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**Protected Disclosure**

Policy Guidelines

**Governance Code for Sport**

**Disclaimer**

Sport Ireland is making available a range of resources including guidance notes, policy documents and templates for selected areas aligned to the Governance Code for Sport which will support sport organisations, boards, management and staff in the development of relevant governance processes and procedures particular to their own organisation.

For the avoidance of doubt, the final decision on the nature, type, extent and format of approved governance policies, procedures and processes for each organisation is a matter for the board / highest governing structure of the organisation and the resources and material provided may assist the approval process.

This document is not, nor is it intended to be, a definitive statement of the law and it does not constitute legal advice. This document is not a substitute for professional advice from an appropriately qualified source and it is recommended that sport organisations consult their governing document or obtain their own independent legal advice where necessary.

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Why an organisation needs a Protected Disclosure Policy

An employee and volunteer Protected Disclosures Policy is also known as a Whistleblower Policy. (A “*whistleblower*“ is a colloquial expression to describe a person who reports suspicions in respect of some wrong doings). A Protected Disclosure or Whistleblowing Policy sets out a procedure by which concerns can be reported, in a way which is designed to protect the person reporting the suspicion.

The Protected Disclosures Act 2014 and subsequent amendments outlines the obligations of organisations with regards to protected disclosure.

Principle 2 of the Governance Code for Sport is “*Exercising Control Over Our Organisation’.* A key responsibility of the Board is to exercise control over the organisation. It does this through ensuring that relevant legal and regulatory requirements are complied with. Sub-principle 2.1 of the Governance Code states that we do this by: “Identifying and complying with relevant legal and regulatory requirements.”  All organisations, whether Type A, B or C, should be mindful of their obligations under the Protected Disclosures Act.

Putting in place a Protected Disclosure Policy will serve to protect both the organisation and the individuals within the organisation, and will lay out the process and steps involved in the event of a disclosure being made within the organisation.

What is protected disclosure?

Protected disclosure occurs when an employee provides certain types of information, usually to the employer (or an auditor or possibly An Garda Siochana), which has come to their attention through work. The ‘whistle blower’ is usually not directly or personally affected by the danger or illegality, but may be in fear of possible repercussions.

Protected disclosure is there to support staff or volunteers who believe someone inside the organisation is involved in improper activities or practices, but who feel apprehensive about speaking up. This apprehension may stem from fear of disloyalty, bullying, group think, intimidation, or fear of dismissal.

**What is a protected disclosure policy?**

A protected disclosure policy serves to protect both the individual and the organisation.

A protected disclosure policy is a written policy, which describes how volunteers/employees are expected to behave should they find irregular activity happening in the organisation. It should be designed to protect and support the individual and the organisation.

The reason for having a protected disclosure policy is to:

* Outline the steps a volunteer/employee should take if they believe there has been wrongdoing
* Show that all employees/volunteers should behave in a responsible and honest manner
* Make it clear that everyone can and is responsible for reporting wrongdoing
* Show that wrongdoing can be reported without fear of reprisal internally
* Outline the importance of confidentiality and provide comfort to the individual making the report in that regard

Whose responsibility is it to ensure that a protected disclosure policy is in place?

It is the responsibility of the Board to ensure that the Governance Code for Sport is implemented, and that legislation is being adhered to. In practice it will likely be the Chief Executive Officer (CEO) who will be supporting the Board in ensuring that policies are drafted and in place. It is the responsibility of the Board to sign off on the Protected Disclosure Policy, ensure that it is updated every three years (or sooner), and that it is abreast of any changes in the legislation.

What should be contained in a protected disclosure policy?

A protected disclosure policy should cover the following areas:

* A policy statement – that is a definition of the governing body’s values and commitment to the highest standards of openness, probity and accountability.
* An explanation of what protected disclosure is – that it is intended to assist individuals who believe they have discovered malpractice or impropriety, but not designed to question business decisions taken by the organisation, or to challenge disciplinary or grievance matters already under investigation
* The concerns covered by the policy – for example, financial malpractice or fraud; failure to comply with a legal obligation; dangers to health and safety or the environment; criminal activity; improper conduct or unethical behaviour; attempts to conceal any of these.
* The employee safeguards offered by the policy – for example, protection and confidentiality, anonymous allegations
* The situation with regards to volunteers - While the 2014 Act applies to workers and does not include volunteers within that definition, volunteers may disclose wrongdoing and the organisation should consider how any such disclosures will be dealt with, any protections that may be appropriate for volunteers in such circumstances and how they will be made aware of any risks that may arise for them in making a disclosure. Sporting organisations should confirm in their procedures that any disclosures from volunteers will be appropriately assessed and / or investigated.
* Process around untrue allegations, when made in good faith or bad faith
* Procedures for making a disclosure
* Timescales
* The investigation itself and the steps involved

Further reading / links

[Citizens Information](https://www.citizensinformation.ie/en/employment/enforcement_and_redress/protection_for_whistleblowers.html)

[Irish Statute Book - Protected Disclosures Act](http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en/html)

[Protected Disclosures Act Guidance for Public Bodies](https://www.gov.ie/en/publication/e20b61-protected-disclosures-act-guidance-for-public-bodies/)