COLÁISTE CHEATHARLACH
NAOMH PÁDRAIG
CARLOW COLLEGE
ST. PATRICK'S

TITLE: ***PROTECTED DISCLOSURE POLICY***

Version	2	**Date Approved**	9 October 2024
	Policy revised to take account of changes in legislation – *Protected Disclosures (Amendment) Act 2022*	**Review Date**	9 October 2029 *or as required*
Approved By	Management Board		
Owner	President's Office		

Version Control		
Version No.	**Date Approved**	**Documented Changes**
1	17 October 2018	Initial Issue
1.1	13 April 2022	Policy re-approved by the Management Board until the end of the calendar year to allow time for the *Protected Disclosure (Amendment) Bill 2022* to be approved.

1. Purpose of the Policy

Carlow College, St Patrick's (Carlow College) is committed to the highest standards of integrity, transparency, probity and accountability in how it conducts its affairs and aims to create a workplace culture where members of the College community feel comfortable and safe raising concerns about relevant wrongdoing. Carlow College is committed to addressing wrongdoing reported under this Policy.

The Protected Disclosures Act 2014 as amended by the Protected Disclosures (Amendment) Act 2022, (hereafter together the Act) protects workers from any form of work-related penalisation for having made a protected disclosure in good faith.

This Policy is intended to encourage and facilitate workers to report concerns to the College. This is referred to as internal reporting in the Act. The Policy outlines what constitutes a protected disclosure under the Act and sets out the procedure whereby concerns about wrongdoing can be reported in a clear, formal and safe manner. The Policy also outlines how the College will deal with a protected disclosure.

It should be possible in most, if not all, cases for workers to make protected disclosures internally to their employer. It is also feasible to make protected disclosures externally in certain circumstances, and the Policy explains how this may be done.

This Policy shall be regarded as an internal procedure for the purposes of Section 6 of the Act. Should any inconsistencies exist between the terms of this Policy and the terms of the Act, then the terms of the Act shall come first.

2. Definitions

The following definitions are, for the most part, adapted from the Act. Please see the Act for the full legal definitions.

Protected Disclosure: means information, which, in the reasonable belief of the worker, shows a relevant wrongdoing(s).

This information must come to the attention of the worker in a work-related context and be disclosed in the manner prescribed in the Act.

Matters that constitute relevant wrongdoings under the Act include:

- an offence(s);
- failure to comply with any legal obligation (other than one arising out of the worker's contract of employment or contract for services);
- a miscarriage of justice;
- endangerment of an individual's health or safety;

- damage to the environment;
- unlawful or improper use of funds or resources by a public body, or other public money;
- an act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- breaches of European Union law set out in Section 4, 2022 Act;
- concealment or destruction of evidence relating to any of the above wrongdoings.

A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker or the worker's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

A 'protected disclosure' under this policy may be about a relevant wrongdoing:

- that is happening now
- that took place in the past
- that is likely to happen

It is immaterial whether a relevant wrongdoing occurred, occurs or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other country or territory.

Worker: The legislation applies to all workers. The definition of 'worker' is very broad and includes, but is not limited to, current and former employees, independent contractors, trainees, agency staff, volunteers, board members and job candidates.

Protected Disclosures Manager: the person who receives the protected disclosure on behalf of Carlow College. Ordinarily, the Head of Human Resources and EDI is the Protected Disclosures Manager. In the event that the Head of Human Resources and EDI has a conflict of interest or is otherwise unable to act, a Senior Manager will assume the role and responsibilities of the Protected Disclosures Manager.

Protected Disclosures Group: On receipt of a Protected Disclosure, the Protected Disclosures Manager will convene a Protected Disclosures Group who will follow up on the disclosure. A Protected Disclosures Group will comprise the Protected Disclosures Manager, two members of Senior Management and may include other Management as deemed appropriate by the group.

Person Concerned: means a natural or legal person who is referred to in a report as a person to whom the relevant wrongdoing is attributed or with whom that person is associated. Such persons have certain protections under the Act.

Penalisation: any direct or indirect act or omission which occurs in a work-related context, resulting from the making of a report, which causes any form of unjustified harm or detriment to a worker. Examples of penalisation are

- suspension, lay-off or dismissal,
- demotion, loss of opportunity for promotion, or withholding of promotion,
- transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),
- coercion, intimidation, harassment or ostracism,
- discrimination, disadvantage or unfair treatment,
- injury, damage or loss,
- threat of reprisal:
- withholding of training;
- a negative performance assessment or employment reference;
- failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that they would be offered permanent employment;
- failure to renew or early termination of a temporary employment contract;
- harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry;
- psychiatric or medical referrals.

3. Scope of Policy

This Policy applies to all workers as defined in Section 3 of the Act and specified above.

Some reports may not constitute a protected disclosure. For example, interpersonal matters that concern the worker exclusively, such as an interpersonal conflict with another worker or complaints about the employer that concern the worker exclusively do not constitute a relevant wrongdoing under the Act, and may instead be pursued under the relevant College Policy, e.g. the *Grievance Policy* or *Dignity and Respect Policy*.

It is also important to note that this Policy aims to give effect to the obligations and provisions of the *Protected Disclosures Act 2014* (as amended), and does not replace any legal or statutory reporting requirements arising under other legislation or indeed other College policies or procedures. Where statutory reporting requirements and procedures exist, these must be complied with fully.

If a worker believes that they are being subjected to penalisation as a result of making a disclosure under this procedure, they should inform their line manager or Head of Human Resources and EDI immediately.

Workers who penalise or retaliate against those who have raised concerns under this Policy will be subject to disciplinary action.

4. Policy Statement

4.1 Confidentiality and Protection of Identity

Carlow College is committed to protecting the confidentiality of the identity of workers who raise a concern under these procedures, any third party mentioned in a report, and to treating the information disclosed in confidence.

The Protected Disclosures Manager, or anyone else to whom a disclosure is shared with to allow them to carry out their functions in relation to the report, will not disclose the identity of the worker to anyone else (or any information that might reveal the identity of the worker) without the explicit consent of the worker, other than strictly within the provisions permitted in the Act. The Act provides that breach of confidentiality is a criminal offence.

In limited circumstances, it is permitted to reveal the identity of the worker of made the disclosure. This includes that the worker may explicitly consent (in writing) to their name being associated with the disclosure. Secondly, the Protected Disclosures Manager is permitted to disclose the worker's identity **if it is reasonably necessary**, for the purposes of receipt, transmission, or follow-up of the disclosure. This may include, for example, associated administrative staff or staff who have the expertise to follow up on the protected disclosure.

Where action is to be taken following a disclosure, the Protected Disclosures Manager will consult with the worker making the protected disclosure and, where possible, gain their

informed consent, prior to any action being taken that could identify them. This may include when reports are being referred by the College to an external party.

It should be noted that the Act allows the identity of the worker making the protected disclosure to be disclosed in certain prescribed circumstances even where the worker does not consent to their identity being disclosed such as:

1. The person to whom the disclosure was made or transmitted shows that they took all reasonable steps to avoid such disclosure.

   Note: This relates to a situation where all reasonable steps were taken to avoid disclosure of the identity, but the identity has been revealed in some manner, for example through an unforeseeable error or other unavoidable occurrence.

2. The person to whom the disclosure was made or transmitted had a reasonable belief that it was necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment;

3. Where the disclosure is otherwise required by law;

4. Where the disclosure is a necessary and proportionate obligation imposed by European Union law or the law of the State in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned.

Where it is decided that it is necessary to disclose the identity of the worker or other information that may or will disclose the identity of the worker, in the cases referred to at points 2 or 4 above, the worker will be informed of this decision by the Protected Disclosures Manager in advance of the disclosure and will be afforded the opportunity to make representations, and the reasons for the disclosure, unless the notification would jeopardise:

1. The effective investigation of the wrongdoing,

2. The prevention of serious risk to the security of the State, public health, public safety or the environment, or

3. The prevention of crime or prosecution of a criminal offence

Circumstances may arise where protection of identity is difficult or impossible, e.g. if the nature of the information disclosed means the worker is easily identifiable. If this occurs, the risks and potential actions that could be taken to mitigate against them will be outlined and discussed with the worker.

Workers who are concerned that their identity is not being protected should notify the Protected Disclosures Manager or a member of the Senior Management Team who will assess the matter and take appropriate action, where necessary.

Where the disclosure concerns another person(s), they are also entitled to certain protections under the Act. The College will undertake to maintain the rights to confidentiality of all persons concerned, in accordance with all applicable law.

Senior management have duties, including fiduciary duties, relating to oversight and control of the College and they require knowledge of any potential or actual issues that may have a material impact on the College. In order to fulfil these duties, the Protected Disclosures Manager shall inform the President that a protected disclosure has been received. The level of detail needed to be provided may vary from case to case, depending on its seriousness. Only when necessary should this information include the identity of the worker.

Breaches of confidentiality may be subject to action under the *Disciplinary Policy*.

Any attempt to identify the worker should not be made by persons within the College to whom their identity has not been revealed as part of the receipt and follow-up of the report of a disclosure. If such attempts are made (successful or otherwise), these will be dealt with through the *Disciplinary Policy,* where appropriate.

4.2 How to make an Internal Protected Disclosure

Disclosures can be made by emailing the Head of Human Resources & EDI, or by emailing protecteddisclosures@carlowcollege.ie. To protect confidentiality, this dedicated email address is managed only by the Head of Human Resources and EDI. A template form for making a protected disclosure is provided in Appendix 1. The report should address the following key points to the extent that such information is known to the worker in relation to a wrongdoing that has occurred, is occurring or is likely to occur:

a) that the report is a protected disclosure and is being made under the *Protected Disclosures Policy*;

b) the worker's name, position in the organisation, 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);

h) whether or not the worker consents to having their identity associated with the disclosure; and

i) any other relevant information.

The College does not expect absolute proof of any misconduct or malpractice, however, a worker will be expected to demonstrate and provide a reasonable basis for the concern.

A worker is not required or entitled to investigate matters themselves to find proof of their suspicions and, for the avoidance of doubt, **must not do so**, as however well-intentioned, this may compromise the taking of action by the College.

The worker must keep the fact of and details of a protected disclosure confidential.

4.3 Raising a Concern Anonymously

A worker is encouraged to identify themselves when making a disclosure as investigation may be difficult or impossible if further information cannot be obtained from the worker. There is no obligation under the Act to accept an anonymous report, however, Carlow College may, at its sole discretion, investigate anonymous disclosures under the procedures set out in this Policy. Anonymous disclosures may be considered at the discretion of the Protected Disclosures Group on a case-by-case basis and will be acted upon to the extent that this is possible, given the constraints in obtaining further information on the alleged wrongdoing. When exercising this discretion, the Protected Disclosures Group shall take into account factors such as:

- The seriousness of the issues raised;
- The credibility of the disclosure;
- The likelihood of being able to investigate and confirm the allegation (using alternative sources if possible); and
- The requirements of fairness with reference to any individual named in the disclosure.

It should also be noted that important elements of this Policy (e.g. providing feedback to the worker and protecting them from penalisation) may not be feasible. Also, an individual cannot obtain redress for penalisation under the Act without identifying themselves. It is noted that a worker who makes a disclosure anonymously and who is subsequently identified and penalised is entitled to the same protected as a worker who has been penalised for having made a protected disclosure.

4.4 How Disclosures Are Dealt With

4.4.1 Initial assessment

It is the responsibility of the Protected Disclosures Manager to

1. Acknowledge receipt of the disclosure to the worker **within seven calendar days;**

2. Convene a Protected Disclosures Group comprising the Protected Disclosures Manager, two members of the Senior Management and may include other Management as deemed appropriate by the group.

3. The Protected Disclosures Group will carry out an initial assessment, which may include seeking further information from the working making the protected disclosure, if required, to determine whether there is *prima facie* evidence that a relevant wrongdoing has occurred and, as such, qualifies as a protected disclosure under the Act. The worker can be accompanied by a colleague or trade union representative to any meeting held under this Policy, if they wish.

    - The initial assessment may involve clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation;

    - The Protected Disclosures Group shall be entitled to obtain advice and to seek any specialist expertise required, including legal, audit and financial, from both inside and outside of the College.

    - The Protected Disclosures Group may decide to appoint an external person/body to assess the disclosure received and make a determination on the issues and whether they should be investigated as a protected disclosure.

4. If, after the initial assessment, it is determined that there is no *prima facie* evidence that a relevant wrongdoing may have occurred, the matter will be closed or referred to another process;

5. The working making the Disclosure will be notified, in writing, as soon as practicable of the decision and the reasons for it.

4.4.2 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 Protected Disclosures Group will conduct an investigation which will be carried out fairly and objectively, and respecting the principles of natural justice and fair procedures. They may nominate a suitable person or persons, internal or external to the College, to carry out the investigation on their behalf, if this is deemed

necessary. The form and scope of the investigation will depend on the subject matter of the disclosure.

The scope and terms of reference of any investigation will be determined by the Protected Disclosures Group prior to the investigation being carried out.

Disclosures may, in the light of the seriousness of the matters raised, 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 possible that in the course of an investigation the worker may be asked to clarify certain matters. To maximise confidentiality, such a meeting can take place off-site and a worker can choose whether or not to be accompanied by a colleague or union representative.

With regard to confidentiality, it is important that there should be an awareness of respecting sensitive company information which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

4.4.3 Outcome of Investigation

The investigation report will be sent to the Protected Disclosures Group who will decide what action (if any) will be taken by the College.

They will determine whether such action should include changes to the way the College conducts its operations, disciplinary action (following the application of the relevant disciplinary procedure), referral of the matter for consideration under a specific College policy or procedure or a report to an appropriate party, such as the:

- Governing Body Audit Committee
- External Auditors;
- College Insurers;
- An Garda Síochána;
- Health and Safety Authority;
- Quality and Qualifications Ireland;
- Workplace Relations Commission;
- Higher Education Authority;
- Department of Education and Skills; and
- Any other relevant authority.

If the Protected Disclosures Group concludes that a staff member has made false allegations deliberately, maliciously or with a view to personal gain, they may be the subject of disciplinary actions in accordance with the appropriate College Policy.

4.4.4 Feedback

It is important that the worker feel assured that a disclosure made under this Policy is taken seriously and that the worker is kept informed of steps being taken by the College in response to a disclosure. Therefore, the Act provides that feedback means provision to a worker of information on the action envisaged or taken as follow-up and on the reasons for such follow-up.

In this regard, the Protected Disclosures Manager will provide feedback to the worker making the Disclosure on behalf of the Protected Disclosures Group as follows:

1. Acknowledge receipt of the disclosure **within seven calendar days;**
2. Inform the worker if the College proposes to investigate the matter or, should it be the case, why no further investigation will take place.
3. Provide feedback to the worker **within three months.**
4. Provide further feedback to the worker, where they request it in writing, **at three monthly intervals** until such time as the matter concerned is closed.

While the Protected Disclosures Manager will give the worker as much feedback as possible, it may not be possible to tell the individual the precise action to be taken where this would infringe a duty of confidence owed by the College to someone else, such as employment-related confidentiality obligations or third party contractual confidentiality obligations, or where it might prejudice any future action the College might take (including legal action) or any future prosecution. Care is taken to ensure that feedback is compliant with data protection laws and does not contravene the data protection rights of any person(s) involved. No information that could undermine the right to fair procedures enjoyed by the person against whom a report is made is shared.

The College will not provide feedback in relation to the commencement, or progress, or outcome of any disciplinary process involving another worker, which may arise following a protected disclosure.

Feedback is provided in confidence and should not be disclosed by the worker to another party other than:

(a) as part of the process of seeking legal advice in relation to their report from a solicitor or a barrister or a trade union official; or

(b) if required in order to make a further report through this or another reporting channel provided for under the Act (see section 4.4.6).

4.4.5 Penalisation

Carlow College will not tolerate or permit any form of retaliatory action (including the threat of retaliatory action), penalisation, harassment or victimisation and will take all appropriate action to support any worker who raises a reasonably held concern. Penalisation can be caused not only by the worker's employer but also the worker's co-workers or otherwise in a work-related context. If the worker believes that they are a victim of penalisation, they should report the matter directly to the Head of Human Resources and EDI.

It shall be the responsibility of the Head of Human Resources and EDI to take the necessary actions in response to this complaint, in a timely fashion.

Appropriate disciplinary action will be taken against any individual who is found to have perpetrated any retaliatory action, harassment or victimisation.

Where a concern is raised, or a disclosure is made in good faith in accordance with this Policy, but the allegation is subsequently not upheld by an assessment or investigation, no action will be taken against the worker, and they will be protected against any penalisation.

It is important to note that if a false allegation is found to have been made with malicious intent, then disciplinary action may be taken, if appropriate. Normal management of a worker who has made a report does not constitute penalisation. This can include the taking of disciplinary action against the worker for matters unrelated to the substance of the report.

4.4.6 Other Reporting Channels

The aim of this Policy is to provide a means by which workers can safely and securely raise concerns about relevant wrongdoing and to give certainty that all such concerns can be dealt with appropriately. Carlow College is confident that issues can be dealt with internally and strongly encourages workers to report such concerns internally in accordance with this policy.

However, there may be circumstances where a worker may not wish to raise their concern internally or if they have grounds to believe that an internal report they have made has not been followed up properly.

The Act sets out alternative external channels for workers to raise concerns. Information regarding these channels is set out in Appendix 3 of this Policy.

It is important to note, however, that if a worker is considering making a disclosure using these other channels, different and potentially more onerous conditions may apply. Workers are advised to seek professional advice before reporting externally. Information on where to

seek independent, confidential advice in this regard is available at https://www.transparency.ie/resources/whistleblowing/speak-safely-guide

4.4.7 System of Review

Situations may arise where an individual wishes to seek a review of a decision made, including as:

- By the worker into a decision, following assessment, to close the procedure or refer the matter to another process.
- By any affected party in respect of the conduct or outcome of any follow-up actions (including any investigation) taken on foot of the receipt of a report;
- By any affected party in respect of the conduct or outcome of any investigation into a complaint of penalisation; and
- Except in exceptional cases, by any party affected by any decision to disclose the identity of the worker to persons other than those authorised under these procedures to handle reports.

In any of the above cases, individuals may request a review of the decision with the Protected Disclosures Manager within 10 working days of having received the decision. These requests must set out the reason(s) they are seeking a review**.** A request for a review should be based on objectively reasonable grounds.

The Protected Disclosures Manager will appoint a Review Group comprising two Senior Managers, not previously involved in the process and with no perceived or actual conflict of interest, to undertake a review of the initial decision. The Review Group may comprise o members of the Governing Body Audit Committee if deemed necessary. The role of this group is not to re-investigate the matter in question but to address the specific issues the applicant feels have received insufficient consideration. The Review Group should, therefore, consider:

- Whether the correct procedures were followed;
- In the case of an investigation, whether the terms of reference were adhered to;
- Whether the conclusions/findings could or could not reasonably be drawn from the information/evidence on the balance of probability;

Where a review finds significant shortcomings or failings in the process, the public body should then consider what further action(s) may or may not need to be taken in response to said findings.

A decision of the Review Group will represent a final internal decision on the matter.

4.4.8 Reporting on Outcomes

Following the conclusion of any report under this Policy, a written summary report from the Protected Disclosures Manager shall be presented to the Governing Body's Audit Committee containing the following information:

- a description of the protected disclosure and the findings of the investigation;
- the effect the protected disclosure had on the College;
- the means of perpetrating the wrongdoing ;
- measures taken to prevent a recurrence of the identified wrongdoing;
- action required to strengthen future responses under this Policy;
- a conclusion as to the way forward; and
- any other relevant material.

4.4.9 Data Protection and Records

Most, if not all, protected disclosures will involve the processing of personal data. At a minimum, this will likely include details of the worker but may also include information about persons concerned or third parties.

Personal data shall be processed in accordance with data protection law, Carlow College's *Data Protection Policy*, and provisions in Protected Disclosures law that refer to personal data. Section 18 of the *Protected Disclosures (Amendment) Act 2022* introduces certain restrictions to the rights of data subjects under data protection law in respect of their personal data processed for the purposes of the Act, including receiving, dealing with or transmitting a report of a disclosure or follow-up on such a report.

Carlow College shall ensure that arrangements in place to handle records relating to protected disclosures are kept secure and confidential. Please see Appendix 2 for further information.

Access to records shall be strictly limited to those who require access in accordance with this Policy, that is, the Protected Disclosures Manager, the Protected Disclosures Group, or other appropriate persons, as required.

If you consent to the processing of your personal data in connection with a protected disclosure, you are entitled to withdraw consent. Please do this by contacting the person to whom you gave consent, or contact the Data Protection Officer.

The *Freedom of Information (FOI) Act 2014* has been amended by the *Protected Disclosures (Amendment) Act 2022*. As a result of this amendment, the *FOI Act* does not apply to a record

relating to a report, within the meaning of the *Protected Disclosures Act 2014*, made under the Act, whether the report was made before or after the date of the passing of the *Protected Disclosures (Amendment) Act 2022*. Records concerning an FOI body's general administration of protected disclosures are still subject to FOI.

5. Roles and Responsibilities

5.1 Protected Disclosures Manager is responsible for:

- ensuring that the internal reporting channel is operated in a secure manner, thus protecting the identity of the worker and any other person mentioned in a disclosure.
- carrying out the initial assessment of the report to determine what response is necessary, and following up on the disclosure themselves if they consider it appropriate
- convening a Protected Disclosures Group if required, which will comprise the Protected Disclosures Manager, two members of senior management and may include other Management as deemed appropriate by the group
- maintaining contact with the worker, which includes acknowledging the report and providing feedback at various stages
- writing any required report which may be necessary, including for any disciplinary process which may arise from an investigation
- Dealing with requests for appeal and appointing a Review Group as set out in Section 4.4.7.

5.2 Staff

- All staff should familiarise themselves with this Policy and its subsequent practices and procedures. In cases where staff are unsure on how to proceed with a concern they have, they should seek guidance from the Head of Human Resources and EDI on making a protected disclosure.
- Staff should inform themselves of the difference between a protected disclosure, and the procedures to follow when a matter refers to them exclusively, such as an interpersonal conflict or a complaint in respect of the employer.
- All staff have a responsibility to create a working environment that is open, transparent and safe for all, and where dignity and respect is promoted at all times. As such, all staff have an obligation to ensure that false allegations are not made deliberately, maliciously or with a view to personal gain. Staff are encouraged to read

Transparency International Ireland's guide to whistleblowing for further guidance on making a protected disclosure. https://www.transparency.ie/resources/whistleblowing/speak-safely-guide

5.3 Human Resources

It is the responsibility of Human Resources to work towards creating an open, transparent and safe working environment throughout the College. It should also clearly demonstrate the College's commitment to listening to the concerns of workers. In order to achieve these aims, Human Resources will provide advice and guidance to all workers on this policy and its subsequent practices and procedures. If requested, it will provide support, guidance and protection to a worker who makes a protected disclosure. Human Resources will also have the following responsibilities under this policy:

- Protect the employee from penalisation where applicable
- Commitment to emphasising that penalisation of a worker is not acceptable. Any reports of penalisation will be taken seriously and managed appropriately.
- Provision of training as required to all staff

6. Associated Documentation

- Appendix 1: Form for Making a Protected Disclosure
- Appendix 2: Process Information for Staff
- Appendix 3: Other Disclosure Channels

7. Referenced Policies

- *Data Protection Policy*
- *Dignity and Respect Policy*
- *Disciplinary Policy (Staff)*
- *Freedom of Information Policy*
- *Grievance Policy (Staff)*
- *Information Classification and Handling Policy*

- *Quality Assurance Policy*
- *Staff Code of Conduct Policy*

8. Monitoring and Review

This Policy will be monitored annually and formally reviewed five years after the approval date.

Appendix 1: Form for Making a Protected Disclosure

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Form for Making a Protected Disclosure

I _____ wish to make a protected disclosure under the Protected Disclosures Act 2014.

This Act applies to all *workers* as defined in section 3 of the Act, which includes, but is not limited to, current and former employees, independent contractors, trainees, agency staff, volunteers, board members, and job candidates.

Please indicate in which capacity you are making this protected disclosure:

_____
(current employee; former employee; independent contractor; trainee;
agency staff, volunteer, Governor; job candidate etc.)

Place of Work: _____

Position: _____

Please give a description of the alleged wrongdoing:

_____

_____

_____

_____

Please give an outline of how the alleged wrongdoing came to your attention in a work-related context

_____

_____

_____

_____

Date of the alleged wrongdoing (if known), the date the alleged wrongdoing commenced, or you became aware of the alleged wrongdoing:

_____

_____

Is the alleged wrongdoing continuing?

_____

_____

Has the alleged wrongdoing already been disclosed? When and to whom?

What, if any, action was taken?

_____

_____

_____

_____

The name of any person(s) allegedly involved in the alleged wrongdoing:

(If any nameis known and you consider that naming an individual is necessary to report the wrongdoing disclosed):

_____

_____

_____

_____

Any further information relevant to the alleged wrongdoing and any supporting information:

(What is occurring / has occurred and how?)

_____

_____

_____

_____

Please provide contact details where the Protected Disclosures Manager can contact you:

Email address: _____

Phone number: _____

Address: _____

_____

Do you consent to having your identity associated with the protected disclosure?

Yes / No _____

Note: the norm is that the College will protect the identity of the worker and share it only as permitted by law. If you answer 'yes' and subsequently change your mind, please notify the Protected Disclosures Manager in writing.

Appendix 2: Process Information for Staff

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Process Information for Staff

Personnel

Any staff member who is the subject of a protected disclosure shall not be involved in handling it. If any member of staff has a conflict of interest in relation to a disclosure, they shall declare it to the Protected Disclosures Manager and absent themselves from the case. If the Protected Disclosures Manager has a conflict of interest, they shall transfer the case to a member of Senior Management.

A conflict of interest check will be carried by the Protected Disclosures Manager on external investigators/ professional advisers (if engaged) to ensure no conflict of interest exists. This will be documented.

Explicit Consent of the Worker

There is provision on the *Form for Making a Protected Disclosure* for the worker to grant or refuse consent for their identity to be associated with the report. If they answer 'yes,' this should be confirmed by the Protected Disclosures Manager with the worker prior to acting on this consent.

Recordkeeping

A record shall be kept of all meetings held under this Policy. Draft minutes are circulated to authorised staff who are in attendance for agreement.

Records arising under the Protected Disclosures Policy are to be managed in accordance with the following procedures:

- Where feasible, records should be electronic and stored in OneDrive
- All records relating to a particular case should be held in a 'case file'

- Share records with authorised staff and external parties (e.g. legal advisor, external investigator) using a secure mechanism (email attachments are not to be used). . Set an expiry date on links e.g. maximum of five working days.

- Physical records should be kept securely i.e. in a locked office, locked filing cabinet.

Ensure that the identity of a person(s) is not revealed where there is a confidentiality obligation. Where possible, a second person should check that documentation does not directly or indirectly inadvertently reveal a person's identity.

Appendix 3: Other Disclosure Channels

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ST. PATRICK'S

Other Disclosure Channels

The aim of this Policy is to provide a means by which workers can safely and securely raise concerns about relevant wrongdoing and to give certainty that all such concerns will be dealt with appropriately. Carlow College is confident that issues can be dealt with internally and strongly encourages workers to report such concerns internally in accordance with this policy.

There may, however, be circumstances where a worker may not wish to raise their concern internally or if they have grounds to believe that an internal report they have made has not been followed-up properly.

The *Protected Disclosures Act* sets out alternative external channels for workers to raise concerns. Information regarding these channels is set out below.

Workers should note that different and potentially more onerous conditions may apply when using these channels. Workers are advised to seek professional advice before reporting externally.

The information set out in this Appendix gives a general overview of external disclosure channels available under the Act. It does not purport to be legal advice or a legal interpretation of the *Protected Disclosures Act*. It is entirely a matter for each worker to satisfy themselves that they are reporting in accordance with the Act.

1. Reporting to a Prescribed Person

The conditions applying to reporting to a prescribed person are set out in section 7 of the *Protected Disclosures Act*.

If a worker wishes to make a report to a prescribed person, in addition to having a reasonable belief that the information they report tends to show a relevant wrongdoing, they must also reasonably believe the information they report is substantially true and that the relevant wrongdoing they wish to report falls within the description of matters for which the person is prescribed.

Prescribed persons are required to have formal channels to receive reports to them under the Act and to acknowledge, follow-up and give feedback on all reports received.

If a worker decides to report to a prescribed person, they must make sure that they choose the right person or body for their issue. For example, if they are reporting a breach of data protection law, they should contact the Data Protection Commission. A full list of prescribed persons and a description of the matter for which they have been prescribed can be found at: https://www.opdc.ie/en/publication/b3070-how-to-report-wrongdoing/.

2. Reporting to the Protected Disclosures Commissioner

The conditions applying to reporting to the Protected Disclosures Commissioner are set out in section 7 of the *Protected Disclosures Act*.

The Protected Disclosures Commissioner is an alternative means by which a worker can make a report under section 7 of the Act. In particular, the Commissioner can assist where the worker is uncertain as to which prescribed person to report to. The Commissioner will transmit the report to the correct prescribed person or to another person the Commissioner considers suitable to follow-up on the report. In exceptional circumstances (e.g. if no prescribed person or suitable person can be found) the Commissioner will follow up directly on a report.

If a worker wishes to make a report to the Commissioner, in addition to having a reasonable belief that the information they report tends to show a relevant wrongdoing, they must also reasonably believe the information they report, and any allegation contained in it is substantially true.

The Commissioner has established formal channels for workers to make reports under the Act. Information on how to report to the Commissioner is available at: https://www.opdc.ie/.

3. Reporting to a legal adviser

The conditions for reporting to a legal adviser are set out in section 9 of the Act.

A worker can disclose information concerning a relevant wrongdoing to a barrister, a solicitor or a trade union official (or an official of an excepted body under section 6 of the *Trade Union Act 1941* in the course of obtaining legal advice, including advice in relation to the operation of the *Protected Disclosures Act*.

4. Reporting to other third parties

There are specific and more onerous conditions that must be met for a worker to be protected if they make a disclosure to any person other than their employer or other responsible person, a prescribed person, the Protected Disclosures Commissioner or a relevant Minister. These are set out in section 10 of the *Protected Disclosures Act*.

The worker must reasonably believe that the information disclosed in the report, and any allegation contained in it, is substantially true, and that at least one of the following conditions is met:

- the worker previously made a disclosure of substantially the same information to their employer or other responsible person; to a prescribed person; to the Protected Disclosures Commissioner, or to a relevant Minister, but no appropriate action was taken in response to the report within the specified feedback period; or

- the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage, or

- the worker reasonably believes that if they were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that there is a risk of penalisation, or

- the worker reasonably believes that if they were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that there is a low prospect of the relevant wrongdoing being effectively addressed, due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where a prescribed person may be in collusion with the perpetrator of the wrongdoing or involved in the wrongdoing.

Workers are advised to seek legal advice before opting to make a disclosure in this way.