

THE VETERINARY COUNCIL OF IRELAND

EXTERNAL PROTECTED DISCLOSURE (WHISTLEBLOWING) POLICY

Introduction

The Protected Disclosures Act 2014, as amended by the Protected Disclosures Act 2022 (the Protected Disclosures Acts), enables workers to raise a concern regarding potential wrongdoing in the workplace by ensuring that safeguards exist should reprisals be taken against them.

The purpose of this policy is to set out the Veterinary Council of Ireland's (VCI) procedure for dealing with protected disclosures received by the Registrar/Chief Officer of the VCI, as a prescribed person listed in the Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) Order 2020. This statutory instrument prescribes the Registrar as a recipient of protected disclosures regarding all matters relating to the regulation and management of the practice of veterinary medicine and veterinary nursing.

The Registrar, the Veterinary Council members, committees and staff, are committed to creating a workplace culture that supports the making of protected disclosures and provides protection for reporting persons.

Who does the policy apply to?

The policy applies to all workers (**external to the VCI**), including employees at all levels, for example former employees (permanent and temporary), contractors, trainees, students working on placements, agency staff, job applicants, and those who are or were a member of the administrative, management or supervisory body of an undertaking, including non-executive members.

The information must come to the attention of the worker in a work-related context. This means current or past work activities, through which the worker acquires information concerning a relevant wrongdoing, and within which the worker could suffer penalisation for reporting the information.

Aims of the Policy

This policy aims to:

- Encourage you to feel confident and safe in raising concerns and disclosing information in relation to suspected wrongdoing;
- Provide guidance as to how to raise such concerns;
- Reassure reporters that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken;
- Give effect to the obligations and provisions of the Protected Disclosure legislation.

What is a protected disclosure and what types of concerns can be raised?

A protected disclosure is a disclosure of information which, in the reasonable belief of a worker, tends to show one or more relevant wrongdoings that have come to their attention in a work-related context, and which is disclosed in the manner prescribed in the Protected Disclosures Act 2014, as amended (referred to in these procedures as the 2014 Act).

A disclosure made to the Registrar, as a prescribed person, is a protected disclosure if the following conditions are met:

a) You reasonably believe that the relevant wrongdoing is within the remit of the Registrar as they have regulatory functions within the area, which are the subject of the allegations.

b) The information you disclose and any allegation in it came to your attention in connection with your employment, which is outside the VCI, and the allegations are substantially true (this is a higher standard than is required for disclosure directly to your employer).

The definition of **relevant wrongdoing** is wide and includes wrongdoings that have occurred, are occurring or which are likely to occur. Relevant wrongdoings include the following:

- The commission of an offence;
- The failure to comply with a legal obligation other than one arising under the worker's contract;
- The occurrence of a miscarriage of justice;
- The endangerment of the health and safety of an individual;
- Damage to the environment;
- Unlawful or improper use of public funds/monies;
- Any act or omission by or on behalf of a public body that is oppressive, discriminatory grossly negligent or constitutes gross mismanagements;
- Any information that would tend to show that any of the above matters has been or may be concealed or destroyed;
- That a breach of law, defined as acts or omissions that are either unlawful or that defeat the object, or the purpose of the rules is occurring or likely to occur.

Information received, that does not fall within the VCI's remit will be transferred to another prescribed person and or to the Protected Disclosures Commissioner.

A protected disclosure should contain information which tends to show wrongdoing. The information should contain specific factual information that tends to show a relevant wrongdoing to allow the appropriate assessment and investigation of the disclosure. Workers are not required or entitled to investigate matters themselves. This responsibility lies with the prescribed person. As it is not possible to know at the time of disclosure whether the disclosure would subsequently be deemed to be protected under the Act, all disclosures from workers will initially be treated as if they meet the criteria in the Protected Disclosures Acts.

Once a protected disclosure has been made in accordance with the legislation, it is not possible for you to withdraw the disclosure and reporting persons are required to co-operate with a prescribed person.

Protection for Whistleblowers

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

The term reasonable belief does not mean that the belief has to be correct. Workers are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds. 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. The Protected Disclosures Acts prohibit any employer for penalising an employee for having reported a relevant wrongdoing or for making a disclosure and they also make acts of penalisation a criminal matter.

A knowingly false disclosure will not attract the protection of the Protected Disclosures Acts. In addition, disclosure of a wrongdoing does not necessarily confer any protection or immunity on a worker in relation to any involvement they may have had in that wrongdoing.

A disclosure may be made to the VCI by a worker who is not an employee of the VCI. Where a worker makes a disclosure to a prescribed person, in order to be protected under the Act, the worker must reasonably believe that:

- The information disclosed shows or tends to show a relevant wrongdoing which has come to their attention in a work-related context;
- The information disclosed, and any allegations contained in it, are substantially true; and
- The relevant wrongdoing relates to matters for which the Registrar of the Veterinary Council has been prescribed.

In relation to the third bullet point above, the relevant wrongdoing must fall within the description of matters in respect of which the body is prescribed. As referred to above, the VCI is prescribed to receive disclosures about wrongdoings relating to the **regulation and management by the VCI of the practice of veterinary medicine and nursing**. This could for example involve alleged misconduct by a registered veterinary practitioner or veterinary nurse, the commission of an offence under the Veterinary Council's legislation, or a failure to comply with the Veterinary Council's Premises Accreditation Scheme.

Motivation is irrelevant when determining whether or not it is a disclosure protected by the Act. All protected disclosures should be dealt with regardless of the worker's motivation for making the disclosure, and in relation to reporting to a prescribed person that the worker should be protected so long as the worker reasonably believes that the information disclosed tended to show a wrongdoing and that the information is substantially true.

Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) including suspension/dismissal, coercion, withholding of training, negative performance assessment, intimidation or harassment, disciplinary action, demotion, loss of opportunity for promotion or withholding of promotion, transfer of duties, reduction in wages or working hours, discrimination, threats, injury damage or loss, threat of reprisal, harm, including to the persons reputation 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 have been penalised for making a disclosure you should utilise your employers' internal procedures for dealing with workplace complaints. You can also refer a complaint to the Workplace Relations Commission within 6 months. If you believe you have been penalised, you may also seek interim relief from the Circuit Court under the Protected Disclosures Acts.

Confidentiality

The VCI is committed to protecting the identity of the worker 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. A person to whom a protected disclosure is made, and any person to whom a protected disclosure is referred in the performance of that person's duties, shall not disclose to another person (beyond such persons authorised to receive or follow up on the disclosure concerned) any information that might identify the person by whom the protected disclosure was made. However, there are circumstances, as outlined in the Act, where confidentiality cannot be maintained, particularly in a situation where the worker is participating in an investigation into the matter being disclosed, or where it is required by law.

The following are examples of specific cases in which the identity of the discloser may not be protected:

- The disclosure recipient shows that he / she took all reasonable steps to avoid such disclosure.
- The disclosure recipient has a reasonable belief that the discloser did not object to their identity being disclosed;
- Where the disclosure is otherwise necessary in the public interest or is required by law; and
- The disclosure recipient had a reasonable belief that it was necessary for:
 - (i) The investigation of the wrongdoing concerned,
 - (ii) To prevent serious risk to the security of the State, public health, public safety or the environment, or
 - (iii) The prevention of crime or prosecution of a criminal offence. In the instances outlined above the reporting person shall be informed, where possible before their identity is disclosed unless such information would jeopardise the related investigations or judicial proceedings. The protections that apply under the legislation also apply to any other named person in a protected disclosure.

Anonymous Disclosures

A concern may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern. Accordingly, you are encouraged to put your name to the disclosure, with the VCI's assurance of confidentiality where possible and appropriate, in order to facilitate appropriate follow up. This will make it easier for us to assess the disclosure and take appropriate action including an investigation if necessary.

Please note that the VCI is not obliged to follow-up on an anonymous disclosure but will do so where appropriate.

If you are concerned about possible reprisals if your identity is revealed, you should come forward to the Whistleblowing Officer and appropriate measures will be taken to preserve your confidentiality.

What is not a protected disclosure?

Something that is not a relevant wrongdoing as defined in the 2014 Act. A matter concerning interpersonal grievances exclusively affecting a reporting person, such as grievances about

interpersonal conflicts involving the reporting person and another worker, or a complaint to the employer or about the employer which concerns the worker exclusively, is not a relevant wrongdoing.

Who else can receive protected disclosures?

Disclosures can also be made to the persons set out below. Different requirements must be satisfied in order for the disclosure to be protected, depending on the category of person to whom the disclosure is made, as set out in the 2014 Act:

1. Disclosure to an employer or other responsible person (Section 6).
2. Disclosure to relevant Minister (Section 8).
3. Disclosure to legal adviser (Section 9).
4. Disclosure in other cases (Section 10). Such a disclosure could be made where, for example, a disclosure for the purpose of Section 7 (i.e. to a prescribed person) has previously been made.
5. Disclosure to the Protected Disclosures Commissioner (Section 10B), who may refer the matter to such prescribed persons as the Commissioner considers appropriate, or to another suitable person, or who shall follow up directly on the report in the same manner as a prescribed person.

What are the protections for workers who make a protected disclosure?

The legislation gives a variety of protections to workers making protected disclosures or who may have suffered harm as a result of a protected disclosure made by another. These include:

1. Protection from dismissal for having made a protected disclosure;
2. Protection from penalisation by the employer;
3. Civil immunity from action for damages and a qualified privilege under defamation law;
4. A right of action in tort where a whistle-blower or a member of his family experiences coercion, intimidation, harassment or discrimination at the hands of a third party;
5. Immunity from prosecution for making a whistleblowing report which is a protected disclosure under the Act;
6. Protection against unjustified negative performance appraisals or withholding of training; and
7. Protection of identity (subject to certain exceptions).

In relation to point 7 above, a person who receives a protected disclosure or a person to whom such a disclosure is referred in the performance of that person's duties must take all reasonable steps to avoid disclosing to another person any information that might identify the worker making the protected disclosure.

This protection does not apply if:

- a. The person to whom the disclosure is made believes that the person making the disclosure does not object to their identity being revealed; or
- b. The person to whom the disclosure is made believes that disclosing the identity is necessary for the effective investigation of the relevant wrongdoing, to prevent serious risk to the security of the State, public health or public safety, the prevention of crime or prosecution of a criminal offence, or if it is in the public interest. In order to properly investigate a complaint in relation to a veterinary practitioner or a veterinary nurse the VCI may be obliged under the Veterinary

Practice Act 2005, as amended or under the principles of natural justice, to reveal the identity of a person who makes a protected disclosure.

Where practicable, the discloser should be contacted and their consent sought prior to any action being taken that could identify them.

External reporting channels and procedures

Pursuant to the 2014 Act, the Registrar of the VCI has been prescribed as a person to whom protected disclosures may be made.

Remember, you must reasonably believe that the relevant wrongdoing falls within the description of matters for which the Registrar is prescribed - wrongdoings relating to the regulation and management by the VCI of the practice of veterinary medicine and nursing. In addition, you must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true. In the event that you are unsure as to whether you ought to make your disclosure to a prescribed person other than the Registrar / CEO of the Veterinary Council, the full list of prescribed persons can be found here - <https://www.gov.ie/prescribed-persons>

If you require more information on making an external protected disclosure, please contact Aideen Neylon at Aideen.Neylon@vci.ie or **(01) 668 4402** for further information. Advice and support may also be available from Citizen's Advice.

How to make a protected disclosure?

To submit a protected disclosure, please mark any correspondence you wish to submit as strictly private and confidential, and for the attention of the Registrar or Designated Person only. The contact details are as follows:

The Registrar/CEO
Veterinary Council of Ireland
53 Lansdowne Road
Ballsbridge
Dublin 4
Phone: 01 6684402

Email: protecteddisclosures@vci.ie

You can make a report in writing and orally (including by telephone). We do not record telephone calls. You must make the report in the manner set out in the 2014 Act and in these procedures to gain the protections of the 2014 Act.

It is recommended that at a minimum, reports should include the following:

- a) That the report is a protected disclosure;
- b) Your name, position, place of work and confidential contact details;
- c) The date of the alleged wrongdoing (if known), or the date the alleged wrongdoing commenced or was identified;
- d) Whether or not the alleged wrongdoing is still ongoing;
- e) Whether the alleged wrongdoing has already been disclosed, and if so, to whom, when, and

- what action was taken;
- f) Information in respect of the alleged wrongdoing (what is occurring / has occurred and how) and any supporting information;
 - g) The name of any person(s) allegedly involved in the alleged wrongdoing (if any name is known and the worker considers that naming an individual is necessary to report the wrongdoing disclosed); and
 - h) Any other relevant information.

In relation to b) above, you are entitled to make an anonymous disclosure. Whilst we will act upon an anonymous disclosure to the extent possible, we may be restricted in our ability to properly investigate the matter in the absence of knowledge of your identity. In addition, it will be difficult to keep you informed and protect you from penalisation unless you disclose your identity.

What happens after I submit a disclosure?

Receipt of a protected disclosure will be acknowledged within seven days, unless you have explicitly requested otherwise, or unless there is a reasonable belief that doing so would jeopardise the protection of your identity.

You may be asked to provide additional information.

Having carried out an initial assessment, if the view is reached that the disclosure concerns matters not within the scope of the matters for which the Registrar of the Veterinary Council has responsibility, your report may be transferred. The report may be transferred to any other prescribed person or persons as the Registrar considers appropriate, or to the Commissioner if there is no appropriate prescribed person. If this decision is reached we will inform you of this, and of the reasons.

To the extent that your disclosure concerns matters which fall within the VCI's remit, the protected disclosure will be diligently followed-up on. You will be kept up to date, and in any event will be provided with feedback within three months (or six months in duly justified cases), and with further feedback at 3 month intervals if you request this in writing, and informed of the outcome of any investigation(s) conducted on foot of the protected disclosure.

Independent Support and Advice

There are a number of agencies that can provide confidential support and advice to workers considering making a protected disclosure. Information about what wrongdoings can be reported as protected disclosures, how to make a protected disclosure and how to obtain protection from penalisation for having made a protected disclosure can be found on the Department of Public Expenditure and Reform website and on the Citizens Information website. The Transparency International Ireland Legal Advice Centre provides free legal advice to anyone who wishes to disclose wrongdoing, particularly under the Act. Workers can access this via the Speak Up helpline on 1800 844 866.

A worker could also seek advice from their trade union or solicitor about the operation of the Act prior to making a disclosure. When the worker seeks advice from a trade union, barrister or solicitor about the operation of the Act, this discussion is also a "protected disclosure" (It is sufficient to be protected that the purpose of the discussion was that the worker was seeking advice about the operation of the

legislation). Advice on the operation of the Act can be sought at any stage including in advance of making a protected disclosure and during the subsequent process in both internal and external channels.

This policy is intended to provide information and should not be regarded or be used as a substitute for legal advice.

Information on workers' rights and entitlements under employment legislation can be found on the Workplace Relations Commission website.

Disclaimer

The information provided above is not a legal interpretation of the Protected Disclosures Act 2014. The VCI cannot advise you on whether the disclosure you may intend to make, whether to it or any other body will qualify as a protected disclosure.

Amended and approved by the Veterinary Council of Ireland following the commencement of the Protected Disclosures (Amendment) Act 2022, which gives effect to Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, on 7th December 2023.