

# TAX APPEALS COMMISSION

## PROTECTED DISCLOSURE POLICY



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

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## Document History

<b>Version Number</b>	<b>Revision Date</b>	<b>Summary of Changes</b>	<b>Approved by</b>
1	23 July 2020	Approved by Accounting Officer	MCM
2	18 July 2022	Reviewed and Formatting updated	MOK
3	28 March 2023	Reviewed following enactment of Protected Disclosures (Amendment) Act 2022 (No. 27 of 2022)	MCM
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## Introduction

The Protected Disclosures Act 2014 (“the Act”) provides safeguards for workers who raise legitimate concerns regarding actual or potential wrongdoing in the workplace.

The Tax Appeals Commission (“the Commission”) is committed to addressing all legitimate concerns relating to wrongdoing as described in the Act in the workplace and to providing the necessary support for staff who raise genuine concerns.

Under this policy a worker is entitled to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage. Whether a disclosure is protected or not will depend on the way in which the disclosure is made. The Act provides for a “stepped” disclosure regime in which a number of distinct channels (internal, regulatory and external) are available.

## Key Principals Underlying Policy

A worker who has a reasonable belief that the information contained in his or her disclosure shows or tends to show that a wrongdoing covered by the policy has occurred, is occurring or is likely to occur will be protected against penalisation. Incidents of penalisation against a person making a report under this policy may be subject to action under the Civil Service Disciplinary Code.

## To Whom does this Policy Apply?

This policy applies to all workers at all levels in the Commission. Contractors, consultants, agency staff and interns may also be deemed to be workers for the purposes of the Act and this policy.

## What type of Disclosure is not Covered by the Policy?

The aim of this policy is to encourage and enable workers to raise a concern or disclose information in the workplace, so it can be addressed. It does not cover workplace complaints or personal grievances. Procedures for dealing with grievance problems are available at <https://hr.per.gov.ie/en/corporate-pages/supports/grievance/>.

It is worth stating for the protection of all, that this policy does not cover a disclosure where the worker knowingly conveys false, misleading, frivolous or vexatious information maliciously. If it later transpires that a worker made a disclosure, knowing it to be false or not believing it to be true, the Commission may take disciplinary action in accordance with the applicable

disciplinary procedure or in the case of contractors or consultants may report such conduct to the appropriate engaging body or authorities.

## What type of Disclosure is Covered by the Policy?

A disclosure (through the appropriate channel) of information, that has come to your attention in the course of your work, in the reasonable belief that one or more of the following types of “relevant wrongdoing” has occurred, is occurring or is likely to occur, is protected:

- A criminal offence
- A failure to comply with a legal obligation
- A miscarriage of justice
- The endangering of an individual’s health or safety
- Damage to the environment
- 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 which is oppressive, discriminatory or grossly negligent or which constitutes gross mismanagement
- Concealment or destruction of evidence relating to the above

## Safeguards against Penalisation

A worker who makes a disclosure and has a reasonable belief of the relevant wrongdoing will not be penalised by this organisation, even if the concerns or disclosure turn out to be unfounded.

Penalisation includes suspension/dismissal, disciplinary action, demotion, discrimination, threats or other unfavourable treatment arising from the disclosure on the basis of a reasonable belief for doing so. If you believe that you are being subjected to penalisation as a result of making a disclosure under this policy, you should inform your manager or a senior manager immediately.

Workers who penalise or retaliate against those who have raised concerns under this policy will be subjected to disciplinary action.

Workers who make a disclosure are not expected to prove the truth of an allegation. However, they must have a reasonable belief that there are grounds for their concern.

The policy does not cover a disclosure where the worker knowingly conveys false, misleading, frivolous or vexatious information. If it transpires that a worker makes a disclosure, which they

know to be false or do not believe to be true, the Commission may take disciplinary or other appropriate action

## How to Raise a Concern or Make a Disclosure to the Tax Appeals Commission

Workers may wish to discuss their concern with their immediate line manager or supervisor in the first instance. However, if a worker feels that this is not appropriate, for example given the seriousness or sensitivity of the issues involved, then you should approach either the HR Officer, a senior manager or the Head of Corporate Services directly.

Alternatively, workers may raise a concern with the Commission via the Protected Disclosures Group. This Group comprises the Chief Operations Officer and the Head of Corporate Services. The disclosure can be sent to the email address [protecteddisclosuresgroup@taxappeals.ie](mailto:protecteddisclosuresgroup@taxappeals.ie) or anonymously by writing to one of the Group members who will bring it to the attention of the other Group member. If the worker is concerned that the disclosure relates to one of the Protected Disclosures Group, then they should raise a concern to the Commissioners of the Commission.

## Reporting and Records

Concerns may be raised verbally or in writing. If a worker raises a concern verbally, the Commission will keep a written record of the conversation and provide you with a copy of this record. Ideally a disclosure should be made in writing and should give as much factual information as possible. Even if you raise a matter verbally you may be asked to put the details in writing at a later date.

Workers are encouraged to put their name to a disclosure, with the Commission's assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for us to assess the disclosure and take appropriate action including an investigation if necessary.

A concern may be raised anonymously. However, on a practical level it may prove impossible to investigate depending on the nature of the anonymous disclosure. It should be further noted that the protection under the Act and other elements of the protected disclosure procedure (e.g. keeping the discloser informed and protecting the discloser from penalisation) are impossible unless the worker dispenses with anonymity.

## How the Tax Appeals Commission will Deal with your Disclosure

Once a concern has been raised with a relevant person (line manager, HR Officer, Head of Corporate Services, Chief Operations Officer, Commissioner), whether verbally or in writing, the relevant person will issue an acknowledgement within 7 days and meet with you to discuss the matter on a strictly confidential basis. All reports received will be examined thoroughly. It is at this point that the relevant person will need to clarify if the concern is appropriate to this procedure or is a matter more appropriate to another procedure, for example the Grievance procedure. You can choose whether or not you want to be accompanied by a colleague or Union Representative.

At this stage, having clarified that the matter is appropriate to this procedure, an initial assessment of the facts will be carried out to examine what actions we need to take to deal with the matter. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.

If an investigation is warranted, it will be conducted fairly and objectively. The form and scope of the investigation will depend on the subject matter of the disclosure. It may be that the disclosure is such that it is required to be referred immediately to the appropriate authorities or requires some other immediate action on our part.

The Commission will do its best to keep you informed of the steps being taken by it in response to your disclosure and will endeavour to keep you informed of how it proposes to deal with the matter and any outcomes. However, it is important to note that the need for confidentiality and legal considerations may prevent the Commission from providing you with specific details of an investigation.

Appendix A enclosed provides guidance to the relevant person with dealing with a disclosure including an assessment of the disclosure, the provision of feedback and the reporting of the outcome/provision of records to the Head of Corporate Services.

## How to Raise a Concern or Make a Disclosure outside of the Tax Appeals Commission

The Act also makes provision for a protected disclosure by a worker to a prescribed person where the worker reasonably believes that the relevant wrongdoing falls within the description of the matters in respect of which the person is prescribed. The worker must also reasonably believe that the information contained in the disclosure and any allegation contained in it is

“substantially true”. This is a higher threshold than for an internal disclosure. Eighty regulators have been designated as prescribed persons and the list is contained in *SI 367/2020, the Protected Disclosure Act 2014 (Disclosure to Prescribed Persons) Order 2020*.

## Disclosure to the Minister

A worker who is employed in a public body can also avail of the protections under the Act if he or she makes a disclosure to the Minister who has a statutory function in relation to the public body. That means that in relation to the Commission disclosure can be made to the Minister for Finance.

## Disclosures to Other Persons

A worker may still benefit from the protections under the Act even if a disclosure is made outside of the Commission provided the following conditions are met:

- The worker must have a reasonable belief in the substantial truth of the information/allegation
- The disclosure must not be made for personal gain
- It must be reasonable for the worker to make the disclosure having regard to
  - the identity of the disclose
  - the seriousness of the relevant wrongdoing
  - whether the relevant wrongdoing is continuing or likely to occur in the future
  - whether there was a previous disclosure to the worker’s employer and the expected outcome
  - whether the employer’s procedure was complied with by the worker in making the previous disclosure

One of the following preconditions must also be satisfied:

- Worker must have reasonable belief in penalisation by employer if another channel is used
- Reasonable belief that evidence will be destroyed if employer channel is used and there is no “prescribed person”
- Previous disclosure of substantially same information to employer, or prescribed person or minister, or
- Relevant wrongdoing is of an exceptionally serious nature



## Confidentiality

The Commission will take all reasonable steps to treat disclosures made through this policy in a confidential and sensitive manner. The Commission will not disclose the worker's identity without their consent, unless it is required by law or necessary for the effective investigation of the relevant wrongdoing.

## Retention of Records

Records of concerns raised, including the outcome, will be maintained for a minimum of five years after the closure of the case by the Head of Corporate Services. These records will be maintained in a confidential and secure environment. A summary report on all protected disclosures will be included in the Commission's Annual Report.

## Review of Policy

The policy will be reviewed at minimum intervals of two years or when required by the Commission.

## Appendix A: Guidance for Managers and the Protected Disclosures Group for Dealing with Disclosures

- All reported disclosures about perceived wrongdoing in the workplace must be treated seriously and the following steps should be taken:
- Record the disclosure and the steps taken to deal with it.
- Clarify the basis of the concerns raised with the worker.
- Establish what evidence is available to support the concerns.
- Consider any personal interest the worker might have in the issue concerned.
- Risk assess the issue and take immediate action if the alleged wrongdoing involves a serious loss or danger to others.
- Carry out relevant enquiries promptly, sensitively and discretely, taking all reasonable steps to protect the identity of the originator of the disclosure (discloser).
- If it is necessary to reveal the worker's identity to undertake effective further enquiries, consult with the worker who has made the disclosure (discloser).
- Obtain evidence from any relevant witnesses.
- Assess whether the disclosure report is based on a reasonable belief but ungrounded, based on a reasonable believe and grounded or a deliberately false report.
- Take appropriate action if the disclosure is grounded.
- If the disclosure is deliberately false consider appropriate action under the Civil Service Disciplinary Code or in the case of contractors or consultants, if referral to their engaging body or relevant authorities is appropriate.
- Provide written feedback to the worker within 20 days, including any proposed action.
- Report the outcome and forward all records to the Head of Corporate Services