



An Chomhairle Pinsean
The Pensions Council

The Pensions Council's Protected Disclosures Procedures

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1. Background

The Pensions Council (An Chomhairle Pinsean) was set up in 2015 to advise the Minister for Social Protection on matters relating to policy on pensions, either on its own initiative or at the Minister's request, on matters relating to pensions generally. The Council is to represent and protect the consumer interest and help to ensure that the system has a far stronger consumer focus.

The Council was established under section 26B of the [Pensions Act, 1990](#). The Pensions Council and Pensions Council members must follow the [Code of Practice for the Governance of State Bodies](#). The legislative measures in relation to this body were provided for in the [Social Welfare and Pensions \(Miscellaneous Provisions\) Act, 2013](#).

The Pensions Council consists of a Chairperson and no fewer than 8 and no more than 12 ordinary members all appointed by the Minister for Social Protection. The Chairperson is designated by the Minister for Social Protection. The members and the Chairperson are volunteers and are not employed by the Department of Social Protection. Administration for the Pensions Council is carried out by members of the Department of Social Protection and Pensions Authority.

This Policy is an internal document prepared to assist all Pensions Council board members, the Pensions Council's Secretariat and the relevant staff in the Department of Social Protection to understand the obligations of the Pensions Council as required by the [Protected Disclosures Act 2014](#), as amended by the [Protected Disclosures Act \(Amendment\) 2022](#).

These are the Protected Disclosures Acts. Under section 21 of the Disclosures Act the Pensions Council shall have regard to [guidance](#) issued by the Minister in relation to Protected Disclosures. The current guidance was issued in November 2023 by DPENDR and drafting of these procedures has taken account of that guidance when preparing this document.

The Protected Disclosures Act 2014 and the Protected Disclosures (Amendment) Act 2022 provide a statutory framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace. The Acts provide workers who contend that they have been penalised for making a report of possible wrongdoing with access to significant protections and scope for securing redress. The Department of Social Protection is committed to fostering an appropriate environment for addressing concerns

relating to potential wrongdoing in the workplace and to providing the necessary support for workers who raise concerns in good faith.

2. Policy Statement

Under the Disclosures Acts, all public sector organisations are required to establish and maintain procedures for making protected disclosures by their staff. Although the Pensions Council has no staff, protected disclosures still apply as the Pensions Council fall under the definition of public bodies in the Protected Disclosures Acts. These procedures set out to whom, Pensions Council protected disclosures should be made. They also establish who will be carrying out the investigation of protected disclosures relating to the Pensions Council.

The Disclosures Act also protects workers from retaliation if they make a protected disclosure in the workplace.

While acknowledging its own responsibilities under the Disclosures Acts, the Pensions Council has determined that the day-to-day responsibility for the managing and investigation of protected disclosures will be undertaken by the Department of Social Protection on its behalf¹.

In implementing protected disclosure legislation, the Department of Social Protection's policy is:

- To encourage and enable workers to raise reasonable concerns regarding possible wrongdoing safely in the workplace rather than overlooking a problem or 'blowing the whistle' externally.
- To assess and/or investigate such reports in a thorough, competent, and timely manner.
- To take reasonable steps to ensure that penalisation does not arise regarding a person making a report of a concern, provided it was made based on a reasonable belief that

¹ The legislation allowing for this is section 6(9)(b) of the Protected Disclosures Act 2014 (as amended). This provides that internal reporting channels can be "provided externally by a third party authorised in that behalf by an employer".

wrongdoing occurred. This includes investigation of claims of penalisation and consideration of disciplinary action where warranted.

- To treat seriously cases where workers make allegations of wrongdoing without a reasonable belief that the wrongdoing occurred. The protections of the Acts may not apply to such workers, who may be subject to disciplinary action if, for example, an allegation of wrongdoing was known to be untrue or misleading or was frivolous or vexatious.
- To deal with allegations made against individuals having due regard for the principles of natural justice and fair procedures, which may include a right to challenge the evidence against him/ her.

The report of a wrongdoing does not confer any protection or immunity on a worker in terms of his/her involvement in that wrongdoing.

3. Procedures for the making of Protected Disclosures

Responsibility for these procedures rests with the Pensions Policy Unit in the Department of Social Protection. Day-to-day responsibility for the managing and investigation of protected disclosures procedures is delegated to the Protected Disclosures Group in the Department of Social Protection.

Overall, responsibility for implementing legislation, policies and guidance pertaining to protected disclosures rests with the Management Board of the Department of Social Protection.

Scope of Procedures

3.1 To whom do the procedures apply

The procedures apply to all workers as defined in section 3 of the Disclosures Act. This includes current and former members of the Pensions Council, independent contractors, consultants, volunteers, job applicants and agency workers and Board and Committee

members. These procedures apply to all Department of Social Protection and Pensions Authority staff involved in the running of the Pensions Council.

Definitions

3.2 What is not covered by these procedures?

These procedures do not cover matters of personal interest, e.g., complaints or personal grievances. A disclosure is not a protected disclosure where the individual knowingly conveys false disclosures or information. Any such allegations may result in disciplinary or other appropriate action.

3.3 What is a Protected Disclosure?

A protected disclosure is a disclosure of information (see 3.4 below) which in the *reasonable belief* of the worker (see 3.5) tends to show one or more *relevant wrongdoings* (see 3.6). The wrongdoing must come to the worker's attention *in connection with his or her employment in a work-related context* (see 3.7). A worker making a protected disclosure must also have a reasonable belief that the information (and any allegation contained within it) tends to show a relevant wrongdoing.

The Protected Disclosures Acts are intended to deal with protected disclosures in public bodies. This involves wrongdoings that are likely to cause harm to the Pensions Council or Department of Social Protection itself or to the public at large, as opposed to personal complaints.

3.4 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 as set out in 3.10 based on a reasonable belief that it discloses a wrongdoing.

3.5 What is a ‘Reasonable Belief’?

The individual making the disclosure (the “**Reporting person**”) 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. A worker has the right to be wrong in his/her reasonable belief.

A worker may have reasonable grounds for believing that some form of wrongdoing is occurring based on their observations, but it may subsequently turn out that they were mistaken. The worker will not be penalised simply for getting it wrong. The important thing is that the worker had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

The motivation of the worker for making a disclosure is irrelevant when determining whether what has occurred is a disclosure protected by the Acts.

The disclosure will be assessed based on how a reasonable person would respond to the information available to him or her at the time that the disclosure was made.

A disclosure made in the absence of a reasonable belief will not attract the protection of the Disclosures Act and may result in disciplinary action against the Reporting person.

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

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

- (a) The commission of an offence;
- (b) The failure of a person 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) A miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) A danger to the health and safety of any individual;

- (e) Damage to the environment;
- (f) An unlawful or otherwise improper use of funds or resources of a public body, or of other public money;
- (g) An act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- (h) That a breach has occurred, is occurring or is likely to occur, or
- (i) That information tending to show any matter falling within any of the preceding paragraphs (a) to (h) has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

Note that it does not matter whether the suspected wrongdoing occurred, is occurring or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other relevant country or territory.

A matter concerning interpersonal grievances exclusively affecting a reporting person does not constitute a relevant wrongdoing.

3.7 What do we mean by in a work-related context?

The information must come to a reporting person's attention in a work-related context. A work-related context means current or past work activities in the public or private sector through which, irrespective of the nature of these activities, the reporting person acquires information concerning a relevant wrongdoing by the Pensions Council, and within which the reporting person could be penalised for reporting the information.

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

Making a Protected Disclosure

3.8 Internal or External Disclosure?

Under the Disclosures Act, protected disclosures can be made within the Pensions Council and outside of it. Internal Disclosures can be made to the head of the Pensions Council as set out in 3.10. These will then be passed onto the Department of Social Protection to be investigated.

External disclosures can be made directly to the Department of Social Protection's Protected Disclosures Group as set out in 3.10. As set out in the protected Disclosures Acts, they can be made to a prescribed person, legal advisor, the relevant Minister, or the [Protection Disclosures Commissioner](#).

3.9 Should I be using the Protected Disclosure route at all?

The Department of Public Expenditure, National Delivery Plan and Reform (**DPENDR**) has provided financial assistance to [Transparency International Ireland](#) 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' from their website. You are encouraged to get professional advice before you decide to use the Protected Disclosure route.

3.10 How do I make the Disclosure?

Please email the Department of Social Protection Protected Disclosures email address: ProtectedDisclosures@welfare.ie

Alternatively, you can make a protected disclosures to the Chair of the Pensions Council, who will pass it on to the Department of Social Protection. Please email the Chair directly with the protected disclosure.

Disclosures should:

(a) State that the disclosure is being made under the Disclosures Act;

- (b) Provide the Reporting Person's name, position in the organisation, place of work and confidential contact details;
- (c) Provide the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- (d) Indicate whether 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; and
- (f) The details of the alleged wrongdoing and any supporting information;
- (g) The name of the person(s) (if known or applicable) allegedly involved in the alleged wrongdoing;
- (h) Provide any other relevant information.

3.11 How am I protected when I make a disclosure

When you make a protected disclosure in accordance with the Disclosures Act and under the guidance of these procedures, you will be protected from penalisation. Penalisation of a person who makes a protected disclosure will not be tolerated by the Department of Social Protection and will lead to disciplinary proceedings against the perpetrator where warranted.

The Disclosures 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 or withholding of promotion;
- (c) Transfer of duties, changes of location of place of work, reduction in wages or changes in working hours;
- (d) The imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- (e) Coercion, intimidation, harassment or ostracism;
- (f) Discrimination, disadvantage or unfair treatment;
- (g) Injury, damage or loss, withholding of training, threat of reprisal, a negative performance assessment or employment reference;

- (h) Failure to convert a temporary contract to a permanent one where a legitimate expectation that he or she would be offered permanent employment existed;
- (i) Failure to renew or early termination of a temporary employment contract;
- (j) Harm, including to the workers reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- (k) Black-listing 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;
- (l) Early termination or cancellation of a contract for goods or services;
- (m) Cancellation of a licence or permit, and
- (n) Psychiatric or medical referrals.

Sections 11-16 of the Disclosures Act 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 Department of Social Protection will assess and investigate any instances of penalisation and will take appropriate action (which may include disciplinary action against co-workers) where necessary.

3.12 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 Reporting Person's identity confidential. The Department of Social Protection will take all reasonable steps to treat disclosures made in accordance with these procedures in a confidential and sensitive manner. Your identity will not be disclosed without your consent, unless it is required by law or necessary for the effective investigation of the relevant wrongdoing.

A Reporting Person whose identity has been compromised can take an action if the Reporting Person 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 Reporting Person's identity is protected.

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 Reporting Person except when:

- (a) the Reporting Person gives their explicit consent, or
- (b) disclosure is a necessary and proportionate obligation imposed by law, or
- (c) the recipient shows that he or she took all reasonable steps to avoid disclosing the identity of the Reporting Person;
- (d) the Department of Social Protection has a reasonable belief that disclosing the identity is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment.

Where it is decided that it is necessary to release information that may or will disclose the identity of the Reporting Person, the Reporting Person will be informed of this decision in writing in advance of the release, except where such notification would jeopardise:

- (a) the effective investigation of the relevant wrongdoing concerned,
- (b) the prevention of serious risk to the security of the State, public health, public safety or the environment, or
- (c) the prevention of crime or prosecution of a criminal offence.

The Reporting Person will also be informed of the applicable review process, which may be invoked by the Reporting Person in respect of the decision to disclose their identity where applicable. Where at all possible, the Reporting Person will be offered a review before his or her identity is disclosed.

3.13 Anonymous Reporting

The Department will accept anonymous reports and they will be acted upon to the extent that this is possible and reasonable, given the constraints in obtaining further information.

Reporting Persons are encouraged to put their names to allegations, with the assurance of confidentiality where possible, in order to facilitate appropriate follow up. Remember that the recipient must protect your identity.

Anonymous disclosures are not excluded from the protection of the Disclosures Act and the Department of Social Protection acts upon anonymous disclosures to the extent that this is possible. However, the department's ability to investigate may be constrained in the absence of the knowledge of the identity of the Reporting Person because we cannot follow-up with you for further information.

More importantly, the protections available to you under the Disclosures 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.

A worker who makes an anonymous report and is subsequently identified and penalised is treated as having made a protected disclosure under the Disclosures Act and is entitled to the same protections as an identified discloser.

3.14 Who to make an Internal Disclosures to

The Department of Social Protection; specifically via email to ProtectedDisclosures@welfare.ie.

Alternatively, you can make a protected disclosures to the Chair of the Pensions Council, who will pass it on to the Department of Social Protection. The Chair upon receiving a protected disclosure, will email the protected disclosure to the ProtectedDisclosures@welfare.ie.

A group (the 'Protected Disclosures Group' or 'PDG') comprising the Head of Internal Audit, the Principals with responsibility for Data Protection Unit, Human Resources, and a Divisional Unit (other business areas may also have a role depending on the nature of the case) will have responsibility for assessing submissions emailed to the address above, and referring cases, where applicable, to the appropriate area for investigation.

3.15 External Disclosures

The Disclosures Act identifies the following avenues for making an external protected disclosure:

- (a) A ‘prescribed person’. In such cases, an additional requirement applies: the Reporting Person must believe that the information disclosed, and any allegations contained in it are substantially true.

- (b) A minister of the government, where the worker is or was employed in a public body and one of the following criteria is met:
 - i. The worker has previously made a disclosure of substantially the same information to a responsible person or prescribed person, but no feedback or adequate feedback was provided in the required timeframes.
 - ii. The worker reasonably believes the head of the public body concerned is complicit in the wrongdoing.
 - iii. The worker reasonably believes that the relevant wrongdoing may constitute an imminent or manifest danger to the public interest, such as an emergency situation or a risk of irreversible damage.

- (c) 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.

- (d) The Office of the Protected Disclosures Commissioner. The Protected Disclosures (Amendment) Act 2022 created the Office of the Protected Disclosures Commissioner. The Commissioner has certain powers and responsibilities under the Act.

A worker may make a report to the Commissioner under the same conditions that apply to the making of a disclosure to a prescribed person – i.e., their report must concern a relevant wrongdoing that came to the worker’s attention in a work-related context. The reporting person must also reasonably believe that the information disclosed, and any allegation contained in it are substantially true.

3.16 When should a Protected Disclosure be made?

Workers should make reports of potential wrongdoing at the earliest possible time after it has come to their attention. If the concern raised referred to matters which allegedly occurred in the past, on a practical level, it may be difficult or impossible to assess or investigate them if a protected disclosure is delayed.

Workers are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so.

3.17 Assessment & investigation of a Protected Disclosure

When a protected disclosure is made to the Department of Social Protection via ProtectedDisclosures@welfare.ie, the PDG will acknowledge the disclosure to the Reporting Person within 7 days of receipt of the disclosure.

The disclosure will be assessed to examine what actions are needed to deal with the matter. It will determine whether

- the reporting person has a reasonable belief that wrongdoing occurred and,
- the potential wrongdoing is a ‘relevant wrongdoing’ within the meaning of the Acts and,
- the potential wrongdoing was/ is in connection with the worker’s work.

Experience to date has shown that types of concerns raised have been wide ranging. Based on the type, nature and complexity of concerns reported, the PDG will determine, where necessary, the next steps in the process to deal with the matters raised. This may involve simply clarifying certain matters, clearing up misunderstandings, further fact finding, investigation or examination by the Department or external party. The PDG will liaise with the relevant business areas in this regard.

Given that reports under the PD procedures may be of varying complexity, no specific time limit for assessments or investigations can be given, but they will always be treated with priority and be dealt with as soon as possible.

The PDG will give feedback to the reporting person within three months of the acknowledgement of receipt and at the end of the process. It is important to note that sometimes the requirement for confidentiality and legal considerations may prevent the giving of specific details of an investigation.

The PDG might hire or nominate an independent person or organisation to investigate the protected disclosures.

3.18 Rights of the Person Concerned in an investigation

The general principles of natural justice and fair justice procedures will apply in respect of any person who has been accused of wrongdoing and may be the subject of any investigation (the “**Person Concerned**”). The Department of Social Protection will take great care in providing information to the Reporting Person to ensure that it does not breach the legal rights of the Person Concerned. The Department of Social Protection will arrange that appropriate supports and protections are available as and when appropriate.

It is important to note that the principles of natural justice do not require a Person Concerned to be notified of the receipt of an allegation. Nor does the Person Concerned have the right to know the identity of the worker who has made the report.

Where an investigator wishes to question or seek information from the Person Concerned, the person is entitled to be given details of what is alleged and given the opportunity to respond and to contest the allegation.

In the interests of natural justice, the Person Concerned or Persons Concerned will be informed in writing of the allegation and 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 Concerned 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 wrongdoing has occurred.

Other considerations

3.19 Motivation

Your motivation for making a disclosure is irrelevant when determining whether, it is a disclosure protected by the Disclosures 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.

3. 20 Record keeping

A database of reports and records relating to individual reports, are held by the PDG in a secure and confidential environment with access restricted to the PDG and the Internal Audit Unit. Access is managed by the Head of Internal Audit.

Records of all concerns and the outcome of an assessment and subsequent investigation will be maintained for a maximum of ten years after the closure of the case. The Department publishes anonymised statistics annually on www.gov.ie.

3.21 Review of Policy and Guidance

The guidance will be subject to review as practices and policies or legal requirements pertaining to protected disclosures develop.

3.22 Disclaimer

This document is not, nor is it intended to be, a definitive statement of the law and it does not constitute legal advice. The Department of Social Protection recommends that any person making a protected disclosure obtain their own legal advice where necessary. The

Department of Social Protection accepts no responsibility or liability for any errors, inaccuracies or omissions in this document.

Useful Links

- [Pensions Act, 1990](#)
- [Code of Practice for the Governance of State Bodies](#)
- [Social Welfare and Pensions \(Miscellaneous Provisions\) Act, 2013.](#)
- [Protected Disclosures Act 2014](#)
- [Protected Disclosures Amendment Act 2022 \(the "Disclosures Act"\)](#)
- [Protection Disclosures Commissioner](#)
- [Transparency International Ireland](#)
- [www.gov.ie](#)
- [The Pensions Council - pensions council](#)
- [S.I. No. 524/2023 - Protected Disclosures Act 2014 \(Disclosure to Prescribed Persons\) \(Amendment\) Order 2023 \(irishstatutebook.ie\)](#)
- [S.I. No. 367/2020 - Protected Disclosures Act 2014 \(Disclosure to Prescribed Persons\) Order 2020 \(irishstatutebook.ie\)](#)