

Veterinary Council of Ireland

INTERNAL 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 encourage a culture of openness and accountability within the Veterinary Council of Ireland (the “VCI”) so as to ensure that all individuals working for (or applying to work for) the VCI (including employees, contractors and job applicants) feel free and safe to raise concerns within our workplace in relation to matters that are serious and of obvious concern to our workplace. Accordingly, this policy sets out the procedure that should be followed by workers to raise those concerns.

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.

In essence, the policy provides that where you have a reasonable belief that relevant wrongdoing has occurred, you are free to raise concerns or disclose information in relation to that alleged wrongdoing without fear of penalisation or a threat of less favourable treatment, discrimination or disadvantage.

Who does the policy apply to?

This policy covers **all individuals working for the VCI** at all levels including senior managers, employees, contractors, temporary workers, interns, agency staff, volunteers and those on work experience (collectively described as “workers” in this policy). It also includes those applying to work at the VCI and those who are or were members of the administrative, management or supervisory body of an undertaking, including non-executive members i.e., Council members. It all includes former VCI workers.

Aims of the Policy

The aims of this policy are:

- 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 or disclosures can be made?

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 concern or disclosure should contain information, which tends to show wrongdoing such as possible fraud, crime, danger or failure to comply with any legal obligation, which has come to your attention in connection with your employment with the VCI, seeking employment with the VCI, or membership of the Council etc. and about which you have a reasonable belief of wrongdoing.

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.

Protection for Whistleblowers

If you make a disclosure and have a reasonable belief of wrongdoing, you will not be penalised by the VCI, even if the concerns or disclosure turns 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 and should not investigate matters themselves to find proof of their suspicion. However, they must have a reasonable belief that there are grounds for their concern.

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.

Motivation is irrelevant when determining whether or not it is a disclosure protected under the

Protected Disclosures Acts. All protected disclosures should be dealt with regardless of the worker's motivation for making the disclosure, and the worker should be protected so long as the worker reasonably believes that the information disclosed tended to show a wrongdoing. However, appropriate disciplinary action may be taken against any worker who is found to have raised a concern or raised a disclosure, which they knew to be false.

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 are being subjected to penalisation as a result of making a disclosure under this policy, you should inform your manager or a senior manager immediately.

The VCI will take seriously all reports of penalisation, ensuring that they are fully investigated and those found to be responsible are held accountable.

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.

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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?

This policy should not be used for complaints relating to your own personal circumstances, such as complaints regarding your own contract of employment, duties, terms and conditions of employment, working procedures or working practices. These are grievances, not protected disclosures, and so are processed under the VCI's Grievance Policy.

If you are unsure whether something is within the scope of this policy, or should more properly be dealt with under any other of VCI's HR policies, then you should seek advice from the Office Team Lead, whose contact details are at the end of this policy.

The policy does not cover a disclosure where the worker knowingly conveys false allegations. If it transpires that a worker makes a disclosure, which they know to be false or do not believe to be true, the VCI make take disciplinary or other appropriate action.

This policy does not replace any legal reporting or disclosure requirements. Where statutory reporting requirements and procedures exist, these must be complied with fully.

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.

How to make a protected disclosure?

a) Raising Concerns

As a first step, we hope that in many cases you will be able to raise any concerns with your line manager. You may tell them in person, or preferably, put the matter in writing. They may be able to agree a way of resolving your concern quickly and effectively. In some cases, subject to maintaining the level of anonymity that is appropriate, they may refer the matter to the Whistleblowing Officer. However, where the matter is more serious, or you feel that your line manager has not addressed your concern, or you prefer not to raise it with them, for example, because of the seriousness and sensitivity of the issue involved, you should contact one of the following:

1. The Whistleblowing Officer: Aideen Neylon
2. The Registrar

In circumstances where you feel it is not appropriate to raise your concern with either the Whistleblowing Officer or the Registrar you should contact the chair of the Audit, Risk and

Finance Committee. Alternatively, you may choose to raise your concern with the chair of the Fitness to Practise Committee.

Contact details are set out at the end of this policy.

Concerns may be made verbally or in writing. However, irrespective of whether you raise a matter verbally or in writing, it is imperative that you identify your concern as one arising under this policy. This will enable the VCI to deal with your concern in the appropriate fashion for a matter of such seriousness, and in the manner set out in this policy.

Should you raise a concern verbally, the person to whom that concern is raised will keep a written record of the conversation and will provide you with a copy after the meeting. We would recommend that you also make and retain a note of the conversation so as to ensure that an appropriate record is kept of the relevant disclosure.

Should you raise a concern in writing, please provide the background and history of the concern, giving relevant details (insofar as is possible) including dates, sequence of events and description of circumstances. It is important to note that the earlier you express the concern, the better we will be able to deal with the matter.

Having raised your concern with the VCI, subject to maintaining the level of anonymity that is appropriate, a meeting will be arranged to discuss the matter with you on a strictly confidential basis. The VCI will need to clarify at this point if the concern is appropriate to this policy or is a matter more appropriate to our other policies. You can choose whether or not you want to be accompanied by a colleague. As regards confidentiality, it is important that there should be an awareness of respecting sensitive organisational information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process. This obligation of confidentiality applies equally to any colleague that may accompany you.

b) How We Deal With Your Disclosure

We will acknowledge in writing the receipt of your report, not more than 7 days after receipt of it.

Having met with you in regard to your concern and clarified that the matter is in fact appropriate to this policy, the VCI will carry out an initial assessment to examine what actions need to be taken to deal with the matter. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.

If, on foot of the initial assessment, it is concluded that there are grounds for concern that cannot be dealt with at this point, the VCI will conduct an investigation which will be carried out fairly, objectively and with the appropriate level of confidentiality. The form and scope of the investigation will depend on the subject matter of the disclosure.

Disclosures made, in light of the seriousness of the matters raised, may be referred immediately to the appropriate authorities. Likewise, if urgent action is required (for example,

to remove a health and safety hazard), this action will be taken. It is important to us that you feel assured that a disclosure made by you under this policy is taken seriously and that you are kept informed of steps being taken by us in response to your disclosure. In this regard, the VCI undertakes to communicate with you as follows:

- acknowledge receipt of your disclosure within 7 days and arrange to meet with you as outlined above;
- inform you of how we propose to investigate the matter and keep you informed of actions, where possible, including the outcome of any investigation, and, where applicable, why no further investigation will take place (and ensuring that you are provided with feedback within 3 months, and with further feedback at 3 month intervals if you request this in writing); and
- inform you of the likely timescale in relation to each of the steps being taken, but in any event, we commit to dealing with the matter as soon as is reasonably practical.

It is important to note that, from time to time, the need for confidentiality and legal considerations may prevent us from giving you specific details of an investigation or any disciplinary action taken as a result. You should treat any information about the investigation as confidential.

It is possible that in the course of an investigation you may be asked to clarify certain matters. For the purposes of confidentiality, such a meeting can take place off-site and you can choose whether or not to be accompanied by a colleague.

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 you for making the disclosure and you will be protected against any penalisation. However, as set out above, a disclosure that is made without any reasonable belief as to its accuracy (i.e. for malicious purposes) may result in disciplinary action.

c) If You Are Not Satisfied

While we cannot always guarantee the outcome you are seeking, we will try to deal with your concern fairly and in an appropriate way. By using this policy you can help us to achieve this.

If you are not happy with the way in which your concern has been handled, you can raise it with the Whistleblowing Officer / Registrar. Alternatively, where you feel it is more appropriate, you should contact the chair of the Audit, Risk and Finance Committee. Contact details are set out at the end of this policy.

d) External Disclosures

This policy strives to provide avenues within the VCI to deal with concerns or disclosures in regard to wrongdoing. We are confident that issues can be dealt with in-house and we strongly encourage workers to report such concerns internally.

We acknowledge that there may be circumstances where you may feel it is necessary to make a disclosure externally, and the 2014 Act provides for a number of avenues in this regard. It will very rarely, if ever, be appropriate to alert the media.

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.

Whistleblowing concerns usually relate to the conduct of staff in the VCI, but they may sometimes relate to the actions of a third party, such as a VCI Council / Committee member, supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns internally first.

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.

Persons Responsible for the Policy

The VCI through the Registrar has overall responsibility for this policy, and for reviewing the effectiveness of actions taken in response to concerns raised under the policy.

The Head of Legal and the Registrar have day-to-day operation and responsibility for this policy.

Review

The VCI reserves the right to make any changes and amendments to this policy as it considers necessary at its sole discretion. The VCI may also vary this policy, as appropriate in any case.

This policy does not form part of any employee's contract of employment.

Further information on Protected Disclosures can be found at:

<https://www.gov.ie/en/publication/e20b61-protected-disclosures-act-guidance-for-public-bodies/>

Contacts

Whistleblowing Officer/Office Team Lead	Aideen Neylon 01-6684402 Aideen.Neylon@vci.ie
Registrar	Niamh Muldoon 01-6684402 niamh.muldoon@vci.ie
Chair Audit, Risk & Finance Committee	Ms Paula Barry Walsh info@vci.ie
Chair Fitness to Practise Committee	Mr Simon Murphy JRAP O'Meara 021 4277444 smurphy@jrapom.ie

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.