



Protected Disclosures in the Workplace Policy 2023

What is a protected disclosure?

Under the 2014 Act, a protected disclosure is a disclosure by a worker of relevant information that came to their attention in connection with their employment, and which they reasonably believe tends to show one or more relevant wrongdoings. The definition of relevant wrongdoing contains eight types of wrongdoing. These include:

- That an offence has been or is likely to be committed
- That a person has failed, is failing or is likely to fail with a legal obligation, other than one arising from a contract of employment, and
- That the health or safety of any individual has been, is being or is likely to be endangered

The 2022 Act changes the definition of wrongdoing in a number of ways. The first is that it will include breaches of EU law in a number of areas including:

- Public procurement
- Financial services, products and markets, and prevention of money laundering and terrorist financing
- Product safety and compliance
- Transport safety
- Public health
- Protection of privacy and personal data, and security of network and information systems
- Breaches that otherwise affect the financial interests of the EU or defeat the purpose of EU law

Secondly, instead of the information needing to have come to a worker's attention in connection with their employment, it can now also come to their attention 'in a work-related context'. While this may seem like semantics, it is necessary to ensure that persons such as volunteers and job applicants are protected from penalisation.

The third change amends the definition of relevant wrongdoing to exclude 'interpersonal grievances exclusively affecting the person making the disclosure'.

Complaints by a worker that concern interpersonal grievances between themselves and another worker, or their employer, will not constitute a protected disclosure, but instead through the channel of the grievance procedure.

It is important to note that a matter is not regarded as 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.

In NETNS, protected disclosures may occur when a staff member raises a concern or discloses information which relates to wrongdoing, illegal practices or unethical conduct which has come to his/her attention through work.

Our school's Protected Disclosure Policy is intended to encourage and enable staff members to raise concerns within our school rather than overlooking a problem or "blowing the whistle" externally. Under this policy a staff member of Navan Educate Together National School, Commons Road, Navan, Co. Meath is entitled to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

Our Commitment

NETNS, in accordance with our school vision and ethos, is committed to maintaining an open culture with the highest standards of honesty and accountability where our staff members can report any concerns in confidence.

Who does the policy apply to?

This policy applies to all staff members.

The Protected Disclosure Act 2014 applies to disclosures made by 'workers' of relevant information that came to that worker's attention in connection with their employment. Workers are defined in the 2014 Act as including employees, ex-employees, consultants, agency workers; essentially anyone who is contracted to provide work for an employer in the public or private sector.

The 2022 Act significantly expands the group of people protected disclosure legislation would apply to the definition of 'worker' in the 2022 Act includes:

- Employees
- Consultants
- Agency workers
- People engaging in work experience
- Shareholders
- Volunteers
- Individuals who are members of the administrative, management or supervisory body of an undertaking
- Prospective employees involved in the recruitment process

It is important to note that if a staff member has a concern in relation to his/her own employment or personal circumstances in the workplace it should be dealt with by way of the relevant Grievance Procedure (i.e. INTO grievance procedure for teachers; FORSA grievance

procedure for relevant staff members and his/her contractual grievance procedure for contracted staff members). Likewise, concerns arising in regard to workplace relationships should generally be dealt with through our Dignity at Work policy and / or the Working Together: Procedures and Policies for Positive Staff Relations document agreed by INTO and school management bodies.

It is also important to note that this whistleblowing policy does not replace any legal reporting or disclosure requirements. Where statutory reporting requirements and procedures exist, these must be complied with fully

Aims of the Policy

- To encourage staff to feel confident and safe in raising concerns and disclosing information;
- To provide avenues for staff to raise concerns in confidence and receive feedback on any action taken;
- To ensure that staff receive a response, where possible, to their concerns and information disclosed;
- To reassure staff that they will be protected from penalisation or any threat of penalisation.

What types of concerns can be raised?

A concern or disclosure should relate to a relevant wrongdoing such as possible fraud, crime, danger or failure to comply with any legal obligation which has come to a staff member's attention in connection with his/her employment and about which he/she has a reasonable belief of wrongdoing.

What types of concerns should not be raised under this Procedure?

A personal concern, for example a grievance around a staff member's own contract of employment, would not be regarded as a protected disclosure concern and would be more appropriately processed through the relevant Grievance Procedure.

Safeguards and Penalisation

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

Penalisation includes

- suspension/dismissal,
- lay off,
- demotion,
- discrimination,
- intimidation,
- harassment,
- discrimination or threat of reprisal,
- Withholding of training
- A negative performance assessment or employment reference

- Harm, including the worker’s reputation, particularly on 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
- Early termination or cancellation of a contract for goods or services,
- Cancellation of a licence or permit, and
- Psychiatric or medical referrals

arising from raising a concern or making a disclosure on the basis of reasonable belief for doing so.

If a staff member believes that he/she is being subjected to penalisation as a result of making a disclosure under this procedure, he/she should inform the Principal or Chairperson of the Board of Management immediately.

Staff members who penalise or retaliate against those who have raised concerns under this policy will be subject to disciplinary action.

Staff members are not expected to prove the truth of an allegation. However, they must have a reasonable belief that there are grounds for their concern. It should be noted that appropriate disciplinary action may be taken against any staff member who is found to have raised a concern or raised a disclosure with malicious intent.

Confidentiality

This school is committed to protecting the identity of the staff member raising a concern and ensures that relevant disclosures are treated in confidence. The focus will be on the wrongdoing rather than the person making the disclosure. However, there are circumstances, as outlined in the Act, where confidentiality cannot be maintained, particularly in a situation where the staff member is participating in an investigation into the matter being disclosed. Should such a situation arise, the school will make every effort to inform the staff member that his/her identity may be disclosed.

Raising a Concern Anonymously

A concern may be raised anonymously. However, on a practical level, it may be difficult to investigate such a concern. The school would encourage staff members to put their names to allegations, with an assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for the school to assess the disclosure and take appropriate action including an investigation if necessary.

Procedure

Raising a Concern

Who should you raise your concern with?

As a first step, appropriate concerns should be raised with the Principal or Deputy Principal. However, should a staff member not wish to use this route, for example given the seriousness

and sensitivity of the issues involved, he/she should approach the Chairperson of the Board of Management.

How to raise a concern?

Concerns may be raised verbally or in writing. Should a staff member raise a concern verbally, a discussion will take place between him/her and the Principal/Deputy Principal/Chairperson of Board of Management, and the staff member may be advised to put the concern in writing, if it is decided between both parties that there is merit to the concern or disclosure. The written concern/disclosure should give the background and history of the concern, giving relevant details, insofar as is possible, such as dates, sequence of events and description of circumstances.

The earlier the concern is expressed, the easier it will be for the school to deal with the matter quickly.

Having received the written concern, representatives from the Board of Management will arrange a meeting to discuss the matter with the staff member on a strictly confidential basis. It will need to be clarified at this point if the concern is appropriate to this procedure or is a matter more appropriate to other procedures, for example the Grievance or Dignity at Work procedures. The staff member can choose whether or not he/she wants to be accompanied by a colleague or a trade union representative. In regard to confidentiality, it is important that there should be an awareness of respecting sensitive school information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

Dealing with the disclosure

Having met with the staff member in regard to his/her concern and clarified that the matter is in fact appropriate to this procedure, the Board of Management or its representatives will carry out an initial assessment to examine what actions are needed 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, an investigation will be conducted which will be carried out fairly and objectively. The form and scope of the investigation will depend on the subject matter of the disclosure.

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 important that staff members feel assured that a disclosure made under this policy is taken seriously and that the staff member is kept informed of steps being taken in response to the disclosure. In this regard the school undertakes to communicate with the relevant staff member as follows:

- Acknowledge receipt of the disclosure within seven days and arrange to meet with the relevant staff member as outlined above;

- Inform the staff member of how it is proposed to investigate the matter and keep him/her informed of actions, where possible, including the outcome of any investigation, and, should it be the case, why no further investigation will take place. However, it is important to note that sometimes the need for confidentiality and legal considerations may prevent the school from giving the staff member specific details of an investigation.
- Inform the staff member of the likely time scales in regard to each of the steps being taken within a reasonable period of time, being not more than three months from the date the acknowledgement of receipt of the report.

It is possible that in the course of an investigation the staff member may be asked to clarify certain matters. To maximise confidentiality, such a meeting can take place outside of the school and he/she can choose whether or not to be accompanied by a colleague or trade union representative.

Where a concern is raised or a disclosure is made in accordance with this policy, but the allegation is subsequently not upheld by an investigation, no action will be taken against the staff member making the disclosure and the staff member will be protected against any penalisation. It is important to note that if an unfounded allegation is found to have been with malicious intent, then disciplinary action may be taken.

How the matter can be taken further?

The aim of this Policy is to provide an avenue within this school to deal with concerns or disclosures in regard to wrongdoing. The Board of Management is confident that most issues can be dealt with at school level and strongly encourages staff members to report such concerns internally.

It is acknowledged that there may be circumstances where a staff member wants to make a disclosure externally and the legislation governing disclosures — The Protected Disclosures Act 2022— provides for a number of avenues in this regard.

It is important to note, however, that while a staff member needs only have a reasonable belief as to wrongdoing to make a disclosure internally, if he/she is considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made.

Communication, Monitoring and Review

This policy will be communicated to staff and the school community as appropriate and will be subjected to regular review. In accordance with the systematic cycle of review of policies adopted by NETNS, it will be reviewed initially every three years, unless there is a compelling reason to review it earlier.

Signed: 
(Chairperson, Board of Management)

Date: 8/2/24