

Policy and Procedures for Protected Disclosures Reporting

Valuation Tribunal

May 2020

Protected Disclosures Act 2014

The Protected Disclosures Act came into effect on 15th July 2014. The purpose of the Act is to provide a framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the work place in the knowledge that protections are available to them from any form of penalisation from doing so.

Introduction

The purpose of this document is to set out the Valuation Tribunal's policy and procedures on Protected Disclosures in the workplace. This policy outlines the channels and procedures provided for reporting concerns, which is not reported may allow the alleged malpractice to continue, to the detriment of the Tribunal.

The Valuation Tribunal is committed to supporting a responsible and ethical organisational culture and aim to nurture a working environment where employees feel safe and comfortable in raising concerns relating to potential wrongdoing within the Tribunal and to provide the necessary supports for those that raise genuine concerns.

In the spirit of our core values of integrity and professionalism our employees should feel comfortable about raising concerns locally with their line manager or that person's manager. We recognise, however, that this may not always be the case.

You may feel uncomfortable raising the concern locally; you may be unhappy with the way in which your concern was dealt with locally; or, you may just want the additional advice and protection that comes with a more formal process. This policy is designed to reassure employees of our commitment to the protected disclosure process; to explain how it works; and to set out (in the attached procedures), the process involved.

Under our Protected Disclosure policy, you can raise a concern centrally with any one of the designated recipients. Contact details for the 2 designated recipients are included in the Appendix to the procedures. For our part, we will listen to your concerns and will assess the issue carefully. We will ensure that the appropriate investigation takes place if necessary, and will keep you informed of progress. At all times we will respect the confidentiality of your disclosure and will protect you from penalisation. With the exception of the specific instances set out in the Protected Disclosures Act 2014 (see section 16 of the Procedures), we will protect your identity.

PROCEDURES FOR THE MAKING OF PROTECTED DISCLOSURES

1. Responsibility

Overall responsibility for these procedures rests with the Registrar of the Valuation Tribunal.

SCOPE OF PROCEDURES

2. To whom do the procedures apply?

The procedures apply to all workers as defined in section 3 of the Protected Disclosures Act 2014. This includes current and former employees of the Valuation Tribunal whether permanent or temporary, retired employees, ex-workers, independent contractors, consultants, trainees, interns, agency workers and those on work experience.

DEFINITIONS

3. What is a protected disclosure?

A protected disclosure can be described as a disclosure of information (see 5) which, in the reasonable belief of the worker (see 6) tends to show one or more relevant wrongdoings, (see 7), came to the attention of the worker in connection with the worker's employment (see 8), and is disclosed in one of a number of ways prescribed in the Act. In the following sections we will look more closely at these expressions to explain what they mean.

4. What do we mean by disclosure of information?

A protected disclosure should contain 'information' which tends to show one or more relevant wrongdoings. The ordinary meaning of disclosing information is conveying facts, such as stating that particular events have occurred. This is different to simply making an allegation on the basis of a suspicion that is not founded on anything tangible.

You should not investigate matters yourself to find proof of your suspicion and should not endeavour to do so. All you need to do is disclose the information you have to one of the designated recipients, based on a reasonable belief that it discloses a wrongdoing and, where the information relates to individuals, that it is necessary to disclose that information.

5. What is a reasonable belief?

You must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. The term 'reasonable belief' does not mean that the belief has to be correct. You may have reasonable grounds for believing that some form of wrongdoing is occurring based on your observations but it may subsequently turn out that you were mistaken.

You will not be penalised simply for getting it wrong. The important thing is that you had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing. However, a disclosure made in the absence of a reasonable belief (i.e.

where there is a deliberate lie) will not attract the protection of the 2014 Act and, may result in disciplinary action against the discloser.

6. What wrongdoing can be the subject matter of a protected disclosure?

Section 5(3) of the 2014 Act sets out relevant wrongdoings as follows:

- (a) that an offence has been, is being or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services;
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) that the health or safety of any individual has been, is being or is likely to be endangered;
- (e) that the environment has been, is being or is likely to be damaged;
- (f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur;
- (g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement, or 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

7. What do we mean by in connection with the worker's employment?

The information must come to your attention in connection with your employment. However, if the disclosure involves either the employee's or the employer's function to detect or investigate or prosecute, the protections of the 2014 Act do not apply, unless it involves an act or omission on the part of the employer.

8. In what ways can information be disclosed?

The Act sets out a number of distinct channels for disclosure. It provides for a tiered or "stepped" disclosure regime with a number of avenues open to workers, internal and external to the workplace.

The first tier in the disclosure regime is internal, namely disclosure to the employer or some other responsible person. However there may be circumstances where this may not always be appropriate. The channels are as follows:

1. to the employer or other responsible person (e.g. your line manager or one of the designated recipients);
2. to a person prescribed by Ministerial Order (not applicable to the Tribunal);
3. to a Minister of the Government (not applicable to the Tribunal);
4. to a legal adviser (not applicable to the Tribunal)

5. to a person other than those in categories 1-4.

The Tribunal's policy is to encourage internal disclosure (i.e. to the line manager or designated recipients) for the reasons set out in section 13. The criteria for qualification as a protected disclosure are more stringent in the case of external disclosures and this is outlined in more detail in section 19.

9. What is not covered by these procedures?

The 2014 Act is intended to deal with disclosures of relevant wrongdoing as defined in the Act rather than personal employment complaints or, as set out in the Act, a failure by a person (such as the public body) to comply with the worker's contract of employment, work or services.

The Procedures are not intended to act as a substitute for normal day to day operational reporting or other internal employment procedures. Personal employment complaints should generally be dealt with under the internal grievance, or dignity at work, procedures.

10. Grievance or Protected Disclosure?

A grievance is a matter specific to the worker i.e. that worker's employment position around his/her duties, terms and conditions of employment, working procedures or working conditions. A grievance should be processed under the organisation's Grievance Procedure. Examples of a grievance might include:

- a complaint around the selection criteria for a promotional post;
- a complaint around the allocation of overtime.

A protected disclosure is where a worker has information about a relevant wrongdoing. Examples might include:

- in a hazardous work situation, information regarding a failure to provide or wear protective clothing and adhere to health and safety guidelines;
- Information about the improper use of funds, bribery and fraud.

11. Should I be using the protected disclosure route at all?

The Department of Public Expenditure and Reform has provided financial assistance to Transparency International Ireland¹ to operate a 'Speak Up' helpline. You can call the helpline for free, confidential and expert advice at 1 800 844 866 or download the free guide 'Speak Up Safely' at www.transparency.ie/helpline/guides

12. Support and Advice

It is important to note that if you are thinking about making a protected disclosure and are seeking advice from a trade union, barrister or solicitor about the operation of the legislation, this discussion itself is also a protected disclosure. It is sufficient to be protected that the purpose of the discussion was that the worker was seeking advice about the operation of the legislation.

Advice on the operation of the Act can be sought at any stage including in advance of making a protected disclosure and during the subsequent process in both internal and external channels

MAKING A PROTECTED DISCLOSURE

13. Internal or External Disclosures?

Under the Protected Disclosures Act 2014, protected disclosures can be made within the Tribunal and outside of it. In most circumstances it is preferable to make an internal disclosure. The Tribunal is committed to supporting and facilitating the making of internal disclosures in order to:

- ensure early detection and remediation of potential wrongdoing;
- provide the safest means for employees to make a disclosure;
- build a responsible and ethical organisational culture;
- demonstrate good governance and accountability.

You are strongly encouraged therefore to use the internal channels (see section 8) to make a disclosure.

Note that you may avail of external channels to make a disclosure (see section 9) but you should be aware that higher standards generally apply in terms of gaining the protections of the Act when a disclosure is made externally.

14. How to make the disclosure?

You can make a disclosure verbally or in writing (electronically or manually). Written disclosures are preferable as there is less scope for misunderstanding. When you make a written disclosure, you should ask for confirmation of receipt.

Verbal disclosures should be documented by the recipient and, where practicable, you will then be asked to verify the documented disclosure. You must make a disclosure in the manner set out in the Act to gain the protections of the Act.

It is recommended that, at a minimum, disclosures should:

- a) Provide the discloser's name, position in the organisation, place of work and confidential contact details;
- b) Provide relevant information in respect of the relevant wrongdoing (what is occurring / has occurred and how) and any supporting information;
- c) Provide the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- d) Indicate whether or not the wrongdoing is still ongoing;
- e) Indicate whether the wrongdoing has already been disclosed and if so to whom, when and what action was taken;

- f) 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 expose the wrongdoing disclosed); and
- g) Provide any other relevant information

15. How am I protected when I make a disclosure?

When you make a protected disclosure, you are entitled to the general protection from penalisation provided by the Act of 2014. Penalisation of a person who makes a protected disclosure will not be tolerated by the Tribunal and will lead to disciplinary proceedings against the perpetrator where warranted.

The Act defines penalisation as any act or omission that affects a worker to the worker's detriment and in particular includes:

- a) suspension, lay-off or dismissal;
- b) demotion or loss of opportunity for promotion;
- c) transfer of duties, changes of location of place of work, reduction in wages or change in working hours;
- d) the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- e) unfair treatment;
- f) coercion, intimidation or harassment;
- g) discrimination, disadvantage or unfair treatment;
- h) injury, damage or loss; and
- i) threat of reprisal. Sections 11-16 of the Protected Disclosures Act 2014 provide for specific remedies for workers who are penalised for making a protected disclosure.

If you believe you have been penalised for making a disclosure of wrongdoing in accordance with these procedures, you should inform one of the designated recipients in order to seek redress. The Valuation Tribunal will assess and investigate any instances of penalisation and will take appropriate action (which may include disciplinary action against co-workers) where necessary.

16. How is my identity protected?

There is a legal obligation on the recipient of a disclosure and any person to whom a disclosure is referred, to keep the discloser's identity confidential. The Valuation Tribunal will take all reasonable steps to treat disclosures made in accordance with these procedures in a confidential and sensitive manner, taking into account the provisions of section 16 of the 2014 Act.

A discloser whose identity has been compromised can take an action if the discloser suffers any loss by reason of such a compromised identity. Those involved in the

processing of a protected disclosure will be required to ensure that, in relation to document security and filing (whether digital or manual), the discloser's identity is protected.

Protected disclosure cases will be assigned a number and this case number shall be used to refer to the case to help protect identity. Where action is to be taken following a protected disclosure, a process will be put in place for consulting with the discloser and, where possible, for gaining the informed consent of the discloser, prior to any action being taken that could identify them. This may include when disclosures are being referred by the public body to an external party.

The recipient of a disclosure and any person to whom a disclosure is referred, will not disclose to another person any information that might identify the discloser except when:

- a) the recipient shows that he or she took all reasonable steps to avoid disclosing the identity of a discloser;
- b) the recipient has a reasonable belief that the discloser does not object to the revelation of identity;
- c) the recipient has a reasonable belief that it was necessary for:
 - i. the effective investigation of the wrongdoing concerned,
 - ii. the prevention of serious risk to State security, public health, public safety and the environment, or
 - iii. the prevention of crime or the prosecution of a criminal offence crime or is warranted by the public interest;
- d) the disclosure is otherwise necessary in the public interest or is required by law.

Where it is decided that it is necessary to release information that may or will disclose the identity of the discloser, the discloser will be informed of this decision in advance of the release, except in exceptional cases.

The discloser will also be informed of the applicable review process (see section 28), which may be invoked by the discloser in respect of this decision. Where at all possible, the discloser will be offered a review before his or her identity is disclosed.

17. Can I make an anonymous disclosure?

You can make an anonymous disclosure but there are important distinctions between anonymous disclosures and disclosures where you provide your name. We would encourage any worker who makes a disclosure to provide their name and contact details as they may need to be contacted to clarify information disclosed. Remember that the recipient must protect your identity.

Anonymous disclosures are not excluded from the protection of the 2014 Act and the Tribunal will act upon anonymous disclosures to the extent that this is possible.

However, our ability to investigate may be constrained in the absence of the knowledge of the identity of the discloser because we cannot follow-up with you for further information. More importantly, the protections available to you under the Act such as protecting you from penalisation and other elements of the protected disclosures procedures (e.g. keeping you informed of progress and outcomes) may be difficult or impossible to apply in the case of anonymous disclosures.

Finally, you cannot obtain redress under the 2014 Act without identifying yourself.

18. Internal Disclosures

Disclosures may be made to either of the two designated recipients, whose contact details are set out in the Appendix to this document. Details of the steps to be taken by the PDG following receipt of a disclosure are set out in the sections on assessment (section 23 below) and investigation (section 24 below).

However, you may prefer to make the disclosure initially to your direct line manager that is an equally valid way to make a disclosure. In such cases, the line manager will bring the matter to the relevant designated recipient for guidance on how to proceed.

19. External Disclosures

The Act identifies the following avenues for making a protected disclosure outside of the employer (in this case, the Valuation Tribunal):

- a) A responsible person outside the employer; if the employee reasonably believes that the wrongdoing relates to a person other than the employee's employer or where that responsible person has legal responsibility for something in respect of which a wrongdoing may have occurred. For example, an agency worker might make a disclosure to the organisation in which they are working rather than to their own employer.
- b) A prescribed person (i.e. as prescribed by Statutory Instrument 339/20143) such as the Comptroller and Auditor General, the Data Protection Commissioner, the Chief Executive of the Health and Safety Authority etc. These are persons whose roles and responsibilities are such as to be deemed appropriate to receive and investigate matters arising from disclosures relating to any of the wrongdoings in relation to which a disclosure may be made. In such cases, an additional requirement applies: the discloser must believe that that the information disclosed and any allegations contained in it are substantially true.
- c) A Minister of the Government on whom any function relating to the public body is conferred or imposed by or under any enactment.
- d) A legal adviser, if it is made by a worker in the course of obtaining legal advice from, (for example, a solicitor, a barrister or a trade union official).
- e) Alternative external disclosures (in very limited circumstances).

The safest route to take when making a disclosure from the point of view of ensuring your protection is an internal disclosure and we would encourage you to use the internal option. However, if that is not appropriate and you prefer to make an external disclosure, then of the 5 alternative options outlined above, a), b), c) or d) are preferable over e).

In relation to option e), which includes potentially disclosure in the public domain such as to the media, you should be conscious that there are stringent requirements for this category of disclosure to qualify as a protected disclosure. In order for such a disclosure to be protected:

- you must reasonably believe that the information disclosed and any allegation is substantially true;
- the disclosure is not made for personal gain;
- the making of the disclosure in public is, in all the circumstances, reasonable.

In addition to these three criteria, one or more of the following conditions must be met:

- a) at the time of making the disclosure the worker reasonably believes that he/she will be subjected to penalisation by the employer if they make the disclosure under the internal process or to a 'prescribed person';
- b) in a case where there is no appropriate prescribed person (Regulatory Body) in regard to the wrongdoing, the worker reasonably believes that evidence will be destroyed or concealed if the disclosure is made directly to the employer;
- c) no action was taken in regard to a previous disclosure (under section 6, 7 or 8 of the 2014 Act) of the same nature made by the worker;
- d) the relevant wrongdoing is of an exceptionally serious nature. If you decide to make a disclosure to an external party, it will be for that party to decide if it is, in fact, a protected disclosure (the assessment) and to determine the nature of any investigation that may take place. In such cases, the Tribunal will cooperate fully with the investigation.

20. Special Cases

Sections 17 and 18 of the Protected Disclosures Act address the issue of protected disclosures that relate to issues of law enforcement and national security and defence respectively. In essence, external disclosures of information related to either of these areas would not be protected unless they meet specific, additional requirements.

21. Section 17 Disclosures

Section 17 applies to a disclosure of relevant information that might reasonably be expected to facilitate the commission of an offence or to prejudice or impair:

- a) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for any of those matters,
- b) the enforcement or administration of, or compliance with, any law,
- c) lawful methods, systems, plans or procedures employed for ensuring the safety of the public or the safety or security of persons or property,
- d) the fairness of proceedings before a court or tribunal,
- e) the security of a relevant institution, or
- f) the security of any system of communications of the Garda Síochána, the Defence Forces or a relevant institution. Section 17 of the Act should be consulted further when a disclosure of such information is contemplated.

22. Section 18 Disclosures

Section 18 of the Act applies to a disclosure of information that might reasonably be expected

- a) to affect adversely—
 - i. the security of the State
 - ii. the defence of the State or
 - iii. the international relations of the State, or
- b) to reveal, or lead to the revelation of, the identity of a person who has given information in confidence to a public body in relation to the enforcement or administration of the law or any other source of such information given in confidence.

It is unlikely that Section 18 disclosures would arise in relation to the work of the Tribunal but in the event that a discloser believes a disclosure under this section of the Act would be appropriate, the Taoiseach has appointed the Honourable Judge John D Cooke as Disclosures Recipient under Schedule 3 of the Protected Disclosures Act 2014 to deal with disclosures made under section 18 of the Act.

23. Assessment of a Protected Disclosure

When a disclosure of alleged wrongdoing is made to any one of the designated recipients, that individual will initiate a screening process which will involve an assessment of the disclosure, having regard to the provisions of the 2014 Act, to determine if it meets the criteria for a protected disclosure.

The recipient(s) will treat all disclosures as protected (and protect the identity of the discloser in accordance with the procedures) until the assessment is complete.

The assessment process will include the following steps:

- a) Determining the nature of the information disclosed and the procedure or procedures (e.g. protected disclosure process; grievance process, etc.) most appropriate for addressing the matter.
- b) Clarifying the basis of the concerns raised and establishing what evidence is available to support the concern.
- c) Gauging the risk associated with the issue and taking immediate action if the alleged wrongdoing involves a serious loss or danger to others.
- d) Carrying out all relevant enquiries promptly, sensitively and discreetly, ensuring to protect the identity of the discloser (if it is necessary to reveal the employee's identity to undertake an effective enquiry, the recipient of the disclosure will consult with the relevant person in the first instance).

If it is determined that the matter disclosed meets the criteria of a protected disclosure under the 2014 Act, the assessment should then consider whether the alleged wrongdoing is something that can or should be investigated (section 24 following) and the discloser will be notified of this development

Where the assessment concludes that the matter does not meet the criteria of a protected disclosure (e.g. where the issue is a personal grievance or complaint) the recipient will advise the discloser of this conclusion and offer advice on the appropriate steps to take.

This might involve the civil service Grievance Procedure or the civil service anti-bullying and harassment policy – Dignity at Work. The assessment phase is concerned with gathering information and is not concerned with making findings

24. Investigation of a Protected Disclosure

Where the assessment concludes that an investigation is warranted, consideration should then be given to the nature and extent of the investigation. The nature of the investigation will vary depending on the seriousness of the matter disclosed and could range from an informal approach for less serious wrongdoings to a detailed and extensive investigation of serious wrongdoings, including referral to an external body or to An Garda Síochana.

It is envisaged that most cases will be investigated by an external agency engaged by the Tribunal for such purposes. This will ensure that the necessary level of experience, expertise and independence is available. The external agency will report back to the designated recipient in the Valuation Tribunal.

In some instances, where the issue is deemed to be straightforward and capable of resolution without resort to a full external investigation, the designated recipient may conduct the investigation. In such cases the investigation and conclusion will, however, be the subject of validation by the external agency.

In all cases, the discloser will be informed by the designated recipient of the chosen route of investigation. Regardless of which route the investigation takes, it will embody the following principles:

- a) The investigation will be carried out in a manner which is fully consistent with the principles of natural justice.
- b) Evidence will be sought from any relevant witnesses.
- c) The investigation will assess whether the disclosure report is based on a reasonable belief but ungrounded; based on reasonable belief and grounded; or a deliberately false report.
- d) The Tribunal will take appropriate action if the disclosure is grounded.
- e) If the disclosure is deliberately false, the Valuation Tribunal may consider action under the Civil Service Disciplinary Code.
- f) Written feedback will be provided to the discloser within 20 days of the date of referral for investigation (including any proposed action) regardless of whether the investigation is concluded by that time. On completion of the process the designated recipient will report the outcome, including details of the action taken, to the discloser.

25. Feedback to the discloser

Workers making protected disclosures will be provided with periodic feedback, in confidence, in relation to the matters disclosed and be advised when consideration of the disclosure is complete, except in exceptional cases.

However, the overriding requirement when providing feedback is that no information is communicated that could prejudice the outcome of the investigation or any action that ensues (e.g. disciplinary, or other legal action, including prosecution) for example, by undermining the right to fair procedures enjoyed by the person against whom a report or allegation is made.

The Tribunal has no obligation to inform the discloser of the progress, or outcome, of any disciplinary process involving another worker which may arise on foot of an investigation arising out of a protected disclosure. In general, such information is confidential between the employer and the worker who is the subject of the disciplinary process. The discloser will be informed and assured that appropriate action has been taken but is not generally entitled to know what that action was

26. Rights of the respondent in an investigation

The general principles of natural justice and fair justice procedures will apply in respect of any employee of the Valuation Tribunal who is the subject (the respondent) of any investigation. The Tribunal will take great care in providing information to the person who has made the disclosure to ensure that it does not breach the legal rights of any person who has been accused of wrongdoing.

The Tribunal will arrange that appropriate supports and protections are available to the respondent, as and when appropriate. It is important to note that the principles of natural justice do not require a person associated with an allegation of wrongdoing to be notified of the receipt of an allegation.

Where an investigator wishes to question or seek information from the person accused of wrongdoing, the subject is entitled to be given details of what is alleged and given the opportunity to respond and to contest the evidence against him/her. In the interests of natural justice, the person(s) against whom the allegation is made will be informed in writing of the allegation and all of the supporting evidence, and will be allowed full opportunity to comment at an appropriate stage in the process and before the investigation is concluded.

The person accused of wrongdoing is entitled to be informed of the outcome of the investigation and is entitled to a copy of the investigation report if it concludes that a wrongdoing has occurred

27. Outcomes following an Investigation

The following are potential outcomes on conclusion of the investigation of the matter disclosed:

The disclosure is upheld or partly upheld leading to:

- The malpractice being stopped and the system weaknesses identified and addressed or the concern being addressed in so far as is reasonable;
- Disciplinary action being taken under the Civil Service Disciplinary Code against the wrongdoer depending on the results of the investigation;
- The matter being referred to an outside body, including An Garda Síochána.

The disclosure is not upheld leading to:

- No action if the allegation made in good faith but proves to be unfounded;
- Action under the Civil Service Disciplinary Code being considered against the discloser in the event of a deliberate false disclosure.

If the outcome of the investigation of a disclosure is not to the satisfaction of the worker that reported the issue, then s/he has the right to seek a review (section 28 following).

28. Review

The discloser may seek a review of the following:

- a) Any decision made to disclose the identity of the discloser (except in exceptional cases);
- b) The outcome of any assessment/investigation undertaken in respect of the protected disclosure; and
- c) The outcome of any assessment/investigation in respect of any complaint of penalisation.

Reviews may be undertaken by a suitably qualified external person, who has not been involved in the initial assessment, investigation or decision. Where a decision is

taken to disclose the identity of the discloser, where at all possible, the discloser will be offered a review before their identity is disclosed.

OTHER CONSIDERATIONS

29. Motivation

Your motivation for making a disclosure is irrelevant when determining whether or not it is a disclosure protected by the 2014 Act. All disclosures will be dealt with regardless of your motivation for making the disclosure, and you will be protected so long as you reasonably believe that the information disclosed tends to show a wrongdoing. However, disclosure of a wrongdoing does not necessarily confer any protection or immunity on you in relation to any involvement that you may have had in that wrongdoing.

30. Disciplinary Record of Discloser and other related matters

Where a worker makes a disclosure of alleged wrongdoing it will be given appropriate consideration. The Valuation Tribunal will generally focus on the disclosure made (the message), as opposed to any disciplinary (or other) issues related to the person making the disclosure (the messenger).

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

31. Mandatory Reporting

The 2014 Act does not oblige a worker to make a protected disclosure and it also does not absolve any worker from pre-existing mandatory obligations to report contained in other legislation. For example, there are other pieces of legislation applying to certain sectors (financial, medical etc.) where reporting of certain matters is mandatory.

32. Non-restriction of rights to make protected disclosures

In accordance with the 2014 Act, the Tribunal will not have or tolerate clauses in agreements that prohibit or restrict the making of protected disclosures, exclude or limit the operation of any provision of the Act, preclude a person from bringing any proceedings under, or by virtue of, the Act and / or precluding a person from bringing proceedings for breach of contract in respect of anything done in consequence of the making of a protected disclosure.

33. Support available to workers making disclosures

The Tribunal is committed to ensuring that workers are supported in making protected disclosures. The designated recipients will provide that support in the first instance where internal disclosures are concerned. Support is also available from the Civil Service Employee Assistance Service to workers who make disclosures of wrongdoing.

34. Record-keeping and Reporting

The Tribunal will maintain an appropriate case management system to record and track protected disclosures. The Act of 2014 makes it mandatory for all public bodies to publish an Annual Report in relation to protected disclosures.

35. Evaluation and Review of the Protected Disclosures Policy and these Procedures

This policy will be reviewed at minimum intervals of three years or when required by central Government (Department of Public Expenditure and Reform / Department of Housing, Planning and Local Government).

Disclaimer - It should be noted that these procedures do not purport to be a statement or legal interpretation of the relevant sections of the Acts or of any of the Regulations made under the Acts. They are intended as a general guide to the legislation and to the making of a protected disclosure and are not a substitute for professional legal advice. In all instances, the Act of 2014 and associated legislation takes precedence.

APPENDIX

Contact details for designated recipients:

Brendan Buggy - Registrar, Valuation Tribunal - Buggy@valuationtribunal.ie

Eoghan McCarthy – Deputy Registrar, Valuation Tribunal –
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