

# Protected Disclosures Policy

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<b>Who needs to know about this document</b>	All Staff members, Governing Body Members, Job Applicants and Volunteers
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## 1. INTRODUCTION

- 1.1 Dún Laoghaire Institute of Art, Design and Technology (IADT) is committed to the highest possible standards of honesty, openness, probity and accountability. The Institute has put in place a wide range of codes of practice, procedures, regulations and rules to deliver on its commitments and to deter and detect malpractice, abuse and/or wrongdoing.
- 1.2 The Protected Disclosures Act 2014, as amended, (the “Act”) protects workers who report certain workplace wrongdoings. Formal channels for reporting such concerns have been established in accordance with the Act. A reporting person must make a report in the manner set out in the Act to gain the protections of the Act.
- 1.3 On behalf of the Institute, the Governing Body and the President confirms, through this IADT Policy their commitment to fostering a workplace culture that supports the making of protected disclosures and provides protection against penalisation for reporting persons. This IADT Policy sets out the range of disclosure options available to workers, the types of wrongdoing that constitute a protected disclosure, what happens when a report is received, as well as the protections that are available for reporting persons. Malpractice, abuse or wrongdoing will not be tolerated within the Institute or in any activities related to the Institute. The Institute supports members of the Institute community who have bona fide concerns about such malpractice to come forward and voice those concerns, without fear of reprisal. All internal reports will be taken seriously and the reporting person will receive appropriate protection.
- 1.4 The Institute recognises that its staff and students have an important role to play in achieving the standards outlined in this IADT Policy. This IADT Policy is intended to encourage and enable staff of the Institute to raise concerns within their workplace rather than overlooking a problem or reporting the problem externally. Under this Protected Disclosure IADT Policy, a staff member or other reporting person is entitled to raise concerns or disclose Relevant Information appropriately without fear of penalty or threat of less favourable treatment, discrimination.
- 1.5 IADT recognises that staff, and others working with and on behalf of IADT have an important role to play in supporting the Institute’s commitment to maintaining the highest standards of honesty, openness, probity and accountability. Staff who become aware of potential irregularities are encouraged to raise their concerns as soon as possible through the usual academic and line management structures, which are the normal and appropriate mechanisms to address issues. IADT Students also have mechanisms through the Institute’s Academic Processes and through the Student Union for addressing their concerns. Reporting persons are also required to be aware of the other policies supporting standards which provide formal procedures in relation to specific areas including but not limited to:
  - (a) Children & Vulnerable Adults IADT Policy
  - (b) Grievance Procedures
  - (c) Mutual Respect IADT Policy
  - (d) Equal Opportunities IADT Policy
  - (e) Procurement IADT Policy
  - (f) Recruitment and Selection Procedures

- (g) Academic Procedures and Regulations
- (h) Financial Procedures and Regulations
- (i) HR Procedures and Regulations
- (j) Prevention and Detection of Fraud IADT Policy
- (k) Disciplinary Procedures

These policies and others are available either on Orchard (staff Intranet) or online at <https://www.iadt.ie>

- 1.6 This Protected Disclosures IADT Policy has been introduced by the Institute to enable workers to make bona fide disclosures about malpractice, abuse or wrongdoing at an early stage and in the appropriate manner, without fear of penalisation. This IADT Policy is intended to enable workers to raise genuine concerns through the appropriate channel.
- 1.7 The following key principles inform this IADT Policy:
  - (a) All reports will be acknowledged within 7 days;
  - (b) All reports of wrongdoing in the workplace will be the subject of an initial assessment and will be diligently followed up on as appropriate;
  - (c) Feedback will be provided to the reporting person within 3 months of acknowledgment and further feedback will be provided at 3-month intervals on written request whether the matter remains open;
  - (d) The focus of the process will primarily be on the wrongdoing reported, and whether it is a relevant wrongdoing for the purpose of the act, and not on the reporting person;
  - (e) The identity of the reporting person and any person concerned will be protected to the greatest extent possible; and
  - (f) A reporting person disclosing information relating to a relevant wrongdoing, in an appropriate manner, and based on their reasonable belief, can be assured that penalisation or threatened penalisation of the reporting person or persons associated with the reporting person will not be tolerated.
- 1.8 **The Governance Lead** has overall responsibility for the Procedures set out in this IADT Policy and for receiving the initial Protected disclosure. They will liaise and support administratively the Designated Contact person throughout the process.
- 1.9 This IADT Policy does not address all possible situations that may arise but is intended to provide guidance on the procedure to make confidential disclosures under this IADT Policy.
- 1.10 The Institute has a range of policies and processes to address concerns, however, this IADT Policy is not designed to address matters which would be more appropriately investigated through other formal mechanisms established in other IADT or Government Policies.

- 1.11 This IADT Policy is not intended as an appeals process for other policies or procedures nor should it be used to re-open any matters which have previously been addressed either by this IADT Policy or any other IADT policies or procedures. However, the Designated Person, on a case by case basis may consider disclosures made in respect of matters previously dealt with.
- 1.12 This IADT Policy should be read in conjunction with the Protected Disclosures Act 2014 (the Act), The Protected Disclosures Amendment Act 2022 (together with the Act, the Acts), any future amendments to those acts along with Protected Disclosure Act Statutory guidance for public bodies and prescribed person, November 2023 and any guidance documents issued by the Protected Disclosures Commissioner or the Workplace Relations Commission.
- 1.13 This IADT Policy has been introduced in line with legislation under the Protected Disclosures Act 2014, Statutory Instrument No 367 of 2020<sup>1</sup>, the Protected Disclosures (Amendment) Act 2022<sup>2</sup>, Statutory Instrument No 510 of 2022, Statutory Instrument No 464 of 2015<sup>3</sup>.
- 1.14 **Please read this document carefully before making a report. It is solely the responsibility of the reporting person to ensure they meet the criteria for protection under the Act.** If an individual has any queries about this IADT Policy, please contact: [protecteddisclosures@iadt.ie](mailto:protecteddisclosures@iadt.ie). If a reporting person requires confidential, independent advice (including legal advice) on the making of a protected disclosure, please refer to the “Supports” section of this IADT Policy.

## 2. WHO THIS IADT POLICY APPLIES TO

- 2.1 This IADT Policy applies to all “workers”, also known in this IADT Policy as reporting persons. A “worker” is an individual in a work-related relationship with IADT who acquires information on relevant wrongdoings in a work-related context and who is or was:
- (a) any IADT employee/staff member;
  - (b) any other person working with or on behalf of IADT such as an Agency Worker;
  - (c) any Contractor or their employees;
  - (d) any Trainees undergoing training at IADT;
  - (e) any Volunteers assisting IADT;
  - (f) all Governing Body Members, including all external members of Governing Body Committees;
  - (g) any Person applying for employment with IADT.

<sup>1</sup> <https://www.irishstatutebook.ie/eli/2020/si/367/made/en/print>

<sup>2</sup> <https://www.irishstatutebook.ie/eli/2022/si/510/made/en/print>

<sup>3</sup> <http://www.irishstatutebook.ie/eli/2015/si/464/made/en/pdf>

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

3.1 Making a report in accordance with the Act is referred to as “making a protected disclosure”. A “protected disclosure” means a disclosure of “relevant information” made by a “worker” in the manner specified in the Act. The relevant information must, in the reasonable belief of the worker, tend to show one or more relevant wrongdoings and have come to the attention of the worker in a work-related context. These requirements are explained in more detail below.

#### **3.2 What is relevant information?**

3.2.1 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.

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

3.2.3 Workers are not required or entitled to investigate allegations of wrongdoing themselves. The Designated Person is responsible for the appropriate follow up of all reports. Workers should not take it upon themselves to assume responsibility for promoting a culture of transparency within the Institute. While all workers should subscribe to such a culture, the promotion and implementation of such measures is a matter for the Governing Body, the President and senior management of the Institute.

#### **3.3 What is a reasonable belief?**

3.3.1 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.

3.3.2 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.

3.3.3 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.

3.3.4 A report made in the absence of a reasonable belief is not a protected disclosure and may result in disciplinary action, up to and including dismissal. The Institute will view very seriously any false, malicious, frivolous or vexatious allegations that are made under this IADT Policy. In addition, it is an 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.

### 3.4 What are relevant wrongdoings?

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

- (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;
- (h) that a breach of EU law as set out in the Act, has occurred, is occurring or is likely to occur; or

that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information. 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.

It is important to note that this IADT Policy does not replace any legal or mandatory reporting or disclosure requirements which may be relevant. Where statutory reporting requirements and procedures exist, these must be complied with fully. Such reports may or may not amount to protected disclosures under the Act depending on whether the requirements of the Act are met. The Act does not oblige a worker to make a protected disclosure nor does it absolve a worker from mandatory reporting obligations contained in other legislation

3.4.2 A Recipient, for the purpose of this policy, is the person internally within IADT who receives a Protected Disclosure. They can be contacted at: [protecteddisclosures@iadt.ie](mailto:protecteddisclosures@iadt.ie).

3.4.3 Alternatively, a Protected Disclosure may be made directly to the Designated Person which is the Chairperson of the Audit & Risk Committee at: [auditandriskcommitteechair@iadt.ie](mailto:auditandriskcommitteechair@iadt.ie)

## 4. MATTERS THAT ARE NOT RELEVANT WRONGDOINGS

4.1 A matter is not a relevant wrongdoing which it is the function of the worker or the worker’s employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

- 4.2 A matter concerning interpersonal grievances exclusively affecting a worker is not a relevant wrongdoing, and will not be dealt with under this procedure. Such matters may be dealt with under the IADT's Dignity at Work IADT Policy or Grievance Procedures as appropriate.
- 4.3 Failure to comply with a legal obligation that arises solely under the worker's contract of employment or other contract where the worker undertakes to do or perform personally any work or services is not a relevant wrongdoing. Such matters are dealt with under the IADT's [Disciplinary Procedures].
- 4.4 Protected disclosures can only be made by workers and be made in a work-related context (see next section). Reports of wrongdoing that do not fulfil this criteria may be dealt with under a different IADT Policy, examples of which are set out in section 1.5 of this IADT Policy.
- 4.5 This IADT Policy is not intended to act as a substitute for normal day-to-day operational reporting or other internal employment procedures.
- 4.6 **What is work-related context?:**
- 4.6.1 "Work-related context" means current or past work activities through which, irrespective of the nature of those activities, persons acquire information concerning a relevant wrongdoing and within which those persons could suffer penalisation if they reported such information

## 5. HOW TO MAKE A REPORT

Reports can be made through our internal processes directly through the Recipient who has day to day responsibility for handing reports under this policy. They can be contacted by email at [protecteddisclosures@iadt.ie](mailto:protecteddisclosures@iadt.ie) or alternatively, by post and marked Private & Confidential to: *Protected Disclosures, Governance Unit, IADT, Kill Ave., Dún Laoghaire, Co. Dublin A96 KH79.*

Additionally, reports can be made directly to the Designated Person which is the Chairperson of the Audit & Risk Committee or other such alternative as may be deemed appropriate. They can be contacted by email at [auditandriskcommitteechair@iadt.ie](mailto:auditandriskcommitteechair@iadt.ie). or alternatively, by post, marked Private & Confidential to: *Chair of Audit & Risk Committee, IADT, Kill Ave., Dún Laoghaire, Co. Dublin A96 KH79.*

- 5.1 The Audit and Risk Committee (ARC) is a committee of Governing Body comprising non-executive Members of the Governing Body. The Chairperson of this Committee is the Designated Person for the Institute. Should a worker wish to submit a verbal disclosure then they can email the chairperson directly with their contact details.
- 5.2 Where a worker wishes to make an oral report by way of phone call or an in-person meeting, the worker should email the Recipient and/or the Designated Person at the above address to request that a phone call or meeting be arranged.
- 5.3 Where a report is made orally, the Recipient/the Designated Person will ensure that a written record of the call or meeting is retained and the contents of which is agreed with the reporting person, where possible.

- 5.4 Workers are encouraged to provide specific factual information in any report to allow for the report to be appropriately assessed and investigated, as necessary.
- 5.5 Reports should contain at least the information set out in Appendix A to this IADT Policy.
- 5.6 There is no obligation either in this IADT Policy or in the Act on any person to make a protected disclosure, however, neither this IADT Policy or the Act absolve any individual from mandatory obligations to report contained in other legislation.
- 5.7 Where a worker makes a report, whether or not this report is assessed or investigated, the worker must still conduct themselves professionally and continue to carry out their duties as normal.
- 5.8 Workers can also contact the Designated Person, if they are unsure as to whether to use this IADT Policy and procedure.

## **6. ANONYMOUS REPORTS**

- 6.1 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.
- 6.2 Anonymous reports will be followed-up to the greatest extent possible. However, it may not be possible to fully assess and follow-up on an anonymous report in the absence of the knowledge of the reporting person.
- 6.3 Implementing certain elements of this IADT Policy – such as seeking further information, maintaining communication and protecting the reporting person’s identity or protecting them from penalisation – may be difficult or impossible to apply unless the reporting person discloses their identity.

In addition, a reporting person cannot obtain redress under the Act without identifying themselves as part of the process of seeking redress.

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

- 7.1 This process shall apply to all reports made in the manner specified in section 5 of this IADT Policy. This process may not apply if a report or other communication is made in a manner other than that specified in section 5.
- 7.2 **Acknowledgement**
  - 7.2.1 Within 7 calendar days of a disclosure being made, the Designated Person will reply to the individual who made the disclosure acknowledging that the disclosure has been received. The acknowledgment shall include:
    - (a) a copy of this IADT Policy;
    - (b) information on the protection of the identity of the reporting person and the limits of such protection and information on the protection from penalisation;

- (c) information on feedback, including the type of feedback to be provided and the information that will not be provided and that the reporting person may request further feedback at 3-month interval;
- (d) confirmation that information on another worker will not be provided, such as whether a disciplinary process has taken place and the outcome of such process;
- (e) details of advice and support services available to the reporting person.

### 7.3 **Assessment**

- 7.3.1 The Designated Person will conduct an initial assessment of the disclosure to assess whether there is a prima facie case that a relevant wrongdoing might have occurred. 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.
- 7.3.2 The Designated Person will also assess whether an informal or formal investigation is appropriate and, if so, what form it should take.
- 7.3.3 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.
- 7.3.4 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 IADT Policy or the Act. Different parts of a report may need to be approached separately and some matters may be directed to another, more appropriate, IADT Policy or procedure (e.g. personal grievances)
- 7.3.5 Where the Designated Person deems there is no prima facie evidence or a relevant wrongdoing, the Designated Person may 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 and the reasons for it, as soon as practicable.

- 7.3.6 Where the Designated Person deems that there is sufficient evidence of a relevant wrongdoing, appropriate action, including further investigation, will be taken to address the wrongdoing, having regard to the nature and seriousness of the matter. The Designated Person may seek support through the ARC in the first instance. Where it is felt that it is warranted the Designated Person may seek external advice on the matter.
- 7.3.7 The nature and seriousness of the matter reported will inform whether the matter can or should be investigated internally. In some instances, it may be more appropriate for an investigation to be carried out by external experts or agencies, or a statutory body, or for the matter to be reported to An Garda Síochána or other body.
- 7.3.8 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.
- 7.3.9 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” section of this IADT Policy.

#### **7.4 Investigation**

- 7.4.1 The Designated Person will decide whether or not an investigation is required.
- 7.4.2 Employees of the Institute including Senior Management in very exceptional circumstances may be called on by the Designated Person to provide information relevant to the disclosure to assist in establishing further facts. Additionally, and only where appropriate, Senior Management may be asked to assist in the process where a conflict of interest does not exist. However, care will be taken at all times to maintain confidentiality and the Institute will endeavour to protect the identity of any persons party to the disclosure.
- 7.4.3 If an investigation is required, the Designated Person shall decide how the matter should be investigated.
- 7.4.5 All formal investigations will be properly tracked with appropriate records maintained.
- 7.4.6 As with all Institute investigations there will be a specified Terms of Reference drawn up and the investigation will be undertaken in accordance with the general principles of natural justice and fair procedures and any other relevant procedures of IADT, as appropriate.
- 7.4.7 A Worker can make a disclosure of Relevant Information to the Minister for Further and Higher Education, Research and Skills (the “Minister”), if they reasonably believe that the information disclosed, and any allegations contained in the information disclosed, are true, and where the Worker reasonably believes that the President of IADT is complicit in the Relevant Wrongdoing concerned.
- 7.4.8 The Designated Person and/or the Audit and Risk Committee Chair and/or any formal investigator will be provided with appropriate access to legal advice and guidance.

- 7.4.9 Any person called as a respondent to an allegation of wrongdoing will be provided with the right of representation by a co-worker and/or Trade Union representative. In certain exceptional circumstances and only with the agreement of the investigator, a respondent may be entitled to formal legal representation.
- 7.4.10 Any investigation that makes an adverse finding against a named individual is subject to a review at the request of the named individual. In addition, a review of a decision not to investigate can be requested in accordance with the “System of Review” section of this IADT Policy.
- 7.5 **Feedback**
- 7.5.1 Feedback will be provided to the reporting person within a reasonable time period and no later than 3 months after the initial acknowledgement of the report.
- 7.5.2 A reporting person can request the Designated Person, in writing, provide further feedback at 3-month intervals until the process of follow-up is completed.
- 7.5.3 Any feedback is provided in confidence 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 “Other Reporting Channels” section of this IADT Policy).
- 7.5.4 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.
- 7.5.6 Feedback will not include any information that could prejudice the outcome of an investigation or any other action that might follow.
- 7.5.7 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.
- 7.5.8 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 in accordance with the “System of Review” section of this IADT Policy.
- 7.5.9 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.

## **8. OTHER REPORTING CHANNELS**

- 8.1 The aim of this IADT 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. The Institute is confident that issues can be dealt with internally and strongly encourages workers to report such concerns internally in accordance with this IADT Policy.
- 8.2 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.
- 8.3 The 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 IADT Policy.
- 8.4 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 “Supports” of this IADT Policy.

## **9. PROTECTION FROM PENALISATION**

- 9.1 The Institute is committed to protecting workers from penalisation or a threat of penalisation because the worker made a protected disclosure. Acts of penalisation or threatened penalisation will not be tolerated. 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 which in turn causes or may cause unjustified detriment to the worker.
- 9.2 If a worker is penalised or threatened with penalisation, this should be reported to the HR Manager, without delay. The report will be followed up in accordance with the Disciplinary Procedures. It shall be the responsibility of the HR Manager to take the necessary actions in response to this complaint, in a timely fashion. Penalisation includes but is not limited to:
- (a) Suspension, lay-off or dismissal;
  - (b) Demotion or loss of opportunity for promotion or withholding promotion from a worker;
  - (c) Transfer of duties, change of work location, reduction in wages or changing in working hours;
  - (d) imposition or administering of any disciplinary action, reprimand, or other penalty including 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) Negative performance reviews or employment references;
  - (k) Failure to convert a temporary employment contract into a permanent one, where the worker had a reasonable expectation that he or she would be offered permanent employment;
  - (l) Failure to renew or early termination of a temporary employment contract;
  - (m) 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;
  - (n) Harm, including the workers reputation, particularly on social media, or financial loss, including loss of business or income;
  - (o) Early termination or cancellation of a contract for goods or services;
  - (p) Cancellation of a licence or permit; and
  - (q) Psychiatric or medical referrals.
- 9.3 Any employee who retaliates against or penalises a worker for having made a disclosure may be subject to disciplinary action, up to and including dismissal, in accordance with IADT's Disciplinary IADT Policy.
- 9.4 The normal management of a worker who has made a protected disclosure is not penalisation.
- 9.5 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.
- 9.6 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.
- 9.7 The 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.
- 9.8 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.
- 9.9 A claim for injunctive 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.
- 9.10 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.

9.11 Please refer to the “Supports” section of this IADT Policy on how to obtain further information and independent, confidential advice in relation to these statutory rights.

## **10. PROTECTION FROM LEGAL LIABILITY**

10.1 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.

10.2 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.

10.3 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.

10.4 Please refer to the “Supports” section of this IADT Policy on how to obtain further information and independent, confidential advice in relation to these statutory rights.

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

11.1 The Institute is committed to protecting the confidentiality of the identity of both workers who raise a concern under this IADT Policy and any third parties mentioned in a report and to treating the information disclosed in confidence.

11.2 All information received will be held in a password protected file with access limited to the Designated person. Where information is received in hard copy it will be scanned and saved to the password protected file and hard copies will be destroyed.

11.3 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 IADT Policy without the explicit consent of the reporting person.

11.4 The Act provides for certain exceptions where a reporting person’s identity or information that could identify the reporting person can be disclosed without the reporting person’s consent. There 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.
- 11.5 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:
- (a) The effective investigation of the relevant wrongdoing reported;
  - (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 the prosecution of a criminal offence.
- 11.6 A reporting person may request a review of a decision to disclose their identity under the “System of Review” section of this IADT Policy.
- 11.7 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.
- 11.8 Other employees must not attempt to identify reporting persons. Attempts to do so may result in disciplinary action.
- 11.9 A reporting person should notify the Institute if they are concerned that their identity is not being protected. A person should contact the Designated Person immediately to determine if there is a breach in confidentiality and the Institute is committed to assessing and investigating such notifications and to taking appropriate action, as necessary.
- 11.10 Records will be kept of all reports, including anonymous reports, in accordance with applicable policies concerning record keeping, data protection and freedom of information. Please refer to Appendix B of this IADT Policy for further information.

## **12. SYSTEM OF REVIEW**

- 12.1 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.

12.2 Any review under this IADT Policy will be conducted in accordance with the review processes available under the Institute's Disciplinary Appeal Procedures by:

- (a) Submitting their request in writing to the Designated Person
- (b) A review request must be submitted within 10 days of receipt of the outcome of the Protected disclosure.
- (c) The review will be conducted as soon as possible thereafter.
- (c) Applicants will need to detail the reasons they are seeking the review and all information should be based on objective grounds.
- (d) The reviewer appointed will be someone who has had no previous involvement in this case and will likely be an external investigator from outside the organisation.
- (d) The role of the reviewer should not be to re-investigate the matter in question but to address the specific issues the applicant feels have received insufficient consideration. The reviewer should, therefore, consider:
  - Whether the correct procedures were followed;
  - In the case of an investigation, whether the terms of reference were adhered to;
  - Whether the conclusions/findings could or could not reasonably be drawn from the information/evidence on the balance of probability;
- (e) Where a review finds significant shortcomings or failings in the process, will then consider what further action(s) may or may not need to be taken in response to said findings; and the outcome of the review will be final and there will be no entitlement to further reviews of the same issue.

### 13. SUPPORTS

- 13.1 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. Information on how the helpline can be contacted is available [here](#).
- 13.2 For workers who are members of a trade union, many unions offer free legal advice services on employment-related matters, including protected disclosures.

- 13.3 In addition, the Institute provides an Employment Assistance Programme to all staff and this can be assessed on VHI Employment Assistance Programme free phone number 1800 995 955 or [eap@vhics.ie](mailto:eap@vhics.ie)

#### **14. REPORT**

- 14.1 The Audit and Risk Committee will include relevant anonymised details of and updates on disclosures in their reports to Governing Body.
- 14.2 The Governing Body will make an annual report to the Minister for Public Expenditure and Reform as required by Section 22 of the Protected Disclosures Act 2014 as amended. This report is anonymised and will not enable the identification of person involved to be revealed. It will however include the number of disclosures made, the action (if any taken) in response and other such information and action taken as may be requested by the Minister. This Report is published annually on the Institute's website on or before 1st March in respect of the preceding calendar year.

#### **15. TRAINING**

- 15.1 The Institute will communicate to all persons within the scope of this IADT Policy regarding the reporting channels open to them under this IADT Policy. New staff will be made aware of this IADT Policy through induction training or as appropriate. This IADT Policy will be available on the Institute's website.
- 15.2 The Institute will ensure that the Designated Person and other members of ARC receive appropriate training to deal with the Disclosure IADT Policy, procedures and issues that might arise as a result thereof.
- 15.3 Refresher training will be provided as appropriate.

#### **16. COMMUNICATION, MONITORING AND REVIEW**

- 16.1 This IADT Policy will be communicated as appropriate and subject to regular monitoring and review.
- 16.2 This IADT Policy will be reviewed periodically by the Governance Unit at least on an annual basis.
- 16.3 This IADT Policy will be updated in line with legislative changes. At all times legislation will take precedence where relevant over the provisions made in this IADT Policy.
- 16.4 The Version Control of this IADT Policy outlines the major developments of the Protected Disclosures

IADT Policy since its development and adoption in 2014. Interim developments are version numbered X.1 etc. Such amendments may simply reflect changes in names and/or roles and titles or minor alterations issued by DPENDPDaR. Changes in Legislation; DPENDPDaR Guidelines; the Structure of this IADT Policy; and/or significant external impacts requiring consideration will result in a major change and new Version of this Statement.

Vers	Year	Basis for Change
1.0	2014	Establishment of formal Protected Disclosures IADT Policy
1.1	2020	Restructuring of IADT Policy
2.0	2024	Redrafting of IADT Policy to take account of 2022 Amendment Act; SI 520 of 2022 and Statutory Guidance issued by DPENDP DaR (Nov 2023)

## APPENDIX A – ADVICE FOR STAFF MAKING A DISCLOSURE

The Institute acknowledges the difficult choice a member of staff may have in deciding to make a disclosure. As the issues that prompt disclosures are likely to be complex, how the member of staff proceeds will vary from situation to situation. The following advice is recommended if a member of staff considers the circumstances to be such that they feel compelled to make a disclosure. The individual should:

- (a) make any objections to illegal, unsafe or unethical practices promptly as timely disclosures can be verified or investigated with less difficulty;
- (b) where there is likely to be a risk to the life or a risk of serious injury to others, the disclosure should be made immediately and if necessary the disclosure may also be made to the Health and Safety Authority;
- (c) focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- (d) be accurate in their observations and claims and keep formal records documenting relevant events.

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 IADT 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 B – RECORD KEEPING, DATA PROTECTION AND FREEDOM OF INFORMATION

### B.1 RECORD KEEPING

A record of all reports – including all anonymous reports – will be kept.

Where a report is made via a phone call, the report shall be documented by way of accurate minutes of the conversation taken by the Designated Person who receives the report. The reporting person shall be offered an opportunity to check, rectify and agree these minutes.

Where a report is made via a physical meeting with the Designated Person, the report shall be documented by way of accurate minutes of the conversation taken by the Designated Person who receives the report. The reporting person shall be offered an opportunity to check, rectify and agree these minutes. Records will also be kept in a similar manner for any subsequent follow-up meetings that arise.

[IADT's Record Management Retention and Destruction Policy](#)

### B.2 DATA PROTECTION

All personal data will be processed in accordance with applicable data protection law, including the General Data Protection Regulation (GDPR).

It is important to note that section 16B of the Protected Disclosures Act imposes certain restrictions on data subject rights, as allowed under Article 23 of the GDPR.

Where the exercise of a right under GDPR would require the disclosure of information that might identify the reporting person or persons concerned, or prejudice the effective follow up of a report, exercise of that right may be restricted.

Rights may also be restricted to the extent, and as long as, necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of reporting persons or persons concerned.

If a right under GDPR is restricted, the data subject will be given the reasons for the restriction, unless the giving of such reasons would identify the reporting person or persons concerned, or prejudice the effective follow up of a report, or prejudice the achievement of any important objectives of general public interest as set out in the Act.

A person whose data subject rights are restricted can make a complaint to the Data Protection Commissioner or seek a judicial remedy in respect of the restriction.

**IADT Staff Privacy Notice – Link will be made live once updated staff privacy notice is agreed**

### B.3 FREEDOM OF INFORMATION

The Freedom of Information Act 2014 does not apply to any records relating to disclosures made in accordance with the Protected Disclosures Act, irrespective of when it was made.

## APPENDIX C – OTHER DISCLOSURE CHANNELS

### C.1 OVERVIEW

The aim of this IADT 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. IADT is confident that issues can be dealt with internally and strongly encourages workers to report such concerns internally in accordance with this IADT 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 “Supports” section of this IADT 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/).

Examples of prescribed persons who may be relevant to workers of IADT are the Chief Executive of the Higher Education Authority and the Comptroller & Auditor General.

### **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 IADT, the relevant Minister is the Minister for Higher and Further Education, Research and Skills. Reports can be made in confidence to [protected\\_disclosures@dfheris.gov.ie](mailto:protected_disclosures@dfheris.gov.ie) using the Protected Disclosures Notification Form at Appendix A of the Department of Higher and Further Education, Research and Skills' *"IADT Policy and guidance for the making of protected disclosures"* document available [here](#). The reporting person should specify when making a protected disclosure that it is a disclosure to the named Minister under section 8 of the Protected Disclosures Act.

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 Protected Disclosures 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, a relevant Minister or a legal advisor. 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 IADT 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 IADT 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.

Reports of wrongdoing concerning security, defence, international relations and intelligence can be sent by email to: [protected.disclosure@confidentialrecipient.gov.ie](mailto:protected.disclosure@confidentialrecipient.gov.ie) or by post to *Disclosures Recipient, c/o Office of the Protected Disclosures Commissioner, 6 Earlsfort Terrace, Dublin 2, D02 W773.*

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