

# Cork ARC Protected Disclosures Policy

## PURPOSE

Cork ARC Cancer Support House (“Cork ARC”) supports accountability and transparency and encourages all individuals to voice concerns internally in a responsible and effective way if they discover information which causes them serious concern.

This policy outlines what a Protected Disclosure is and the steps to be taken whenever a Protected Disclosure is made, in line with the *Protected Disclosures Act 2014* as amended by the *Protected Disclosures Act 2022* (the “*Protected Disclosures Act*”).

The *Protected Disclosures Act* provides a statutory framework within which Workers can raise concerns regarding relevant wrongdoing that has come to their attention in the course of their work without fear of penalisation, or threat of less favourable treatment, discrimination, or disadvantage.

## DEFINITIONS OF KEY TERMS

**Protected Disclosure:** This means raising a concern with (1) *relevant information* which, in the (2) *reasonable belief* of the *Worker*, tends to show (3) *relevant wrongdoings*, which came to the attention of the (4) *Worker* in a work-related context and is disclosed in the manner prescribed by the *Protected Disclosures Act*. Making a Protected Disclosure is often known as whistleblowing.

- (1) **Relevant Information:** means factual information that comes to a Worker’s attention in a work-related context and which the Worker reasonably believes tends to show one or more relevant wrongdoings. This is different to simply making an allegation on the basis of a suspicion that is not founded on anything tangible. A Worker is not required to investigate or gather evidence of wrongdoing.
- (2) **Reasonable Belief:** involves both a belief in fact and reasonable grounds supporting that belief. A Worker must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. It does not mean that the belief must be correct. A Worker may have reasonable grounds for believing some form of wrongdoing is occurring based on their observations, but it may subsequently turn out that they were mistaken.
- (3) **Relevant Wrongdoing:** the *Protected Disclosures Act* sets out relevant wrongdoings as follows:
  - That an offence has been, is being or is likely to be committed
  - 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
  - That a miscarriage of justice has occurred, is occurring or is likely to occur
  - That the health and safety of any individual
  - Damage to the environment.
  - An unlawful or otherwise improper use of funds or resources of a public body, or of other public money.
  - An act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement.

- Information tending to show any matter falling within any of the preceding paragraphs (a) to (g) has been, is being, or is likely to be concealed or destroyed.

**(4) Worker** (for the purposes of the *Protected Disclosures Act*):

- Employees
- Former employees
- Trainees
- Contractors
- Agency Workers
- Volunteers
- Board members
- Shareholders
- Job Applicants
- People on Work Experience

## SCOPE

This policy applies to all *Workers* that may be involved with Cork ARC as defined in section 3 of the *Protected Disclosures Act* – see Definitions of Key Terms above. Workers can be assured that they can use these internal reporting channels should they need to disclose information that tends to show the existence of relevant wrongdoing.

The *Protected Disclosures Act* only applies to Workers and does not apply to the general public. Concerns made by the public will be treated by Cork ARC as feedback or a complaint and will be dealt with in line with our Complaints Policy and procedures which can be found on Cork ARC's website.

If a Worker has a concern which does not fall within the scope of the *Protected Disclosures Act*, they are encouraged to raise that concern in one of the following ways, as appropriate to their circumstances:

- Making a complaint (more information on this available on the Cork ARC website)
- Notifying their line manager or another member of management
- Raising a grievance under the internal Grievance Procedure

If a person is uncertain as to whether a concern falls within the scope of a Protected Disclosure, they should seek guidance from the Compliance Manager – [compliance@corkcancersupport.ie](mailto:compliance@corkcancersupport.ie)

## PROTECTIONS UNDER THE *PROTECTED DISCLOSURES ACT*

### CONFIDENTIALITY

Cork ARC will take all reasonable steps to treat all disclosures in a confidential and sensitive manner. Cork ARC will not disclose the identity of the reporting Worker (or information from which the identity of the reporting Worker may be identified) without the Worker's explicit consent, unless disclosing such information is necessary to:

- complete an effective investigation of the relevant wrongdoing concerned;
- prevent serious risk to the security of the State, public health, public safety or the environment;
- prevent a crime or to prosecute a criminal offence; or

- comply with the law.

In such circumstances, Cork ARC will endeavour to enter into dialogue with the reporting Worker in advance to discuss how to proceed.

### ANONYMITY

It is possible for a Protected Disclosure to be made anonymously; however, this may hinder the investigation of a disclosure if it cannot be discussed with the person making the disclosure. Cork ARC is not obliged to accept or follow up on anonymous reports but will endeavour to consider anonymous disclosures. Any Worker who makes an anonymous Protected Disclosure and is subsequently identified will not be penalised for having made a Protected Disclosure.

### PROTECTION FROM PENALISATION AND OTHER PROTECTIONS

The *Protected Disclosures (Amendment) Act 2022* makes it an offence to:

- hinder or attempt to hinder a Worker in making a report,
- penalise or threaten penalisation or cause or permit any other person to penalise or threaten penalisation,
- bring vexatious proceedings,
- breach the duty of confidentiality in Section 16 regarding the identity of reporting Worker(s),
- make a report containing any information that the reporting person knows to be false, or
- fail to establish, maintain, and operate internal reporting channels and procedures.

All Workers are protected from victimisation, harassment, or disciplinary action because of any Protected Disclosure, where the disclosure is made in good faith and is not made maliciously or for personal gain. Where there is uncertainty as to whether a disclosure is a Protected Disclosure, it will be presumed to be a Protected Disclosure, unless the contrary is established.

Penalisation includes any detrimental or unfavourable treatment because of reporting a Protected Disclosure, such as dismissal or any of the following:

- Suspension, lay-off or dismissal
- Demotion, loss of opportunity for promotion or withholding of promotion
- Transfer of duties, change of location of place of work, reduction in wages or change in working hours
- The imposition or administering of any discipline, reprimand, or other penalty (including a financial penalty)
- Coercion, intimidation, harassment, or ostracism
- Discrimination, disadvantage, or unfair treatment
- Injury, damage, or loss
- Threat of reprisal
- Withholding of training
- A negative performance assessment or employment reference
- 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
- Failure to renew or early termination of a temporary employment contract

- Harm, including to the Worker’s reputation, particularly in social media, or financial loss, including loss of business and loss of income
- 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
- Early termination or cancellation of a contract for goods or services
- Cancellation of a licence or permit
- Psychiatric or medical referrals

If a Worker feels they have been penalised or received unfavourable treatment (such as described above) as a result of reporting a Protected Disclosure, they should raise it formally through the internal Grievance Procedure.

Staff must not in any way penalise or threaten to penalise against any Worker who makes a Protected Disclosure. Any such conduct will be taken very seriously by Cork ARC, and anyone involved in such conduct will be subject to disciplinary action, up to and including dismissal.

If an investigation under this policy concludes that a disclosure has been made without the reporting Worker having had a reasonable belief that the information disclosed tended to show one or more relevant wrongdoing – and especially if the reporting Worker knew the report to be false – the reporting Worker may be subject to disciplinary action, up to and including dismissal.

A knowingly false disclosure will not be protected by the protections provided under the *Protected Disclosures Act*.

## HOW TO REPORT A PROTECTED DISCLOSURE

All Workers have the right to report a Protected Disclosure where they have a reasonable belief that a relevant wrongdoing has occurred. Workers can be confident that they can use this policy to make a Protected Disclosure and that these disclosures will be dealt with confidentially, effectively, and without fear of reprisal.

1. Protected Disclosures should be emailed to Cork ARC’s Compliance Manager [compliance@corkcancersupport.ie](mailto:compliance@corkcancersupport.ie). Confidentiality is maintained here as only the Compliance Manager has access to this mailbox.
2. The following information should be included in the report:
  - a. The name of the person(s), body or otherwise the subject of the disclosure
  - b. A description of the “relevant wrongdoing”
  - c. Any information that tends to show the “relevant wrongdoing”, including dates, times and locations to assist the investigation of the matters raised in the disclosure
  - d. Names of witnesses to any “relevant wrongdoing”
  - e. Name and preferred contact details for the reporting Worker

A disclosure can also be made verbally to the Compliance Manager. To avoid confusion and ensure this process is followed correctly, if a Worker is making a disclosure verbally, they need to clearly state that they are making a Protected Disclosure. The Compliance Manager will then document the above listed

required information, plus any other information provided, and provide that written record to the reporting Worker to confirm what has been reported and / or comment further.

If a Worker is concerned that the Compliance Manager is in any way compromised in relation to their particular concern or is not following this process, the Worker may contact any other member of management clearly indicating that they are making a Protected Disclosure and that they have not involved the Compliance Manager and why (to ensure the recipient does not think they have received this in error).

If the Compliance Manager is not the person receiving the Protected Disclosure (e.g. compromised because of the subject matter of the disclosure), the alternative member of management will assume the role of the Compliance Manager under this policy, as detailed below. If another member of management received the Protected Disclosure in error, they will forward the Protected Disclosure to the Compliance Manager to action.

## REVIEW AND INITIAL ASSESSMENT OF A DISCLOSURE

The Compliance Manager will:

- Acknowledge receipt of the Protected Disclosure within 7 working days of receiving it (unless it is made anonymously).
- Review the submitted disclosure to ensure there is sufficient information to make an initial assessment as to whether the submission is a Protected Disclosure or not.
- Follow up with the reporting Worker with any initial questions / clarifications as well as clarify any matters arising in respect of confidentiality of the process (e.g. whether the reporting Worker wishes to consent to his / her identity being disclosed).
- After an initial assessment of a disclosure, one of the following outcomes is likely:
  - It appears that the alleged wrongdoing **does not** fall within the remit of the *Protected Disclosures Act*. In this case, Compliance Manager will notify the Worker who submitted the disclosure of this and explain why this is so.
  - It appears that the alleged wrongdoing **does** fall within the remit of the *Protected Disclosures Act*. In this case, the Compliance Manager will proceed to investigating or organising the investigation of the Protected Disclosure.

## INVESTIGATION OF A DISCLOSURE

Investigations will be conducted sensitively and timely, in line with fair procedures, to ensure impartiality, objectivity and fairness.

Investigating a potential Protected Disclosure may involve a variety of steps taken, including but not limited to:

- meeting with the Worker submitting the disclosure
- meeting with the individual(s) named in the disclosure
- reviewing policies and procedures, systems and controls

- engaging with external parties to support in this

The Compliance Manager will set a term of reference by which the investigation will be managed. This will outline the process to be undertaken, the scope and the expected timeframe for completion.

Cork ARC may, at its discretion, appoint an external third party to conduct this investigation, for example due to limited resources or the need for a particular skill set. Cork ARC also reserves the right to conduct the process internally.

## INVESTIGATION OUTCOMES AND COMMUNICATIONS

Protected Disclosures reported to Cork ARC will be taken seriously. If an investigation finds that relevant wrongdoing has occurred, appropriate action will be taken. This may include disciplinary action in respect of any employee, up to and including dismissal, in accordance with Cork ARC HR policies, or other appropriate sanction or intervention deemed necessary to prevent a recurrence of the relevant wrongdoing.

If an investigation is inconclusive or finds that no relevant wrongdoing occurred, there will be no negative inference against any person about whom the Protected Disclosure was made.

Both during the investigation and after its conclusion, all parties to the disclosure will continue working as normal and will conduct themselves in an appropriate manner at work.

Cork ARC will endeavour to assess, investigate and conclude this process as soon as reasonably practicable and no longer than 3 months after the initial disclosure is made. If it is not possible to conclude within 3 months, the Compliance Manager will communicate with the reporting Worker at the 3-month stage and at least every 3 months thereafter until the process is complete. These communications should be treated as confidential by the reporting Worker.

The Compliance Manager will inform the reporting Worker when the investigation is complete. If it is appropriate to do so, the Compliance Manager may share some information in respect of the outcome of the investigation and / or any actions undertaken because of the investigation. It may not always be appropriate to share such information. For example, Cork ARC will not share the personal data of any other person with the reporting Worker - if disciplinary action is being taken against an employee because of the Protected Disclosure.

## MAKING PROTECTED DISCLOSURES EXTERNALLY

This policy is intended to facilitate an internal reporting channel which Cork ARC strongly encourages all Workers to use if necessary. However, it is recognised that in some limited circumstances it may be necessary to make a Protected Disclosure externally if the Worker has a genuine belief that a disclosure cannot be dealt with in an appropriate and unbiased manner by Cork ARC. The *Protected Disclosures Act* provides avenues (that are relevant to Cork ARC) to report to a “prescribed person” in this instance:

- CEO, Charities Regulatory Authority – for any matters arising under the Charities Act 2009
- Protected Disclosures Commissioner – in certain circumstances, see the Office of the Protected Disclosures Commissioner [OPDC Home](#) | [Protected Disclosures Commissioner](#) | [OPDC.ie](#)