

Protected Disclosures FAQ

1. What is a protected disclosure?

A '*protected disclosure*' under the Act is a disclosure of relevant information, which:

- 1) in the reasonable belief of the worker shows one or more relevant wrongdoings
- 2) Came to the attention of the worker in connection with his or her employment, and
- 3) Where a disclosure is being made by a worker externally, *the worker must believe that the information disclosed and any allegations contained in it are substantially true.*

2. What is a relevant wrongdoing?

In order for a disclosure to be a protected disclosure, a worker must have a reasonable belief that the relevant information shows one or more relevant wrongdoings.

A relevant wrongdoing includes the following, which have been, are being, or are likely to be committed or occur:

- 1) A criminal offence;
- 2) A failure to comply with any legal obligation other than those arising under the worker's contract of employment;
- 3) A miscarriage of justice;
- 4) The endangering of the health and safety of any individual;
- 5) Damage to the environment;
- 6) Unlawful or improper use of funds or resources of a public body or other public money;
- 7) An act or omission by or on behalf of a public body which is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement;
- 8) the deliberate concealment of any of the above matters.

3. What if a disclosure relates to how an employer is treating a worker?

If a disclosure is about personal circumstances at work, terms and conditions of employment or the way a worker is being treated in work, then the disclosure should not be made to the Adoption Authority as a protected disclosure. In these cases, workplace grievance procedures apply.

4. Who can make a protected disclosure?

In order to make a protected disclosure, the person making the disclosure must be a worker. A disclosure made by any other person is not a "protected disclosure" under the Act.

A worker includes employees, former employees, independent contractors, sub-contractors, agency workers, trainees, apprentices, interns and any person who interacts with the work place on a contractual basis

5. To whom can a protected disclosure be made?

Under the Act a worker can make a protected disclosure internally to his or her employer. Wherever possible, you should first raise your concerns with your line manager. However, if you do not wish to use this route, a disclosure may be made to the Disclosures Officer.

Disclosures relating to Senior Managers should be made to the CEO.

Disclosures relating to the CEO should be made to the Chairperson of the Board.

6. I am a worker and want to make a protected disclosure to someone other than my employer. To whom should I make my disclosure?

Where a worker wishes to make a disclosure externally, the legislation provides for the following avenues to facilitate this:

- A Responsible Person
- A Prescribed Person
- The Department of Children, Equality, Disability, Integration and Youth
- A Minister of the Government

The Policy outlines the various circumstances and conditions which apply to making protected disclosures to each of the above external avenues.

7. How do I make a protected disclosure?

Concerns may be raised verbally or in writing.

- If you raise a concern verbally, the person receiving the disclosure will keep a written record of the conversation and provide you with a copy after the meeting.
- If you raise a concern in writing, you should provide the background and history of your concern, giving relevant details such as dates, sequence of events and description of circumstances
- Whether your concern is made verbally or in writing, you should state whether or not you are seeking to raise your concern under this policy
- You should provide as much detail as possible regarding the subject matter of your complaint or concern

8. When making a protected disclosure, I understand that I must have “reasonable belief”. Does that mean that I must be correct in my belief about a wrongdoing?

The term “reasonable belief” does not mean that the belief must be correct. A worker is entitled to be mistaken in their belief, so long as the belief was based on reasonable grounds. A worker will not be penalised for being incorrect in a reasonable belief, as long as the worker had a reasonable belief that the information disclosed showed or tended to show a wrongdoing. However, there is a higher standard applied when making a protected disclosure externally to other persons.

Therefore, if you are making a protected disclosure, it is important to note that you must *also believe that the information disclosed, and any allegation contained in it are substantially true.*

9. Can I make a protected disclosure anonymously?

The Adoption Authority encourages a worker when making a protected disclosure to provide his or her name / position and role.

However, a disclosure can be made anonymously. The Authority will where appropriate act upon anonymous disclosures insofar as possible. However, it may not be possible to fully investigate an anonymous disclosure without knowing the identity of the person making the complaint.

10. Will my identity be protected if I make a disclosure?

The Authority is committed to protecting your identity in raising a concern and ensures that the relevant disclosures are treated in confidence.

However, there are certain circumstances, as outlined in the Act where confidentiality cannot be maintained.

11. What if a disclosure related to child protection or criminal offences?

If a complaint relates to matters of child protection or criminal offences, the Adoption Authority may have mandatory reporting obligations to an Garda Síochána or Tusla under the following legislation:

- The Criminal Justice (Withholding of information on offences against children and vulnerable persons) Act 2012;
- The National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016;
- The Children First Guidelines 2011.

In situations where a protected disclosure is made to the Adoption Authority, consideration will be given as to whether mandatory reporting requirements arise from it.