

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

1	INTRODUCTION	3
2	AIMS & SCOPE OF THIS POLICY	3
3	PROTECTED DISCLOSURE	3
4	REASONABLE BELIEF	4
5	WHO IS COVERED BY THIS POLICY?	5
6	REPRESENTATION BY A TRADE UNION	5
7	CHANNELS FOR MAKING A DISCLOSURE	5
8	RAISING A CONCERN UNDER THE INTERNAL DISCLOSURE PROCEDURE	5
9	CONFIDENTIALITY	6
10	ANONYMOUS ALLEGATIONS	6
11	THE ROLE OF THE 'PROTECTED DISCLOSURE MANAGER'	6
12	HOW CHAS WILL RESPOND	7
13	RAISING A CONCERN EXTERNALLY	9
14	MAKING A DISCLOSURE TO A PRESCRIBED PERSON	9
15	RAISING CONCERNS EXTERNALLY OTHER THAN TO A PRESCRIBED PERSON	10
16	WORKERS OUTSIDE THE ENTERPRISE REPORTING CONCERNS USING THE INTERNAL PROCEDURE	11
17	UNTRUE ALLEGATIONS	12

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

18	A WORKER WHO IS THE SUBJECT OF A DISCLOSURE	12
19	PROTECTION FROM PENALISATION	12
20	COMPLAINTS PROCEDURE	14
21	COMMUNICATION, MONITORING AND REVIEW	14

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

1 INTRODUCTION

- 1.1 CHAS is committed to the highest possible standards of compliance with our legal requirements.
- 1.2 CHAS's whistleblowing policy is intended to encourage and enable workers to raise concerns rather than overlooking them. Under this policy a worker can make a disclosure without fear of penalisation or threat of less favourable treatment, subsequent discrimination or disadvantage.
- 1.3 This policy aims to give effect to the obligations and provisions of the Protected Disclosure Act 2014 and does not replace any legal reporting or disclosure requirements arising under other legislation. Where statutory reporting requirements or procedures exist, these must be fully complied with.
- 1.4 This policy does not replace the organisation's grievance procedures, in particular where the issue relates to an individual worker's contract of employment this matter should be referred under CHAS's Procedure.
- 1.5 Workers are encouraged to seek the assistance of their union in making disclosures and can be represented by their union at any stage.

2 AIMS & SCOPE OF THIS POLICY

- 2.1 This policy aims to:
 - I. Encourage workers to feel confident about raising concerns about relevant wrongdoings
 - II. Provide avenues for workers to make disclosures about relevant wrongdoings and receive feedback on action taken;
 - III. Ensure that suppliers and clients are aware of their responsibilities;
 - IV. Reassure workers that they will be protected from reprisals for making a disclosure in accordance with this policy.
 - V. This policy is intended to cover all aspects of CHAS's activity.

3 PROTECTED DISCLOSURE

- 3.1 This policy deals with disclosures that relate to 'relevant wrongdoings'. These correspond to the relevant wrongdoings in the Protected Disclosures Act 2014

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

(section 5 subsections 3(a) to (h)) and in summary these are:

- I. Offences that are or are likely to be committed;
- II. Failing to comply with legal obligations;
- III. Miscarriage of justice;
- IV. Health and safety risks, including risks to the public as well as other workers;
- V. Damage to the environment;
- VI. The unauthorised use of public funds or resources;
- VII. Oppressive, discriminatory or grossly negligent action or inaction by a public body;
- VIII. Information showing any matter falling into category above may be destroyed.

3.2 A 'protected disclosure' under this policy may be about a relevant wrongdoing;

- I. That is happening now;
- II. Took place in the past;
- III. That is about to happen.

4 REASONABLE BELIEF

4.1 A worker does not need to be certain about the facts in their disclosure, it is sufficient that in the reasonable belief of the worker the information tends to show one or more relevant wrongdoings and the information came to the attention of the worker in connection with their employment.

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

5 WHO IS COVERED BY THIS POLICY?

- 5.1 This policy applies to all 'workers' i.e. our employees at all levels, agency workers, trainees, apprentices and interns, self-employed persons acting on our behalf, and in certain circumstances the workers of companies that supply us with goods and services.
- 5.2 This policy applies to current and past employees and at the recruitment stage.

6 REPRESENTATION BY A TRADE UNION

- 6.1 Workers, who are members of a trade union, are encouraged to seek advice from their trade union about the operation of this Act and are protected when they do so as a 'protected disclosure'.

7 CHANNELS FOR MAKING A DISCLOSURE

- 7.1 This policy provides guidance to workers on making
- I. An internal disclosure within the employment or to an agreed third party authorised by the employer;
 - II. An external disclosure to a 'Prescribed Person'; and
 - III. An external disclosure to 'Others'.

8 RAISING A CONCERN UNDER THE INTERNAL DISCLOSURE PROCEDURE

- 8.1 As a first step, a disclosure about a 'relevant wrongdoing' should normally be raised using the internal disclosure procedures however this depends on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing.
- 8.2 Disclosures made under the internal procedures may be made verbally or in writing to the 'Protected Disclosure Manager' nominated by the enterprise.
- 8.3 Workers who wish to make a written disclosure are invited to use the following format and to keep a copy of the disclosure and any information provided. It is not necessary to follow this format.
- 8.4 **FORMAT FOR MAKING AN INTERNAL DISCLOSURE:**

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

- I. Give a description of the 'relevant wrongdoing';
 - II. Provide any information that tends to show the relevant wrongdoing so as to assist the investigation of the matters raised in the disclosure;
 - III. Date the disclosure;
 - IV. Give your preferred contact details;
 - V. State that the disclosure is made under the Protected Disclosures Act and
 - VI. State if you do / do not expect confidentiality.
- 8.5 Although workers are not expected to prove the truth of the facts in the disclosure they must have a 'reasonable belief' that there are grounds for their concern when making a disclosure using the internal procedure.

9 CONFIDENTIALITY

- 9.1 All concerns will be treated in confidence. Unless the worker clearly states that they do not object to having their name associated with the disclosure.
- 9.2 Disclosures will be kept secure and in a form that that does not endanger confidentiality of the person making the disclosure. The focus will at all times be on the information in the disclosure rather than the identity of the worker making the disclosure.
- 9.3 At the appropriate time, however, the identity of the person making the disclosure may need to be revealed if it is necessary for the investigation and in accordance with the principles of natural justice and fair procedures.

10 ANONYMOUS ALLEGATIONS

- 10.1 Workers are encouraged to put their name to the disclosure. Concerns expressed anonymously will be treated seriously and considered in accordance with this policy.

11 THE ROLE OF THE 'PROTECTED DISCLOSURE MANAGER'

- 11.1 CHAS is ultimately responsible for the management of this policy

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

- 11.2 The Enterprise has appointed an identified senior executive as the '**Protected Disclosure Manager**' for the maintenance and day-to-day operation of this policy.
- 11.3 The '**Protected Disclosure Manager**' is who is a senior executive of sufficient standing within CHAS is empowered to act in response to a disclosure;
- 11.4 The **Protected Disclosure Manager** is who is a third party person/organisation agreed with the union and authorised by the enterprise to operate as the internal disclosure channel in accordance with section 6.2 of the Protected Disclosure Act 2014.
- 11.5 The contact details for the **Protected Disclosure Manager** are phone_____; email_____; and post_ - Administrator_.

12 HOW CHAS WILL RESPOND

- 12.1 **The Protected Disclosure Manager** will respond to all concerns raised under the internal disclosure procedure.
- 12.2 Disclosures may, in light of the seriousness of the allegations be referred immediately to the appropriate authorities. Likewise, if urgent action is required (for example to remove a health and safety hazard) this will be taken before any other investigation is conducted.
- 12.3 In order to protect any individuals accused of a 'relevant wrongdoing' initial inquiry will be made to decide whether an informal or formal investigation is appropriate and, if so, what form it should take. Where appropriate, the matters raised in the disclosure may:
- I. Be investigated by management, internal audit, be referred to the external auditor;
 - I. Be referred to An Garda Siochana;
 - II. Be referred to external enforcement agency or regulator;
 - III. Form the subject of an independent (third party) inquiry;
 - IV. Be dealt with in accordance with our grievance & disciplinary procedures.

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

12.4 Generally, within ten working days (and no later than 21 working days) of a concern being raised, the **Protected Disclosure Manager** will write to the worker who made the report (where this is known):

- I. Acknowledging that the concern has been received;
- II. Indicating in summary form how the organisation proposes to deal with the matter;
- III. Giving an estimate of how long it will take to provide the next response
- IV. Providing an approximate date by which the person making the disclosure will receive the final communication;
- V. Or setting out why no investigation will take place.

12.5 The communication will include information on staff support mechanisms including the right to be represented by the trade union.

12.6 The amount of contact between the Protected Disclosure Manager (or the person working on their behalf) and the worker making the disclosure during the investigations will depend on the nature of the matters raised, the potential matters involved and the clarity of the information provided in the report.

12.7 The Protected Disclosure Manager will ensure that the person who made the disclosure is aware that the matter is under active consideration and will provide them with a final statement summarising how the concerns raised in the disclosure were dealt with and what action was taken to rectify the wrong doing.

12.8 In circumstances where an investigation does not conclude that any relevant wrongdoing has taken place or where the person making the disclosure is mistaken or unaware of all the facts surrounding the issues raised the Protected Disclosure Manager (Administrator) will in the final statement take the opportunity to explain that the concerns are unfounded.

12.9 The **Protected Disclosure Manager** will maintain a record of all concerns raised and reports received along with notes of the investigation and the outcome, in a secure manner which does not endanger staff confidentiality or damage reputations of staff.

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

- 12.10 The **Protected Disclosure Manager** will maintain a record of all concerns raised and reports received along with notes of the investigation and the outcome, in a secure manner which does not endanger workers' confidentiality or damage reputations or worker's employment records in the case of inaccurate disclosures.
- 12.11 The **Protected Disclosure Manager** will report as necessary to CHAS *providing* a record of the number and type of disclosures received, the actions taken, any breaches of confidentiality or of penalisation and the actions taken to remedy these and a statement on awareness and training on the policy.

13 RAISING A CONCERN EXTERNALLY

- 13.1 Workers are encouraged to raise their concerns under the enterprise's internal disclosure procedure in the first instance. However, it is recognised that this may not always be appropriate therefore this policy, in line with the Protected Disclosure Act 2014 provides for external reporting to 'Prescribed Persons' and to 'Others'.

14 MAKING A DISCLOSURE TO A PRESCRIBED PERSON

- 14.1 The Protected Disclosure Act 2014 provides for external reporting of wrong-doing to appropriate authorities in circumstances where:
- I. The worker reasonably believes that the information disclosed and any **allegations contained are substantially true** and
 - II. The wrongdoing falls within matters in respect of which there is a
- 14.2 **Prescribed Person** - A 'Prescribed Person' is the external authority as prescribed by Ministerial Order (under section 7 of the Protected Disclosures Act 2014). Prescribed Persons are normally the Regulating or Supervising Authority or Inspectorate with responsibility for dealing with any 'relevant wrongdoing' falling within the scope of the Protected Disclosure Act 2014 such as the Health and Safety Authority and the labour inspectorate in the Work Place Relations Service.
- 14.3 CHAS aims to maintain and make generally available to workers and members an up-to-date list and contact details of the various 'Prescribed Person's and the matters that may be reported to them. A copy of the relevant Statutory Instrument is attached.

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

14.4 The 'Prescribed Person' may have their own procedures for making a disclosure and workers are encouraged to contact their trade union in advance of making a disclosure to a 'Prescribed Person'.

14.5 Where the 'Prescribed Person' does not have a format for making a disclosure, workers are invited to use the following and to keep a copy of the disclosure and any information provided

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

- I. *State that you are making the disclosure under Section 9 of the Protected Disclosures Act 2014;*
- II. *Give a description of the 'relevant wrongdoing' and why it falls within the Prescribed Person's area of responsibility;*
- III. *Provide any copies of information that tend to show the wrongdoing so as to assist the investigation of the matters raised in the disclosure;*
- IV. *Include any information relating to your raising (or not raising) the concern under the internal procedure;*
- V. *Date the disclosure;*
- VI. *Give your preferred contact details;*
- VII. *Make it clear (i) that you expect confidentiality or (ii) that you want your*
- VIII. *name associated with the disclosure.*

14.6 Although workers are not expected to prove the truth of the facts in the disclosure they must have a 'reasonable belief' that the information and any allegation are substantially true, this a somewhat higher standard than when making the internal disclosure. It is not a legal requirement to state this but it may assist the person to whom you are making the disclosure to know that is your intention. The legislation requires that the Prescribed Person treat the disclosure as confidential, including this in the disclosure is for the avoidance of confusion.

15 RAISING CONCERNS EXTERNALLY OTHER THAN TO A PRESCRIBED PERSON

15.1 The Protected Disclosure Act 2014 provides for external reporting to other persons. There is no definitive list of who can be or who cannot be an 'Other Person' instead the legislation requires the disclosure to the 'Other Person' to be 'reasonable' bearing in mind;

- I. The identity of the person to whom the disclosure is made,
- II. The seriousness of the relevant wrongdoing,
- III. Whether the relevant wrongdoing is continuing or is likely to occur in the future,

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

- IV. Any action which the employer of the worker or the person to whom the previous disclosure was made has taken or might reasonably be expected to have taken as a result of the previous disclosure,
 - 15.2 There are other criteria that must also be met such as the relevant wrongdoing must be sufficiently serious and the worker reasonably believes;
 - I. That the information disclosed and any allegation is substantially true,
 - II. The disclosure is not made for personal gain (excluding any rewards payable under any enactment),
 - III. In all circumstances of the case it is reasonable for the worker to make the disclosure and **any one** of the following applies:

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

- a) That at the time of the disclosure the worker reasonably believed they would be subjected to penalisation by the employer if they made the disclosure under the internal process or to a
 - b) That in the case where there is no 'Prescribed Person' in relation to the relevant wrong-doing the worker reasonably believed that it is likely that the evidence would be concealed or destroyed if the worker made a disclosure under the internal procedures; -that the worker previously made a disclosure of substantially the same information under the internal process or to a Prescribed Person;
 - c) That the relevant wrongdoing is of an exceptionally serious nature.
- 15.3 It is difficult to recommend a format for making a protected disclosure to an 'OTHER PERSON' as the nature of the criteria depends on the specifics of the situation and the nature of the relevant wrongdoing. Workers considering making a protected disclosure to an 'OTHER PERSON' in accordance with section 10 of the Protected Disclosures Act 2014 are therefore encouraged to discuss and get assistance from their trade union.

16 WORKERS OUTSIDE THE ENTERPRISE REPORTING CONCERNS USING THE INTERNAL PROCEDURE

- 16.1 Workers from outside the enterprise working for our clients or suppliers who become aware of a relevant wrongdoing as part of their work with or for us may make a report to the ' **Protected Disclosure Manager** in respect of a relevant wrongdoing.
- 16.2 Workers from outside the enterprise making such disclosures are encouraged to use the same format as our workers and give an indication of whether they are willing to participate in any investigation that may take place in response to the disclosure.

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

17 UNTRUE ALLEGATIONS

- 17.1 If a worker makes a report in accordance with this policy, but the information or allegation is subsequently not confirmed by the investigation, no action will be taken against the person making the disclosure. They will be fully protected from any less favourable treatment, penalisation or victimisation.
- 17.2 The motive of the person making the disclosure is not relevant but if an allegation, known to be false is made maliciously, then disciplinary action may be taken.

18 A WORKER WHO IS THE SUBJECT OF A DISCLOSURE

- 18.1 A worker who is the subject of a disclosure is entitled to fair treatment. While an investigation is on-going, all reasonable steps will be taken to protect the confidentiality of those who are the subject of allegations in a protected disclosure pending the outcome of the investigation. In some circumstances, where the fact of the investigation is widely known, the conclusion of the investigation may involve a statement of exoneration.

19 PROTECTION FROM PENALISATION

- 19.1 CHAS is committed to good practice and high standards and we want to support and protect workers who make disclosures under this policy. Direct or indirect pressure on workers not to make a disclosure or to make a disclosure contrary to this policy will not be tolerated.
- 19.2 CHAS recognises that penalisation can take many forms; it can be direct and indirect and may be perpetrated by fellow workers, management or those who supply us with goods and services and our customers and clients.
- 19.3 Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) that result in the employee suffering any unfavourable change in his/her conditions of employment including (but not limited to):
- I. Suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts), or the threat of suspension, lay-off or dismissal
 - II. Demotion or loss of opportunity for promotion

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

- III. Transfer of duties, change of location of place of work, reduction in wages or change in working hours
- IV. Imposition of any discipline, reprimand or other penalty (including a financial penalty)
- V. Unequal treatment under sick leave or disciplinary policies, unfair selection for tasks or attendance at events
- VI. Coercion, intimidation
- VII. Discrimination, disadvantage or unfair treatment
- VIII. Injury damage or loss
- IX. Treats of reprisal
- X. Verbal harassment -jokes, comments, ridicule or songs
- XI. Written harassment -including faxes, text messages, emails, comments or postings on social media
- XII. Physical harassment -jostling, shoving or any form of assault
- XIII. Intimidatory harassment -gestures, posturing or threatening poses
- XIV. Isolation or exclusion from social activities
- XV. Bullying

19.4 CHAS will not penalise or threaten to penalise the worker for making a protected disclosure. CHAS will not allow any other person to penalise or threaten penalisation (including informal pressure) for having made a disclosure in accordance with this policy.

- I. CHAS will take appropriate action to prevent and remedy any penalisation or breach of confidentiality of workers when they report a relevant wrongdoing or
- II. are suspected of making a report about a relevant wrongdoing, or
- III. provide information or act as a witness as part of an investigation under this policy;
- IV. seek redress under the provisions of the Protected Disclosures Act 2014 or

WHISTLEBLOWER SUPPORT POLICY & PROCEDURE

(9)

V. are otherwise involved in actions under this policy.

19.5 These protections extend beyond the workplace, for example to conferences and training that occurs outside the workplace and to work-related social events.

19.6 Penalisation or threats of penalisation by members of staff will not be tolerated. Such behaviour may constitute misconduct and may lead to disciplinary action up to and including dismissal.

19.7 Penalisation or threats of penalisation of our workers by suppliers, clients and others we do business with will not be tolerated and may lead to termination of contracts or suspension of services, or the exclusion from *CHAS's* premises or the imposition of other sanctions.

20 COMPLAINTS PROCEDURE

20.1 A complaint of penalisation or for a breach of confidentiality under this policy can be made under *CHAS's* Grievance Policy.

20.2 A copy of the complaint of penalisation should be brought to the attention of the **Protected Disclosure Manager**.

20.3 Employees can make a complaint of Penalisation, under the Protected Disclosure Act 2014 to the Rights Commissioner (Adjudication Officer under the Workplace Relations Reform) in accordance with Schedule 2 of the Act.

21 COMMUNICATION, MONITORING AND REVIEW

21.1 This policy will be communicated to all workers and members and others we do business with.

21.2 This policy will be monitored for its effectiveness and will in any event be referred to joint union/management review every three years.