportionate obligation imposed by EU or national law in the context of investigations or judicial proceedings, including safeguarding the rights of defence of persons connected with the alleged wrongdoing;
- (b) Where the person to whom the report was made or shared shows they took all reasonable steps to avoid disclosing the identity of the reporting person or any information that could identify the reporting person;
- (c) Where the person to whom the report was made or shared reasonably believes disclosing the identity of the reporting person or information that could identify the reporting person is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment; and
- (d) Where the disclosure is otherwise required by law.

Where a reporting person's identity or information that could identify a reporting person is to be disclosed under exceptions (a) to (d), above, the reporting person will be notified in writing in advance, unless such notification would jeopardise:

- The effective investigation of the relevant wrongdoing reported;
- The prevention of serious risk to the security of the State, public health, public safety or the environment; or
- The prevention of crime or the prosecution of a criminal offence.

A reporting person may request a review of a decision to disclose their identity under the System of Review set out in section 11 of this policy.

Circumstances may arise where protection of identity is difficult or impossible – e.g., if the nature of the information disclosed means the reporting person is easily identifiable. If this occurs, the risks and potential actions that could be taken to mitigate against them will be outlined and discussed with the reporting person.

Other employees must not attempt to identify reporting persons. Attempts to do so may result in disciplinary action.

A reporting person who is concerned that their identity is not being protected should notify the Coillte Group Assurance and Compliance Director.

Records will be kept of all reports, including anonymous reports, in accordance with applicable policies concerning record keeping and data protection.

## **11. SYSTEM OF REVIEW**

A review may be sought: -

- (a) By the reporting person into a decision, following assessment, to close the procedure or refer the matter to another process.
- (b) By any affected party in respect of the conduct or outcome of any follow-up actions (including any investigation) taken on foot of the receipt of a report;
- (c) By any affected party in respect of the conduct or outcome of any investigation into a complaint of penalisation; and
- (d) Except in exceptional cases, by any party affected by any decision to disclose the identity of the reporting person to persons other than those authorised under these procedures to handle reports.

A person who wishes to request a review of any action outlined above should do so in writing to the Coillte Group Company Secretary & Director of Legal Affairs within ten working days of the relevant action. The person applying for the review must state in their request the reason(s) why they are seeking a review.

The review will be conducted by an individual who was not involved in the original process under review. This individual will be of at least equivalent seniority to the person who conducted the original process, or in some cases may be more appropriately carried out externally. The role of the reviewer is not to re-investigate the matter in question but to address the specific issues the person requesting the review believes have received insufficient consideration.

Where a review finds significant shortcomings or failings in the process, Coillte Group will consider what further action(s) it may or may not need to take in response to the findings of the review. The outcome of the review will be final. No person will have an entitlement to any further reviews of the same issue(s).

## **12. RELATED POLICIES AND PROCEDURES**

The following policies should be reviewed in line with the Protected Disclosures policy: -

- (a) Group Code of Business Conduct Policy
- (b) Bully and Harassment Policy
- (c) Social Media Rules of Conduct
- (d) Grievance Procedures
- (e) Disciplinary Procedures

All of these policies are available on SharePoint for Coillte CGA and are relevant to Medite Smartply through the induction process and the policy-sharing procedure.

## **13. SUPPORTS AND INFORMATION**

Transparency International Ireland operates a free [Speak Up Helpline](#) that offers support and advice (including legal advice) for workers who have reported or plan to report wrongdoing.

For workers who are members of a trade union, many unions offer free legal advice services on employment-related matters, including protected disclosures.

The EAP is a free, confidential, counselling and wellbeing support available to Coillte employees, partner/spouses and any dependent children aged 16 and over. The service is available 24/7, 365 days a year. The EAP service is a completely free and 100% confidential service. The EAP provider can be contacted on the below Freephone contact numbers: -

### **To access the EAP, please phone**

- **Ireland:** 1800 903 542
- **International:** +353 1 518 0277
- **SMS/WhatsApp:** Text 'Hi' to 087 369 0010 (standard rates apply)
- **The Spectrum Digital Platform and App:** please register via the online Platform or via the Spectrum.Life app. The company code for registration is **qZL9AX01**

## **14. REVIEW OF THIS POLICY**

This policy will be reviewed regularly by Coillte's Audit and Risk Committee. This policy is communicated to all new employees on commencement of employment as part of induction training. This policy is published on Coillte's intranet site for Coillte CGA and is shared in Medite Smartply through the induction process and the policy-sharing procedures.

**APPENDIX A**

**CONTACT DETAILS**

1.	<p>Michelle O'Brien Assurance and Compliance Director Coillte Dublin Road Newtownmountkennedy Co. Wicklow Ireland Telephone: +353 1 201 1381 Email: <a href="mailto:protected.disclosure@coillte.ie">protected.disclosure@coillte.ie</a></p>
2.	<p>Deirdre Coleman Company Secretary &amp; Director of Legal Affairs Coillte Dublin Road Newtownmountkennedy Co. Wicklow Ireland Telephone: +353 1 201 1338 Email: <a href="mailto:Deirdre.Coleman@coillte.ie">Deirdre.Coleman@coillte.ie</a></p>
3.	<p>Ruth D'Alton Group HR Director Coillte Dublin Road Newtownmountkennedy Co. Wicklow Ireland Telephone: +353 1 201 1394 Email: <a href="mailto:Ruth.Dalton@coillte.ie">Ruth.Dalton@coillte.ie</a></p>
4.	<p>Gillian Herity Director of HR &amp; Sustainability Meditate Smartply Redmondstown Clonmel Co. Tipperary Ireland Telephone: +353 52 618 2339 Email: <a href="mailto:Gillian.Herity@mdfosb.com">Gillian.Herity@mdfosb.com</a></p>

## **APPENDIX B**

### **WHAT TO INCLUDE IN A DISCLOSURE**

Reports should contain at least the following information: -

- (a) that the report is a protected disclosure and is being made under the procedures set out in this Policy.
- (b) the reporting person's name, position in the organisation, place of work and confidential contact details.
- (c) the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified.
- (d) whether or not the alleged wrongdoing is still ongoing.
- (e) whether the alleged wrongdoing has already been disclosed and if so, to whom, when, and what action was taken.
- (f) information in respect of the alleged wrongdoing (what is occurring / has occurred and how) and any supporting information.
- (g) the name of any person(s) allegedly involved in the alleged wrongdoing (if any name is known and the worker considers that naming an individual is necessary to report the wrongdoing disclosed); and
- (h) any other relevant information.

## APPENDIX C

### OTHER DISCLOSURE CHANNELS

#### C.1 Overview

The aim of this policy is to provide a means by which workers can safely and securely raise concerns about relevant wrongdoing and to give certainty that all such concerns will be dealt with appropriately. Coillte is confident that issues can be dealt with internally and strongly encourages workers to report such concerns internally in accordance with this policy.

There may, however, be circumstances where a worker may not wish to raise their concern internally or if they have grounds to believe that an internal report they have made has not been followed-up properly.

The Protected Disclosures Act sets out a number of alternative external channels for workers to raise concerns. Information regarding these channels is set out below.

Workers should note that different and potentially more onerous conditions may apply when using these channels. Workers are advised to seek professional advice before reporting externally. Information on where to seek independent, confidential advice in this regard can be found at section 13 of this policy.

**The information set out in this Appendix gives a general overview of the other disclosure channels available under the Act. It does not purport to be legal advice or a legal interpretation of the Protected Disclosures Act. It is entirely a matter for each worker to satisfy themselves that they are reporting in accordance with the Act.**

#### C.2 Reporting to a Prescribed Person

The conditions applying to reporting to a prescribed person are set out in section 7 of the Protected Disclosures Act.

Prescribed persons are designated by the Minister for Public Expenditure, NDP Delivery and Reform to receive reports of wrongdoing in respect of matters they regulate or supervise.

If a worker wishes to make a report to a prescribed person, in addition to having a reasonable belief that the information they report tends to show a relevant wrongdoing, they must also reasonably believe the information they report is substantially true and that the relevant wrongdoing they wish to report falls within the description of matters for which the person is prescribed.

Prescribed persons are required to have formal channels to receive reports to them under the Act and to acknowledge, follow-up and give feedback on all reports received.

If a worker decides to report to a prescribed person, they must make sure that they choose the right person or body for their issue. For example, if they are reporting a breach of data protection law, they should contact the Data Protection Commission. A full list of prescribed persons and a description of the matter for which they have been prescribed can be found at: [www.gov.ie/prescribed-persons/](http://www.gov.ie/prescribed-persons/).

### **C.3 Reporting to the Protected Disclosures Commissioner**

The conditions applying to reporting to the Protected Disclosures Commissioner are set out in section 7 of the Protected Disclosures Act.

The Protected Disclosures Commissioner is an alternative means by which a worker can make a report under section 7 of the Act. In particular, the Commissioner can assist where the worker is uncertain as to which prescribed person to report to. The Commissioner will transmit the report to the correct prescribed person or to another person the Commissioner considers suitable to follow-up on the report. In exceptional circumstances (e.g. if no prescribed person or suitable person can be found) the Commissioner will follow-up directly on a report.

If a worker wishes to make a report to the Commissioner, in addition to having a reasonable belief that the information they report tends to show a relevant wrongdoing, they must also reasonably believe the information they report, and any allegation contained in it is substantially true.

The Commissioner has established formal channels for workers to make reports under the Act. Information on how to report to the Commissioner is available at: <https://www.opdc.ie/>.

### **C.4 Reporting to Institutions of the EU**

The conditions applying to reporting to institutions of the EU is set out in section 7B of the Act.

If the relevant wrongdoing a worker wishes to report concerns a breach of European Union (EU) law, as set out EU Directive 2019/1937 on the protection of persons who report breaches of Union law, they can report to a relevant institution, body, office or agency of the EU, provided: -

- the worker believes the information they wish to report is true at the time of reporting; and
- the information falls with the scope of EU Directive 2019/1937.

A number of these EU institutions have formal channels for receiving reports from workers. A worker wishing to make such a report should contact the institution concerned for information in this regard.

### **C.5 Reporting to a Minister**

The conditions applying to reporting to a Minister are set out in section 8 of the Protected Disclosures Act.

A worker who is or was employed by a public body can make a report to the Minister or Minister of State responsible for the public body concerned, provided one or more of the following conditions is met: -

- the worker has previously made a report of substantially the same information to their employer or other responsible person; or to a prescribed person; or the Protected Disclosures Commissioner; or to a relevant Minister but no feedback has been provided to the worker in response to the report within the specified feedback period, or, where feedback has been provided, the worker reasonably believes that there has been no follow-up or that there has been inadequate follow-up;



- the worker reasonably believes the head of the public body concerned is complicit in the relevant wrongdoing concerned;
- the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage.

In the case of Coillte, the relevant Minister is the Minister for Agriculture, Food and the Marine.

If a report is made to the Minister, it will within 10 days of receipt, be transmitted, without consideration, directly to the Protected Disclosures Commissioner.

### **C.6 Reporting to a Legal Adviser**

The conditions for reporting to a legal adviser are set out in section 9 of the Act.

A worker can disclose information concerning a relevant wrongdoing to a barrister, a solicitor or a trade union official (or an official of an excepted body under section 6 of the Trade Union Act 1941) in the course of obtaining legal advice, including advice in relation to the operation of the Protected Disclosures Act.

### **C.7 Reporting to Other Third Parties**

There are specific – and more onerous – conditions that must be met for a worker to be protected if they make a disclosure to any person other than their employer or other responsible person, a prescribed person, the Protected Disclosures Commissioner or a relevant Minister. These are set out in section 10 of the Protected Disclosures Act.

The worker must reasonably believe that the information disclosed in the report, and any allegation contained in it, is substantially true, and that at least one of the following conditions is met: -

- the worker previously made a disclosure of substantially the same information to their employer or other responsible person; to a prescribed person; to the Protected Disclosures Commissioner, or to a relevant Minister, but no appropriate action was taken in response to the report within the specified feedback period; or
- the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage, or
- the worker reasonably believes that if he or she were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that there is a risk of penalisation, or
- the worker reasonably believes that if he or she were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that there is a low prospect of the relevant wrongdoing being effectively addressed, due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where a prescribed person may be in collusion with the perpetrator of the wrongdoing or involved in the wrongdoing.

### **C.8 Reporting of Matters Related to Law Enforcement and the Administration of Justice**

Section 17 of the Protected Disclosures Act sets out certain special conditions that apply to the reporting of matters relating to law enforcement and the administration of justice. A full definition of what constitutes such matters is set out in section 17(1) of the Act.

In general, reports concerning law enforcement and the administration of justice can only be made: -

- To the worker's employer in accordance with this policy; or
- To a prescribed person, if a person has been prescribed in respect of the matter the worker wishes to report; or
- To the Comptroller and Auditor General, if the report contains taxpayer information.

A worker can also disclose information concerning a relevant wrongdoing in this area to a legal adviser or a trade union official (or an official of an excepted body under section 6 of the Trade Union Act 1941) in the context of seeking legal advice regarding their disclosure.

A report on matters concerning law enforcement and the administration of justice can in certain circumstances be made to a member of Dáil Éireann or Seanad Éireann. Section 17 sets out the specific conditions that apply in this case. Workers should familiarize themselves with these conditions and seek legal advice if required.

No other form of disclosure of these matters is permitted under the Protected Disclosures Act.

### **C.9 Reporting of Matters Related to Security, Defence, International Relations and Intelligence**

Section 18 of the Protected Disclosures Act sets out certain special conditions that apply to the reporting of matters relating to security, defence, international relations and intelligence. A full definition of what constitutes such matters is set out in sections 18(1) and 18(2) of the Act. Reports concerning matters relating to these areas can only be made: -

- To the worker's employer, in accordance with this policy;
- To a relevant Minister in accordance with section 8 of the Protected Disclosures Act;
- To the Disclosures Recipient in accordance with section 10 of the Protected Disclosures Act.

A worker can also disclose information concerning a relevant wrongdoing in these areas to a legal adviser or a trade union official (or an official of an excepted body under section 6 of the Trade Union Act 1941) in the context of seeking legal advice regarding their disclosure.

No other form of disclosure of these matters is permitted under the Protected Disclosures Act.

**Version Control**

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