



Protected Disclosures Policy

Purpose of this document

Léargas is committed to conducting its business with honesty and integrity, creating a workplace culture that supports the making of protected disclosures and provides protection for reporting persons. However, all organisations face the risk of things going wrong from time to time, or of unknowingly and unintentionally harboring illegal or unethical conduct.

The Protected Disclosures (Amendment) Act 2022 updated the Protected Disclosures Act 2014 and transposes the EU Whistleblowing Directive.

Our aim is to ensure that there is a clear and straightforward channel to raise issues of concern. We aim to provide a safe way to raise any concern about wrongdoing and to increase the likelihood that we can deal with wrongdoing or unacceptable behavior in time to prevent serious damage to our company.

Review frequency

As and when required by legislation. Training for relevant staff will be provided in line with review periods.

Scope

Who does the policy apply to?

This policy applies to all employees irrespective of your employment type or status, it also includes contractors and agency workers.

Léargas also acknowledges the coming into effect of the Protected Disclosures (Amendment) Act 2022 which extends workers to include contractors, volunteers, unpaid trainees, board members, shareholders, members of administrative, management or supervisory bodies and job applicants (where information on a relevant wrongdoing is acquired during the recruitment process or during pre-contractual negotiations).

It is important to note that should you have a concern in relation to your own employment or personal circumstances in the workplace it should be dealt with by way of our Grievance Procedure. Likewise concerns arising in regard to workplace relationships should generally be dealt with through our Dignity at Work policy.

It is also important to note that this policy does not replace any legal reporting or disclosure requirements. Where statutory reporting requirements and procedures exist these must be complied with fully.

Definitions

What is a Protected Disclosure or Whistleblowing?

A Protected Disclosure is the term used when an individual raises a concern about a relevant wrongdoing to comply with any legal obligation which came to their attention in connection with their employment.

Making a Protected Disclosure is also known as the act of Whistleblowing. The term is used when an individual raises a concern about a relevant wrongdoing such as possible fraud, crime, danger or failure to comply with any legal obligation which came to the worker's attention in connection with the worker's employment.

A "whistleblower" is an individual who raises a genuine concern about a relevant wrongdoing. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a "whistleblowing concern") you should report it under this policy.

What is a Relevant Wrongdoing?

An Act or Omission that is unlawful and / or falls within the scope of certain EU acts relating to, amongst other things, financial services, anti-money laundering and terrorist financing (AML/TF), public health and consumer protection.

Examples include: Criminal Offences, failure to comply with a legal obligation (other than a workers contract of employment), miscarriage of justice, endangerment of health and safety, damage to the environment, unlawful or improper use of public funds/resources or money, oppressive, discriminatory or negligent behavior or gross mismanagement, breaches of EU law and concealing or destroying evidence of wrongdoing.

Matters concerning interpersonal grievances exclusively affecting a reporting person, namely grievances about interpersonal conflicts between the reporting person and another worker, or a matter concerning a complaint about the employer which concerns the work exclusively, shall not be a relevant wrongdoing for the purposes of this Act and may be dealt with through other procedures, namely the Grievance Policy.

What is Penalisation?

Penalisation is any direct or indirect act or omission which occurs in a work related context, is prompted by the making of a report and causes, or may cause, unjustified detriment to a worker. Léargas will make all efforts to protect whistleblowers from penalisation. Penalisation includes:

- suspension, lay-off, dismissal, demotion
- loss of opportunity for promotion or withholding of promotion
- transfer of duties, change of location of place of work, reduction in wages or change in working hours.
- imposition or administering of any discipline, reprimand or other penalty
- coercion, intimidation, harassment or ostracism
- discrimination, disadvantage or unfair treatment
- injury, damage or loss
- threat of reprisal
- withholding of training
- negative performance assessment or employment reference
- failure to convert a temporary employment contract into a permanent one, where the worker had legitimate expectations that they would be offered permanent employment.
- failure to renew or early termination of a temporary employment contract.
- harm, including to the reporting person's reputation, particularly in social media, or financial loss, including loss of business or income.
- blacklisting on the basis of a sector or industry wide informal or formal agreement, which may entail that the reporting person will not, in the future, find employment in the sector or industry.
- early termination or cancellation of a contract for goods or services.
- cancellation of a licence or permit.
- psychiatric or medical referral.

Our Commitment

Léargas is committed to maintaining an open culture with the highest standards of honesty and accountability where our workers can report any concerns in confidence.

Aims of the Policy

- To encourage you to feel confident and safe in raising concerns and disclosing information;
- To provide avenues for you to raise concerns in confidence and receive feedback on any action taken;
- To ensure that you receive a response where possible to your concerns and information disclosed;
- To reassure you that you will be protected from penalisation or any threat of penalisation.

What types of concerns can be raised?

A concern or disclosure should relate to a relevant wrongdoing such as possible fraud, crime, danger or failure to comply with any legal obligation which has come to your attention in connection with your employment and about which you have a reasonable belief of wrongdoing.

What types of concerns should not be raised under this Procedure?

A personal concern, for example a grievance around your own contract of employment would not be regarded as a whistleblowing concern and would be more appropriately processed through our Grievance Procedure.

Safeguards and Penalisation

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

Penalisation outlined above or other unfavourable treatment arising from raising a concern or making a disclosure on the basis of reasonable belief for doing so. If you believe that you are being subjected to penalisation as a result of making a disclosure under this procedure, you should inform your manager immediately.

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

Workers are not expected to prove the truth of an allegation. However they must have a reasonable belief that there are grounds for their concern. It should be noted that appropriate disciplinary action may be taken against any worker who is found to have raised a concern or raised a disclosure with malicious intent.

Confidentiality

Léargas is committed to protecting the identity of the worker raising a concern and ensuring that relevant disclosures are treated in confidence. The focus will be on the wrongdoing rather than the person making the disclosure.

However there are circumstances, as outlined in the Act, where confidentiality cannot be maintained particularly in a situation where the worker is participating in an investigation into the matter being disclosed. Should such a situation arise, Léargas will make every effort to inform the worker that his/her identity may be disclosed.

Raising a Concern Anonymously

A concern may be raised anonymously. However an anonymous complaint should provide as much detail as possible otherwise, on a practical level, it may be difficult to investigate such a concern. Léargas would encourage workers to put their names to allegations, with an assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for us to assess the disclosure and take appropriate action including an investigation if necessary.

How to raise a concern

Concerns may be raised verbally or in writing but must state clearly that this is a protected disclosure. Should you raise a concern verbally The Protected Disclosures Officer will keep a written record of the conversation and provide you with a copy after the meeting. Should you raise a concern in writing it will be helpful if you give the background and history of the concern, giving relevant details, insofar as is possible, such as dates, sequence of events and description of circumstances.

The earlier you express the concern the easier it will be for the matter to be dealt with quickly. Having raised your concern with the Protected Disclosures Officer, a meeting will be arranged to discuss the matter with you on a strictly confidential basis. There will be a need to clarify at this point if the concern is appropriate to this procedure or is a matter more appropriate to other Léargas procedures, for example the Grievance or Dignity in the Workplace procedures. You can choose whether or not you want to be accompanied by a colleague or a trade union representative. In regard to confidentiality, it is important that there should be an awareness of respecting sensitive company information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

Procedure

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Raising a Concern Internally

As a first step, appropriate concerns should be raised with the Protected Disclosures Officer. This is the Head of Finance and Corporate Services. In the event that the Protected Disclosures Officer is unavailable or is a subject of the disclosure then the Executive Director may be contacted. The Protected Disclosures Officer is fully trained in the process of conducting investigations in regard to disclosures.

The Protected Disclosures Officer will acknowledge receipt of your disclosure, in writing, within 7 days. Léargas will carry out an initial assessment to decide whether there is prima facie evidence that a relevant wrongdoing has occurred and will give feedback to the reporting person within 3 months and continue to do so within 3 monthly intervals, until the assessment/investigation is complete.

Having conducted an initial assessment, appropriate action will be taken to correct the relevant wrongdoing having regard to the serious nature of the matter concerned. If, however, Léargas determines that no prima facie evidence exists that a relevant wrongdoing occurred, the reporting person will be notified in writing of the decision and the reasons.

Léargas, where possible, will make every effort to protect the identity of the reporting person and shall not disclose any information that might identify the reporting person either directly or indirectly without explicit consent from the reporting person. Sometimes the need for confidentiality may prevent us from giving specific details of any steps, including the outcome of any investigation or sanctions taken as a result.

External Reporting Channels

The aim of this Policy is to provide an avenue within this workplace to deal with concerns or disclosures in regard to wrongdoing. Léargas is confident that issues can be dealt with “in house” and strongly encourages workers to report such concerns internally.

Léargas acknowledges that there may be circumstances where an employee wants to make a disclosure externally, and the legislation governing disclosures — The Protected Disclosures Act 2022 — provides for a number of avenues in this regard.

Reporting Persons can also choose external reporting channels through a competent prescribed person. If you decide to report externally to a prescribed person please ensure that you choose the right person or body to address your concerns. Below is a list of external prescribed persons.

<https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/#>

It is important to note however that while you need only have a reasonable belief as to wrong doing to make a disclosure internally, if you are considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made.

How Léargas will deal with your disclosure

Individuals are not required or entitled to investigate matters themselves to find proof of their suspicion(s) and should not endeavor to do so. You should disclose the information that you have based on a reasonable belief that it discloses a concern or wrongdoing. This procedure enables all employees to raise any genuine concern(s) relating to Léargas in the correct way and at an early stage, in the confidence that they will not be penalised or suffer detriment for having done so.

Having met with you in regard to your concern and clarified that the matter is in fact appropriate to this procedure, an initial assessment will be carried out to examine what actions Léargas needs to take to deal with the matter. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation. You may bring a colleague with you to an investigation meeting.

We will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent us from giving you specific details of the investigation or any disciplinary action taken as a result. You must treat any information about the investigation as confidential.

In the event of a concern being raised, we will arrange a meeting with the employee to discuss the matter on a strictly confidential basis. The meeting will be conducted by an independent member of management or external assistance may be necessary in some circumstances so as to ensure impartiality, objectivity and fairness. An employee is permitted to have a representative present (colleague).

The employee will be advised of any support that may be available at this time. We will clarify at this point if the concern is appropriate to this policy or is a matter more appropriate to our other policies, for example our Grievance or Dignity in the Workplace policies.

Disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the appropriate authorities. Likewise if urgent action is required (for example to remove a health and safety hazard), this action will be taken.

It is important to Léargas that you feel assured that a disclosure made by you under this policy is taken seriously and that you are kept informed of steps being taken in response your disclosure. In this regard Léargas undertakes to communicate with you as follows:

- The Protected Disclosures Officer will acknowledge receipt of your disclosure and arrange to meet with you as outlined above;
- They will inform you of how it is proposed to investigate the matter and keep you informed of actions, where possible, in that regard, including the outcome of any investigation, and, should it be the case, why no further investigation will take place. However it is important to note that sometimes the need for confidentiality and legal considerations may prevent us from giving you specific details of an investigation.
- You will be informed of the likely time scales in regard to each of the steps being taken but in any event Léargas commits to dealing with the matter as quickly as practicable.

It is possible that in the course of an investigation you may be asked to clarify certain matters. To maximize confidentiality such a meeting can take place off site and you can choose whether or not to be accompanied by a colleague or trade union representative.

Where a concern is raised or a disclosure is made in accordance with this policy, but the allegation is subsequently not upheld by an investigation, no action will be taken against the worker making the disclosure and the worker will be protected against any penalisation. It is important to note that if an unfounded allegation is found to have been with malicious intent, then disciplinary action may be taken.

What action will be taken by Léargas

As soon as practicable after any investigation, recommendations as to what further steps are to be taken will be made. Such recommendations may (without limitation) include one or more of the following:

- that the matter should be reported to An Garda Síochána; and/or
- that the matter will be investigated further internally by Léargas or by external auditors or investigators appointed by Léargas.

Action will not normally be taken where Léargas is:

- satisfied that the malpractice has not occurred or is not likely to occur;
- aware that the matter is already subject to legal proceedings, or has already been referred to the police or other public authority;
- aware that the matter is already (or has already been) the subject of proceedings under one of our other appropriate procedures or policies; and/or
- satisfied that you do not have a reasonable belief that malpractice within the meaning of this policy has occurred, is occurring or is likely to occur.

If Léargas concludes that you have made false allegations intentionally, disciplinary action may be taken against you. However, this policy provides protection for concerns raised in good faith even if you are wrong.

Communication, Monitoring and Review

This policy will be communicated as appropriate and will be subject to regular monitoring and review in consultation with our workforce and their representatives. Please note that the Minister may issue guidance for the purpose of assisting public bodies in the performance of their functions under the Act and may, from time to time, revise or re-issue it.

Reporting

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Léargas will report annually (no later than June 30th each year) in the context of its annual report on:

- The number of protected disclosures made to Léargas
- The action taken (if any) in response to those protected disclosures,
- Such other information relating to those protected disclosures and the action taken as may be requested by the Minister from time to time.

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