



# Protected Disclosures Policy (Whistleblowing)

Approved by the Board of the Heritage Council on July 17<sup>th</sup> 2020



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# 1. Introduction

The Heritage Council, like other public bodies, has a duty to conduct its affairs and use its resources with propriety having regard for its role as a statutory agency. The Heritage Council takes very seriously acts of alleged or actual irregularities and the protection of staff who report such acts.

## 2. What is whistleblowing?

Whistleblowing occurs when an employee raises a concern or discloses information which relates to wrongdoing, illegal practices or unethical conduct which has come to their attention through work.

Under this policy an employee is entitled to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

## 3. Purpose of this policy

This policy describes the mechanism for Heritage Council employees to report suspected misconduct or illegality and how the Heritage Council will protect staff who make these allegations. It is also consistent with the Protected Disclosures Act 2014, and the terms of that act underpin this policy.

Matters reported may relate to material allegations in the management of the Heritage Council or the activities of staff members, board members, contractors, suppliers or customers where such activities adversely affect the work of the Heritage Council or where alleged illegal acts may have been perpetrated. Such material allegations may concern, for example, questions of financial malpractice, breaches of appropriate and agreed procedures or significant departure from the statutory or other requirements for good governance.

## 4. When whistleblowing (protected disclosures) applies

Existing Heritage Council line management structures and existing systems of internal control (both financial and operational) are the usual mechanisms to assist in the detection of, or drawing attention to, irregularities of all kinds. However, in exceptional circumstances it is sometimes necessary to have an additional reporting line available to employees as a mechanism of last resort, and this is where this policy applies.





## 5. Whistleblowing (protected disclosures) principles

- Persons making substantiated material allegations in good faith can be assured that their concerns will be treated seriously and sensitively. The Heritage Council will aim to protect them provided that the allegations made are properly grounded.
- Action by a manager or others to inappropriately deter an employee from raising valid concerns about a material irregularity or other significant malpractice may result in the invocation of disciplinary procedures, up to and including dismissal.
- Allegations raised that are unfounded, unsupported and/or immaterial or repeated allegations previously investigated and found to be false may also be subject to disciplinary action.
- An employee will not be legitimately challenged for making a protected disclosure of a suspected serious company law offence.
- A disclosure of information to the Heritage Council or to An Garda Síochána by an external party will receive protection if it is understood that no action was known to have been taken by the Heritage Council itself to remedy the issue.

## 6. Reporting procedure

Allegations should be made through the following route:

- All complaints must be in writing to the chief executive officer (CEO), giving details of the alleged act(s).
- Where, for any reason, the person making the allegations considers it inappropriate to refer the matter to the CEO, material allegations can be made to a nominated board member.
- Disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the appropriate authorities (e.g. An Garda Síochána or the Comptroller and Auditor General).
- Likewise, if urgent action is required (e.g. to remove a health and safety hazard), this action will be taken immediately.
- The CEO/nominated board member will respond to the complaint within five working days.





## 7. Disclosure outside the employer

The aim of this policy is to provide an avenue within the Heritage Council to deal with concerns or disclosures in regard to wrongdoing. It is acknowledged that there may be circumstances where an employee wants to make a disclosure externally, and the legislation governing disclosures (Protected Disclosures Act 2014) provides for a number of avenues in this regard. These include a:

- **minister of the government**

If an employee is or was employed in a public body, they may make a disclosure to the minister on whom any function related to the public body is conferred or imposed by or under any enactment.

- **legal adviser**

The 2014 act allows a disclosure to be made by an employee in the course of obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body.

It is important to note however that while you need only have a reasonable belief as to wrongdoing 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.

## 8. Raising a concern anonymously

A concern may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern. The Heritage Council encourages employees 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 to assess the disclosure and take appropriate action including an investigation if necessary.

## 9. Confidentiality

The Heritage Council is committed to protecting the identity of the employee raising a concern and ensures 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 employee is participating in an investigation into the matter



being disclosed. Should such a situation arise, the Heritage Council will make every effort to inform the employee that their identity may be disclosed.

## 10. Investigation

The following procedure will apply:

- The CEO/nominated board member will initiate an investigation and set down a timetable and terms of reference for it. Qualified and expert persons external to the Heritage Council may be invited to conduct or assist in the fact-finding investigation.
- The complainant and the person/people against whom the allegations are made will be interviewed separately.
- Both parties may call witnesses.
- The investigator(s) may meet other persons whom they consider relevant.
- Both the complainant and the alleged perpetrator may be accompanied by a representative at the interviews if they so wish.
- Confidentiality will be maintained as far as practicable. Witnesses will be expected to respect the privacy of the parties involved by refraining from discussing the allegations with anyone.

## 11. Post-investigation

On completion of the investigation, the investigator(s) will produce a written report. Both parties will be given a copy of the report and an opportunity to comment before the formal issuing of the report and before any final action is taken.

If, following investigation, the complaint is found to be valid, then appropriate action will be taken.

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 employee making the disclosure and the employee will be protected against any penalisation. It is important to note that if an unfounded allegation is found to have been made with malicious intent, then disciplinary action may be taken.





## 12. Appeals

In the event that either party is dissatisfied with the investigation process and/or its outcomes, an appeal may be made to the chairperson.

The reason and grounds for the appeal should be outlined in writing and forwarded to the chairperson within ten days of the formal issuing of the report. The appeal will be heard by the chairperson and/or members of the board within ten days of the appeal.

The outcome of the appeal will be issued within ten days of the appeal being heard.

## 13. Principles

Throughout the investigation the following will apply:

- The principles of natural justice will apply at all times.
- The principles underpinning the Heritage Council's Disciplinary Procedure and Dignity at Work Policy will apply.
- In all cases, the individual or group against whom an allegation/complaint is made will be presumed to be innocent until evidence suggests otherwise.
- Matters relating to the investigation may not be discussed with anyone outside of the investigation process.
- Confidentiality must be upheld in so far as is practicable.
- All materials relating to the investigation and subsequent report will be retained by the head of business for a minimum of six years.

## 14. An Garda Síochána involvement

Where it is necessary for An Garda Síochána involvement, the internal Heritage Council procedure will still be completed and all information should be shared with the gardaí, where requested.

Where the gardaí request original documents, copies of the document should be kept by the Heritage Council.



The grounds for An Garda Síochána involvement and possible prosecution will not necessarily be the same grounds that justify an internal investigation.

## 15. 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.

## 16. Annual reports

A confidential record shall be maintained of all allegations received and investigations carried out under this policy.

An annual report will be prepared and submitted to the board in relation to protected disclosures received in the preceding calendar year.

The annual report shall maintain the anonymity of all those involved. It shall include information on the number of allegations:

- received
- referred to another procedure
- investigated and dismissed
- upheld and actions taken.