

# Protected Disclosures Policy 2024

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<b>Purpose</b>	The provide for protections and procedures for staff in making certain disclosures.
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<b>Who needs to know about this document</b>	All IADT Staff Members, Governing Body Members, Job Applicants and Volunteers
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Table of Contents

- 1 INTRODUCTION ..... 5
- 2. PROTECTED DISCLOSURES DEFINITIONS AND TERMINOLOGY..... 7
- 3 SCOPE/NOT IN SCOPE..... 8
- 4 RELEVANT WRONGDOING ..... 9
- 5 PROTECTION..... 9
- 6 ANONYMOUS CONCERNS RAISED BY A DISCLOSER ..... 12
- 7 DISCLOSURE PROCESS ..... 12
- 8 HOW TO MAKE A DISCLOSURE ..... 13
- 9 REPORTING OF DISCLOSURES ..... 14
- 10 REVIEW ..... 16
- 11 RECORDS ..... 16
- 12 REPORT..... 16
- 13 EXTERNAL..... 17
- 14 TRAINING..... 18
- 15 COMMUNICATION, MONITORING AND REVIEW ..... 18
- APPENDIX 1 – ADVICE FOR STAFF MAKING A DISCLOURE..... 20

# 1 INTRODUCTION

- 1.1 Dún Laoghaire Institute of Art, Design and Technology (IADT) is committed to the highest possible standards of honesty, openness, probity and accountability. The Institute has put in place a wide range of codes of practice, procedures, regulations and rules to deliver on its commitments and to deter and detect malpractice, abuse and/or wrongdoing
- 1.2 On behalf of the Institute, the Governing Body and the President confirms, through this Policy their commitment to fostering a workplace culture that supports the making of protected disclosures and provides protection for reporting persons. This Policy sets out the range of disclosure options available to reporting persons as well as the protections that are available for reporting persons. Malpractice, abuse or wrongdoing will not be tolerated within the Institute or in any activities related to the Institute. The Institute supports members of the Institute community who have bona fide concerns about such malpractice to come forward and voice those concerns, without fear of reprisal.
- 1.3 The Institute recognises that its staff and students have an important role to play in achieving the standards outlined in this Policy. This Policy is intended to encourage and enable staff of the Institute to raise concerns within their workplace rather than overlooking a problem or reporting the problem externally. Under this Protected Disclosure Policy, a staff member or other reporting person is entitled to raise concerns or disclose Relevant Information appropriately without fear of penalty or threat of less favorable treatment, discrimination or disadvantage.
- 1.4 IADT recognises that staff, and others working with and on behalf of IADT have an important role to play in supporting the Institute's commitment to maintaining the highest standards of honesty, openness, probity and accountability. Staff who become aware of potential irregularities are encouraged to raise their concerns as soon as possible through the usual academic and line management structures, which are the normal and appropriate mechanisms to address issues. IADT Students also have mechanisms through the Institute's Academic Processes and through the Student Union for addressing their concerns. Persons raising concerns are also required to be aware of the other policies supporting standards which provide formal procedures in relation to specific areas including but not limited to:
- i. Children & Vulnerable Adults Policy
  - ii. Grievance Procedures
  - iii. Mutual Respect Policy
  - iv. Equal Opportunities Policy
  - v. Procurement Policy
  - vi. Recruitment and Selection Procedures
  - vii. Academic Procedures and Regulations
  - viii. Financial Procedures and Regulations
  - ix. HR Procedures and Regulations
  - x. Prevention and Detection of Fraud Policy
  - xi. Disciplinary Procedures

These policies and others are available either on Orchard (staff Intranet) or online at [www.iadt.ie](http://www.iadt.ie)

- 1.5 This Protected Disclosures Policy has been introduced by the Institute to enable individuals make bona fide disclosures about malpractice, abuse or wrongdoing at an early stage and in the appropriate manner, without fear of penalisation, victimisation, subsequent discrimination or

disadvantage. The Policy is intended to enable individuals to raise genuine concerns through the appropriate channel. The Policy outlines how employees and other workers including former employees, board members, shareholders, contractors, job applicants, individuals involved in contract negotiations, trainees and third parties such as agency workers and independent contractors should report confidential disclosures of relevant information (Whistleblowing) and how these disclosures will be dealt with.

1.6 The following key principles inform this Policy:

All reports of wrongdoing in the workplace will be the subject of an initial assessment and any appropriate follow-up action;

- i. The focus of the process will primarily be on the wrongdoing reported, and whether it is a relevant wrongdoing for the purpose of the act, and not on the reporting person;
- ii. The identity of the reporting person and any person concerned will be protected to the greatest extent possible; and
- iii. A reporting person disclosing information relating to a relevant wrongdoing, in an appropriate manner, and based on their reasonable belief, can be assured that penalisation will not arise

1.7 Where an Individual is of the reasonable belief that it is not appropriate or possible to make a disclosure through the usual informal or formal mechanisms described within the above Policies, this Protected Disclosures Policy sets out how a reporting person, others working with and on behalf of IADT may report information of significant matters of alleged wrongdoings in relation to IADT which they reasonably believe to be true, and how such disclosures will be investigated.

1.8 This Policy does not address all possible situations that may arise but is intended to provide guidance on the procedure to make confidential disclosures under this Policy.

1.9 The Institute has a range of policies and processes to address concerns, however, this Policy is not designed to address matters which would be more appropriately investigated through other formal mechanisms established in other IADT or Government Policies.

1.10 This Policy is not intended as an appeals process for other policies or procedures nor should it be used to re-open any matters which have previously been addressed either by this Policy or any other IADT policies or procedures. However, the Designated Person, on a case by case basis may consider disclosures made in respect of matters previously dealt with.

1.11 This policy should be read in conjunction with the Protected Disclosures Act 2014 (the Act), The Protected Disclosures Amendment Act 2022 (together with the Act, the Acts), any future amendments to those acts along with Protected Disclosure Act Statutory guidance for public bodies and prescribed person, November 2023 and any guidance documents issued by the Protected Disclosures Commissioner or the Workplace Relations Commission all of which take precedence in respect of this policy.

1.12 This Policy has been introduced in line with legislation under the Protected Disclosures Act 2014,

Statutory Instrument No 367 of 2020, the Protected Disclosures (Amendment) Act 2022, Statutory Instrument No 510 of 2022, Statutory Instrument No 464 of 2015.

## 2. PROTECTED DISCLOSURES DEFINITIONS AND TERMINOLOGY

- 2.1 A Protected Disclosure is the written, although may be oral, disclosure by workers of relevant information that came to the attention of the worker in a work-related context and in the reasonable belief of the worker that tend to show one or more relevant wrongdoings as defined under the Act. This policy and procedures outline a mechanism for employees and other workers to raise serious concerns about relevant wrongdoings internally, so that problems can be identified and resolved in a timely manner.
- 2.2 A worker, or reporting person is defined in the Act and this Policy as:
- i. any IADT staff member, either existing and former;
  - ii. any other person working with or on behalf of IADT such as an Agency Worker;
  - iii. any Contractor or their employees;
  - iv. any Trainees undergoing training at IADT;
  - v. any Volunteers assisting IADT;
  - vi. all Governing Body Members, including all external members of Governing Body Committees;
  - vii. any Person applying for employment with IADT.
- 2.3 A Reasonable Belief is one which may be demonstrated to have a basis in fact that in the opinion of a third party would be accepted as having sufficient validity at the time of reaching the decision, albeit that the facts when substantiated do not support the belief.
- 2.4 Relevant Wrongdoing is information connected with IADT as described in the Act and in Section 4 below which may include:
- i. The commission of an offence, particularly a criminal offence;
  - ii. The failure of a person to comply with a legal obligation (excluding contracts of employment);
  - iii. A miscarriage of justice;
  - iv. A danger to the health or safety of a person or persons;
  - v. Damage to the environment;
  - vi. An unlawful or improper use of IADT/Public funds or resources;
  - vii. An act or omission by or on behalf of IADT that is oppressive, discriminatory, grossly negligent, or constitutes gross mismanagement;
  - viii. Breaches of EU Law (including EU Laws dealing with public procurement, financial Services, prevention of money laundering and terrorist financing, environmental

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<sup>1</sup> <https://www.irishstatutebook.ie/eli/2020/si/367/made/en/print>

<sup>2</sup> <https://www.irishstatutebook.ie/eli/2022/si/510/made/en/print>

<sup>3</sup> <http://www.irishstatutebook.ie/eli/2015/si/464/made/en/pdf>

- protection, the protection of privacy and personal data among others);
- ix. Concealment or potential destruction of information in relation to relevant wrongdoings listed in (i) to (viii) above.
  - x. Oppressive, discriminatory, grossly negligent or grossly mismanaged acts or omissions by a public body
  - xi. Any other serious improper action or conduct

It is 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.

- 2.5 A Recipient is the person designated within this Policy who receives a Protected Disclosure, and for the purposes of this Policy is the Chairperson, pro tem, of the IADT Audit and Risk Committee, who is a member of the Governing Body and a person external to the Institute.

### **3 SCOPE/NOT IN SCOPE**

This policy applies to all of our workers including our employees and former employees, agency workers, trainees, apprentices, interns and contractors. It also includes board members, shareholders, job applicants and volunteers.

- 3.1 This Policy is designed to allow persons listed in Section 2.2 above to disclose information, through an appropriate channel, which the person making the disclosure believes, in good faith, shows evidence of malpractice, abuse or wrongdoing.
- 3.2 Where a worker has a concern in relation to their own employment or personal circumstances in the workplace then it should be dealt with by way of the Institutes Grievance Procedures. Similarly, concerns arising in regard to workplace relationships should generally be dealt with through IADT's Dignity at Work policy or Grievance procedures as appropriate.
- 3.3 A protected disclosure, made in accordance with the 2014 Act as amended, is a disclosure of information which, in the reasonable belief of the individual, tends to show one or more relevant wrongdoings:
- has come to the attention of the individual worker in connection with the individual's employment;
  - and*
  - is disclosed in the manner prescribed in the Act.
- 3.4 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. This is different to simply making an allegation on the basis of a suspicion but the general context of any statement would need to be assessed to determine if it qualifies as a protected disclosure.

## **4 RELEVANT WRONGDOING**

- 4.1 For an individual to be protected in the making of a disclosure, the subject matter of the disclosure must refer to one or more relevant wrongdoings.

For the purposes of the Act, the following are relevant wrongdoings:

- i. that an offence has been, is being or is likely to be committed;
- ii. that 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;
- iii. that a miscarriage of justice has occurred, is occurring or is likely to occur;
- iv. that the health or safety of any individual has been, is being or is likely to be endangered;
- v. that the environment has been, is being or is likely to be damaged;
- vi. that an unlawful or otherwise improper use of funds or resources of a public body, or of other
- vii. public money, has occurred, is occurring or is likely to occur;
- viii. that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- ix. that a breach of specified EU law set out in the Directive has occurred, is occurring or is likely to occur; or
- x. that 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 or an attempt has been, is being or is likely to be made to conceal or destroy such information

- 4.2 This policy does not cover personal complaints or personal grievances or matters otherwise falling under a worker's personal contract of employment or engagement.

- 4.3 Individuals are expected to use the most appropriate and relevant procedure in relation to issues as they arise. Where a procedure already exists for raising an issue, then the individual is expected to follow the relevant procedure for example: Grievance Procedure. It is not intended that this Policy would reconsider any matter that has already been addressed through other Institute procedures.

## **5 PROTECTION**

- 5.1 Individuals who make a disclosure in good faith under this Policy will not be at risk of penalisation as listed in 5.2 below as a result of making a disclosure; except where it is found that the individual has been complicit in the malpractice, abuse or wrongdoing itself (either by direct action or the failure to act when they became aware of the matter concerned). So long as they have not themselves been complicit, individuals will be protected even if the matter is found to be mistaken, provided they:

- i. Are acting in good faith; and
- ii. Believe, on reasonable grounds, that the information disclosed is accurate; and
- iii. Have not made the allegation for the purpose of obtaining payment or personal gain.

5.2 In accordance with the legislation and this Policy an individual cannot be penalised for making a disclosure. Penalisation is defined as any direct/indirect act or omission, which occurs in a work-related context, which is prompted by the making of a report, and which in turn causes or may cause unjustified detriment to the worker. For the purpose of this policy, if an individual believes that they are the victim of actual or perceived penalisation as a result of making a disclosure, they should report the matter directly to the Designated Person, or a member of the Audit and Risk Committee without delay. It shall be the responsibility of the Designated Person to take the necessary actions in response to this complaint, in a timely fashion.

Penalisation includes any of:

- i. Suspension, lay-off or dismissal;
- ii. Demotion or loss of opportunity for promotion or withholding promotion from a worker;
- iii. Transfer of duties, change of work location, reduction in wages or changing in working hours;
- iv. Unwarranted disciplinary action, reprimand, or other penalty including financial penalty;
- v. Unfair treatment;
- vi. Coercion, intimidation, harassment or ostracism;
- vii. Discrimination, disadvantage or unfair treatment;
- viii. Injury, damage or loss
- ix. Threat of reprisal
- x. Withholding of training
- xi. Negative performance reviews or employment references;
- xii. Failure to renew, early termination or failure to make permanent of a temporary employment contract;
- xiii. Blacklisting within an industry or sector;
- xiv. Harm, including the workers reputation, particularly on social media, or financial loss, including loss of business or income;
- xv. Early termination or cancellation of a contract for goods or services;
- xvi. Cancellation of a licence or permit; and
- xvii. Psychiatric or medical referrals.

5.3 Any employee who retaliates against or penalises a reporter for having made a disclosure may be subject to disciplinary action, up to and including dismissal, in accordance with IADT's Disciplinary Policy.

5.4 Workers are encouraged to feel confident in reporting disclosures under this policy. Disclosures raised will be treated seriously and each case will be considered on its own facts. Disclosures must be raised in good faith. Even if the information is subsequently proved to be incorrect, reporters are still protected and will not suffer any adverse reaction, provided they had a reasonable belief in the information set out in the disclosure. However, this policy may not be used to raise any concerns containing any information that the reporter knows is incorrect. Disclosures must be genuine and bona fide. False or misleading information must not be knowingly submitted through the protected disclosure process. False reports deemed to have been made intentionally in bad faith may be dealt with by way of the Institutes Disciplinary procedures.

5.5 The motivation for making a disclosure is not relevant to whether or not it is protected. All protected disclosures will be dealt with in the same manner regardless of the motivation of the



individual in making the report, the individual will be protected so long as the individual reasonably believes that the information disclosed tended to show a wrongdoing.

- 5.6 A reporting person should have a reasonable belief that the information being disclosed shows or tends to show, wrongdoing. The term “reasonable belief” does not mean that the belief has to be correct. Reporting persons are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds. It may be quite reasonable for a reporting person to believe that a wrongdoing is occurring on the basis of what they observe. A reporting person is not obliged to find proof of their suspicion. In such a case the reporting person may have reasonable grounds for believing that some form of wrongdoing is occurring, but it may subsequently turn out that the reporting person was mistaken. Reporting Persons can take confidence that no reporting person will be penalised simply for getting it wrong, so long as the reporting person had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.
- 5.7 However, a report made in the absence of a reasonable belief may not attract the protection of the Act and may result in disciplinary action against the reporting person. In addition, disclosure of a wrongdoing does not necessarily confer any protection or immunity on an individual in relation to any involvement they may have had in that wrongdoing.
- 5.8 While the Institute welcomes the submission of all genuine disclosures, it will nevertheless view very seriously any false, malicious, frivolous or vexatious allegations that are made under this Policy. The Institute will regard such allegations by any reporting persons as a serious offence which may result in disciplinary action in accordance with the Institute’s Disciplinary Procedures.
- 5.9 While no individual will be subject to disciplinary or other investigative processes as a result of the making of a valid Protected Disclosure, the making of a Protected Disclosure will not inhibit the initiation or progress of any investigation or process being conducted under any of the Institute’s Disciplinary, Grievance or Mutual Respect Policies or under any other Policy of the Institute.
- 5.10 The Institute will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect individuals who make disclosures in good faith.
- 5.11 The Institute will treat all disclosures made through the Protected Disclosure Policy in a confidential and sensitive manner. The identity of the individual making the disclosure (i.e. the discloser) will be protected save for exceptional circumstances i.e. necessary in public interest or required by law. It is recognised that in some circumstances, the investigation process may at some stage have to reveal the source of the information (with the consent of the discloser), and the individual making the disclosure may be requested to make a statement as part of the evidence required.
- 5.12 It is recognised that the Institute will be required to balance the right of the Discloser to the confidentiality of the Protected Disclosure Process with the equal right of any person being accused of a wrongdoing to fair process which includes the right to know who their accuser may be. The Institute will implement appropriate safeguards to maintain both of these rights.

- 5.13 Where an individual has made a report, whether or not that has been assessed or investigated, the individual is still required to conduct themselves professionally and to continue to carry out their duties as normal.
- 5.14 An individual should not pursue their own investigations, however well intended, as a flawed or improper investigation could compromise the Institute’s ability to take effective action.
- 5.15 Normal management of an individual who has made a disclosure does not constitute penalisation. This can include the taking of disciplinary action against the individual for matters unrelated to the substance of the disclosure.
- 5.16 An individual who has made a report should not take it upon themselves to assume responsibility for promoting a culture of transparency within the Institute. While all individuals should subscribe to such a culture, the promotion and implementation of such measures is a matter for the Governing Body, the President and senior management of the Institute.
- 5.17 Reporting Persons have recourse to the Workplace Relations Commission if they believe that they have been penalised as a direct result of having made a protected disclosure.

## **6 ANONYMOUS CONCERNS RAISED BY A DISCLOSER**

- 6.1 Anonymous disclosures may be considered at the discretion of the Designated Person and the Audit and Risk Committee, but the Institute shall not generally investigate such anonymous disclosures. In considering whether to investigate an anonymous disclosure, the Designated Person and the Audit and Risk Committee will take into account factors such as:
- i. The seriousness of the issues raised
  - ii. The credibility of the disclosure
  - iii. The likelihood of being able to investigate and confirm the allegation (using alternative sources if possible) and
  - iv. The requirements of fairness with reference to any individual named in the disclosure
  - v. Anonymous disclosures are much less powerful and far less capable of being addressed as it is difficult to investigate a matter and to corroborate facts. This Policy encourages an individual to put their name to disclosures made, where possible.

It should be noted that it will not be possible to convey the outcome of any investigation as a result of an anonymous disclosure to the Discloser or to any party not directly connected to the investigation.

## **7 DISCLOSURE PROCESS**

- 7.1 All disclosures should be raised by the reporting person with the Institutes appointed “Designated Person” – **Ms. Bernadette Costello** (Chairperson of the Audit and Risk Committee, [auditandriskcommitteechair@iadt.ie](mailto:auditandriskcommitteechair@iadt.ie)) or with the “Designated Person Alternative Reporting Officer” Sam Dunwoody, (independent member of the Audit and Risk Committee [independentauditandriskcommitteemember@iadt.ie](mailto:independentauditandriskcommitteemember@iadt.ie)).

- 7.2 The Audit and Risk Committee (ARC) is a committee of Governing Body comprising non- executive Members of the Governing Body. The Chairperson of this Committee is the Designated Person for the Institute. Should a worker wish to submit an oral disclosure then they can email the chairperson directly with their contact details.
- 7.3 Employees can also contact the designated Person, if they are unsure as to whether to use this policy and procedure.
- 7.4 The legislation provides for Six avenues of disclosure:
- i. An Employer
  - ii. A Prescribed Person, i.e., a Body/Person Prescribed by the Minister (SI 339 of 2014)
  - iii. The Protected Disclosures Commissioner (<https://www.opdc.ie/>)
  - iv. A Minister
  - v. A Trade Union Official or Legal Advisor
  - vi. A Third Party.

## **8 HOW TO MAKE A DISCLOSURE**

- 8.1 The first avenue is internal to the Institute and disclosures can be made by phone, through email, by post to the Designated Person.

E-mail disclosures should be made to [auditandriskcommitteechair@iadt.ie](mailto:auditandriskcommitteechair@iadt.ie), this e-mail is accessible only by the Chairperson of the Audit and Risk Committee. To avoid conflict with the IADT Appropriate/Acceptable ICT Policy, IADT email accounts should not be used to make a disclosure.

Written disclosures should be marked private and confidential for the attention of the *Ms Bernadette Costello, Chairperson of the Audit and Risk Committee, IADT, Kill Ave Dún Laoghaire, Co. Dublin A96 KH79.*

Where an oral or phone call disclosure needs to be made, and e-mail to the Chairperson of the Audit and Risk Committee at [auditandriskcommitteechair@iadt.ie](mailto:auditandriskcommitteechair@iadt.ie) should be issued, requesting a meeting or call back. To avoid conflict with the IADT Appropriate/Acceptable ICT Policy, IADT email accounts should not be used to make a disclosure.

Where the Chairperson of the Audit and Risk Committee is either not available or unable to deal with the matter, it can be referred as above and in the following sections to the Independent Member of the Audit and Risk Committee at [independentauditandriskcommitteemember@iadt.ie](mailto:independentauditandriskcommitteemember@iadt.ie)

- 8.2 Where a disclosure is made orally, the Chairperson of the Audit and Risk Committee will request a written statement or an in-person meeting from the individual who has made the disclosure, as an agreed record of the disclosure.
- 8.3 Disclosures made should set out the individual background and history of the concern (giving relevant dates where possible) and the reasons why the individual making the disclosure is particularly concerned about the situation. The following details, while not essential, will be

particularly useful to the Designated Person in reviewing a disclosure and any investigator in the conduct of the investigation:

- i. The Individual's name and relationship to IADT together with relevant contact details.
- ii. That the information is a Protected Disclosure.
- iii. How the information came to the attention of the Individual.
- iv. A description of the wrongdoing which is reasonably believed to have taken place.
- v. Whether there were witnesses or supporting documentation in connection to the alleged wrongdoing.

It will be necessary to demonstrate to the Designated Person that there are reasonable grounds for the issue to be raised.

- 8.4 There is no obligation either in this Policy or in the Act on any person to make a protected disclosure, however, neither this Policy or the Act absolve any individual from mandatory obligations to report contained in other legislation.

## **9 REPORTING OF DISCLOSURES**

- 9.1 The Designated Person thereof shall review the issue, establish the factual information and decide the course of action to be taken, if any. This may involve an internal enquiry or a more formal investigation.

- 9.2 Within 7 calendar days of a disclosure being made, the Designated Person will reply to the individual who made the disclosure:

- i. Acknowledging that the disclosure has been received;
- ii. Indicating that they are dealing with the matter;
- iii. Informing that further communications will take place.

- 9.3 In order to protect any individuals accused of a 'relevant wrongdoing' an initial assessment of the disclosure will be undertaken to assess whether there is a prima facie case that the relevant wrongdoing occurred and whether an informal or formal investigation is appropriate and, if so, what form it should take.

- 9.4 Where the Designated Person deems there is no evidence that any wrongdoing occurred, the process under this policy will come to an end. The reporter will be notified in writing of the decision, and the reasons for same, as soon as practicable.

- 9.5 The Designated Person may decide that the matter should be dealt with under a different existing Institute policy and if so will provide advice to the person making the disclosure as to the steps to take.

- 9.6 Where the Designated person deems that there is sufficient evidence to suggest that a wrongdoing may have occurred, then appropriate action, including further investigation, may need to be undertaken, depending on the nature and seriousness of the disclosure, the designated person may seek support through the ARC in the first instance. Where it is felt that it is warranted the Designated person may seek external advice on the matter.

- 9.7 Where it is considered appropriate, the matters raised may be referred to external agencies to investigate, e.g. the Gardaí or through some other form of independent inquiry.
- 9.8 Employees of the Institute including Senior Management may be called on by the Designated person and ARC to provide information relevant to the disclosure in order to assist in establishing further facts. Additionally, and only where appropriate Senior Management may be asked to assist in the process where a conflict of interest does not exist.
- 9.9 The Designated Person and the Audit and Risk Committee will ensure that the person who made the disclosure is aware of the timetable for the review, the progress of any review or investigation and specifically any delays in the completion of any investigation as well as the final outcome as appropriate.
- 9.10 The Designated Person and the Audit and Risk Committee must follow up with the reporter and provide feedback within a reasonable period of time and, in any case, within three months of the initial receipt of the disclosure and thereafter at three monthly intervals, if so requested until the final determination of the investigation is complete.
- 9.11 All formal investigations will be properly tracked with appropriate records maintained.
- 9.12 Like with all Institute investigations there will be a specified Terms of Reference drawn up and will operate in accordance with the general principle of Natural Justice and Fair Procedures.
- 9.13 The Designated Person and the Audit and Risk Committee and any formal investigator will be provided with appropriate access to legal advice and guidance.
- 9.14 Any person called as a Respondent will be provided with the right of representation by a co-worker and/or Trade Union Representative. In certain circumstances and only with the agreement of the investigator, a Respondent may be entitled to formal legal representation. Any investigation that makes an adverse finding against a named individual is subject to a review at the request of the named individual.

Please note that while disclosures may be raised either orally or in writing the Institute's preference is that a disclosure is confirmed in writing. Where a worker wishes to make contact with the Designated Person by phone they must email their request together with their contact details to [auditandriskcommitteechair@iadt.ie](mailto:auditandriskcommitteechair@iadt.ie)

- 9.15 The company will ensure, is so far as possible, that disclosures are managed confidentially and that the identity of the reporter will be kept confidential unless explicit consent is obtained from the reporter, or otherwise as required under law or as required to ensure compliance with the provisions of the Protected Disclosures Act 2014 as amended in 2022. The company will make every effort to ensure the reporter is notified, in writing, in advance that their identity may need to be disclosed, unless doing so would jeopardise the effective investigation into the disclosure or any related legal proceedings. The Company will also endeavor to protect the confidentiality of any persons referred to in the disclosure.
- 9.16 In certain circumstances a worker an anonymous disclosure may be accepted however the worker

needs to know that this will extent to which the Institute can investigate in such a circumstance.

- 9.17 In making a disclosure a reporter will need to be able to demonstrate the reasons for their concerns and equally be in a position to evidence support for those concerns, where possible.
- 9.18 Any disclosures should be factual (to the best of their knowledge) and should address the following key points to the extent that such information is known to the individual in relation to an alleged relevant wrongdoing that has occurred or is likely to occur e.g.:
- i. What has occurred? (or is thought to have occurred),
  - ii. Set out when and where it occurred,
  - iii. who was involved?
  - iv. has the company been put at risk or suffered a loss as a result?
  - v. has it happened before?
  - vi. Has it been raised with anyone else either within the company or externally? (if so please provide details of when/whom?)
  - vii. Are there any other witnesses?
  - viii. Is there any supporting information or documentation?
  - ix. How did the matter come to light?
- 9.19 Each disclosure will be considered individually and on their own merit.
- 9.20 The Institute will process a worker's personal information provided as part of the disclosure, but only for the purpose of investigating any concerns raised.

## **10 REVIEW**

- 10.1 Any review of the outcome of an investigation or finding made under this Protected Disclosures Policy will be conducted in accordance with the review processes available under the Institute's Grievance and Disciplinary Policies.

## **11 RECORDS**

- 11.1 Records associated with Disclosures, including the outcome, shall be retained, in accordance with the Institute's Records Retention Policy, the Data Protection Acts 1988 to 2018 as amended and the Freedom of Information Acts 1997 to 2014 as amended. All such records shall be maintained in a confidential and secure environment.

## **12 REPORT**

- 12.1 The Audit and Risk Committee will include relevant anonymised details of and updates on disclosures in their reports to Governing Body.
- 12.2 The Governing Body will make an annual report to the Minister for Public Expenditure and Reform as required by Section 22 of the Protected Disclosures Act 2014 as amended. This report is anonymised and will not enable the identification of person involved to be revealed. It will however include the number of disclosures made, the action (if any taken) in response and other such information and action taken as may be requested by the Minister. This Report is published

annually on the Institute's website on or before 1st March in respect of the preceding calendar year.

## **13 EXTERNAL**

- 13.1 If a worker does not want to report a disclosure to the Institute, or has already reported to the Institute and believes that the Institute's response has not been effective, the worker may be entitled to make a report to an appropriate external regulator, Minister, legal advisor or "prescribed person".

A list of prescribed persons can be found at [www.gov.ie/prescribed-persons](http://www.gov.ie/prescribed-persons)

An example of this would be a disclosure made to the Chief Executive of the Higher Education Authority or to the Comptroller & Auditor General. While this avenue is open to Disclosers as a first call option, it should only be used where there is a reasonable belief that either the internal processes within the Institute would be unable to appropriately process the disclosure or that significant senior personnel of the Institute were directly complicit in the alleged wrongdoing and therefore disclosure to a more senior authority would be appropriate.

- 13.2 Alternatively, the employee may also report a disclosure to the Protected Disclosures Commissioner (<https://www.opdc.ie/>), who will refer the report, usually to a suitable regulator, for acknowledgement, follow-up and feedback. The details of how and when to make a Report directly to the Protected Disclosures Commissioner are set out on their website, or they can be contacted at +353 1 639 5650.
- 13.3 In addition, a disclosure can also be made to a Minister or to their Trade Union or to a legal advisor.
- 13.4 Where an employee chooses to disclose in either of these manners, they must reasonably believe the information disclosed and any allegation contained in it to be substantially true. They must also be of the reasonable belief that all of the Institute, the Higher education Authority, the Comptroller and Auditor General or the Protected Disclosures Commissioner would be unable to properly investigate the alleged wrongdoing.
- 13.5 Where a Reporting Person makes a disclosure of Relevant Information to the Minister for Further and Higher Education, Research and Skills (the "Minister"), they must reasonably believe that the information disclosed, and any allegations contained in the information disclosed, are true, and consideration should be given to one or more of the following:
- i. the Reporting Person has previously disclosed substantially the same information but no feedback has been provided in response to the disclosure within the specified period or, where feedback has been provided, the Worker reasonably believes that there has been no follow up or that there has been inadequate follow up;
  - ii. the Reporting Person reasonably believes that the Head of the Institute is complicit in the Relevant Wrongdoing concerned;
  - iii. the Reporting Person reasonably believes that the Relevant Wrongdoing concerned may constitute an imminent or manifest danger to the public interest such as where there is an emergency situation or a risk of irreversible damage.

An individual may make a disclosure to either their legal representative or their Trade Union in order to assist them in making a disclosure through any of the prior avenues.

- 13.6 A worker may also request that the Designated person provide information on making disclosures to prescribed persons, the Protected Disclosures Commission and relevant EU agencies, where applicable.
- 13.7 In addition, an individual may make a report externally through other disclosure channels, including the media. In order for such a report to be deemed a protected disclosure, the individual must:
- i. Reasonably believe that the report/allegation is substantially true;
  - ii. Have previously made a report of substantially the same information to the Institute, prescribed person, legal advisor or Minister and no action was taken within the relevant time periods;
  - iii. Reasonably believe that the relevant allegation may constitute a significant danger to the public interest, amount to an emergency situation, or present a risk of irreversible damage, and if they were to make a report to a prescribed person or Minister they would be at risk of penalisation, and that it was possible that the relevant wrongdoing may not be adequately addressed.

Please note that in order for the worker to benefit from protection under the Act they should be able to demonstrate that their disclosure is not being made for personal gain and that they have either pursued other avenues or truly believed that the pursuing of other avenues would be of detriment.

## **14 TRAINING**

- 14.1 The Institute will communicate to all persons within the scope of this Policy regarding the avenues open to them under this Policy. New staff will be made aware of this Policy through induction training or as appropriate. This Policy will be available on the Institute's website.
- 14.2 The Institute will ensure that the Designated Person and other members of ARC receive appropriate training to deal with the Disclosure Policy, procedures and issues that might arise as a result thereof.
- 14.3 Refresher training will be provided as appropriate.

## **15 COMMUNICATION, MONITORING AND REVIEW**

- 15.1 This policy will be communicated as appropriate and subject to regular monitoring and review
- 15.2 This policy will be updated in line with legislative changes. At all times legislation will take precedence where relevant over the provisions made in this policy.
- 15.3 The Version Control of this Policy outlines the major developments of the Protected Disclosures



Policy since its development and adoption in 2014. Interim developments are version numbered X.1 etc. Such amendments may simply reflect changes in names and/or roles and titles or minor alterations issued by DPENDP DaR. Changes in Legislation; DPENDP DaR Guidelines; the Structure of this Policy; and/or significant external impacts requiring consideration will result in a major change and new Version of this Statement.

Version	Year	Basis for Change
1.0	2014	Establishment of formal Protected Disclosures Policy
1.1	2020	Restructuring of Policy
2.0	2024	Redrafting of Policy to take account of 2022 Amendment Act; SI 520 of 2022 and Statutory Guidance issued by DPENDP DaR (Nov 2023)

## **APPENDIX 1 – ADVICE FOR STAFF MAKING A DISCLOURE**

The Institute acknowledges the difficult choice a member of staff may have in deciding to make a disclosure. As the issues that prompt disclosures are likely to be complex, how the member of staff proceeds will vary from situation to situation. The following advice is recommended if a member of staff considers the circumstances to be such that they feel compelled to make a disclosure. The individual should:

- i. make any objections to illegal, unsafe or unethical practices promptly as timely disclosures can be verified or investigated with less difficulty;
- ii. where there is likely to be a risk to the life or a risk of serious injury to others, the disclosure should be made immediately and if necessary the disclosure may also be made to the Health and Safety Authority;
- iii. focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- iv. be accurate in their observations and claims and keep formal records documenting relevant events.

Members of staff may also wish to seek independent advice through their union, line manager, the Protected Disclosures Commissioner or legal advisor. Staff should note that the Protected Disclosures Act 2014 as amended provides that all these disclosures are protected.