

Protected Disclosures

Policy and Procedures for disclosures to TII where a worker is a current or former TII employee or a Member of the Authority (Board)

Code of Practice Appendix E(i)

January 2023

IMPORTANT: This document does not purport to be an interpretation of the law or to offer legal guidance or advice. Any person considering making a protected disclosure should first consult the provisions of the Protected Disclosures Act 2014, as amended, and seek legal advice if necessary.

Guidance on the Protected Disclosures Act from the Department of Public Expenditure Reform can be found at <https://www.per.gov.ie/en/protected-disclosures-act-2014-and-guidance/> and also at <https://raiseaconcern.com/legislation/protected-disclosures-act-2014-guidance>

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1. Protected Disclosures Act 2014

The purpose of the Protected Disclosures Act, 2014, is to provide a framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in a work related context. The Act provides protection from penalisation if it results from the making of a protected disclosure.

2. TII Policy

The Board and Management of TII are committed to the highest standards of openness, probity and accountability. A workplace culture of encouraging disclosures of wrongdoing is supported to enable staff and other individuals associated with TII to voice concerns in a responsible and effective manner. Should an individual discover information which they believe shows malpractice or wrongdoing within TII then this information should be able to be disclosed internally without fear of reprisal. If a worker has a concern relating to suspected wrongdoing affecting any of TII's activities, they should report it under this Policy in line with the Procedures set out.

3. Principles

The following key principles form the basis of this Policy and Procedures:

- All reports of wrongdoing in the workplace should, as a matter of routine, be the subject of an initial assessment and any appropriate follow-up action;
- The focus of the process should primarily be on the wrongdoing reported and not on the reporting person;
- The identity of the reporting person and any person concerned should be adequately protected; and
- Provided that the reporting person discloses information relating to a relevant wrongdoing, in an appropriate manner, and based on a reasonable belief, no question of penalisation should arise.

4. Oversight

The TII Head of Governance & Legal has responsibility for the day-to-day management and co-ordination of procedures under the Protected Disclosures Act 2014 (as amended) and for production of prescribed reports. The Head of Governance & Legal will report on activity under this policy and procedure to the CEO who is responsible for oversight of the protected disclosures policy and procedures. This policy and procedures will be reviewed at least every three years.

5. What is a Protected Disclosure?

A protected disclosure is a **disclosure of information** which, in the **reasonable belief** of a **worker**, tends to show one or more **relevant wrongdoings**; came to the attention of the worker in a **work-related context**; and is disclosed in the manner prescribed in the Act.

6. Who is a worker under the Act?

The Protected Disclosures Act 2014 (as amended by the Protected Disclosures (Amendment) Act 2022), “the Act”, sets out the definition of worker to include current and former employees, consultants, contractors, paid or unpaid trainees, work experience students, shareholders, volunteers, interns, part-time, full-time, casual workers, agency workers, persons engaged in recruitment or pre-contractual processes and Board members. This policy covers former and current TII employees and Board Members. Separate procedures are in place for other workers reporting under the Act and these can be accessed here [NON-STAFF DISCLOSURE](#)

7. What is a relevant wrongdoing?

“Relevant wrongdoings” is defined in the Act as one or more of the following:

- an offence has been, is being or is likely to be committed;
- 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;
- a miscarriage of justice has occurred, is occurring or is likely to occur;
- the health or safety of any individual has been, is being or is likely to be endangered;
- the environment has been, is being or is likely to be damaged;
- 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;
- an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- a breach of specified EU law set out in EU Directive 2019/1937 on the protection of persons who report breaches of European Union law (the Directive) has occurred, is occurring or is likely to occur; or
- 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.

It is immaterial whether a relevant wrongdoing occurred, occurs or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other country or territory.

8. Exclusions from relevant wrongdoings

A matter is not a relevant wrongdoing if it is a matter concerning interpersonal grievances exclusively affecting the reporting person, such as grievances about interpersonal conflicts between the reporting person and another worker. Such reports should be channelled to other procedures designed to address such matters.

A matter is not a relevant wrongdoing if it 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.

9. What is information?

A protected disclosure should contain 'information' which tends to show wrongdoing. The ordinary meaning of disclosing information is conveying facts, such as stating that particular events have occurred. The Irish Supreme Court has held that to qualify as a protected disclosure a statement must contain such information which tends to show one or more relevant wrongdoings on the part of the employer and the disclosure must have sufficient factual content and specificity for this purpose, even if it does merely by necessary implication. This is different to simply making an allegation on the basis of a suspicion that is not founded on anything tangible.

10. What is a reasonable belief?

To ensure a disclosure is protected under the Act, a worker must have a "reasonable belief" that a wrongdoing has been committed, is being committed or is likely to be committed. The term "reasonable belief" does not mean that this belief is correct and where a worker discovers information in the course of their employment, which, in their reasonable belief, tends to show one or more 'relevant wrongdoings', it is important that they do not attempt to investigate the matter to verify these beliefs. They should, instead, report their concerns through the appropriate channels for assessment by TII. A reporting person will not be penalised simply because they were mistaken, so long as they had reasonable grounds for believing that the information disclosed showed, or tended to show, wrongdoing. A reporting person's motivation in making a report is irrelevant when determining whether or not a report is a disclosure protected by the Act, provided a reasonable belief can be demonstrated.

11. What is a work-related context?

The information must come to the attention of the reporting person in a work-related context. A work-related context means current or past work activities through which the reporting person acquires information concerning a relevant wrongdoing, and within which the reporting person could suffer penalisation for reporting the information.

12. Confidentiality

The identity of persons making disclosures must be protected under the Act. TII will take all reasonable steps to treat disclosures made through this procedure in a confidential and sensitive manner. A worker's identity will be protected with the exception of a number of specific cases:

- the recipient shows that they took all reasonable steps to avoid disclosing any such information;
- the recipient reasonably believes that the person making the disclosure does not object;
- the recipient reasonably believes that disclosing any such information is necessary for the effective investigation of the wrongdoing concerned, prevention of serious risk to the security of the State, public health, public safety or the environment, or prevention of crime, or prosecution of a criminal offence;
- disclosure is otherwise necessary in the public interest or is required by law;
- disclosure is a necessary and proportionate obligation imposed by EU or State law in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned.

Where it is decided that it is necessary to disclose information that may or will disclose the identity of the discloser, then the discloser will be informed of the decision in advance, except where the notification would jeopardise:

- the effective investigation of the wrongdoing;
- the prevention of serious risk to the security of the State, public health, public safety or the environment, or
- the prevention of crime or prosecution of a criminal offence.

TII will maintain all documentation related to disclosures in a secure digital environment to which only those staff tasked with management of protected disclosures have access. Any staff member involved in the investigation of protected disclosures will be under the same obligation to protect the identity of the discloser as the designated person.

In accordance with the Act, a failure to comply with the confidentiality requirement is actionable by the discloser if that person suffers any loss by reason of the failure of the recipient to comply.

Any person referred to in a protected disclosure, to whom a wrongdoing may be attributed, and any person connected with them, is also entitled to have their identity protected during the course of any assessment or investigation of the wrongdoing alleged.

No attempt should be made by TII staff, other than a designated person, to identify a reporting person. Any attempt to identify a reporting person, save as expressly permitted by this policy, whether successful or not will be dealt with as misconduct under TII's disciplinary policy.

13. Anonymous disclosures

There is a distinction between an anonymous disclosure (where identity is withheld by the worker making the disclosure) and confidential disclosures (where the identity of the discloser is protected by the recipient). Anonymous disclosures are not excluded from the protection of the Act. While TII undertakes to act upon an anonymous disclosure to the extent that it is possible, it may be very difficult to investigate the wrongdoing it reveals where the discloser is unknown and cannot be contacted.

Where a worker who makes an anonymous disclosure is subsequently identified they are entitled to the full protection of the Acts and cannot be penalised.

TII encourages any worker who makes a disclosure to provide their name and contact details to better support the assessment and investigation process.

A reporting person cannot obtain redress under the Act without identifying themselves as part of the process of seeking redress.

14. Procedures for making a disclosure - Internal

The Act provides for a "stepped" disclosure regime in which a number of distinct channels (internal and external) are available. It is important that a worker makes a protected disclosure in a manner prescribed by the Act to gain the protection afforded. A disclosure cannot be withdrawn once it has been made.

Where appropriate, a worker may wish to discuss their concerns informally with their line manager first, who may be able to address them in the first instance. In these circumstances, the formal reporting and follow-up requirements of the Act will not apply but the worker shall be entitled to all the protections of the Act. Where a line manager is asked to deal with a protected disclosure informally, they should notify the Head of Governance & Legal so that the disclosure can be logged for record keeping purposes.

If the concern cannot be addressed informally, or where the worker prefers to use formal channels in the first instance, the worker should report through the formal channel by making a disclosure to the **TII designated person for employee disclosures**. The TII designated person for employee disclosures is TII Assurance and Performance Reporting Manager. Reports to the designated person should be made to staffdisclosures@tii.ie or by requesting a meeting in person. Reports by Board Members should be made to the Secretary to the Authority. See Section 21 of this document for further details on reports by Board Members.

Where a report is made in person, the recipient may request that the disclosure is put in writing. When making a disclosure, the worker should disclose the information that they have, based on a

reasonable belief that it discloses a wrongdoing. Persons making a protected disclosure should frame it in terms of information that has come to their attention rather than seeking to draw conclusions about particular individuals or specific offences.

If an individual feels unable to raise the matter with the designated person, if they do not consider it to be appropriate or if the person feels that sufficient action has not been taken by the designated person to whom the disclosure was first made, they should contact the Head of Internal Audit. In doing so the worker should clearly set out the circumstances which prevent them reporting the matter to the designated person in the first instance or why they feel the matter requires further investigation.

15. Procedures for making a disclosure – External

It is preferable in most circumstances that a worker makes a disclosure using the internal procedures set out in this Procedure or, if that is not appropriate, using one of the external options set out below. Regard should be had to Section 10 of the Act, as amended, for additional reporting criteria for external reports to qualify as protected disclosures. In some specified circumstances it may be appropriate or required to report concerns to an external body such as a regulator or An Garda Síochana. We strongly encourage workers to seek advice before reporting a concern externally. Details of the support available are set out at Section 20 of this document. Workers can also seek advice from their own legal advisers.

A worker may seek to make their disclosure externally if certain conditions are met including that the worker:

- reasonably believes that they will be victimised;
- reasonably believes that relevant evidence will be concealed or destroyed;
- previously made a disclosure of substantially the same information to TII (internally using the above procedure); or
- that the relevant wrongdoing is of an exceptionally serious nature.

The Act provides for disclosures through a number of external channels. When a worker selects to make an external disclosure through any one of the following channels, they should be aware that there are different requirements to be met in each case.

- ***other responsible person*** - where the worker reasonably believes that the relevant wrongdoing relates solely or mainly to the conduct of a person other than the worker's employer or falls within that person's legal responsibility.
- ***a prescribed person*** - A protected disclosure can be made to a prescribed person in one of the bodies listed as prescribed persons pursuant to Section 7. Details of prescribed persons can be found on DPOR's website here <https://www.gov.ie/prescribed-persons>. It should be noted that, in the case of a report to prescribed persons there is an additional requirement that the reporting person must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true. The CEO of TII is a prescribed person by S.I. 367 of 2020.

As additional requirements apply to the making of a disclosure to prescribed bodies, staff are advised to report under this policy (Internal report) but can, under the Act, report to TII as a prescribed body. Full details of this process are set out in the Policy & Procedures for non-employees ([HERE](#)). Employees utilising the procedures for reports to prescribed bodies can avail of all protections against penalisation set out in this document.

- **a legal adviser** - where the worker makes the disclosure in the course of obtaining legal advice from a barrister, solicitor, trade union official, or official of an excepted body (excepted body is a body which negotiates pay and conditions with an employer but is not a trade union as defined in the Trade Union Act 1941).
- **the Minister for Transport** - It should be noted that additional requirements apply in the case of reports to a Minister and reporting persons should seek guidance before making such a report.
- **The Protected Disclosures Commissioner** - The Commissioner was established by the Protected Disclosures (Amendment) Act 2022 and has certain powers and responsibilities under that act. The Commissioner's primary duty is to refer reports to the most appropriate recipient. The criteria for reporting to the Commissioner are the same as for reporting to prescribed persons.
- **Making a Public Disclosure** - The requirements for the making of public disclosures e.g., to a media outlet, are set out in Section 10 of the Act. There are more onerous requirements for the making of public disclosures and workers are strongly recommended to take advice in relation to the making of such disclosures. Where a worker makes a disclosure to another person they should do so in writing and keep their own copy of the disclosure and any information provided with it.

16. Assessment of disclosures - Internal

All disclosures, however made, are taken seriously by TII and all efforts are made to address appropriately the issues raised. As soon as a disclosure has been received the recipient should report to the CEO that a disclosure has been made and include the nature of the information contained in the disclosure.

As it is not possible to know at the time of disclosure whether a disclosure will subsequently be deemed protected under the Act, the recipient should keep a written record of his/her actions, including timelines, in dealing with the disclosure.

The designated person will be responsible for case management and for reporting on disclosures received and it is important that they have complete information on the status of all disclosures received and action taken on foot of them.

(i) Acknowledgement of receipt of a Protected Disclosure

The designated person shall acknowledge receipt to the discloser in writing within seven days of the making of the disclosure unless the discloser has explicitly requested that they do not wish to receive any correspondence in relation to the disclosure made.

The designated person will give a broad outline to the discloser of the manner in which it is intended to deal with the disclosure and associated timelines. They will also indicate a reasonable timeframe for feedback which cannot be more than three months from the date of acknowledgement of receipt of the disclosure.

The acknowledgement will provide a link to this document, which contains details of the protected disclosures process, and will confirm that the identity of the discloser shall be maintained confidential, as set out in this document, and that persons making disclosures under this policy and procedures shall be protected from penalisation.

(ii) Initial Assessment

The designated person will carry out an initial assessment of the disclosure to determine whether it falls within the scope of this procedure and whether it is necessary to carry out an investigation into the disclosure.

The designated person should, as a minimum:

- record the disclosure and the steps taken to deal with it;
- clarify with the worker the basis of the concerns raised;
- establish what evidence is available to support the concern; and
- carry out all relevant enquiries promptly, sensitively and discretely, ensuring to protect the identity of the maker of the disclosure (if it is necessary to reveal the worker's identity to undertake an effective enquiry, consult with the relevant person in the first instance). The identity of any person referred to in the disclosure must also be protected.

At the conclusion of the initial assessment the designated person shall decide whether or not an investigation is to be carried out and shall communicate this outcome, with reasons, to the discloser. An example of a reason for which a disclosure might not proceed to investigation under this policy and procedure is where it relates to a complaint exclusively affecting the discloser, in which case the nominated person may encourage the discloser to avail of other processes for resolution of their complaint (e.g., HR grievance policies).

In certain circumstances, where the disclosure is of a serious nature, it may be necessary to refer the matter for external investigation e.g., to An Garda Síochána or other investigative or statutory body.

Where the designated person decides that an investigation is not warranted they will complete a report in the form of the template in Appendix I and send it to the CEO and Head of Governance & Legal.

If a discloser is not satisfied with a decision not to proceed to an investigation, he/she may seek a review of the decision as set out in section titled Review.

(iii) Full Investigation Stage

Where an investigation is required, a full investigation will be immediately initiated. The main purpose of the investigation is to assess whether the disclosure is based on a reasonable belief and grounded, based on a reasonable belief but ungrounded or is a deliberately false report.

Where the nature of the disclosure is such that another person in TII with the necessary knowledge, experience or technical skill in relation to the subject matter of the disclosure should be consulted in order to properly assess or investigate the disclosure, the designated person may consult with such person or persons and may delegate some or all of the investigative process to them if necessary. The designated person shall not disclose the identity of the discloser to such person or persons save as is necessary and permitted under this policy and procedure. The designated person shall remain responsible for the co-ordination of the assessment/investigation and the provision of acknowledgement, feedback and reports.

The steps to undertake a full investigation should as a minimum include:

- 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 concern;
- carry out all relevant enquiries promptly, sensitively and discretely, ensuring to protect the identity of the maker of the disclosure (if it is necessary to reveal the worker's identity to undertake an effective enquiry, consult with the relevant person in the first instance) and any person referred to in the disclosure;
- gauge the risk associated with the issue and take immediate action if the alleged wrongdoing involves a serious loss or danger to others;
- any investigation arising should, as with all other investigations, be carried out in a manner which is fully consistent with existing investigation procedures and embody the principles of natural justice;
- obtain evidence from any relevant witnesses;
- assess whether the disclosure report is based on a reasonable belief but ungrounded, based on reasonable belief and grounded or a deliberately false report;
- take appropriate action if the disclosure is grounded;
- if the disclosure is deliberately false, consider what action to take; and
- provide written feedback to the worker as set out below, including any proposed action.

Depending on the nature of the disclosure, the designated person may consider referring the matter to another senior official for investigation if they consider that that is more appropriate. Any such referral can only be done with the approval of the CEO.

The initiation of an investigation must be reported to the CEO by the investigator.

(iv) Conclusion of investigation and Feedback

It is not possible to lay down precise timescales or steps required for investigations, as this will depend on the nature of the issues raised.

The discloser will be provided with feedback on the progress of the investigation and, where appropriate, any action taken or expected to be taken to address the wrongdoing reported within three months of the acknowledgement of the receipt of the disclosure. Further feedback can be provided at three-month intervals thereafter upon request.

When providing feedback, the overriding requirement is that no information will be communicated that could prejudice the outcome of the investigation or any action that may ensue for example, by undermining the right to fair procedures enjoyed by any person against whom an allegation is made.

Any feedback given to a discloser is provided in confidence and should not be disclosed further, other than to the discloser's legal advisor or trade union representative or unless the information forms part of a further protected disclosure being made via another channel.

On completion of the investigation process, the designated person will report the outcome to the discloser and forward all records to the Head of Governance & Legal. The investigator shall also complete a report in the form of the template at Appendix I and shall send it to the CEO and Head of Governance & Legal.

Details of the final outcome provided to the discloser will be subject to legal restrictions applying to concerning confidentiality, legal privilege, privacy, data protection and any other legal obligation. Disclosers will not be provided with details of the commencement, progress or outcome of any disciplinary process involving another worker which may arise on foot of an investigation occasioned by a protected disclosure.

If, following the investigation into the matter, no wrongdoing is found to have occurred and the discloser is assessed not to have had a reasonable belief in making the allegation of wrongdoing, the details of the case will be referred to the CEO and the Head of Human Resources with a view to considering whether disciplinary proceedings ought to be pursued against the person concerned. If a discloser is not satisfied with the outcome of an investigation, they may seek a review.

(v) General principles for investigations

Fair Procedures and Natural Justice

Any investigation arising as a consequence of a disclosure will be carried out in a manner which has full regard to the principles of natural justice and fair procedures, including the protection of the rights of individuals against whom allegations of wrongdoing are made (the 'Respondent'). In many cases, the Respondent's right to fair procedures may include a right to challenge the evidence against them. This right will need to be balanced against rights contained in the Act, such as the discloser's right to have their identity protected.

Whether it is necessary to disclose the identity of the discloser, or not, will depend upon the facts of the case, which may include, for example, whether any allegation is made against an individual and the nature of that allegation. The designated person will need to consider such matters when determining whether a protected disclosure can be investigated and the nature of any investigation.

Terms of Reference

While terms of reference may not be necessary for all investigations, in the case of more complex or serious investigations the designated person may decide to draw up terms of reference. Terms of reference should be sufficiently broad to allow the investigator to take further actions or examine further issues that may arise in the course of the investigation and should not be unduly restrictive. Terms of reference will provide for the review of documents and interview of witnesses as appropriate. Terms of reference will be reviewed and approved by the CEO.

Legal Representation

While a discloser may seek legal advice in relation to the making of a protected disclosure, they shall have no right to have legal costs paid by TII. Disclosers shall have no automatic right to legal representation at investigation meetings but may be represented or accompanied by a co-worker or trade union representative. A right to legal representation shall only arise in exceptional circumstances. This applies equally to legal representation and legal costs for Respondents. In considering a request for legal representation the investigator shall consider whether failure to allow legal representation is likely to imperil a fair hearing or a fair result, taking into account the general circumstances of the case.

Right to review

Where an investigation under this policy and procedure has made an adverse finding against another worker (the Respondent), such that it gives rise to a disciplinary process or further investigations or processes against them, the Respondent shall have the right to seek a review of the outcome of the investigation.

Professional conduct

Where a worker has made a report, whether or not it has been assessed or investigated, the worker is still required to conduct themselves professionally and to continue to carry out their duties as normal. Normal management of a worker who has made a report does not constitute penalisation.

17. Review of assessments and investigations

In the event that a party affected by the following processes is not satisfied with:

- any decision made to disclose the identity of the discloser (except in exceptional cases);
- the conduct or outcome of follow-up actions (including assessment or investigation) undertaken on foot of the receipt of a report; and/or
- the conduct or outcome of any investigation in respect of any complaint of penalisation;

they may make a request for review of the process, decision and/or outcome. One review is available under the terms of this Procedure with the decision of that review deemed to be final. The discloser may make a request for review to the CEO, stating that the wrongdoing disclosed has already been assessed or investigated by the designated person and outline the reasons why they feel that it requires further investigation or review.

The CEO will commission a review of the matter by a person who has not been involved in the initial assessment, investigation or decision. This review may be carried out by a person from outside TII where appropriate. The review will be carried out following the procedures outlined in this Guideline for the assessment and investigation of disclosures. On completion of the review, the CEO will advise the discloser and the designated person as to whether a more detailed investigation is appropriate. A decision of the CEO not to pursue the alleged wrongdoing will be a final decision.

Where the disclosure made in the first instance was in respect of the CEO, the discloser may make a request for review to the Chairperson of the Board, stating that the wrongdoing disclosed has already been assessed or investigated by the designated recipient and outline the reasons why they feel that it requires further investigation or review.

The Chairperson of the Board will commission a review of the matter by a person who has not been involved in the initial assessment, investigation or decision. This review may be carried out by a person from outside TII where appropriate. The review will be carried out following the procedures outlined in this Guideline for the assessment and investigation of disclosures. On completion of the review, the Chairperson of the Board will advise the discloser and the designated person as to whether a more detailed investigation is appropriate. A decision of the Chairperson of the Board not to pursue the alleged wrongdoing will be a final decision.

All requests for review under this policy must be made within one month of the notification of the decision or outcome to the affected party.

The role of the reviewer will be to address the specific issues the applicant feels have received insufficient consideration and not to re-investigate the matter in question. The reviewer will consider:

- whether the correct procedures were followed;
- in the case of an investigation under terms of reference, whether the terms of reference were adhered to;
- whether the conclusions/findings could or could not reasonably be drawn from the information/evidence on the balance of probability.

18. Protection against penalisation

Any form of penalisation of workers who make protected disclosures is prohibited under the Act which makes the penalisation of reporting persons and connected persons a criminal offence.

TII confirms that penalisation of workers who make such a report will not be tolerated and no worker, who has a reasonable belief in the occurrence of a serious wrongdoing and discloses that concern, will be penalised for the making of that disclosure, even if no investigation subsequently

takes place, or where an investigation does take place and the investigation finds that no relevant wrongdoing occurred.

Penalisation can mean any direct or indirect act or omission that affects a reporting person, which occurs in a work related context, is prompted by the making of the report, and causes or may cause unjustified detriment to a worker and can include, for example, suspension, demotion or loss of opportunity for promotion, injury loss, threat of reprisal, failure to renew or early termination. This list is not exhaustive.

If a worker believes that they have been penalised for the making of a disclosure of wrongdoing in accordance with this procedure, they should inform the Head of Human Resources to seek redress.

19. Records and Reporting

Records of concerns raised, including the outcome, will be maintained for a minimum of five years after the closure of the case by the designated person. These records will be maintained in a confidential and secure environment.

TII is required under Section 22 of the Act to publish an annual report setting out the number of protected disclosures received in the preceding year and the action taken (if any). The Protected Disclosure confirmation will be included in the annual report and accounts of TII. This report is statistical in nature and does not result in any persons making disclosures being identifiable.

20. Data Protection and Freedom of Information

It is acknowledged that many protected disclosures will involve the processing of personal data within the meaning of the General Data Protection Regulations (e.g., the collection, registration, storage, disclosure and destruction of data related to an identified or identifiable person). Such information will be managed and processed in accordance with TII's Data Protection Policy and Procedures.

It should be noted that Section 16 B of the amended Act introduces new provisions whereby, in certain circumstances, and only where deemed necessary and appropriate, the rights of data subjects may be restricted to prevent the disclosure of information and identification of persons making disclosures. It may for example result in a data subject access request being denied. The Act also restricts the application of the Freedom of Information Act 2014 (FOI Act) and the FOI Act will not apply to a record relating to a report made under the Protected Disclosures Acts.

21. Support and Advice

Support and advice of the interpretation and operation of this policy and procedures can be sought from the TII Head of Governance & Legal, or at governance@tii.ie

Further information on the Protected Disclosures Act is available on the Department of Public Expenditure and Reform website at <https://www.gov.ie/en/publication/e20b61-protected-disclosures-act-guidance-for-public-bodies/>

Independent information is available on the Citizens Information website https://www.citizensinformation.ie/en/employment/enforcement_and_redress/protection_for_wistleblowers.html

Transparency International Ireland offers a free Speak Up helpline and advice centre, funded by the Exchequer, to support workers seeking to make disclosures under the Act and details can be found on their website <https://www.transparency.ie/helpline>

This document will be available to staff on the TII intranet as Appendix E(i) of the Code of Practice for the Governance of TII.

22. Reports by Members of the Authority (Board Members)

A Member of the Authority appointed by the Minister for Transport under The Roads Act 1993, or a member of the Board or sub-committee of the Board co-opted or otherwise appointed by the Board, should report in line with this policy to the Secretary to the Board. Where it would be inappropriate to report to the Secretary, reports can be made to the Head of Internal Audit. All other provisions of this policy and procedure will apply in respect of such reports.

23. Guidance for making a disclosure

Disclosures should, ideally, be made in writing. When writing a report, a worker should demonstrate and support the reasons for their concerns and provide evidence of the concerns where such evidence is available. Any such reports should be factual (to the best of the worker's knowledge) and should address the following details, at a minimum:-

- that the disclosure is being made under the Protected Disclosures Policy & Procedures;
- the discloser's name, position in TII, place of work and confidential contact details;
- what has occurred/is occurring/likely to occur;
- when it occurred - the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- where it occurred;
- who was involved - the name of the person(s) allegedly involved (if any name is known and the worker considers that naming an individual is necessary to expose the wrongdoing disclosed);
- has it happened before;
- whether or not it is still ongoing;
- whether it has already been raised with anyone either within TII or externally? If so, to whom, when, and what action was taken;
- are there any other witnesses;
- is there any supporting information or documentation;
- how the matter came to light; and
- any other relevant information.

TII Governance & Legal Department

January 2023

APPENDIX I – PROTECTED DISCLOSURES - TEMPLATE REPORT OF RECIPIENT

<p>This report is to be completed by the recipient of a Protected Disclosure of a relevant wrongdoing under the 2014 Act, as amended, and will be used by TII to ensure that wrongful acts notified to the organisation are appropriately managed. In line with the requirements of the act, the identity of the person making a disclosure is to be protected and no details that might identify such a person are to be included in this report (such as name, role, contact details or other information that might lead to identification). The report should be returned to the Head of Governance & Legal as soon as possible but no later than 15th January annually for disclosures made in the preceding year.</p>	
DATE OF FIRST CONTACT BY PERSON MAKING DISCLOSURE:	
PROVIDE DETAILS OF THE ALLEGED PROTECTED DISCLOSURE (do not include anything that might identify the discloser):	
DID THE INITIAL ASSESSMENT INDICATE THAT THE REPORT MADE REQUIRED INVESTIGATION UNDER THE TII PROTECTED DISCLOSURES POLICY (IF NOT, GIVE REASON)	
PROVIDE DETAILS OF STEPS TAKEN TO INVESTIGATE THE ALLEGATIONS MADE:	
DID ANY SUCH INVESTIGATION SUPPORT THE ALLEGATION OF WRONGDOING?	
IF THE ALLEGATION WAS FOUND TO BE SUPPORTED, WHAT STEPS HAVE BEEN TAKEN TO ADDRESS THE WRONGDOING ALLEGED?	
HAS THE ISSUE BEEN RESOLVED?	
HAS THE ORIGINAL DISCLOSER BEEN ADVISED OF THE OUTCOME OF ANY INVESTIGATION BY TII?	
PLEASE PROVIDE ANY FURTHER DETAILS YOU BELIEVE TO BE RELEVANT TO THE DISCLOSURE MADE IN THIS CASE (do not include anything that might identify the discloser)	



Bonneagar Iompair Éireann
Transport Infrastructure Ireland



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