

AN GARDA SÍOCHÁNA



POLICY/PROCEDURES DOCUMENT
FOR THE MAKING OF
PROTECTED DISCLOSURES

Established in accordance with section 21(1) of the Protected Disclosures Act, 2014.

1. Who may make a Protected Disclosure?

The Act provides that a Protected Disclosure may be made by a worker.

The definition of a “*worker*” at section 3 of the Act is broad. Also included, in addition to **members of An Garda Síochána** and **Civil Servants**, are:

- employees;
- contractors;
- consultants;
- agency staff;
- former employees;
- temporary employees;
- interns, and;
- trainees;

Although Reserve Gardaí are not afforded any protections under the Act, An Garda Síochána, is committed to ensuring that any person who is engaged with the organisation on a voluntary basis and wishes to make a Disclosure may do so.

2. How to make a Protected Disclosure:

The Commissioner of An Garda Síochána may authorise a person to act on his or her behalf in fulfilling his /her functions as an employer under the Act.

The Commissioner has authorised Chief Superintendent Human Resources and People Development to act as Protected Disclosure Manager. The Commissioner has also authorised the Director of Civilian Human Resources as an alternate Protected Disclosures Manager.

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

A worker who wishes to make a Protected Disclosure in accordance with [the Protected Disclosures Act, 2014](#) shall make the disclosure to the Protected Disclosures Manager in An Garda Síochána. A Protected Disclosure relates to information pertaining to an alleged relevant wrongdoing which has occurred, is occurring, or is about to occur.

The worker making the Protected Disclosure need only be of a reasonable belief that the alleged relevant wrongdoing has occurred, is occurring or is likely to occur. A Protected Disclosure should be made at the earliest possible opportunity after it has come to the attention of the worker.

Workers should **not** attempt to investigate the relevant wrongdoing themselves or gather evidence to support their disclosure or seek to delay making a Protected Disclosure for this reason.

When making a Protected Disclosure report a worker must make the report to the Protected Disclosure Manager. Form [PD1](#) must be used in all cases when making a Protected Disclosure.

A dedicated secure email address to be accessed only by the Protected Disclosures Manager is available for this purpose ProtectedDisclosuresManager@Garda.ie

A Protected Disclosure made in accordance with this policy will be accompanied by form [\(PD1\)](#).

Information regarding the making of a Protected Disclosure may also be obtained by telephoning the following number: **01 6661777**

Review

A worker who makes a Protected Disclosure in accordance with this policy may seek a review of the following:

1. Any decision not to investigate the alleged relevant wrongdoing and or
2. The outcome of any assessment / investigation in respect of any complaint of penalisation.

A review will be conducted by an Officer not below the rank of Assistant Commissioner/Executive Director nominated by the Commissioner.

3. Role of the Protected Disclosures Manager

The duties of the Protected Disclosures Manager include:

- 1) To be the primary confidential recipient in An Garda Síochána of Protected Disclosures under the Act,
 - 2) Taking all practicable steps to ensure that the identity of a worker making a Protected Disclosure is not disclosed, save in accordance with Section 16(2) of the Act,
 - 3) Ensuring that the disclosure meets the criteria for a Protected Disclosure and, where it does not, informing the worker why it does not fall within the ambit of the Act. This may involve simply clarifying certain matters, clearing up any misunderstandings or resolving the matter by agreed action without the need for an investigation,
 - 4) As soon as practicable, assess the disclosure and transmit a confidential and anonymised report to the Commissioner recommending an examination/investigation,
 - 5) Retaining confidential written records in respect of disclosures received, and contact maintained,
 - 6) Ensuring the worker making the Protected Disclosure is kept informed of the progress of any enquiries/investigation undertaken under this policy as a result of their disclosure,
 - 7) The Protected Disclosures Manager should be aware of any risks associated with the disclosure and document any risks identified by the worker making the disclosure. Appropriate steps should be taken by the Protected Disclosures Manager to adequately mitigate against any such risks. The worker making the disclosure should be advised of the availability of the relevant organisational support mechanisms including employee assistance and peer support. The Protected Disclosures Manager will make regular confidential enquiries relating to other investigations pertinent to the Protected Disclosure while keeping the Commissioner and the worker briefed accordingly,
 - 8) Where it is necessary to disclose information that may or will disclose the identity of worker who made the disclosure, or where action is being taken which may result in the identification of the worker, this will be a matter to be discussed with the Protected Disclosures Manager and the worker in advance,
 - 9) The Protected Disclosures Manager will liaise regularly with the person appointed by the Commissioner to investigate the matter.
 - 10) The Protected Disclosures Manager may engage the services of any relevant professional or professional body either internal or external and liaise appropriately with such professionals or professional bodies to assist him or her in carrying out his or her duties.
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4. Employee Safeguards

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

Penalisation includes suspension/dismissal, disciplinary action, demotion, discrimination, threats 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/senior manager immediately.

Workers who penalise or retaliate against those who have raised concerns under this policy will be subject of 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.

5. Protected Disclosures made other than to the Protected Disclosures Manager

The Commissioner is committed to ensuring that all Protected Disclosures made under section 6 of the Act are fully dealt with under this policy.

It is acknowledged by An Garda Síochána that workers within An Garda Síochána have the right under the Act to make a Protected Disclosure other than in the manner as set out under section 6 of the Act.

All workers should be aware that they are entitled to make a Protected Disclosure to the following;

1. **GSOC**, as a prescribed body under section 7 of the Act, where the worker reasonably believes that the information disclosed, and any allegation contained in it, are substantially true,
2. the **Minister for Justice and Equality**,
3. a **legal advisor** in the course of obtaining legal advice and this advice includes advice relating to the operation of the Act, or
4. **another person** as provided for under section 10 of the act, subject to the following;
 - a) that the worker making the disclosure reasonably believes that the information disclosed, and any allegation contained in it, are substantially true,
 - b) that the worker making the disclosure is not making the disclosure for personal gain,
 - c) that in all the circumstances of the case, it must be reasonable for the worker to have made the disclosure, and
 - d) any one or more of the following conditions are met;
 - i. that the worker reasonably believes that he/she will be subjected to penalisation by his/her employer if he/she makes the disclosure to his/her employer, to a prescribed person, or to a Minister; if there is no prescribed person,
 - ii. that the evidence relating to the relevant wrongdoing will be concealed or destroyed if the worker makes the disclosure to his employer,
 - iii. that the worker previously made a disclosure of substantially the same information to his employer, to a prescribed person or to a Minister in compliance with the Act, and
 - iv. that the relevant wrongdoing is of an exceptionally serious nature.

Flow Chart

