

<i>Protected Disclosures Policy for the Public Appointments Service (PAS)</i>			
Prepared by: CD	Approved by: Partnership, Staff Representative Bodies in PAS, and the Senior Management Team	Effective Date: 1/1/2022	Revision # 7
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This Policy has been prepared in accordance with the provisions of Section 21 of the Protected Disclosures Act 2014 (the Act). This Policy must be read in conjunction with the Act. Nothing in this Policy can override the provisions of the Act.

Background

This Policy is being put in place to ensure compliance by PAS with the Protected Disclosures Act 2014 (the Act). This Act provides a robust statutory framework within which workers can raise concerns regarding potential wrongdoing that have come to their attention in the workplace in the knowledge that they can avail of significant employment and other protections if they are penalised or suffer any detriment from doing so.

Protected disclosures can assist in uncovering wrongdoing within an organisation and this can prevent accidents, financial issues, criminal offences and regulatory breaches. Disclosures of wrongdoing can also result in early detection and remediation of issues and limit the reputational damage to PAS. PAS is committed to preserving the highest standards of integrity, transparency, probity and accountability, and recognise that our workers play a key role in achieving these aims. Wrongdoing such as corruption or malpractice, or the concealing of these, can have a devastating effect on the reputation of PAS, the outcome of our processes, and the organisational culture in PAS.

Workers may become aware when someone working in or for PAS, or in some relationship with PAS, is involved in improper practices (including illegal practices or practices which breach the CPSA Codes, employment legislation, or PAS recruitment policies). Those who

become aware of potential issues may be wary of reporting concerns because they fear a potential negative impact.

PAS is putting in place this Policy to ensure there are formal procedures for reporting concerns and that workers know that they can safely make such disclosures. PAS will support workers who make such disclosures that they reasonably believe demonstrate a suspected wrongdoing. Safeguards will be put in place to deter mischievous reporting.

This Policy has been put in place through the Partnership process and through consultation with the relevant staff representative bodies in PAS.

Purpose

The purpose of this Policy is to encourage workers, or former workers, to make a disclosure in respect of significant matters and to provide protections for the person making the disclosure.

This policy will apply to all major concerns a worker may have regarding any aspect of PAS activities.

This policy aims to protect workers from penalisation where they make a disclosure of information that comes to their attention in connection with their role in PAS. A protected disclosure under this policy involves the disclosure of information which a worker reasonably believes demonstrates a suspected wrongdoing or danger in PAS. A protected disclosure may include:

- 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 from the staff member's contract of employment);
- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health and safety of a person has been, is being, or is likely to be endangered;
- that the environment has been, is being, or is likely to be damaged;
- that an unlawful or improper use of funds and/or resources in PAS has occurred, is occurring, or is likely to occur (please also refer to the Fraud Policy);

- that an act or omission by PAS (or on behalf of PAS) is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement;
- that information tending to show any matter falling within any of the above points has been, or is being, or is likely to be concealed or destroyed.

If a worker has genuine concerns related to suspected wrongdoing or danger affecting any PAS activities s/he should report it under this Policy. The wrongdoing must have come to the worker's attention in connection with their work in PAS (a disclosure will not be protected if it relates to matters in someone's personal life outside and unconnected to PAS).

Workers can also disclose breaches in relation to compliance with the CPSA Codes or the Civil Service Code of Standards and Behaviour; however these are not covered by the Act and will only attract internal protection as opposed to statutory protection under the Act. PAS welcome such disclosures and do commit to providing the same internal protections for workers who make such disclosures as provided for those workers making protected disclosures.

Scope

The Policy applies to staff members (and former staff members). All references to workers also relate to former workers. It may also apply to certain Consultants and Contractors working in PAS and staff of other organisations on loan to PAS.

Volunteers may also make a disclosure in line with the procedures set out in this Policy. However, volunteers are not covered by the Act and will only attract internal protection as opposed to statutory protection under the Act. PAS welcome such disclosures and do commit to providing the same internal protections for volunteers who make such disclosures as provided for those workers making protected disclosures.

This Policy does not apply to matters within the scope of the Staff Grievance Procedure or within our Dignity at Work Policy (or to matters previously dealt with under these procedures).

The Policy is designed to:

- encourage the reporting of suspected wrongdoing as soon as possible in the knowledge that concerns expressed will be taken seriously and an appropriate investigation conducted;
- provide guidelines on how to report issues;
- ensure that workers know that they can raise genuine concerns without any fear of reprisals.

PAS has existing management structures and internal controls and has mechanisms in place to highlight irregularities. However, if for any reason, the existing structures cannot be used, then this Policy should be used. The Act involves a stepped disclosure regime with varying evidential thresholds required for each stage. Issues can be reported internally without the provision of evidence; workers are encouraged to raise concerns as soon as possible (the reasonable suspicion of a wrongdoing is acceptable without the need for supporting evidence).

Reporting provisions already exist in the following policies:

- PAS Fraud and Anti-Corruption Policy
- Guidelines for Staff on the Code of Standards and Behaviour
- Health and Safety Statement

The relevant reporting provisions in relation to these policies are included in Appendix A. Issues raised under these various procedures may also be considered to be a protected disclosure and workers may use also use the reporting procedures set out it this policy.

Reporting Procedures

The Head of Corporate Services has overall responsibility for this Policy and for reviewing the effectiveness of actions taken in response to concerns arising under this policy.

All disclosures under this policy should be made to the relevant recipient as set out below. This alternative reporting line should be treated as a last resort and the existing management structures and internal controls are the normal mechanisms to detect and draw attention to irregularities.

Initial Disclosure Routes

A worker should raise their concerns with their line manager or the senior manager for their area.

If for any reasonable grounds the worker does not wish to report the concern to their line manager or senior manager, the worker may escalate it to:

- any Assistant Principal or Principal Officer level manager;
- the HR Manger,
- the Chairperson of the Board of PAS (Tom Moran).

Workers may also chose to report their concerns to a Minister of the Government on whom any function relating to PAS is conferred or imposed by or under any enactment (including the Minister for Public Expenditure and Reform).

Workers (and the person to whom the disclosure is made) must use discretion and commit to keeping the reporting and investigation process confidential where possible.

Disclosures to Prescribed Persons

A list of prescribed persons and or bodies for reporting certain types of concerns is available on the Intranet or at <http://www.per.gov.ie/protected-disclosures-i-e-whistleblowing/>.

Disclosures may be made to a prescribed person if the worker has a reasonable belief that their disclosure is substantially true.

Disclosures in Other Cases

In most cases workers should not find it necessary to make disclosures to anyone externally; it is accepted that workers can safely or properly contact an appropriate external body. In some circumstances it might be appropriate and required to report to an external body such as An Garda Síochána or a Regulator. However, it is important to note that (in particular in relation to disclosures to the media) stringent requirements apply under Section 10 of the Act for such disclosures to qualify as protected disclosures. We strongly encourage workers to seek advice before reporting a concern externally.

In the event of such a disclosure being made:

- the worker must have a reasonable belief that the matters being disclosed are substantially true;
- the disclosure must not be made for personal gain;
- it must be reasonable to make the disclosure (reasonableness will be influenced by the identity of the person to whom the disclosure is made, the seriousness of the relevant wrongdoing, and whether the wrongdoing is continuing or is likely to continue);
- the worker must reasonably believe he/she may be penalised **or** if there is no prescribed person and the worker believes that evidence may be destroyed; **or** the worker had previously made a disclosure of substantially the same information (and PAS had not dealt with it); **and/or** the relevant wrongdoing is exceptionally serious.

Making a Disclosure

All disclosures should, where possible, be made in writing or made electronically. It is sufficient for the discloser to state that he/she has a reasonable belief that a wrongdoing has occurred, is occurring, or is likely to occur; however, it would be helpful if the discloser could include any of the information below that he/she is aware of in relation to his/her concern. Any reports setting out concerns should be factual and may include the following points, where any of this information is known, in relation to a wrongdoing that has occurred, is occurring or is likely to occur:

- what has occurred (or is thought to have);
- when it occurred and whether it is ongoing;
- where it occurred;
- who was involved;
- has PAS been put at risk or suffered a loss;
- has it happened before;
- has it been raised to anyone, either in PAS or externally, and details of this;
- are there any other witnesses;
- is there supporting information or documents;
- how the matter came to light.

If a disclosure is made verbally it will be documented by the recipient and the record will include the discloser's name in addition to the information outlined above (where available).

Confidentiality

We hope that workers will be able to convey their concerns openly under this policy. PAS will take all necessary steps to protect the identity of the person reporting these concerns and any other witnesses. The recipient and any other person to whom the disclosure is referred are obliged not to disclose to another person any information that might identify the person who made the disclosure.

The identity of the relevant person may need to be disclosed however:

- for the effective investigation of the disclosure;
- to prevent serious risk to the security of the State, public health, public safety or the environment;
- for the prevention, investigation or prosecution of a crime;
- where disclosure is necessary in the public interest or is required by law.

The principles of natural justice do not require the identification of the name of the worker who reports a possible wrongdoing in order to protect the rights of the person against whom the allegation has been made. Not all reports involve allegations against named individuals. Where they do, the rights of the person against whom an allegation of wrongdoing has been made will be protected and they will be dealt with fairly and consistently.

Where it is deemed that reports of wrongdoing require an investigation a preliminary examination may be conducted to establish if there is any basis to the report. Reports that on a preliminary analysis do not demonstrate any wrongdoing will not be subject to a full investigation and the worker who made the allegation will be advised accordingly.

If it gets to the stage where it is required to discuss the allegation with the subject or seek information from him/her, he/she will be given the details of the allegation and given the opportunity to respond and contest the allegation. This will not require the identity of the worker who made the allegation to be revealed. The person against whom the allegation is made will be informed in writing that:

- an allegation has been made against them;
- the disclosure has been received and is being formally investigated by a named individual to establish the facts;
- no conclusions will be drawn until the facts have been established;

- they are expected to assist the investigator as far as is reasonably possible;
- the investigator wishes to interview them at a specific time and place;
- they may have a person on their choice present at the interview;
- they have a right to make a statement in respect of the allegation, orally or in writing;
- as far as possible, their confidentiality and privacy will be respected.

Where action is taken on foot of a disclosure that could lead to the identification of the discloser, the discloser will be consulted where possible with a view to obtaining informed consent (this will include any disclosure to an external party). If it becomes clear that the confidentiality of the discloser cannot be ensured, the discloser will be advised of the supporting strategies being put in place to assist them.

It will be a disciplinary offence for the recipient of the disclosure or the person to whom it is referred, to disclose the discloser's identity or information that may lead to him/her being identified unless there is a good reason for doing so. If the discloser suffers any loss as a result he/she may take actions as outlined in the Act.

All records of disclosures will be securely maintained in order to comply with the requirements of confidentiality under the Act and in compliance with the Data Protection legislation.

Anonymous Disclosures

The person making the disclosure is encouraged to identify him/herself wherever possible. The decision whether to investigate anonymous disclosures is at the discretion of PAS, taking into account the seriousness of the issue raised, the credibility of the concern, and the capacity of PAS to investigate an anonymous allegation. In order for PAS to ensure that workers can avail of protections available under the Protected Disclosures Act, PAS would need to be aware of their identity.

Assessment, Investigation and Outcome

Upon receipt of any written disclosure under this policy, the recipient will pass the information on to the Head of Corporate Services. The Head of Corporate Services will be responsible for the assessment and investigation of all disclosures in a timely and appropriate manner.

The Head of Corporate Services will carry out an initial assessment of the disclosure to determine whether it falls within the scope of this Policy and whether it is necessary to carry out an investigation into the disclosure. This assessment will be based on an appropriate risk prioritisation of the requirement for investigation and the nature and extent of the investigation that should be carried out (ranging from a detailed and extensive investigation of serious wrongdoings to less formal approaches for reports that are assessed to relate to less serious wrongdoings).

The Head of Corporate Services will communicate the outcome of the assessment to the worker who made the disclosure (including whether the matter will be investigated further, and what action has been taken, or whether no action will be taken) and to the recipient (if appropriate).

If it is determined that an investigation will be held, the scope and terms of reference of the investigation will be determined prior to the investigation. The Head of Corporate Services will appoint a senior manager from within PAS (who was not previously involved at assessment stage) to conduct the investigation. Some matters of such seriousness may require that the investigation will have to be carried out professionally by a subject matter expert or may need to be reported to and investigated by An Garda Síochána. In some other cases, the Head of Corporate Services may also appoint an external third party to investigate the matter, in circumstances where the third party has relevant and necessary specialised knowledge of the subject matter. The Head of Corporate Services will update the discloser periodically (if possible) on the progress with the investigation.

The discloser may be required to meet with the investigator and provide further information. The investigator will report on his/her investigation. Investigations will be carried out in an impartial manner and fully consistent with due process. The confidentiality of both the worker making the report and the person against whom the allegation was made must be protected.

The investigator's report will be sent to the Head of Corporate Services and he/she will determine what, if any, action should be taken. The Head of Corporate Services will keep the discloser informed of the process of the investigation and the likely timescale. Sometimes the need for confidentiality, or to facilitate a fair and comprehensive investigation, may prevent the Head of Corporate Services from passing on specific details of the investigation. The Discloser is required, as part of this Policy, to treat any information

passed to him/her as part of this process as strictly confidential and not to reveal any such information to a third party.

If the Head of Corporate Services concludes that the worker has made a false allegation, deliberately or maliciously or with a view to personal gain, he/she may be subject of disciplinary action in accordance with the Disciplinary Code. In such circumstances the worker would not have any protection under the Act. Such false allegations, in addition to the impact on the persons to whom they relate, are very damaging to the objectives of the Act, and will be treated as a very serious disciplinary matter.

In the case of a disclosure where it is determined by the Head of Corporate Services that there is no prima facie case to answer, a summary of the disclosure will be reported to the Audit Committee and the Board of PAS.

Following any investigation, and subsequent decision made by the Head Corporate Services, a written report will be submitted to the Audit Committee and the Board of PAS, containing the following information:

- a description of the disclosure and the findings of the investigation
- the effect the disclosure had on PAS, if any
- the means of perpetrating the malpractice or impropriety
- the measures taken to prevent a recurrence
- the action required to strengthen further responses under this policy
- a conclusion as to the way forward
- whether any report has been made, or is required to be made, to any third party
- any other relevant material

Protection and Support for Persons Making a Disclosure

PAS aims to encourage openness and will support workers who raise genuine concerns under this policy, even if they turn out to be mistaken. PAS will not tolerate any penalisation of workers who make a report of possible wrongdoing based on a reasonable belief and will treat any acts of penalisation or attempted penalisation as a disciplinary matter (the worker suffering penalisation may also take separate legal action under the Act).

Workers who make disclosures under this policy will not suffer any detrimental treatment as a result, including:

- suspension, lay-off or dismissal;
- demotion or loss of promotion opportunities;
- transfer of duties, change of location of work, reduction in wages/fees, or change to working hours;
- imposition or administering of any discipline, reprimand or other penalty (including financial penalty);
- unfair treatment;
- coercion, intimidation or harassment;
- discrimination, disadvantage or unfair treatment;
- injury, damage or loss;
- threat of reprisal;
- any other unfavourable treatment connected with raising a concern.

If a discloser believes that s/he has suffered any such detrimental treatment, s/he should inform the line manager, relevant recruitment manager or senior manager for the area. It is the responsibility of the manager notified of such claims to take the necessary action in relation to this, including referral to the Head of Corporate Services. In incidents where the person's manager or relevant recruitment manager or senior manager is involved in the alleged victimisation, the worker should report the matter to the CEO or the Chairman of the Board of PAS.

Workers must not threaten or retaliate against anyone who has made a disclosure under this Policy. A person who is involved in such conduct will be subject to disciplinary action.

If it is determined that penalisation is taking place then all possible steps to protect the worker and stop the penalisation will be taken.

The disclosure of wrongdoing does not confer any protection or immunity on a worker in terms of their involvement in that wrongdoing.

If a person causes detriment to another person because the other person or a third person has made a protected disclosure, the person to whom the detriment has been caused has a right of action in tort against the person by whom the detriment is caused (under Section 13

of the Act). A person may not both pursue this option and make a claim for redress under the Unfair Dismissals Act 1977 to 2007; make a complaint under Schedule 2 of the Act.

Protection and Support for Persons Against Whom an Allegation has been made

PAS will any worker against whom an allegation has been made at all times during the investigation process. As set out previously in this policy, he/she will be provided with full information on the allegation against them and be given every opportunity to respond fully to such allegations. He/she can opt to be accompanied at any interviews (and other PAS staff will be given the time to attend such meetings should the person against whom any allegation has been made opt to be accompanied to meetings by a colleague). He/she will also be able to receive advice on the Policy from the PAS contact person, or any other specified member of senior management not involved in the investigation. He/she will also have recourse to the Employee Assistance Service and may make appointments to attend within working hours. No conclusions will be drawn until the investigation, and any appeals process, have been exhausted.

Review

If an individual is not satisfied with the outcome of the investigation, how their disclosure has been handled, or how any alleged penalisation has been addressed, a review will be conducted by an independent reviewer (with no involvement in the initial investigation) appointed by the Head of Corporate Services. The conduct of such a review does not preclude the discloser from reporting his/her concerns elsewhere in accordance with the provisions of the Act.

Reporting

The Head Corporate Services will maintain a record of all allegations received, and investigations conducted under this policy. A quarterly report will issue to the Audit Committee and the Board of PAS and will include information on:

- the number of protected disclosures made;
- the number of disclosures investigated and not upheld;
- the number of disclosures upheld and actions taken in response to these.

An Annual Report will also be prepared by 30th June each year. This report will not identify any persons involved and will contain information on the number of protected disclosures, the actions taken, and any further information deemed appropriate.

Training and Awareness

All staff members were made aware of this policy at a Business Awareness Session and will be provided with an update on the operation of the policy on an annual basis (the Policy will be made available on the Intranet and on the office notice boards). The Policy will be brought to the attention of all new staff as part of their Induction process. Managers, and those responsible for conducting investigations, will be provided with additional specialised training to help them deal with issues arising out of investigations into disclosures.

Contact Points

If you wish to discuss any aspect of this Policy you can contact:

Roisin Walsh (roisin.walsh@publicjobs.ie)

Policy review

This policy will be reviewed annually and included as part of the induction process for new Board members. The policy will also be reviewed on receipt of any updated Guidance from the Minister for Public Expenditure and Reform.

Appendix A

Fraud and Anti-Corruption Policy

It is the policy of PAS to identify and promptly investigate any possibility of fraudulent or related dishonest activities and, when appropriate, to pursue legal remedies available under the law. PAS aims to promote an organisation culture which encourages the prevention of fraud by raising awareness of the need for high standards of personal conduct.

Any act of fraud ascertained upon investigation, or pursuant to a criminal conviction, or through written acknowledgment by the person(s) concerned, shall result in the appropriate disciplinary and legal actions against the employee(s) and/or entities, to include the possibility of termination of employment, termination of contract, restitution and/or forwarding information to the appropriate authorities for criminal prosecution. The repayment of losses will be sought in all cases and PAS would normally expect to recover all costs in addition to the recovery of losses.

Reporting Fraud

Reporting Fraud or Unethical Behaviour

It is the responsibility of all concerned to report any suspicion of fraud immediately according to the procedure laid out below. Persons who cover up, obstruct, fail to report, or monitor a fraud that they become aware of, or ought to have been aware of, will be considered to be an accessory after the fact and may be subject to disciplinary action and/or termination of employment. Persons who threaten retaliation against a person reporting a suspected fraud shall be subject to disciplinary action up to and including termination of employment.

Great care must be taken in dealing with suspected dishonest or fraudulent activities to avoid:

- Incorrect accusations
- Alerting suspected individuals to an investigation underway
- Treating the person(s) accused unfairly
- Making statements that could lead to claims of false accusations or other charges.

In all cases, the incident, facts, suspicions or allegations should not be discussed with anyone inside or outside of PAS unless specifically directed to do so by the officer

investigating the incident. In particular, the matter should not be discussed with the individual suspected of fraud.

Fraud can be detected at any level within PAS and the following general principles should apply in the reporting of suspected fraud:

- A person who suspects that fraudulent practice may be operating should, in the first instance, report the matter to his/her manager. Should it be inappropriate to make such a report to an immediate manager, the report should be made to the senior manager, Head of Corporate Services or directly to the CEO;
- Once a report of suspected fraud is made to the manager that person should report the suspicion to a senior manager, the Head of Corporate Services or the CEO;
- A senior manager on receipt of a report of a suspected fraud should report the matter to the Head of Corporate Services and CEO.

Suspected fraud may also be reported using the procedures set out in the Protected Disclosures Policy, and the person reporting fraud (through either mechanism) may also be entitled to protections set out in the Protected Disclosures Act 2014.

No investigation of the suspected fraud should take place until the Head of Corporate Services and/or CEO has been informed. If the case involves either/both of these individuals, the Chairperson of the Internal Audit Committee should be informed.

Guidelines for PAS on the Civil Service Code of Standards and Behaviour

The 'Civil Service Code of Standards and Behaviour' indicates that each Department/Office would provide additional guidance for their own staff relevant to the work of their organisation.

Additional guidelines are set out for staff in the Public Appointments Service (the full version is available on the HR Intranet page).

As our main role involves recruitment and selection for the Public Service, it is essential that our business is based on the principles of integrity, impartiality, effectiveness, equity and accountability.

Staff are required to maintain high standards in service delivery and the highest standards of probity. Staff must also behave appropriately at work. All staff should also ensure that their standard of dress is appropriate to the business of this organisation, and that they show consideration and respect to the public, customers and colleagues.

All of the requirements of the Code apply to staff in this organisation. There are also particular issues which apply to our office, including ensuring that proper standards are maintained in relation to our access to recruitment and selection material and processes for all the posts for which we recruit. It is essential that this access is not abused in any way.

You should report any suspected violations of the Code to your Manager or HR. These reports will be kept confidential to the fullest extent possible and consistent with the conduct of an appropriate investigation.

Health and Safety Statement

Line Management

Line Management will be held accountable for health and safety performance and standards in respect of those activities which are within their control. Compliance with the safety statement will be expected and they must bring to the attention of the Health and Safety Officer any incidents where conflicts in health and safety could occur.

All Staff

Employees have the following legal duties under *Section 13 and 14 of the Safety, Health and Welfare at Work Act 2005*. All staff members must:

- take reasonable care of their own safety, health and welfare and that of others;
- ensure they are not under the influence of an intoxicant to the extent that they may endanger themselves or others;
- co-operate with their employer or any other person as appropriate;
- not engage in improper conduct or behaviour (including bullying/harassment);
- attend all necessary training;
- use safety equipment or clothing provided, or other items provided for their safety, health and welfare at work;
- report to the Health and Safety Officer as soon as practicable:
 - (i) any work, which may endanger the health and safety of themselves or others;
 - (ii) any defect in the place of work, systems of work, articles or substances;
 - (iii) any breach of health and safety legislation of which he or she is aware.
- Department of Finance Circular 8/2009: Civil Service Alcohol and Drugs Misuse Policy states that all officers share the responsibility of addressing alcohol and drug misuse in the workplace.
- adhere to Key Holders and IT On-Call Procedures.

Employees must not:

- (i) Interfere with, misuse or damage anything provided for securing the health, safety and welfare of those at work;
- (ii) Place anyone at risk in connection with work activities;
- (iii) Intentionally or recklessly interfere with or misuse any appliance, or safety equipment provided to secure the safety health or welfare of persons at work.

Appendix B

Chart re Protected Disclosures Reporting Options

Protected Disclosure Options

Line Manager or
Senior Manager

If there are reasonable grounds not to approach your line manager or senior manager, you may approach:

Any Assistant Principal or Principal Officer
HR Manager (Roisin Walsh)
Chair of the PAS Board (Tom Moran)

Relevant Minister



Recipient will pass the information to Head of Corporate Services for assessment

Head of Corporate Services will communicate with staff member re outcome of assessment

Investigation Process
Where deemed appropriate



Head of Corporate Services will communicate with staff member re outcome of investigation (where appropriate)

Report to Internal Audit Committee and Board on the disclosure, outcome and learning for PAS

Report may include:

- What has occurred (or thought to have)
- Where it occurred
- Who was involved
- Has PAS been put at risk/suffered a loss
- Has it happened before
- Has it been raised by anyone before
- Are there other

Prescribed Person
(see Intranet or website)

Other Options

If stringent requirements of section 10 of the Act are met (advised to get advice before taking this option to ensure you will receive the protections set out