



Ollscoil
Teicneolaíochta
an Atlantaigh

Atlantic
Technological
University

Protected Disclosure Policy

Version 1.0

Revision History:

Date of this revision: 13 th April 2022		Date of next review:	
Version Number/ Revision Number	Revision Date	Summary of Changes	Changes marked
1.0		New Policy	

Consultation History:

Version Number/ Revision Number	Consultation Date	Names of Parties in Consultation	Summary of Changes
1.0	N/a		

Approval:

This document requires the following approvals:

Version	Approved By:	Date
1.0	ATU Governing Body	13 th April 2022

Quality Assurance:

Date Approved: 13 th April 2022	Date Policy to take effect: 13 th April 2022	Date Policy to be Reviewed: 13 th April 2023
Written by:	ATU Corporate Governance and Data Protection PSC	
Approved by:	Working Group 4	
Approving Authority:	ATU Governing Body	
Head of Function responsible:	VP for Finance and Corporate Services	
Reference Documents:	Protected Disclosure Policy (THEA) and Protection Disclosure Policies of LYIT, GMIT and IT Sligo	

Document Location:

Website – Policies and Procedures	<input checked="" type="checkbox"/>
Website – Staff Hub	<input checked="" type="checkbox"/>
Website – Student Hub	<input checked="" type="checkbox"/>
Other: - Internal Use Only	<input checked="" type="checkbox"/>

This Policy was approved by the Governing Body on 13th April 2022. It shall be reviewed and, as necessary, amended by the University annually. All amendments shall be recorded on the revision history section above.

DRAFT

Table of Contents

1. EXECUTIVE SUMMARY 3

2. INTRODUCTION 4

3. SCOPE 5

4. RELEVANT WRONGDOING 5

5. PROTECTED DISCLOSURE VS GRIEVANCE 6

6. PROTECTION 6

7. ANONYMOUS CONCERNS 7

8. DISCLOSURE PROCESS 8

 8.1 How to make a Disclosure 8

 8.2 How the Audit & Risk Committee will handle the matter 8

 8.3 Other Avenues of Disclosure 9

9. SUBJECT OF THE DISCLOSURE 11

10. REPRESENTATION 10

11. RECORDS 10

12. REPORTING 10

13. POLICY UPDATES 11

14. TRAINING 11

APPENDIX I – ADVICE FOR STAFF MAKING A DISCLOSURE/ INTEGRITY AT WORK 12

APPENDIX II – ROLES & RESPONSIBILITIES 13

APPENDIX III – DEFINITIONS 15

1. EXECUTIVE SUMMARY

1.1 Our Commitment

The University is committed to maintaining an open culture with the highest standards of honesty and accountability where workers¹ can report any concerns about wrongdoing in confidence.

The University is a member of the Integrity at Work programme, a Transparency International Ireland initiative. As part of its commitment to protecting workers who raise concerns of wrongdoing, the University has signed and complies with the Integrity at Work Pledge to ensure that workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised. A copy of the Pledge is in Appendix IV.

Workers considering reporting a concern are encouraged to seek free and confidential advice from TI Ireland's Speak Up Helpline at 1800 844 866, Monday to Friday 10am to 6pm. Enquiries can also be made via secure online form or encrypted text at www.speakup.ie. Further information is available in the [Speak Up Safely video](#) and in the Speak Up Safely Guide and FAQ's located on the staff portal [here](#).

1.2 What is Whistleblowing?

Whistleblowing occurs when a worker raises a concern or discloses information which relates to wrongdoing, illegal practices or unethical conduct which has come to his/her attention through work.

This policy is intended to encourage and enable workers to raise concerns within our workplace rather than overlooking a problem or "blowing the whistle" externally. Under this policy a worker is encouraged to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

1.3 Who does the Policy apply to?

This policy applies to all of the University's workers at all levels.

1.4 Aims of the Policy

The Protected Disclosure (Whistleblowing) Policy sets out the principles the University will apply in dealing with protected disclosures. The policy is complemented by the Protected Disclosure (Whistleblowing) Procedures (See Part II). The intention of the policy and procedure is:

- To provide clear guidance on reporting wrongdoing at work (as defined in section 4.1). This policy is not intended for normal day to day reporting in the workplace.
- To encourage workers to feel confident and safe in raising concerns and disclosing information
- To provide avenues for workers to raise concerns in confidence and receive feedback on any action taken
- To ensure that workers receive a response where possible to their concerns and the information disclosed
- To reassure workers that they will be protected from penalisation or any threat of penalisation
- To make workers aware of support available.

1.5 What types of concerns should not be raised under this Policy?

This policy is intended to deal with concerns about wrongdoing as defined in section 4.1 below. Should a worker have a concern in relation to their own employment or personal circumstances in the workplace, it should be dealt with by way of engagement with line management or through the Grievance Procedure. Likewise concerns arising in regard to workplace relationships should generally be dealt with through the Dignity in the Workplace policy. It is also important to note that this policy does not replace any legal reporting or disclosure requirements. Where statutory reporting requirements and procedures exist, these must be complied with fully.

1.6 Safeguards and Penalisation

A worker who makes a disclosure and has a reasonable belief of wrongdoing will not be penalised by the University, even if the concerns or disclosure turn out to be unfounded. Workers who penalise or retaliate against those who have raised concerns under this policy will be subject to disciplinary action.

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. It should be noted that appropriate disciplinary action may be taken against any worker who is found to have raised a concern or made a disclosure with malicious intent.

¹ The term 'workers' in this policy refers to employees, contractors, agency workers and/or work experience students or trainees, temporary employees and former employees. See Appendix III

1.7 Confidentiality

The University is committed to protecting the identity of the worker raising a concern and to ensuring that disclosures are treated in confidence. The focus will be on the wrongdoing rather than on the person making the disclosure. However, there are circumstances, as outlined in the Protected Disclosures Act 2014 (Ireland's whistleblowing legislation), where confidentiality cannot be maintained, particularly in a situation where the worker is participating in an investigation into the matter being disclosed. Should such a situation arise, the University will make every effort to inform the worker that his/her identity may be disclosed.

1.8 Raising a Concern Anonymously

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

1.9 How to Raise a Concern

The first avenue is internal and disclosures for the University can be made orally or in writing directly to the University's Audit & Risk Committee (a committee of the Governing Body) via its Chairperson; or to the worker's line manager; or to the Vice President (VP) for Corporate Affairs & Finance. Where a disclosure has been made to the VP Corporate Affairs & Finance and/or the line manager, the disclosure is passed to the Chair of the Audit & Risk Committee for action.²

Detailed guidelines on how to make a disclosure can be found in the University's Protected Disclosure (Whistleblowing) Procedure (See Part II).

2. INTRODUCTION

- 2.1 The University is committed to the highest possible standards of openness, probity and accountability. The University has put in place a wide range of rules, regulations, procedures and codes of practice to deliver on its commitments and to deter malpractice, abuse and/or wrongdoing.
- 2.2 Malpractice, abuse or wrongdoing will not be tolerated within the University or in any activities related to the University. The University expects members of the University community who have bona fide concerns about such malpractice to come forward and voice those concerns, without fear of reprisal.
- 2.3 This Policy has been introduced by the University to enable individuals to raise concerns and disclose information regarding potential wrongdoing that has come to their attention in the course of their work, in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for doing so. Disclosures about malpractice, abuse or wrongdoing can be made at an early stage and in the appropriate manner, without fear of victimization, subsequent discrimination or disadvantage. The Policy is intended to enable individuals to raise genuine concerns through the appropriate channel.
- 2.4 This Policy does not address all possible situations that may arise but is intended to provide guidance on the procedure to make protected disclosures under the Protected Disclosures Act 2014 (the Act). This policy is not intended for normal day to day reporting in the workplace.

3. SCOPE

- 3.1 This Protected Disclosure (Whistleblowing) Policy applies to workers in the University (as defined in Appendix III) and the Governing Body, all of whom are expected to use this policy as appropriate.
- 3.2 This Policy is designed to allow persons listed in 3.1 above to disclose information through an appropriate channel, which the person making the disclosure has a reasonable belief, shows evidence of malpractice, abuse or wrongdoing as outlined in section 4.1 of the policy.

² The ARC may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.

4. RELEVANT WRONGDOING

4.1 For an employee to be protected, the subject matter of the disclosure must refer to one or more relevant wrongdoings.³

Relevant wrongdoings which fall within the scope of this policy are defined by the legislation as:

- a) an offence, has been, is being or likely to be committed;
- b) a person has failed, is failing, or likely to fail to comply with any legal obligation **other than** under the worker's contract of employment;
- c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- d) that the health or safety of any person has been, is being or is likely to be endangered;
- e) that the environment has been, is being or is likely to be damaged;
- f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has, is or is likely to occur;
- g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or
- h) that information tending to show any matter outlined above has been, or is likely to be, concealed or destroyed.

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

- That is happening now;
- That took place in the past;
- That is about to happen.

4.3 A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker or the organisation which employs or engages the worker to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the engaging or employing organisation.

5. PROTECTED DISCLOSURE VS GRIEVANCE

5.1 This policy does not cover personal complaints or personal grievances or matters otherwise falling under a worker's personal contract of employment or engagement.

5.2 Individuals are expected to use the most appropriate and relevant procedure in relation to issues as they arise. Where a procedure already exists for the raising of an issue, then the individual is expected to follow the relevant procedure, for example a Grievance Procedure. It is intended that this Policy should not reconsider any matter that has already been addressed through other University procedures.

6. PROTECTION

6.1 Individuals who make a disclosure under this Policy will not be at risk of losing their job/position or suffering any form of retribution (including those listed in 6.2 below) as a result, except where the individual has been complicit in the malpractice, abuse or wrongdoing itself (either by direct action or the failure to act when they became

³ It is worth noting that some whistleblowers may share information that falls outside the definition of 'relevant wrongdoing' under the Protected Disclosures Act 2014.

aware of the matter concerned). So long as they have not been complicit, individuals will be protected even if the matter is found to be mistaken, provided they:

- Are raising concerns and disclosing information regarding potential wrongdoing that has come to their attention in the course of their work and
- Have a reasonable belief that the information disclosed is accurate; and
- Have not made the allegation for the purpose of obtaining payment or personal gain.

6.2 An employee cannot be penalised for making a disclosure. Penalisation includes:

- a) Suspension, lay-off or dismissal;
- b) Demotion or loss of opportunity for promotion
- c) Transfer of duties, change of work location, reduction in wages or changing in working hours;
- d) Any discipline, reprimand, or other penalty;
- e) Unfair treatment;
- f) Coercion, intimidation or harassment;
- g) Discrimination, disadvantage or unfair treatment;
- h) Injury, damage or loss
- i) Threat of reprisal.

6.3 The University will not tolerate any harassment or victimisation of a worker who has made a disclosure under this policy (including informal pressures) and commits to assess / investigate all notifications of penalisation and take appropriate action where necessary. Any individual who believes they are being/have been penalised for making a disclosure should contact the Chair of the Audit & Risk Committee or the Head of HR as soon as possible. Such notifications will be addressed promptly. For further information, see Section 8 of the Protected Disclosures (Whistleblowing) Procedures in Part II.

6.4 The motivation for making a disclosure is not relevant to whether or not it is protected. A worker does not need to be certain about the facts in their disclosure, it is sufficient that in the reasonable belief of the worker, the information tends to show one or more relevant wrongdoings and the information came to the attention of the worker in connection with their employment. The worker / discloser is not required to investigate their concerns in order for them to have a reasonable belief.

6.5 While the University welcomes the submission of all genuine disclosures, it will nevertheless view very seriously any false, malicious, frivolous or vexatious allegations that are made under this Policy. The University will regard such allegations by any member as a serious matter which could result in disciplinary action.

6.6 The University will treat all disclosures made under this policy in a confidential and sensitive manner. The identity of the individual making the disclosure (i.e. the discloser) will be protected save for exceptional circumstances i.e. necessary in the public interest or required by law. It is recognised that in some circumstances, the investigation process may at some stage have to reveal the source of the information (where possible with the consent of the discloser), and the individual making the disclosure may be requested to make a statement as part of the evidence required.

6.7 Where a decision is taken to disclose the identity of the worker, where at all possible, the worker will be provided with advance notification and the opportunity to make any representations.

6.8 Workers who are concerned that their identity is not being protected should notify the Chair of the Audit & Risk Committee or the Head of HR as soon as possible. Such notifications will be addressed promptly.

6.8

6.9 The University will not ask a worker (or former worker) to waive their right to make a protected disclosure under any circumstances.

7. ANONYMOUS CONCERNS

- 7.1 There is a distinction between anonymous disclosures (where identity is withheld by the Discloser) and confidential disclosures (where identity is protected by the recipient). Anonymous disclosures made by workers are not excluded from the protections of the Act and the University will investigate such disclosures to the extent that this is possible in the circumstances.
- 7.2 Anonymous disclosures may be considered at the discretion of the Audit & Risk Committee (ARC). When exercising this discretion, the ARC 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.
- 7.3 Anonymous disclosures, however, are less capable of being addressed as it is difficult to investigate a matter and to corroborate facts. The University encourages an individual to put their name to disclosures made where possible or to provide a means of continuing communication e.g. an anonymised email address.

8. DISCLOSURE PROCESS

8.1 How to make a Disclosure

8.1.1 The legislation provides for a number of avenues of disclosure:

- An Employer/or other responsible person⁴
- A Prescribed Person i.e. a Body/Person Prescribed by the Minister
- A Minister
- A Trade Union Official or Legal Advisor
- Others.⁵

8.1.2 The first avenue is internal and disclosures for the University can be made orally or in writing directly to the University's Audit & Risk Committee via its Chairperson or to the worker's line manager or the Vice President Corporate Affairs & Finance. The Audit & Risk Committee (ARC) is a committee of the Governing Body. The recipient is formally the Chair of the Audit and Risk Committee. Where a disclosure has been made to the VP Corporate Affairs & Finance and/or the line manager, the disclosure is passed to the Chair of the ARC for action.⁶

8.1.3 Please refer to the University's Protected Disclosure (Whistleblowing) Procedures (Part II) for further information about making a disclosure.

8.1.4 It should be noted that if a disclosure is made during an investigation or disciplinary process, it does not affect those distinct processes.

8.2 How the Audit & Risk Committee will handle the matter

8.2.1 Within 7 working days of a disclosure being received, the Audit & Risk Committee (ARC) will reply to the individual who made the disclosure:

⁴ In situations where the worker reasonably believes that the relevant wrongdoing relates to the conduct of a person other than their employer or in situations where someone other than the employer has legal responsibility, the worker may disclose to the relevant responsible person or body.

⁵ 'Others' can include journalists or public representatives. There are very specific criteria for choosing to report in this way, see 8.3.4 below

⁶ The ARC may refer reports back to the VP Finance and Corporate Services and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time. Governance will provide administrative support to ARC to deal with this, if required.

- Acknowledging that the concern has been received;
- Indicating that the committee is dealing with the matter;
- Informing that further communications will take place.

- 8.2.2 Once a report has been received, the ARC or a sub-committee thereof (the 'Review Group') shall carry out an enquiry to review the issue, establish the factual information and decide the course of action to be taken, if any. Where applicable a determination will be made as to what steps will be taken as part of an investigation.
- 8.2.3 Employees of the University, including Senior Management, may be called on by the ARC to provide information relevant to the disclosure in order to assist in establishing further facts. Additionally, where appropriate, Senior Management may be asked to assist in the process. Every effort will be made to ensure that any potential conflicts of interest are identified, that a completely objective and impartial process is assured and that confidentiality is maintained.
- 8.2.4 If the ARC deems it appropriate, they may call on external expertise at their discretion in order to assist them.
- 8.2.5 The ARC should ensure the person who made the disclosure is aware of the timetable for the review and the final outcome as appropriate.
- 8.2.6 The ARC may decide that the matter should be dealt with under a different policy and, if so, will provide advice to the person making the disclosure as to the steps to take.
- 8.2.7 The ARC may decide that the matter does not meet the criteria for a Protected Disclosure (see 4.1) and will advise the person making the disclosure accordingly.
- 8.2.8 Where an investigation is deemed appropriate, a terms of reference will be determined with details of who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to.
- 8.2.9 Where it is considered appropriate, the matters raised may be referred to external agencies to investigate, e.g. the Gardaí or through some other form of independent enquiry.
- 8.2.10 The person/persons appointed to carry out the investigation will provide a written report to the ARC detailing their findings and recommendation(s) for consideration.
- 8.2.11 Upon receipt of the Investigator's report, the ARC will decide on the necessary action that is required.
- 8.2.12 The discloser may be informed in confidence that appropriate action has taken place. It may not be possible to provide details of the outcomes of the appropriate action to the discloser.
- 8.2.13 The discloser has a right to appeal the outcome of the initial review and/or the process of by which an investigation was carried out. Such appeals should be made to the Chair of the ARC within 10 working days of having received a decision.
- 8.2.14 The Chair of the ARC will advise the discloser within 10 working days (and no later than 16 working days) of the outcome of the appeal.
- 8.2.15 Where it is concluded that the discloser made the disclosure without reasonable belief, they may be subject to disciplinary action under the University's Disciplinary Procedure.

For further details on the how the ARC will handle disclosures and appeals please also refer to the University's Protected Disclosure (Whistleblowing) Procedure in Part II.

8.3 Other Avenues of Disclosure

- 8.3.1 A further avenue of disclosure is to a prescribed person as outlined in the Act. An example of this would be a disclosure made to the Comptroller & Auditor General or to the Chief Executive of the Higher Education Authority. When an employee chooses to disclose in this manner, he or she must reasonably believe the information disclosed and any allegation contained in it to be substantially true.

- 8.3.2 Disclosures can also be made to the Minister of Further and Higher Education, Research, Innovation and Science and the Minister's contact details can be found here – <https://www.gov.ie/en/organisation/department-of-higher-education-innovation-and-science/>)
- 8.3.3 Disclosures made to a legal advisor and/or to a trade union official are also protected under the Act.
- 8.3.4 The final avenue of disclosure can be used in very limited circumstances and is wider disclosure to 'others' which includes disclosure to the media. In order for the employee to benefit from protection they have to reasonably believe the disclosure to be substantially true and that the disclosure is not being made for personal gain. They would also have to demonstrate that they reasonably believed that they could not make this disclosure internally or to a prescribed person, Minister or legal advisor.
- 8.3.5 Disclosers are invited to make an internal disclosure even where they have already made an external disclosure.

9. SUBJECT OF THE DISCLOSURE

- 9.1 A worker who is the subject of a disclosure is entitled to fair treatment. While an investigation is ongoing, all reasonable steps will be taken to protect the confidentiality of those who are the subject of a protected disclosure pending the outcome of the investigation.
- 9.2 In the interests of natural justice, the subject of the disclosure will be informed in writing of the allegation and all of the supporting evidence, and will be allowed full opportunity to comment at an appropriate stage in the process, and before the investigation is concluded.

10. REPRESENTATION

- 10.1 Any worker making a protected disclosure or any worker against whom an allegation has been made must have their constitutional right to natural justice and fair procedures upheld in accordance with all relevant employment legislation. In this regard, appropriate representation, if requested, will be accommodated. For the purposes of this policy, representation includes a colleague of the employee's choice or a representative of a recognised trade union which holds the negotiating rights for the grade of the employee.

11. RECORDS

- 11.1 Records associated with Disclosures, including the outcome, shall be retained, in accordance with the University's Records Retention Policy. All such records shall be maintained in a confidential and secure environment.

12. REPORTING

- 12.1 The ARC will include relevant details of and updates on disclosures in their reports to Governing Body.
- 12.2 The Governing Body will make an annual report to the Minister as requested in legislation which will also be published on the University's website <https://www.itsligo.ie/publications/> . This report will not enable the identification of the person involved to be revealed. It will however include the number of disclosures made, the action (if any taken) in response and other such information and action taken, as may be requested by the Minister.

13. POLICY UPDATES

- 13.1 This policy and associated procedures will be updated in line with legislative changes.

13.2 At all times legislation will take precedence where relevant over the provisions made in this policy and the associated procedures.

14. TRAINING

14.1 Existing and new staff will be made aware of this Policy through induction and training or as appropriate. This Policy will be available on the University's website.

14.2 The University will ensure that the Audit & Risk Committee receives appropriate training to deal with Protected Disclosures, and issues that might arise as a result thereof.

DRAFT

APPENDIX I – ADVICE FOR STAFF MAKING A DISCLOSURE/ INTEGRITY AT WORK

The University acknowledges the difficult choice a member of staff may have to make a disclosure. As the issues that prompt disclosures are likely to be complex, how the member of staff proceeds will vary from situation to situation. The following advice is recommended if a member of staff wishes to make a disclosure:

- make any objections to illegal, unsafe or unethical practices promptly, as timely disclosures can be verified or investigated with less difficulty;
- focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- be accurate in his/her observations and claims and keep formal records documenting relevant events.

Members of staff may also wish to seek independent advice through their union, line manager or legal advisor. Staff should note that the Protected Disclosures Act 2014 provides that all these disclosures are protected.

As a pilot initiative for the Technological University sector, sponsored by the Department of Education & Skills, the University is a member of the [Integrity at Work](#) programme, a Transparency International (TI) Ireland initiative that supports employers to foster an environment where staff feel safe to share concerns of wrongdoing.

As part of our commitment to protecting workers who raise concerns, the University has signed the Integrity at Work Pledge to ensure that workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised. If you are considering reporting a concern, free and confidential advice is available from TI Ireland's Speak Up Helpline at 1800 844 866, Monday to Friday 10am to 6pm. You can also make an enquiry via secure online form or encrypted text at www.speakup.ie. Further information is available in the [Speak Up Safely video](#) and in the Speak Up Safely Guide and FAQ's located on the staff portal [here](#).

APPENDIX II – ROLES & RESPONSIBILITIES

All Staff	To ensure that disclosures are communicated to management and that workers seek advice to ensure that they are aware of the requirements of the Protected Disclosures Act.
Senior Management Team	To advise staff as to appropriate policy / route to take to ensure the appropriate steps are followed.
Chair of the Audit & Risk Committee	<p>-The official 'Recipient' of protected disclosures whose role is to assess or engage an independent assessor and/or investigator to address the issues received in each disclosure. In some cases, an alternative process may be engaged. For example, the Chair may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.</p> <p>-To ensure that Disclosers are provided feedback in relation to their disclosures and that they may be informed in general terms of the outcome of the investigation.</p>
Human Resources	To ensure that all workers are informed of the Protected Disclosures Policy.
Review Group	<p>The Audit & Risk Committee (ARC) or a sub-committee thereof shall review the disclosure, establish the factual information and decide the course of action to be taken, if any. Where applicable a determination will be made as to what steps will be taken as part of an investigation.</p> <p>Where the ARC deems it appropriate, an External Assessor will be appointed (see below).</p>
Investigation Group	<p>Where an investigation is deemed appropriate, a terms of reference will be determined by the ARC with details of who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to. This group will consist of independent members of staff (with no conflicts of interest, actual or perceived).</p> <p>Where the ARC deems it appropriate, an External Investigator will be appointed (see below).</p>
External Assessor	The ARC 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.
External Investigator	The ARC may decide to appoint an external person/body to investigate the disclosure and provide a written report to ARC.
Appeal Group	If dissatisfied with the decision of the Review Group or the investigation process, the discloser can request to have the review outcome and/or investigation process examined within 10 working days of having been informed of the outcome/end of a process. See section 7.7 of the procedure in Part II below.

	<p>The ARC or a sub-committee thereof shall carry out the examination of the review outcome and/or investigation process, having cognisance of any potential conflict of interest . They will examine if the review and/or investigation processes were carried out in accordance with policy and in a fair and transparent manner.</p> <p>Where appropriate, the ARC may appoint an external person/body to undertake this examination.</p> <p>The outcome of an appeal will represent a final internal decision on the matter.</p>
Governing Body	To review and assess how the policy is working and to make adjustments to policy as appropriate.

DRAFT

APPENDIX III – DEFINITIONS

Term	Definition
Whistleblowing	Whistleblowing occurs when a worker raises a concern or discloses information which relates to wrongdoing, illegal practices or unethical conduct which has come to his/her attention through work.
Protected Disclosure	A disclosure of information which, in the reasonable belief of the worker, tends to show one of more relevant wrongdoings; came to the attention of the worker in connection with the worker's employment; and is disclosed in the manner prescribed in the Protected Disclosures Act 2014
Worker	The legislation applies to all workers. The definition of 'worker' is very broad and includes employees, contractors, agency staff and/or work experience students or trainees, temporary employees and former employees
Relevant Wrongdoing	For the worker to be protected, the subject matter of their disclosure must refer to one or more relevant wrongdoings. These are specifically defined in the legislation (section 5) as: a) offences that are or are likely to be committed; b) failing to comply with legal obligations; c) miscarriage of justice; d) health and safety risks, including risks to the public as well as other workers; e) damage to the environment; f) the unauthorised use of public funds or resources g) oppressive discriminatory or grossly negligent action or inaction by a public body; h) information showing any matter falling into categories above may be destroyed.
Reasonable belief	When making a protected disclosure to an employer, the worker is required to have a "reasonable belief" that the information s/he is reporting is a "relevant wrongdoing" as listed in the legislation. While the legislation does not provide a definition of reasonable belief, it is taken to mean that there is a reasonable basis to believe the matters reported in the disclosure. It is a relative concept and applies to what is appropriate given all of the factors involved in the situation.
Substantially true	The requirement for a worker to "reasonably believe that the information disclosed and any allegation are substantially true" applies when making an external disclosure i.e. a disclosure made to Prescribed Persons and to Other Persons. This requirement does not mean that the disclosure has to be one hundred percent accurate.

Part II – Protected Disclosure (Whistleblowing) Procedure

Table of Contents

1. EXECUTIVE SUMMARY	17
2. GENERAL INTRODUCTION	17
3. DESCRIPTION OF SOURCES OF SUPPORT & ADVICE	17
4. HOW TO MAKE A DISCLOSURE	18
5. WHAT HAPPENS AFTER A DISCLOSURE IS MADE	19
6. DECISION NOT TO PROCEED TO INVESTIGATION	20
7. DECISION TO PROCEED TO INVESTIGATION	21

DRAFT

1. EXECUTIVE SUMMARY

This procedure advises staff on how to make an internal Protected Disclosure. It is intended to be read in conjunction with the University's Protected Disclosures (Whistleblowing) Policy (insert ref number if applicable).

1.1 The Procedure consists of four parts as follows:

1. General Introduction
2. Description of sources of support and advice
3. How to make a disclosure and details of what to include in a disclosure
4. Description of what happens after a disclosure is made

1.2 The following appendices are included:

- Appendix 1 – Alternative routes for complaints or grievances
- Appendix 2 - Protected Disclosure notification form
- Appendix 3 – Flow chart of Protected Disclosure process
- Appendix 4 - How the Audit & Risk Committee handles disclosures

2. GENERAL INTRODUCTION

- 2.1 As per the Protected Disclosure (Whistleblowing) Policy (the Policy), (section 6.4), a worker is not required to investigate matters themselves to find proof of the wrongdoing and should not endeavour to do so.
- 2.2 As outlined in the Policy, the first avenue for disclosure is internal and can be made orally or in writing directly to the University's Audit & Risk Committee via its Chairperson (the Recipient); to their line manager; or the Vice President for Corporate Affairs.⁷ Where a disclosure is made to a line manager or President or their nominee, the disclosure will be passed to the Chair of the Audit & Risk Committee, who is formally the 'Recipient'.⁸

This procedure will also be applied to all confidential disclosures received by the University from stakeholders who do not meet the definition of "worker", in so far as is practicable.

3. DESCRIPTION OF SOURCES OF SUPPORT & ADVICE

- 3.1 A worker who has made, or is intending to make, a disclosure of wrongdoing is encouraged to seek additional support and may wish to access any or all of the following supports:
- [Read Speak Up Safely: Transparency International Ireland's Guide to Whistleblowing and making a Protected Disclosure](#)
 - Contact Transparency International Ireland's Speak Up Helpline on **1800 844 866** or submit an encrypted email⁹ at www.speakup.ie
 - Watch the Speak Up [video](#) at this link
 - Speak to their line manager
 - Seek advice from their union or legal advisor
 - Click on this link to find contact details for the [Employee Assistance Programme](#). Alternatively, they can be contacted on Freephone Helpline Number 1800 817 435.

⁷ In the case of contractors, agency workers, volunteers etc. a concern should be raised with their Institution point of contact.

⁸ The Chair of the Audit and Risk Committee may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.

⁹ An encrypted email is one where the information and/or data has been converted into a code, which prevents unauthorized access.

- 3.2 As outlined in the Policy, staff are encouraged to seek independent advice through their union or legal advisor. When a worker seeks advice from a trade union official, solicitor or barrister, this discussion is treated as a protected disclosure including at early stages in contemplation of making a protected disclosure or seeking information on the operation of the legislation. The trade union official, solicitor or barrister is bound by a general duty of confidentiality. Concerning confidentiality, it is important that there should be an awareness of respecting sensitive information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.
- 3.3 Any worker making a protected disclosure, or any worker against whom an allegation has been made, must have their constitutional right to natural justice and fair procedures upheld in accordance with all relevant employment legislation. In this regard, appropriate representation, if requested, will be accommodated. For the purposes of this procedure, representation includes a colleague of the employee's choice or a representative of a recognised trade union which holds the negotiating rights for the grade of the employee.

4. HOW TO MAKE A DISCLOSURE

- 4.1 As stated above, the first avenue is internal and disclosures for the University can be made orally or in writing directly to the University's Audit & Risk Committee via its Chairperson (the Recipient); to a line manager or to the President or their nominee. The Audit & Risk Committee is a committee of the Governing Body.
- 4.2 Where a disclosure is made to a line manager or President or their nominee, the disclosure will be passed to the Chair of the Audit & Risk Committee, who is formally the 'Recipient'.
- 4.3 The Chair of the Audit and Risk Committee may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.
- 4.4 A disclosure under this guidance should preferably be made in writing to ensure that all the relevant information is made available at the time the disclosure is made.

A protected disclosures notification form is attached in Appendix 2 'Protected Disclosures Notification Form'. The Information contained in the disclosure should:

- include name, position in the Institution, place of work, date of disclosure and preferred contact details
- be clear and factual
- so far as possible, avoid speculation, personal attacks, and emotive language
- contain supporting evidence where that is available to the discloser including
 - the name of the person(s) (if known or applicable) allegedly involved in the alleged wrongdoing¹⁰
 - the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified
 - whether or not the alleged wrongdoing is still ongoing
 - whether the alleged wrongdoing has already been disclosed to any member of management and if so when and to what effect
 - the details of the alleged wrongdoing and any supporting information and
 - where possible, identify any witnesses to the disclosed conduct.

¹⁰ As per 'Guidance on Protected Disclosure reporting in the Workplace, Department of Education & Skills, March 2016'. P.12.
<https://www.education.ie/en/Publications/Corporate-Reports/protected-disclosures/guidance-on-protected-disclosure-reporting-in-the-workplace.pdf>

- 4.5 Note that while the above approach is recommended there is, under the legislation, no required format for the making of a disclosure. A disclosure can be made:

Orally or in writing

When a disclosure is made orally, it will be documented by the person receiving the disclosure, with the transcript of the disclosure then agreed upon with the Discloser.

4.6 Making an Anonymous Disclosure

Disclosures may be made anonymously, however, we would ask that if doing so workers provide an anonymised email address that will allow the recipient of the disclosure to correspond with them. It should be noted that in certain circumstances and for the purposes of conducting an investigation, the worker may need to reveal their identity – for example, to determine whether the person making a disclosure is a worker. This will not affect the worker's rights or the University's responsibilities to protect their confidentiality.

If the worker chooses not to provide a means of communication when making a protected disclosure, the concerns that have been raised will be investigated to the furthest extent possible. However, the University may not be able to keep the worker updated on the progress and/or outcome of any investigations into the report.

5. WHAT HAPPENS AFTER A DISCLOSURE IS MADE

- 5.1 Within 7 working days of a disclosure being received, the ARC will reply to the individual who made the disclosure:
- Acknowledging that the concern has been received
 - Indicating that the committee is dealing with the matter
 - Informing them that further communications will take place

- 5.2 The Audit & Risk Committee (ARC) or a sub-committee thereof (the 'Review Group') shall carry out a review of the issue, establish the factual information and decide the course of action to be taken, if any. This initial review will involve an assessment of the disclosure to determine whether or not it should be treated as a potential protected disclosure. This assessment will consider whether the alleged wrongdoing is serious or minor, whether it is something that can be investigated or not, and what steps should be taken as part of such an investigation.

In some circumstances, the Review Group may need to be expanded to encompass other expertise or knowledge and/or an External Assessor may be used. The Chair of ARC will ensure that any potential or actual conflict of interest is avoided. Corporate Governance will provide secretarial assistance as required to the Review Group.

- 5.3 Employees of the University, including Senior Management, may be called on by the ARC to provide information relevant to the disclosure in order to assist in establishing further facts. Additionally, where appropriate, Senior Management may be asked to assist in the process. Every effort will be made to ensure that any potential conflicts of interest are identified and that a completely objective and impartial process is assured.
- 5.4 The discloser will be provided with further feedback in relation to the matters disclosed and be advised when consideration of the disclosure is complete, except in exceptional cases.

There are two possible outcomes after the initial review is completed:

- Do not proceed to Investigate
- Proceed to investigate

- 5.5 If a discloser is not satisfied with the outcome of the initial review, they will have the option of lodging an appeal - see further details below in 6.2.
- 5.6 Information and feedback will be provided in confidence; however, the Recipient is not obliged to inform the discloser of the progress, or outcome, of any subsequent disciplinary process involving another worker. In general, such information is confidential between the employer and the worker disciplined.
- 5.7 A flow chart of the protected disclosure process can be found at Appendix 3.

6. DECISION NOT TO PROCEED TO INVESTIGATION

- 6.1 If the decision is not to proceed to investigation, the Recipient will advise the discloser accordingly. There are two reasons why the decision not to proceed may be taken:

- No grounds to proceed
- Another Institutional policy may be more relevant

Where the Audit & Risk Committee decide that the matter should be dealt with under a different policy, advice will be provided to the Discloser as to the steps to take in this regard.

- 6.2 If the Discloser is dissatisfied with a decision of the Recipient not to pursue the matter further, he/she may lodge an appeal of the decision with the Chair of Governing Body within 10 working days of having received the decision.
- 6.3 The Chair of Governing Body, in consultation with the Chair of ARC, will appoint an Appeal Group (not previously involved in the enquiry process and with no perceived or actual conflict of interest) to undertake a review of the initial decision. The Appeal Group will notify the Recipient of the outcome of that appeal. Corporate Governance will provide secretarial assistance as required to the Appeal Group.
- 6.4 The Discloser will be advised generally within 10 working days (and no later than 16 working days) by the Recipient of the outcome of the appeal, which will be either (a) or (b) below.
 - a) Agreeing with the decision not to proceed to investigation
 - b) Disagreeing with the decision not to proceed with the investigation and, referring the disclosure back to the Audit and Risk Committee to organise an investigation.
- 6.5 A decision of the Appeal Group not to pursue the matter will represent a final internal decision on the matter.

7. DECISION TO PROCEED TO INVESTIGATION

- 7.1 Where an investigation is deemed appropriate, a terms of reference will be determined with details of who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to.
- 7.2 If the ARC deems it appropriate, they may call on external expertise at their discretion in order to assist them.
- 7.3 It is not possible to lay down precise timescales or steps required for investigations, as this will depend on the nature of the issues raised however, the Recipient will advise on progress and the investigation will be brought to a conclusion as speedily as possible.

- 7.4 The person/persons appointed to carry out the investigation will provide a written report to the ARC detailing their findings and recommendation(s) for consideration. Upon receipt of the Investigator's report, the ARC will decide on the necessary action that is required.
- 7.5 It should be noted that if a further disclosure is made during an investigation or disciplinary process, it does not affect those distinct processes.
- 7.6 As per section 8 of the Policy, the discloser may be informed in confidence that appropriate action has taken place, however it may not be possible to provide details of the outcomes of the appropriate action to the discloser.
- 7.7 In the event that the discloser is dissatisfied with the outcome of an investigation, it is open to the discloser to appeal - that is to request the Recipient to have the investigation process examined. A request for an appeal must be made to the Recipient within 10 working days of having been informed that the investigation has been concluded. Please note that this will not be a re-investigation of the disclosure but an examination of the investigation process.
- 7.8 The Chair of Governing Body will appoint an Appeal Group (not previously involved in the investigation process and with no perceived or actual conflicts of interest) to undertake a review of the investigation process. The Appeal Group will notify the Recipient of the outcome of the appeal. Governance will provide secretarial assistance as required to the Appeal Group.
- 7.9 The Discloser will be advised generally within 10 working days (and no later than 16 working days) by the Recipient of the outcome of the appeal, which will be either (a) or (b) below.
- a) That the investigation process was appropriate;
 - b) That the investigation process was not appropriate, referring the matter back to the Audit and Risk Committee to take further action.

The outcome of this appeal will represent a final internal decision on the matter.

- 7.10 As it is not possible to know at the time whether a disclosure will subsequently be deemed protected under the Protected Disclosures Act. The Recipient should keep a written record of their actions, including timelines.
- 7.11 It is important to note that some matters may be of such seriousness that the investigation will have to be carried out professionally, such as by subject matter experts or may need to be reported to and investigated by An Garda Síochána, if this is the case the Discloser will be informed accordingly.

8. ADDRESSING REPORTS OF PENALISATION

- 8.1 As per Section 6 of the Protected Disclosure (Whistleblowing) Policy, the University will not tolerate any harassment or victimisation of a worker who has made a disclosure under this policy (including informal pressures) and commits to assess / investigate all notifications of penalisation and take appropriate action where necessary.
- 8.2 Any individual who believes they are being/have been penalised for making a disclosure, should contact, the Chair of the Audit & Risk Committee or the Head of HR.
- 8.3 The University will take prompt and appropriate action to ensure the protection of the discloser and may instigate a formal investigation into the penalisation allegations. This process will be led by the ARC and/or the HR Department as appropriate. The investigation may be carried out by an internal or external party.

- 8.4 The University will treat any acts of penalisation, or attempted penalisation, as a serious matter which may be dealt with in accordance with the Act.
- 8.5 A worker who has made a protected disclosure can seek a review of the outcome of any assessment / investigation in respect of any complaint of penalisation.

Any review will be undertaken by a person who has not been involved in the initial assessment, investigation or decision.

There is no entitlement to two reviews in respect of the same issue.

References

1. Guidance on Protected Disclosure reporting in the workplace, Department of Education and Skills March, 2016
2. <https://hea.ie/assets/uploads/2018/02/Procedures-for-Making-a-Protected-Disclosure-Web.pdf>
3. WRC Code of Practice on Protected Disclosures Act 2014 (Declaration) Order 2015
https://www.workplacerelations.ie/en/what_you_should_know/codes_practice/cop12/
4. <https://www.keele.ac.uk/media/keeleuniversity/policyzone20/studentandacademicservices/Whistleblowing%20Procedure%202019.pdf>

Appendix 1

Alternative routes for complaints or grievances

Staff Grievance vs Protected Disclosure:

Policy or Procedure	Purpose	Examples
Staff Grievance	A matter specific to that worker, i.e. that worker's employment position around their duties, their working procedures or working conditions, & the T&Cs of their employment	<p>Complaints around selection criteria for a promotional post.</p> <p>Complaint around allocation of overtime</p> <ul style="list-style-type: none"> • Interpretation of conditions of employment • Pay and benefits • Changing work practices • Promotion and grading

Policy or Procedure	Purpose	Examples
Protected Disclosure	A protected disclosure is where a worker has information about a relevant wrongdoing.	<p>In a hazardous work situation, information regarding failure to provide or wear protective clothing and adhere to health & safety guidelines.</p> <p>Information about the improper use of funds, bribery, and fraud.</p>

Policy or Procedure	Purpose	Examples
Dignity & Respect Policy	The policy addresses the development of awareness among all participants in the educational process of the need to promote dignity & respect opportunity for students and staff. Outlines the obligations of the University as an equal opportunities' employer and as a provider of vocational services. Deals with Bullying & Harassment procedures and remedies.	Equal opportunities, bullying and harassment.
Disciplinary Procedure	The purpose of the disciplinary procedure is to ensure that the University acts reasonably and fairly towards employees in investigating and dealing with alleged instances of unacceptable conduct or performance.	Unacceptable conduct Unacceptable performance
Health and Safety Policy	It is the policy of the University of Technology to promote high standards of health and safety within the University and to ensure that the best practicable methods of compliance with the Safety, Health and Welfare at Work Act 2005, the Safety, Health & Welfare at Work (General Application) Regulations 2007 and associated legislation are achieved.	safe and healthy work and study environment

Conflict of interest Policy	This policy sets out the procedures to be followed the University in respect to actual, perceived, or potential conflicts of interest	Conflict of Interest
-----------------------------	---	----------------------

DRAFT

Appendix 2

Protected Disclosures Notification Form

Before you complete this form, you should read the Protected Disclosure (Whistleblowing) Policy and the attached Procedure for making a Protected Disclosure carefully and ensure that the subject matter of your concern is covered by the legislation. If you are in any doubt, you are encouraged to make use of the following supports:

- Read Speak Up Safely: Transparency International Ireland’s Guide to Whistleblowing and making a Protected Disclosure
• Contact the Speak Up Helpline on 1800 844 866 or submit an encrypted email11 at www.speakup.ie
• Watch the Speak Up video at this link
• Speak to your line manager
• Seek advice from your union or legal advisor
• Click on this link to find contact details for the Employee Assistance Programme. Alternatively, they can be contacted on Freephone Helpline Number 1800 817 435.

Please note that when making a protected disclosure to an employer the worker is required to have a ‘reasonable belief’ that the action they are reporting is a ‘relevant wrongdoing’ as listed in the legislation (see below section 4 categories of wrongdoing).

The University will treat all disclosures made under this policy in a confidential and sensitive manner. Where confidentiality cannot be maintained, particularly in a situation where the worker is participating in an investigation into the matter being disclosed, the University will make every effort to inform the worker that his/her identity may be disclosed. Anonymous reports will be considered but are less capable of being addressed as it is difficult to investigate a matter and to corroborate facts. The University encourages an individual to put their name to disclosures made where possible or to provide a means of continuing communication e.g. an anonymised email address.]

1. I, (name of worker making the protected disclosure) wish to make a disclosure under the Protection Disclosures Act 2014

2. Position in the Organisation

3. Place of work

4. Category of Wrongdoing

- A criminal offence
 A failure to comply with a legal obligation
 A miscarriage of justice
 The endangering of an individual’s health or safety
 Damage to the environment

11 An encrypted email is one where the information and/or data has been converted into a code, which prevents unauthorized access.

Unlawful or otherwise improper use of public funds

Fraudulent activity

That an act or omission is oppressive, discriminatory, or grossly negligent or constitutes gross mismanagement

Concealment or destruction of evidence relating to the above.

5. Date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced

.....

6. Is the alleged wrongdoing still ongoing

.....

7. Has this alleged wrongdoing already been disclosed, if so, to whom, when and what action was taken

.....
.....
.....

8. Details of the protected disclosure (care should be taken to only include the name(s) of individual(s) directly relevant to the report)

.....
.....
.....

9. Any other relevant information

.....
.....
.....

10. Please provide contact details at which the Recipient contact you:

Address

Tel no.

Email

Worker's signature

Date

DRAFT

Flow chart of Protected Disclosure process


